

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.

- (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,

⁽¹⁾ OJ L 318, 27.11.1998, p. 1.

⁽²⁾ OJ L 24, 26.1.2002, p. 1.

⁽³⁾ OJ L 318, 27.11.1998, p. 4.

⁽⁴⁾ OJ L 356, 30.12.1998, p. 1.

⁽⁵⁾ Regulation ECB/2000/8 of 31 August 2000 amending Regulation (EC) No 2818/98 on the application of minimum reserves (ECB/1998/15) and amending Regulation (EC) No 2819/98 of the European Central Bank concerning the consolidated balance sheet of the monetary financial institution sector (ECB/1998/16) (OJ L 229, 9.9.2000, p. 34).

⁽⁶⁾ Regulation ECB/2002/3 of 18 April 2002 amending Regulation ECB/1998/15 on the application of minimum reserves (OJ L 106, 23.4.2002, p. 9).

- '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,
- '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 ⁽¹⁾,
- '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 ⁽²⁾, 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.

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 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 pursuing special-purpose functions;

⁽¹⁾ OJ L 318, 27.11.1998, p. 8.

⁽²⁾ OJ L 126, 26.5.2000, p. 1. Directive as amended by Directive 2000/28/EC (OJ L 275, 27.10.2000, p. 37).

- (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 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 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. An institution's reserve base shall comprise the following liabilities (as defined within the ECB's reporting framework for money and banking statistics in Regulation (EC) No 2423/2001 of the European Central Bank of 22 November 2001 concerning the consolidated balance sheet of the monetary financial institutions sector (ECB/2001/13) ⁽¹⁾) resulting from the acceptance of funds:

- (a) deposits;
- (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 which are owed to any other institution not listed as being exempt from the ECB's minimum reserve system according to Article 2(3), and
- (b) liabilities which are owed to the ECB or to a participating NCB.

In applying this provision, the institution shall 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 ECB'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 standard deduction to the outstanding amount of its debt securities issued with an agreed maturity of up to two years from

the reserve base. The amount of such standard deduction shall be published by the ECB in the same manner as the publication of the list referred to in Article 2(3).

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 for money and banking statistics laid down in Regulation (EC) No 2423/2001 (ECB/2001/13).

4. For institutions which have been granted the derogation set out in Article 2(2) of Regulation (EC) No 2423/2001 (ECB/2001/13), the reserve base shall be calculated, for three 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 Annex II to Regulation (EC) No 2423/2001 (ECB/2001/13). These institutions shall notify their minimum reserves in accordance with Article 5.

Article 4

Reserve ratios

1. A reserve ratio of 0 % shall apply to the following liability categories (as defined within the ECB's reporting framework for money and banking statistics in Regulation (EC) No 2423/2001 (ECB/2001/13)):

- (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 and notification of minimum reserves

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. The minimum reserves identified by the relevant participating NCB and by the institution in accordance with the procedures mentioned in this Article shall constitute the basis for (i) remuneration of holdings of required reserves, and (ii) assessment of an institution's compliance with the obligation to hold the required amount of minimum reserves.

⁽¹⁾ OJ L 333, 17.12.2001, p. 1.

2. An allowance of EUR 100 000, to be deducted from the amount of the minimum reserves, shall be granted to each institution, subject to the provisions contained in Articles 11 and 13.

3. Each participating NCB shall determine procedures for the notification of institutions' individual minimum reserves, in accordance with the following principles. Either the relevant participating NCB or the institution shall take the initiative to calculate that institution's minimum reserves for the relevant maintenance period, on the basis of the statistical information and of the reserve base reported in accordance with Article 5 of Regulation (EC) No 2423/2001 (ECB/2001/13). The calculating party shall notify the other party of the calculated minimum reserves at the latest three NCB business days before the start of the maintenance period. The relevant participating NCB may specify an earlier date as a time limit for the notification of minimum reserves. It may also specify additional time limits for the institution to notify any revisions to the reserve base, and any revisions to the notified minimum reserves. If an institution abuses the opportunity that is offered by its participating NCB to revise the reserve base and the minimum reserves, the NCB may suspend permission for that institution to submit revisions. The notified party shall acknowledge the calculated minimum reserves at the latest on the NCB business day preceding the start of the maintenance period. If the notified party has not replied to the notification by the end of the NCB business day preceding the start of the maintenance period, it shall be deemed to have acknowledged the amount of minimum reserves of the institution for the relevant maintenance period. Once acknowledged, the institution's minimum reserves for the relevant maintenance period cannot be revised.

