



OPINION OF THE EUROPEAN CENTRAL BANK

14 December 2006

at the request of Eesti Pank

on a draft decree establishing a procedure to calculate and comply with reserve requirements

(CON/2006/59)

Introduction and legal basis

On 27 November 2006 the European Central Bank (ECB) received a request from Eesti Pank for an opinion on a draft decree establishing a procedure to calculate and comply with reserve requirements (hereinafter the 'draft decree').

The ECB's competence to deliver an opinion is based on Article 105(4) of the Treaty establishing the European Community 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 provisions¹, as the draft decree relates to the instruments of monetary policy. 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 decree

The purpose of the draft decree is to achieve greater convergence with the Basel II framework. The draft decree mainly amends the basis for calculating the reserve requirement by means of excluding the residential mortgage loan portfolio, hence returning to a purely liability-based reserve requirement calculation. In addition, a number of technical changes are introduced to the framework including an adjustment of the penalty rate, the abolition of the daily minimum level requirement on settlement accounts, and changes to the contractual relationship between Eesti Pank and credit institutions. It is envisaged that the draft decree will enter into force on 1 January 2007.

2. General observations

2.1 The ECB has already analysed the Estonian minimum reserve system in Opinion CON/2006/3², where it emphasised the fact that differences between the Estonian and Eurosystem's minimum reserve systems would need to be eliminated on adoption of the euro by Estonia. In this context, the

¹ OJ L 189, 3.7.1998, p. 42.

² ECB Opinion CON/2006/3 of 13 January 2006 at the request of Eesti Pank on a draft decree establishing a procedure to calculate and comply with reserve requirements and draft decree amending Decree No 12 of 12 July 2002 on credit institutions' prudential ratios.

ECB welcomes the proposed exclusion of the residential mortgage loan portfolio from the basis for calculating the reserve requirement, which brings the Estonian minimum reserve system closer to that of the Eurosystem³.

- 2.2 The ECB also welcomes the abolition of the daily minimum level requirement of 40 % on credit institutions' settlement accounts with Eesti Pank, which further harmonises the Estonian minimum reserve system with that of the Eurosystem.
- 2.3 The ECB takes note of the change in the penalty rate which brings the Estonian penalty rate closer to the Eurosystem framework by making the rate dependent on a policy rate rather than applying a fixed rate (currently a 20 % annual rate is applied). Nevertheless, the ECB would like to draw Eesti Pank's attention to the fact that Eesti Pank's penalty rate is linked to the minimum bid rate of the Eurosystem's main refinancing operations, whereas the Eurosystem applies a rate linked to the marginal lending rate. Under the Eurosystem framework⁴ a payment of up to 5 percentage points above the marginal lending rate can be applied to the amount of the reserve requirement which the relevant institution failed to provide. Depending on the severity of the infringement the Eurosystem may also impose higher penalties, such as a payment of up to twice the marginal lending rate or require the relevant institution to establish a non-interest-bearing deposit with the ECB or the national central banks of up to three times the amount of the reserve requirement which the relevant institution failed to provide.
- 2.4 Moreover, as already noted in Opinion CON/2006/3⁵, Article 1 of Appendix 1 to the draft decree establishing a procedure to calculate and comply with reserve requirements does not list all EU Member States. Furthermore, under Article 2 of Appendix 1, a liquidity portfolio may contain only such debt securities that meet the criteria specified in the subsections of Article 2. In that context, the draft decree treats the debt issue in euro of the euro area Member States' Governments differently from those of other EU Member States' Governments in terms of the required minimum credit rating.
- 2.5 However, there are still significant differences between the Estonian minimum reserve system and that of the Eurosystem, which mainly derive from the different functions assigned to each of them. These differences from the legal framework under which the Eurosystem operates will have to be eliminated on adoption of the euro by Estonia. The legal framework underlying the Eurosystem's minimum reserve system is laid down in: (i) Article 19 of the Statute of the European System of Central Banks and of the European Central Bank; (ii) Regulation (EC) No 2531/98; (iii) Regulation ECB/2003/9 of 12 September 2003 on the application of minimum reserves⁶; and (iv) in relation to the definition and calculation of the reserve base, Regulation ECB/2001/13 of 22 November 2001

³ The ECB understands that Appendix 4 to the draft decree will also be amended accordingly.

⁴ Article 7(1) of 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). Regulation as amended by Regulation (EC) No 134/2002 (OJ L 26, 26.1.2002, p. 1).

⁵ See paragraph 10 of Opinion CON/2006/3.

⁶ OJ L 250, 2.10.2003, p. 10.

concerning the consolidated balance sheet of the monetary financial institutions sector⁷. The purpose of these legal acts, which are directly applicable to and binding on euro area credit institutions, is to ensure that the terms and conditions for the Eurosystem's minimum reserve system are uniform throughout the euro area. In the Eurosystem's framework, reserve requirements primarily pursue the aims of stabilising money market interest rates, and creating or enlarging a structural liquidity shortage.

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

Done at Frankfurt am Main, 14 December 2006.

[signed]

The President of the ECB

Jean-Claude TRICHET

⁷ OJ L 333, 17.12.2001, p. 1. Regulation as last amended by Regulation ECB/2004/21 (OJ L 371, 18.12.2004, p. 42).