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(Acts whose publication is obligatory)

REGULATION (EC) No 2818/98 OF THE EUROPEAN CENTRAL BANK

of 1 December 1998

on the application of minimum reserves

(ECB/1998/15)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

HAS ADOPTED THIS REGULATION:

Having regard to the Statute of the European System of Central Banks and of the European Central Bank (hereinafter referred to as 'the Statute') and in particular Article 19.1 thereof,

Article 1

Definitions

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⁾,

For the purposes of this Regulation:

Having regard to Council Regulation (EC) No 2532/98 of 23 November 1998 concerning the powers of the European Central Bank to impose sanctions ⁽²⁾,

- 'participating Member State' shall mean an EU Member State which has adopted the single currency in accordance with the Treaty,
- 'participating national central bank' (participating NCB) shall mean the national central bank of a participating Member State,
- '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 fulfilment of 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 related to possible access to the standing facilities of the European System of Central Banks (ESCB) has taken place,
- 'NCB business day' shall mean any day on which a particular participating NCB is open for the purpose of conducting ESCB monetary policy operations,

Whereas Article 19.1 of the Statute states that, if the European Central Bank (ECB) decides to require 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); whereas it is considered appropriate that such reserves should be held on accounts with participating NCBs;

Whereas, in order to be effective, the instrument of minimum reserves also requires specification regarding the calculation and maintenance of reserve requirements and the reporting and verification rules;

Whereas, for the exclusion of interbank liabilities from the reserve base, any standardised deduction to be applied for liabilities with a maturity of up to two years within the debt securities category and for money market paper should be based on the euro area-wide macro ratio between the stock of relevant instruments issued by credit institutions and held by other credit institutions and by the ECB and participating NCBs, on the one hand, and the total amount outstanding of such instruments issued by credit institutions, on the other,

⁽¹⁾ OJ L 318, 27. 11. 1998, p. 1.

⁽²⁾ OJ L 318, 27. 11. 1998, p. 4.

- 'resident' shall mean any natural or legal person residing in any of the participating Member States in the sense of Article 1(4) of the Council Regulation (EC) No 2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank⁽¹⁾,
- 'reorganisation measures' shall mean measures which are intended to preserve or restore the financial situation of an institution and which could affect third parties' pre-existing rights, including measures involving the possibility of the 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 instances in which the proceedings are terminated by a composition or by another analogous measure.

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 indent of Article 1 of Council Directive 77/780/EEC⁽²⁾, other than participating NCBs;
 - (b) branches of credit institutions as defined in the first indent of Article 1 of Council Directive 77/780/EEC, 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.

2. The ECB may exempt the following institutions from reserve requirements on a non-discriminatory basis:
 - (a) institutions which are subject to winding-up proceedings or reorganisation measures;
 - (b) institutions for which the purpose of the ESCB's minimum reserve system would not be met by imposing reserve requirements upon them. In reaching a decision on any such exemption, the ECB will take into account one or more of the following criteria:
 - (i) the institution is pursuing special-purpose functions;
 - (ii) the institution is not exercising active banking functions in competition with other credit institutions;

- (iii) the institution has all its deposits earmarked for purposes related to regional and/or international development assistance.

3. The ECB will publish a list of institutions subject to reserve requirements. The ECB will also publish a list of institutions exempt from its reserve requirements for reasons other than being subject to reorganisation measures. 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 this Article 2.

Article 3

Reserve base

1. The reserve base of an institution shall comprise the following liabilities (as defined within the reporting framework for the money and banking statistics of the ECB, which is laid down in Regulation (EC) No 2819/98 of the European Central Bank of 1 December 1998 concerning the consolidated balance sheet of the monetary financial institutions sector (ECB/1998/16))⁽³⁾ resulting from the acceptance of funds:

- (a) deposits;
 - (b) debt securities issued;
 - (c) money market paper.

