

TRENDMACRO LIVE!

On the German Court EFSF Decision

Wednesday, September 7, 2011

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The critical bailout tool survives constitutional challenge with only minor damage.

Yesterday we highlighted the potential risk to the European Financial Stability Facility (EFSF) posed by the constitutional challenge to be decided today by the German Federal Constitutional Court (see "[CHooF!](#)" September 6, 2011). As we expected, the court threw out the challenges to the rescue packages agreed by the Euro area. [The court said](#),

In today's judgment, the Federal Constitutional Court has rejected as unfounded three constitutional complaints which are directed against German and European legal instruments and other measures in connection with the aid to Greece and with the euro rescue package.

This is great news, as the EFSF is a critical component of the safety net underpinning the Euro area debt markets. Further, it is a clear example of how institutions throughout the Euro area are committed to keeping the euro project on its inevitable path to closer integration. But as we warned, the court imposed conditions on how future guarantees would be managed. It said:

However, §1.4 sentence 1 of this Act merely obliges the Federal Government to **strive to reach an agreement** with the Bundestag's Budget Committee before giving guarantees. This is not sufficient. Instead, guaranteeing parliamentary budget autonomy requires an interpretation of this provision in conformity with the constitution to the effect that the Federal Government is in principle **obliged to always obtain prior approval** by the Budget Committee before giving guarantees. [**emphasis** TrendMacro's]

This means that approval of the Bundestag's Budget Committee now has to be actually obtained as a precondition to extending German guarantees under EFSF bailouts or other operations -- formerly approval was merely an aspiration, not a requirement.

This *does not* mean that the German parliament has to hold a full vote on any guarantee, merely that the [41-member cross-party](#) Budget Committee must approve. The committee already votes on all German expenditures on a simple yes/no basis, and is accustomed to acting quickly when

Update to strategic view

EUROPE MACRO, EUROPE BONDS: The German Federal Constitutional Court has rejected challenges to the EFSF. This represents a first step in the right direction during a week of critical political decisions for the Euro area. The court imposed merely a committee speed-bump, rather than a parliamentary road-block, in front of future German EFSF guarantees.

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necessary. Any delay that it would cause would be very slight. So we don't view this condition imposed by the court as a serious hindrance to the functioning of the EFSF going forward.

Bottom line

The German Federal Constitutional Court has rejected challenges to the EFSF. This represents a first step in the right direction during a week of critical political decisions for the Euro area. The court imposed merely a committee speed-bump, rather than a parliamentary road-block, in front of future German EFSF guarantees. ▶

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