Regulation (EC) No 1745/2003 of the European Central Bank of 12 September 2003 on the application of minimum reserves (ECB/2003/9)

REGULATION (EC) No 1745/2003 OF THE EUROPEAN CENTRAL BANK

of 12 September 2003

on the application of minimum reserves

(ECB/2003/9)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular to Article 19(1) thereof,

Having regard to Council Regulation (EC) No 2531/98 of 23 November 1998 concerning the application of minimum reserves by the European Central Bank[(1)], as amended by Regulation (EC) No 134/2002[(2)],

Having regard to Council Regulation (EC) No 2532/98 of 23 November 1998 concerning the powers of the European Central Bank to impose sanctions[(3)],

Whereas:

(1) Regulation (EC) No 2818/98 of the European Central Bank of 1 December 1998 on the application of minimum reserves (ECB/1998/15)[(4)] has been significantly amended on two occasions. First, specific procedures for mergers and divisions involving credit institutions were introduced by Regulation (EC) No 1921/2000 of the European Central Bank of 31 August 2000 (ECB/2000/8)[(5)] in order to clarify the obligations of these institutions in respect of minimum reserves. Second, for reasons of efficiency, other provisions were amended by Regulation (EC) No 690/2002 of the European Central Bank of 18 April 2002 (ECB/2002/3)[(6)] to clarify that electronic money institutions will be subject to reserve requirements; to establish a general rule according to which credit institutions will be automatically exempted from reserve requirements for the whole maintenance period within which they cease to exist; and to clarify the obligation to include in the reserve base the liabilities of an institution in relation to a branch of the same entity, or in relation to the head office or registered office of the same entity, which are located outside participating Member States. As new amendments are being made to Regulation (EC) No 2818/98 (ECB/1998/15), it is desirable, for reasons of clarity and rationalisation, that the provisions in question should be recast by bringing them all together in a single text.

(2) Article 19(1) of the Statute states that, if the European Central Bank (ECB) requires credit institutions established in participating Member States to hold minimum reserves, they are to be held on accounts with the ECB and participating national central banks (participating NCBs). It is considered appropriate that such reserves should be held solely on accounts with participating NCBs.

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(3) In order to be effective, the instrument of minimum reserves also requires specification regarding the calculation and maintenance of minimum reserves and the reporting and verification rules.

(4) For the exclusion of interbank liabilities from the reserve base, any standard deduction to be applied to liabilities with a maturity of up to two years within the debt securities category should be based on the euro area-wide macro ratio between (i) the stock of relevant instruments issued by credit institutions and held by other credit institutions and by the ECB and participating NCBs and (ii) the total amount outstanding of such instruments issued by credit institutions.

(5) As a rule, the calendar of maintenance periods will be aligned with the calendar of meetings of the Governing Council of the ECB at which the monthly assessment of the monetary policy stance is pre-scheduled.

(6) Specific procedures for the notification and acknowledgement of minimum reserves are necessary so that institutions are aware of their obligations in respect of minimum reserves in time,

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

For the purposes of this Regulation:

— ‘participating Member State’ shall mean an EU Member State which has adopted the euro in accordance with the Treaty,

— ‘participating national central bank’ (participating NCB) shall mean the national central bank of a participating Member State,

— ‘Eurosystem’ shall designate the ECB and the participating NCBs,

— ‘institution’ shall mean any entity in a participating Member State which the ECB, under the terms of Article 19(1) of the Statute, may require to hold minimum reserves,

— ‘reserve account’ shall mean an institution's account with a participating NCB, the end-of-day balance of which counts towards compliance with the institution's reserve requirement,

— ‘reserve requirement’ shall mean the requirement for institutions to hold minimum reserves on reserve accounts with participating NCBs,

— ‘reserve ratio’ shall mean the percentage specified in Article 4 for any particular item in the reserve base,

— ‘maintenance period’ shall mean the period over which compliance with reserve requirements is calculated and for which such minimum reserves must be held on reserve accounts,

