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COUNCIL DIRECTIVE

of 21 March 1972

on regulating international capital flows and neutralizing their undesirable effects on domestic liquidity

(72/156/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 70 and 103 thereof;

Having regard to the proposal from the Commission;

Whereas exceptionally large capital movements have caused serious disturbances in the monetary situation and in economic trends in Member States; whereas these disturbances may hinder the establishment by stages of an economic and monetary union; whereas the Council, in its resolution of 9 May 1971, agreed to discuss before 1 July 1971 the adoption of appropriate measures to deal with this situation;

Whereas, so that contingencies of comparable character and magnitude do not recur, the Member States should supplement the instruments that are available for regulating domestic liquidity;

Whereas to this end it is imperative that Member States adopt measures immediately in order to have available, should occasion arise, the appropriate instruments for purpose of discouraging exceptionally large capital movements, in particular to and from third countries, and of neutralizing their effects on the domestic monetary situation, thereby creating the conditions required for concerted action on the part of the Member States in those fields in order to ensure smooth trading conditions within the Community and the achievement of economic and monetary union;

Whereas exceptionally large capital movements can produce serious stresses on the exchange markets of the Member States, the smooth operation of which constitutes the object of the policy with regard to rates of exchange which each Member State must, by virtue of Article 107 (1), treat as a matter of common concern;

Whereas, in order to ensure the efficacy of the measures to be taken to prevent exceptionally large capital movements, the regulation of loans and credits not related to commercial transactions or to provision of services and granted by non-residents to residents must be extended to medium- and long-term loans and credits; whereas for this purpose a derogation from Article 3 (1) of the First Directive for the implementation of Article 67 of the Treaty,[1] as amended by the Directive of 18 December 1962,[2] should be permitted;

HAS ADOPTED THIS DIRECTIVE:

Article 1

The Member States shall take all necessary steps to ensure that the monetary authorities have available the following instruments and are able, where necessary, to put them into operation immediately without further enabling measures:

(a) for effective regulation of international capital flows:

— rules governing investment on the money market and payment of interest on deposits by non-residents;

— regulation of loans and credits which are not related to commercial transactions or to provision of services and are granted by non-residents to residents, if need be by derogating from Article 3 (1) of the First Directive for the implementation of Article 67 of the Treaty;

[1] OJ No 43, 12.7.1960, p. 921/60.
[2] OJ No 9, 22.1.1963, p. 62/63.