4. The participating NCBs shall publish calendars indicating the forthcoming time limits for notification and acknowledgement of data relevant to minimum reserves for the implementation of the procedures mentioned in this Article.

5. Where an institution fails to report the relevant statistical information as specified in Article 5 of Regulation (EC) No 2423/2001 (ECB/2001/13), the relevant participating NCB shall inform the institution concerned of the amount of the institution's minimum reserves that is to be notified or acknowledged, in accordance with the procedures mentioned in this Article, for the relevant maintenance period(s), estimated on the basis of historical information reported by the institution and any other relevant information. Article 6 of Regulation (EC) No 2531/98 and the ECB's power to impose sanctions for infringement of the ECB's statistical reporting requirements shall remain unaffected.

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 for that period in accordance with the procedures set out in Article 5.

3. If an institution has more than one establishment in a participating Member State, its registered office or head office, if located in that Member State, shall be responsible for ensuring compliance with 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 of its branches in that Member State shall be responsible for ensuring compliance with the institution's reserve requirement. All these establishments' reserve holdings count together towards compliance with the institution's total reserve requirement in that Member State.

Article 7

Maintenance period

1. Unless the Governing Council of the ECB decides to modify the calendar according to paragraph 2, the maintenance period shall start on the settlement day of the main refinancing operation following the meeting of the Governing Council, at which the monthly assessment of the monetary policy stance is pre-scheduled. The Executive Board of the ECB shall publish a calendar of maintenance periods at least three months before the start of each calendar year. Publication of such calendar shall take place in the *Official Journal of the European Union* and on the websites of the ECB and of the participating NCBs.

2. The Governing Council shall decide on any modification of this calendar that is necessary due to extraordinary circumstances and the Executive Board shall publish it in the same manner well in advance of the start of the maintenance period to which the modification is applied.

Article 8

Remuneration

1. Holdings of required reserves are remunerated at the average, taken over the maintenance period, of the ECB rate (weighted according to the number of calendar days) for the main refinancing operations of the Eurosystem according to the following formula (whereby the result is rounded to the nearest cent):

$$R_t = \frac{H_t \cdot n_t \cdot r_t}{100 \cdot 360}$$

$$r_t = \sum_{i=1}^{n_t} \frac{MR_i}{n_t}$$

Where:

R_t = remuneration to be paid on holdings of required reserves for the maintenance period t ;

H_t = average daily holdings of required reserves for the maintenance period t ;

- n_t = number of calendar days in the maintenance period t ;
- r_t = rate of remuneration on holdings of required reserves for the maintenance period t . Standard rounding of the rate of remuneration to two decimals shall be applied;
- i = i th calendar day of the maintenance period t ;
- MR_i = marginal interest rate for the most recent main refinancing operation settled on or before 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 participating NCBs shall exercise 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 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 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. Any application for permission to hold minimum reserves through an intermediary as described in paragraph 1 above shall be addressed to the national central bank of the participating Member State in which the applicant 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 applicant wishes to access Eurosystem standing facilities and open market operations. The agreement shall specify a notice period of at least 12 months. Upon compliance with the above conditions, the relevant participating NCB may grant the applicant permission to hold minimum reserves through an intermediary, subject to the provisions of paragraph 4 of this Article. Such permission shall be effective from the start of the first maintenance period following the date permission is granted, and shall continue for the duration of the aforementioned agreement between the parties.

3. The intermediary shall maintain these minimum reserve holdings in accordance with the general conditions of the ECB's minimum reserve system. Not only the institutions for which the intermediary is acting, but also the intermediary itself shall be responsible for complying with those institutions' 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:

- (i) if an institution which holds its reserves indirectly through an intermediary, or the intermediary itself, fails to comply with its obligations under the ECB minimum reserve system;
- (ii) if the conditions for the holding of reserves indirectly specified in paragraphs 1 and 2 of this Article are no longer fulfilled; or
- (iii) for prudential reasons relating to the intermediary.