— ‘end-of-day balance’ shall mean the balance at the point in time when the finalisation of payment activities and entries relating to possible access to the standing facilities of the Eurosystem has taken place,

— ‘NCB business day’ shall mean any day on which a particular participating NCB is open for the purpose of conducting Eurosystem monetary policy operations,

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— ‘resident’ shall mean any natural or legal person residing in any of the participating Member States within the meaning of Article 1(4) of Council Regulation (EC) No 2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank[(7)],

— ‘reorganisation measures’ shall mean measures intended to preserve or restore the financial situation of an institution which could affect third parties' pre-existing rights, including measures involving the possible suspension of payments, suspension of enforcement measures or reduction in claims,

— ‘winding-up proceedings’ shall mean collective proceedings concerning an institution which necessarily involve intervention by the judicial authorities or any other competent authority of a participating Member State with the aim of realising assets under the supervision of those authorities, including where the proceedings are terminated by a composition or by another analogous measure,

— ‘merger’ shall mean an operation whereby one or more credit institutions (the merging institutions), on being dissolved without going into liquidation, transfer all their assets and liabilities to another credit institution (the acquiring institution), which may be a newly established credit institution,

— ‘division’ shall mean an operation whereby one credit institution (the institution being divided), on being dissolved without going into liquidation, transfers all its assets and liabilities to more than one institution (the recipient institutions), which may be newly established credit institutions.

Article 2

Institutions subject to reserve requirements

1 The following categories of institutions shall be subject to reserve requirements:

a credit institutions as defined in the first subparagraph of Article 1(1) of Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking-up and pursuit of the business of credit institutions[(8)], other than participating NCBs;

b branches as defined in Article 1(3) of Directive 2000/12/EC, of credit institutions as defined in the first subparagraph of Article 1(1) of the same Directive, other than participating NCBs; these include branches of credit institutions which have neither their registered nor their head office in a participating Member State.

Branches of credit institutions established in participating Member States which are located outside participating Member States are not subject to reserve requirements.

[[F1]2 Without being obliged to submit any request, an institution shall be exempted from reserve requirements from the start of the maintenance period in which its authorisation is withdrawn or renounced, or in which a decision to submit the institution to winding-up proceedings is taken by a judicial authority or any other competent authority of a participating Member State.

The ECB may exempt the following institutions from reserve requirements on a non-discriminatory basis:

a institutions subject to reorganisation measures;

b institutions subject to the freezing of funds and/or other measures imposed by the Community or a Member State under Article 60(2) of the Treaty restricting the use of their funds or a decision of the ECB’s Governing Council suspending or excluding their access to open market operations or the Eurosystem’s standing facilities;

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c institutions for which the purpose of the ECB's minimum reserve system would not be met by imposing reserve requirements upon them. In reaching a decision on any such exemption, the ECB shall take into account one or more of the following criteria:

(i) the institution is authorised to pursue special-purpose functions only;

(ii) the institution is prohibited from exercising active banking functions in competition with other credit institutions;

(iii) the institution is under a legal obligation to have all its deposits earmarked for purposes relating to regional and/or international development assistance.

3 The ECB shall publish a list of institutions subject to reserve requirements. The ECB shall also publish a list of institutions exempt from its reserve requirements for reasons other than being subject to:

a reorganisation measures;

b the freezing of funds and/or other measures imposed by the Community or a Member State under Article 60(2) of the Treaty restricting the use of an institution's funds or a decision issued by the ECB's Governing Council suspending or excluding an institution's access to open market operations or the Eurosystem's standing facilities.

Institutions may rely on these lists when deciding whether their liabilities are owed to another institution that is itself subject to reserve requirements. These lists shall not be determinative of whether institutions are subject to reserve requirements in accordance with Article 2.**]**

Textual Amendments

F1 Substituted by Regulation (EC) No 1052/2008 of the European Central Bank of 22 October 2008 amending Regulation (EC) No 1745/2003 (ECB/2003/9) on the application of minimum reserves (ECB/2008/10).

