

July 20, 2012

Terms of Reference for Fund Staff Monitoring in the Context of European Financial Assistance for Bank Recapitalization

These Terms of Reference set out the understandings reached with the Spanish Ministry of Economy and Competitiveness and the Bank of Spain (“the authorities”) and the European Commission (“EC”) regarding the modalities of Fund staff support for the monitoring of the financial assistance for the recapitalization of Spanish financial institutions.

I. OBJECTIVE AND LEGAL BASIS

1. The purpose of Fund staff monitoring is to support the efforts of the Spanish authorities to recapitalize the financial sector, by providing independent advice.
2. Fund staff is not party to the Memorandum of Understanding (“MOU”) for the financial assistance, nor responsible for the conditionality or implementation thereof. Without prejudice to the foregoing, Fund staff monitoring reports can be used by the authorities and the EC in their reviews under the financial assistance.
3. Monitoring is to be conducted by Fund staff as a form of technical assistance under Article V, Section 2 (b) of the Fund’s Articles of Agreement. Monitoring conducted under these Terms of Reference does not alter in any way the scope and modalities of surveillance under Article IV of the Fund’s Articles of Agreement.

II. SCOPE

4. Monitoring will be of the financial sector as a whole. Monitoring shall include, but not be limited to, assessing progress against conditionality agreed between the authorities and the EC in financial assistance documents, within the scope of issues that fall under the Fund’s mandate and expertise, and also in relation to international best practice. This would include, but not be limited to: diagnostics, crisis management and resolution, supervision, and regulation. Fund staff monitoring shall not apply to the restructuring plans for individual financial institutions. The macroeconomic context will be presented in the report, separately from the monitoring of the financial assistance.
5. Monitoring is to be carried out by Fund staff independently of the views of the authorities and the EC. These Terms of Reference thus do not restrict Fund staff from expressing its views regarding recommendations and policies formulated by the authorities and the EC.

III. MODALITIES

6. Fund staff would participate in all financial assistance monitoring missions conducted by the EC. Fund staff would retain the possibility of not participating in missions that it judges as outside the scope of its technical expertise.
7. As per the MoU for the financial assistance, the authorities will provide, under strict confidentiality, all the necessary information for Fund staff to carry out its envisaged monitoring functions.
8. Reporting on Fund staff monitoring findings shall take the form of technical assistance reports. These reports will be quarterly, as per the MoU. Draft reports will be submitted to the authorities and the EC for comments and clarification. The final reports shall be conveyed to the authorities and the EC, as well as, for the cases where publication has been agreed and at least one day before publication, to the Executive Board of the IMF (the latter for information only). Confidential information shared with the Fund staff, and particularly individual bank information, will not be included in the reports. Publication will be expected, though both the authorities and the EC retain the right of consent for publication on a case-by-case basis. Any request not to publish, or to delay, publication, will be conveyed to Fund staff within two weeks of the final report being sent to the authorities and the EC.
9. Fund staff monitoring will be for the duration of the financial assistance program, as per the MOU. Any extension of Fund staff support for the monitoring will be reviewed after one year.
10. Once agreed, these Terms of Reference will be published.