EUROPEAN CENTRAL BANK

EUROSYSTEM

OPINION OF THE EUROPEAN CENTRAL BANK

of 22 November 2013

on the reserve requirements for credit institutions

(CON/2013/79)

Introduction and legal basis

On 11 October 2013, the European Central Bank (ECB) received a request from Lietuvos bankas for an opinion on a draft resolution amending the Rules on reserve requirements for credit institutions (hereinafter the 'draft resolution').

The ECB's competence to deliver an opinion is based on Articles 127(4) and 282(5) of the Treaty on the Functioning of the European Union and Article 2(2) of Council Decision 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions[1], as the draft resolution relates to instruments concerning monetary policy of a non-euro area Member State. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the European Central Bank, the Governing Council has adopted this opinion.

1. Purpose of the draft resolution

1.1 The draft resolution aims to: (a) extend the scope of reserve requirements by making credit unions subject to those requirements; (b) align the Lithuanian minimum reserves regime with Eurosystem standards; (c) change the procedure of calculating and approving reserve requirements, and (d) make some technical amendments to the Rules on reserve requirements in order to take into account the special characteristics of credit unions.

1.2 The draft resolution is to apply from 1 April 2014. As regards credit unions, the reserve requirements are to apply to credit unions from the maintenance period starting after 1 January 2015.

2. General observations

2.1 Member States that have not adopted the euro retain their monetary policy powers, including in connection with their minimum reserves frameworks. Nevertheless, it is beneficial for them to achieve consistency with the Eurosystem minimum reserves framework so that their credit institutions become acquainted with the reserve requirements that will apply to them following the adoption of the euro by the Member State where they are established. The legal framework for the

1 OJ L 189, 3.7.1998, p. 42.

Eurosystem's minimum reserve system consists of: (a) Article 19 of the Statute of the European System of Central Banks and of the European Central Bank; (b) Council Regulation (EC) No 2531/98[2]; (c) Regulation ECB/2003/9[3]; and (d) in relation to the definition and calculation of the reserve base, Regulation ECB/2008/32[4]. Article 11 and Annex III to Regulation ECB/2008/32 require that each credit institution uses the statistical information reported by credit institutions under this Regulation for minimum reserve purposes.

2.2 The ECB welcomes the changes to Lithuanian law that will be brought about under the draft resolution as part of the preparations for the introduction of the euro in Lithuania. Within the framework of monetary policy, which remains a competence of Lietuvos bankas until the introduction of the euro, the draft resolution will further harmonise the current Lithuanian minimum reserve system with the Eurosystem standards that will apply after the introduction of the euro.

3. Institutions subject to reserve requirements

The ECB welcomes the initiative to include Lithuanian credit unions under the scope of the Lithuanian minimum reserves regime. As the ECB has pointed out in several earlier opinions, Lithuanian credit unions should also be subject to reserve requirements[5].

4. Reserve base

4.1 The ECB understands that the regulatory and supervisory framework for credit unions is currently being revised in Lithuania[6]. In the future, there will be a differentiation between a credit union's different share contributions. Primary share contributions will carry both voting and dividend rights, with a number of restrictions on their redemption. Supplementary share contributions will carry the right to receive dividends, but no voting rights, and it will be possible to redeem them according to the rules set by the credit union itself[7].

4.2 According to Article 3(1) of Regulation ECB/2003/9, the liabilities resulting from the acceptance of funds that comprise an institution's reserve base, i.e. deposits and debt securities issued, are defined within the ECB's reporting framework for money and banking statistics.

According to Regulation ECB/2008/32, the definition of 'deposits' includes 'shares issued by monetary financial institutions (MFIs)'. Such shares are classified as deposits rather than capital

2 Council Regulation (EC) No 2531/98 of 23 November 1998 concerning the application of minimum reserves by the European Central Bank (OJ L 318, 27.11.1998, p. 1).

3 Regulation ECB/2003/9 of 12 September 2003 on the application of minimum reserves (OJ L 250, 2.10.2003, p. 10).

4 Regulation ECB/2008/32 of 19 December 2008 concerning the balance sheet of the monetary financial institutions sector (OJ L 15, 20.1.2009, p. 14).

5 See paragraph 2 of CON/2012/110 and paragraph 14 of Opinion CON/2005/8, in which the ECB stressed that Lithuanian credit unions fall under the definition of a credit institution within the meaning of the Consolidated Banking Directive, and will therefore be subject to the Eurosystem reserve requirements when Lithuania adopts the euro. All ECB opinions are published on the ECB's website at www.ecb.europa.eu.

6 See CON/2013/63.

7 See Explanatory memorandum to the draft resolution.

and reserves if: (a) there is a debtor-creditor economic relationship between the issuing MFI and the holder (regardless of any property rights in these shares); and (b) the shares can be converted into currency or redeemed without significant restrictions or penalties. A notice period is not considered to be a significant restriction. In addition, such shares must comply with the following conditions. First, the issuing MFI has no unconditional right to refuse redemption of its shares. Second, the shares are 'value certain', i.e. under normal circumstances they will be paid out at their nominal value in the event of redemption. Third, in the event of the MFI's insolvency, the holders of its shares are not legally subject to either: (a) the obligation to cover outstanding liabilities in addition to the nominal value of the shares, i.e. the shareholders' participation in the subscribed capital, or (b) any other onerous supplementary obligations. The subordination of shares to any other instrument issued by the MFI does not qualify as an onerous supplementary obligation.

4.3 If, according to the future regulatory framework for credit unions in Lithuania, the supplementary share contributions will comply with the above-mentioned criteria, such share contributions are to be considered as deposits and, accordingly, included in an institution's reserve base for the purpose of calculating minimum reserves.

4.4 On the basis of the information provided in the consultation letter, the ECB also understands that, according to the future regulatory framework for credit unions in Lithuania, primary share contributions will not fulfil the criteria of 'shares issued by MFIs'. Therefore, primary share contributions are not to be considered as deposits and should not be included in an institution's reserve base.

5. Reserve ratios

5.1 The ECB notes[8] that a reserve ratio of 3 % is applied to most of the liabilities included in the reserve base, while the Eurosystem applies 1 %.

5.2 Similar to the Eurosystem standards: (a) deposits with an agreed maturity period of over two years; (b) deposits redeemable at a notice period of over two years; (c) debt securities issued with an original maturity of over two years; and (d) repurchase agreements continue to be subject to a reserve ratio of 0 % under the Lithuanian minimum reserves regime.

6. Remuneration

The ECB notes[9] that under the Lithuanian minimum reserves regime, the holdings of required reserves are remunerated not by reference to the ECB rate for the main refinancing operations, as stipulated in Article 8 of Regulation ECB/2003/9, but rather by reference to the ECB deposit facility rate.

This opinion will be published on the ECB's website.

8 Also see paragraph 1.1 of CON/2012/110,

9 Also see paragraph 3 of CON/2012/110.

Done at Frankfurt am Main, 22 November 2013

[signed]

The President of the ECB

Mario DRAGHI