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EUROPEAN CENTRAL BANK

# OPINION OF THE EUROPEAN CENTRAL BANK

**of 31 May 2005**

**at the request of Magyar Nemzeti Bank**
**on a draft regulation on the calculation, method of allocation and placement of minimum reserves**

**(CON/2005/14)**

1. On 29 April 2005 the European Central Bank (ECB) received a request from Magyar Nemzeti Bank (MNB) for an opinion on a draft regulation on the calculation, method of allocation and placement of minimum reserves (hereinafter the 'draft regulation').

2. The ECB's competence to deliver an opinion is based on 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 legislative proposal contains provisions concerning the application of minimum reserve requirements for the implementation of monetary policy in a Member State that has not adopted the euro. 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.

3. The draft regulation will apply to credit institutions with an operating licence which are located in Hungary, including branches of credit institutions registered outside Hungary. It defines the reserve base and how the minimum reserves are to be held with MNB. MNB remunerates the required reserves according to a formula corresponding to the ECB's, and the draft regulation amends the date thereof. Furthermore, the draft regulation lays down the procedures for verification and rectification of data, and procedures in the event of infringement of the minimum reserve requirements. Finally, the draft regulation specifies the sanctions regime to be applied by MNB where an infringement of the minimum reserve requirements has been identified. Generally speaking, the draft regulation does not significantly modify the existing minimum reserve system in Hungary. It only modifies its scope of application and MNB's powers to impose sanctions, as well as making a minor change to the remuneration date.

4. This is the first opportunity for the ECB to comment on MNB's minimum reserve framework, after Hungary's accession to the European Union in 2004. In view of Hungary's intention to adopt the euro and the single monetary policy this entails, the ECB acknowledges MNB's intention to bring the Hungarian minimum reserve system into line with the ECB's minimum reserve framework. For

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1 OJ L 189, 3.7.1998, p. 42.

this reason the ECB has undertaken a detailed comparison of the proposed MNB minimum reserve regime with that of the Eurosystem.

5. The ECB welcomes the draft regulation as it further brings into line the Hungarian minimum reserve framework with that of the ECB. The ECB welcomes the draft regulation's introduction of an express reference to credit institutions with an operating licence that are registered in European Economic Area countries and that conduct business in Hungary, thereby accommodating the 'European Passport' established by the Consolidated Banking Directive[2].

6. The sanctions regime in Article 7 of the draft regulation distinguishes two cases in which sanctions may be applied: (a) where the average daily balance on the credit institution's current account is insufficient, on the basis of data corrected after the end of the maintenance period by the credit institution; and (b) where the MNB identifies a shortfall, either through regular verification of compliance on the basis of end-of-month supervisory balance sheet data or by extraordinary on-site inspection. It should be noted that the ECB's framework does not provide for such a distinction because the ECB does not allow revisions to the reserve requirement data after the start of the reserve maintenance period to which the reserve requirement refers. Indeed, any error in the reporting of statistical data affecting the reserve base would be dealt with under the ECB's specific statistical reporting sanctions regime.

7. The sanctions provided for in the draft regulation in the event of a 'reserve deficit' require unremunerated funds equal to the average daily shortfall for that maintenance period to be held on a separate account at MNB. In the second instance mentioned in paragraph 6 above (i.e. infringements identified by MNB), the amount would be 1.5 times the average daily shortfall. In both cases the funds would be held on an unremunerated basis for 30 days. If the credit institution's liquidity situation does not allow for the imposition of such a sanction, the holding of funds may be spread over several maintenance periods. Moreover, if the credit institution's holdings at the central bank do not cover the required funds, the central bank grants credit to the credit institution for the missing amount at a rate twice MNB's base rate. On the other hand, the ECB, in the event of infringement of the minimum reserve requirements, notifies the corresponding sanction, a nominal amount determined on the basis of a predetermined formula, to the credit institution and its right to appeal within five working days. If the credit institution does not appeal, the sanction is imposed on the infringing credit institution's reserve account.

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2 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, OJ L 126, 26.5.2000, p. 1. Directive as last amended by Commission Directive 2004/69/EC (OJ L 125, 28.4.2004, p. 44).

8. This opinion will be published on the ECB’s website.

Done at Frankfurt am Main, 31 May 2005.

[signed]

*The President of the ECB*

Jean-Claude TRICHET