Article 3

Reserve base

[F2 1 An institution's reserve base shall comprise the following liabilities, as defined in the ECB's reporting framework laid down in Regulation (EU) No 1071/2013 of the European Central Bank (ECB/2013/33)(9), resulting from the acceptance of funds:

a deposits; and

b debt securities issued.

If an institution has liabilities in relation to a branch of the same entity, or in relation to the head office or registered office of the same entity, which are located outside participating Member States, it shall include such liabilities in the reserve base.

2 The following liabilities shall be excluded from the reserve base:

a liabilities owed to any other institution not included on the list of institutions exempt from the ECB's minimum reserve requirements in accordance with Article 2(3); and

b liabilities owed to the ECB or to a participating NCB.**]**

[F3 2a For the liability category 'deposits' referred to in point (a) of paragraph 1, the exclusion, as referred to in paragraph 2, shall be effected in the following manner: the institution

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shall provide evidence to the relevant participating NCB of the amount of liabilities referred to in points (a) and (b) of paragraph 2, and the amount evidenced shall be deducted from the reserve base.

For the liability category 'debt securities issued' referred to in point (b) of paragraph 1, the exclusion, as referred to in paragraph 2, shall be effected by deducting an amount from the reserve base in the following manner:

a the institution shall provide evidence to the relevant participating NCB of the amount of liabilities referred to in points (a) and (b) of paragraph 2, and the amount evidenced shall be deducted from the reserve base;

b where the institution is unable to provide evidence to the relevant participating NCB of the amount of liabilities referred to in points (a) and (b) of paragraph 2, the institution shall apply the standard deduction published on the ECB's website to the outstanding amount of the debt securities which it has issued and which have an original maturity of up to and including two years.**]**

3 The institution shall calculate the reserve base in respect of a particular maintenance period on the basis of the data relating to the month two months prior to the month within which the maintenance period starts. The institution shall report the reserve base to the relevant participating NCB as required within the ECB's reporting framework **[**[F4]for money and banking statistics**]** laid down in **[**[F5]Regulation (EU) No 1071/2013 (ECB/2013/33)**]**.

[[F5]4 For institutions which have been granted the derogation set out in Article 9(1) of Regulation (EU) No 1071/2013 of the European Central Bank (ECB/2013/33)[(10)] ('tail institutions'), the reserve base shall be calculated, for two consecutive maintenance periods beginning with the maintenance period starting in the third month after the end of a quarter, on the basis of end-of-quarter data reported in accordance with point 4 of Part 1 of Annex III to Regulation (EU) No 1071/2013 (ECB/2013/33). These institutions shall notify their minimum reserves in accordance with Article 5.**]**

Textual Amendments

F2 Substituted by Regulation (EU) 2016/1705 of the European Central Bank of 9 September 2016 amending Regulation (EC) No 1745/2003 (ECB/2003/9) on the application of minimum reserves (ECB/2016/26).

F3 Inserted by Regulation (EU) 2016/1705 of the European Central Bank of 9 September 2016 amending Regulation (EC) No 1745/2003 (ECB/2003/9) on the application of minimum reserves (ECB/2016/26).

F4 Deleted by Regulation (EU) 2016/1705 of the European Central Bank of 9 September 2016 amending Regulation (EC) No 1745/2003 (ECB/2003/9) on the application of minimum reserves (ECB/2016/26).

F5 Substituted by Regulation (EU) No 1376/2014 of the European Central Bank of 10 December 2014 amending Regulation (EC) No 1745/2003 on the application of minimum reserves (ECB/2003/9) (ECB/2014/52).

Article 4

Reserve ratios

[[F1]1 A reserve ratio of 0 % shall apply to the following liability categories (as defined within the ECB's reporting framework **[**[F4]for money and banking statistics**]** in **[**[F5]Regulation (EU) No 1071/2013 (ECB/2013/33)**]**):

a deposits with agreed maturity over two years;

b deposits redeemable at notice over two years;