If such permission is withdrawn for prudential reasons relating to the intermediary, the withdrawal may have immediate effect. Subject to the requirements of paragraph 5, any withdrawal for other reasons shall take effect at the end of the then 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 shall 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 in which permission is withdrawn.

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 its accuracy and quality, having regard to the provisions contained in Article 9, and determine the respective minimum reserves and the reserve holdings data for itself, as well as in respect of each institution for which it acts as intermediary. That data shall be provided to the participating NCB with 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 ECB's reporting framework for money and banking statistics laid down in Regulation (EC) No 2423/2001 (ECB/2001/13).

*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 ECB's reporting framework for money and banking statistics in Regulation (EC) No 2423/2001 (ECB/2001/13)) must hold minimum reserves through one of the institutions in the group which is acting as intermediary exclusively for these institutions and in accordance with the provisions in Article 10. The institution acting as the intermediary for the group may apply to the ECB for exemption from the provisions in Article 10(6). If the ECB accepts its application, only the group as a whole shall be entitled to receive the allowance referred to in Article 5(2).

*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***Mergers and divisions**

1. For the maintenance period in which a merger takes effect, the merging institutions' reserve requirements shall be assumed by the acquiring institution and the acquiring institution shall benefit from any allowance described in Article 5(2) granted to the merging institutions. All the merging institutions' reserve holdings for the maintenance period in which the merger takes effect shall count together towards compliance with reserve requirements by the acquiring institution.

2. From the maintenance period immediately following the maintenance period in which the merger takes effect onwards, the acquiring institution shall be granted only one allowance as described in Article 5(2). For the maintenance period immediately following the one in which the merger takes effect, the acquiring institution's minimum reserves shall be calculated using a reserve base which aggregates the reserve bases of the merging institutions and, where appropriate, of the acquiring institution. The reserve bases to be aggregated are those which would have been relevant for this maintenance period had the merger not occurred. To the extent required to have adequate statistical information for each of the merging institutions, the acquiring institution shall assume the merging institutions' statistical reporting obligations. Specific provisions, depending on the features of the institutions involved in the merger, are set out in Annex II to Regulation (EC) No 2423/2001 (ECB/2001/13).

3. For the maintenance period in which a division takes effect, those recipient institutions which are credit institutions shall assume the reserve requirement of the institution being divided. Each of the recipient credit institutions shall be liable in proportion to the part of the reserve base of the institution being divided that is allocated to it. Reserves held by the institution being divided during the maintenance period in which the division takes effect shall be allocated between the recipient institutions which are credit institutions in the same proportions. For the maintenance period in which the division takes effect, the allowance described in Article 5(2) shall be granted to each of the recipient institutions which is a credit institution.

4. From the maintenance period immediately following the maintenance period in which the division takes effect and until the recipient institutions which are credit institutions have reported their respective reserve bases in accordance with Article 5 of Regulation (EC) No 2423/2001 (ECB/2001/13), each recipient institution which is a credit institution shall assume, possibly in addition to its own minimum reserves, the minimum reserves calculated on the basis of the part of the reserve base of the institution being divided that is allocated to it. From the maintenance period immediately following the maintenance period in which the division takes effect onwards, each recipient institution which is a credit institution shall be granted one allowance as described in Article 5(2).

*Article 14***Transitional provisions**

1. The maintenance period starting on 24 January 2004 shall end on 9 March 2004.

2. The minimum reserves for this transitional maintenance period shall be calculated using the reserve base at 31 December 2003. The reserve base at 30 September 2003 shall be used for institutions reporting on a quarterly basis.

3. The procedures for calculation, notification, confirmation, revision and acknowledgment set out in Article 5(3), (4) and (6) of Regulation (EC) No 2818/98 (ECB/1998/15) shall apply to this transitional maintenance period.

*Article 15***Final provisions**

1. This Regulation shall enter into force on 24 January 2004, with the exception of Article 5(3) and (5) which shall enter into force on 10 March 2004.

2. Regulation (EC) No 2818/98 (ECB/1998/15) of 1 December 1998 on the application of minimum reserves shall be repealed on 23 January 2004, with the exception of Article 5(3), (4) and (6) which shall be repealed on 9 March 2004.

3. References made to the repealed Regulation shall be construed as being made to this Regulation.

Done at Frankfurt am Main, 12 September 2003.

*On behalf of the Governing Council of the
ECB*

Willem F. DUISENBERG