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

liabilities which are owed to any other institution not listed as being exempt from the ESCB's minimum reserve system according to Article 2(3) and liabilities which are owed to the ECB or to a participating NCB. For the application of this provision, the institution shall be able to provide evidence to the relevant participating NCB of the actual amount of its liabilities owed to any other institution not listed as being exempt from the ESCB's minimum reserve system and of its liabilities which are owed to the ECB or to a participating NCB in order to exclude them from the reserve base. If such evidence cannot be presented for debt securities issued with an agreed maturity of up to two years, the institution may apply a standardised deduction to the outstanding amount of its debt securities issued with an agreed maturity of up to two years from the reserve base. If such evidence cannot be presented for money market paper, the institution may apply a standardised deduction to the outstanding amount of its money market paper liabilities from the reserve base. The amount of such standardised deductions will be published by the ECB in the same manner as the publication of the list referred to in Article 2(3).

⁽¹⁾ OJ L 318, 27. 11. 1998, p. 8.

⁽²⁾ OJ L 322, 17. 12. 1977, p. 30.

⁽³⁾ See page 7 of this Official Journal.

3. The reserve base in respect of a particular maintenance period shall be calculated by the institution on the basis of the latest data to be reported by the institution to the relevant participating NCB before the start of the relevant maintenance period as defined within the reporting framework for the money and banking statistics of the ECB, which is laid down in Regulation (EC) No 2819/98.

Article 4

Reserve ratios

1. A reserve ratio of 0 % shall apply to the following liability categories (as defined within the reporting framework for the money and banking statistics of the ECB, which is laid down in Regulation (EC) No 2819/98

- (a) deposits with agreed maturity over two years;
- (b) deposits redeemable at notice over two years;
- (c) repos;
- (d) debt securities issued with an agreed maturity over two years.

2. A reserve ratio of 2,0 % shall apply to all other liabilities included in the reserve base.

Article 5

Calculation of reserve requirements

1. The amount of minimum reserves to be held by each institution in respect of a particular maintenance period shall be calculated by applying the reserve ratios to each relevant item of the reserve base for that period, as defined in Article 4.

2. An allowance of EUR 100 000, to be deducted from the amount of the reserve requirement, shall be granted to each institution, subject to the provisions contained in Article 11.

Article 6

Reserve holdings

1. An institution shall hold its minimum reserves on one or more reserve accounts with the national central bank in each participating Member State in which it has an establishment, in relation to its reserve base in the corresponding Member State. Reserve accounts shall be denominated in euro. Institutions' settlement accounts with the participating NCBs may be used as reserve accounts.

2. An institution shall have complied with its reserve requirement if the average end-of-day balance on its reserve accounts over the maintenance period is not less

than the amount defined in accordance with Article 5 for that period.

3. If an institution has more than one establishment in a participating Member State, the registered office or head office, if located in that Member State, shall be responsible for ensuring fulfilment of the institution's reserve requirement. If the institution has neither a registered office nor a head office in that Member State, it shall designate which branch in that Member State shall be responsible for ensuring fulfilment of the institution's reserve requirement. All reserve holdings of these establishments count together towards fulfilment of the institution's total reserve requirement in that Member State.

Article 7

Maintenance period

The maintenance period shall be one month, starting on the 24th calendar day of each month and ending on the 23rd calendar day of the following month.

Article 8

Remuneration

1. Holdings of required reserves are remunerated at the average, taken over the maintenance period, of the ESCB's rate (weighted according to the number of calendar days) for the main refinancing operations according to the following formula:

$$R_t = \frac{H_t \cdot n_t \cdot \sum_{i=1}^n \frac{MR_i}{n_t \cdot 100}}{360}$$

Where:

- R_t = remuneration to be paid on holdings of required reserves for the maintenance period t
- H_t = holdings of required reserves for the maintenance period t
- n_t = number of calendar days in the maintenance period t
- i = i th calendar day of the maintenance period t
- MR_i = marginal interest rate for the most recent main refinancing operations spanning calendar day i .

2. The remuneration shall be paid on the second NCB business day following the end of the maintenance period over which the remuneration was earned.

*Article 9***Responsibility for verification**

The right to verify the accuracy and quality of the information which institutions provide to demonstrate compliance with the reserve requirement as specified in Article 6 of Regulation (EC) No 2531/98 concerning the application of minimum reserves shall be exercised by the participating NCBs without prejudice to the right of the ECB to exercise this right itself.

*Article 10***Indirect holding of minimum reserves through an intermediary**

1. An institution may apply for permission to hold all its minimum reserves indirectly through an intermediary which is resident in the same Member State. The intermediary shall be an institution subject to reserve requirements which normally effects part of the administration (e.g. treasury management) of the institution for which it is acting as intermediary, beyond the holding of minimum reserves.

2. The application for permission shall be addressed to the national central bank of the participating Member State in which the institution making the application is established. The application shall include a copy of an agreement between the intermediary and the applicant in which both parties express their consent to the arrangement. The agreement shall also specify whether the institution making the application wishes to access ESCB standing facilities and open market operations. The agreement shall have an agreed period of notice of at least 12 months. Upon fulfilment of the above conditions the participating NCB referred to above may grant permission for the period of time for which the aforementioned agreement between the parties is operative, subject to the provisions of paragraph 4 of this Article. Such permission shall become effective from the start of the first maintenance period following the granting of the permission.

3. The intermediary shall maintain these minimum reserve holdings in accordance with the general conditions of the ESCB's minimum reserve system. The intermediary shall, in addition to the institutions for which it is acting as intermediary, be responsible for compliance with their reserve requirements. In the event of non-compliance, the ECB may impose any applicable sanctions on the intermediary, on the institution for which it is acting as intermediary, or on both, in accordance with the liability for non-compliance.

4. The ECB or the relevant participating NCB may, at any time, withdraw permission to hold minimum reserves indirectly if an institution which holds its reserves indirectly through an intermediary, or the intermediary itself,

fails to comply with its obligations under the ESCB minimum reserve system, if the conditions for the holding of reserves indirectly specified in paragraphs 1 and 2 of this Article are no longer fulfilled or for prudential reasons related to the intermediary. If such permission is withdrawn for prudential reasons related to the intermediary, the withdrawal may have immediate effect. Subject to the requirements of paragraph 5 of this Article, any withdrawal for other reasons shall take effect at the end of the current maintenance period. An institution which holds its reserves through an intermediary, or the intermediary itself, may, at any time, ask for the permission to be withdrawn. Withdrawal requires prior notification by the relevant participating NCB to become effective.

5. The institution which holds its minimum reserves through an intermediary and the intermediary itself will be informed of any withdrawal of permission for reasons other than prudential ones at least five working days before the end of the maintenance period within which permission shall cease to be granted.

6. Without prejudice to the individual statistical reporting obligations of the institution which holds its minimum reserves through an intermediary, the intermediary shall report the reserve base data in a sufficiently detailed manner to enable the ECB to verify their accuracy and quality, subject to the provisions contained in Article 9, and determine the respective reserve requirements and the reserve holdings data for itself, as well as for each institution for which it acts as intermediary. These data shall be provided to the participating NCB at which the minimum reserves are held. The intermediary shall provide the aforementioned reserve base data according to the same frequency and timetable as were established within the reporting framework for the money and banking statistics of the ECB, which is laid down in Regulation (EC) No 2819/98.

*Article 11***Reserve holding on a consolidated basis**

Institutions allowed to report statistical data as a group on a consolidated basis (as defined within the reporting framework for the money and banking statistics of the ECB, which is laid down in Regulation (EC) No 2819/98) must, subject to the provisions contained in Article 10, hold minimum reserves through one of the institutions in the group which is acting as intermediary exclusively for these institutions. The institution acting as the intermediary for the group may apply to the ECB for exemption from the provisions in paragraph 6 of Article 10. If its application is accepted by the ECB, only the group as a whole shall be entitled to receive the allowance referred to in paragraph 2 of Article 5.

*Article 12***NCB business days**

If one or more branches of a participating NCB are closed on an NCB business day owing to local or regional bank holidays, the relevant participating NCB shall inform the institutions in advance of the arrangements to be made for transactions involving those branches.

*Article 13***Transitional provisions**

1. The first maintenance period shall start on 1 January 1999 and end on 23 February 1999.
2. The reserve base of an institution for the first maintenance period shall be defined in relation to elements of its balance sheet as of 1 January 1999, as reported to the participating NCBs within the reporting framework for the money and banking statistics of the ECB, which is laid down in Regulation (EC) No 2819/98.

*Article 14***Amendments to this Regulation**

Any amendments to this Regulation shall become effective only with regard to a full maintenance period and shall be announced prior to this period.

*Article 15***Final provision**

This Regulation shall enter into force on 1 January 1999.

Done at Frankfurt am Main, 1 December 1998.

*On behalf of the Governing Council of
the ECB*

The President

Willem F. DUISENBERG
