



OPINION OF THE EUROPEAN CENTRAL BANK

of 1 August 2007

**at the request of Banca Națională a României
on a draft circular on the minimum reserves regime**

(CON/2007/22)

Introduction and legal basis

On 5 July 2007 the European Central Bank (ECB) received a request from Banca Națională a României for an opinion on a draft circular amending and the supplementing Regulation No 6/2002 on the minimum reserves regime (hereinafter 'draft circular').

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 circular relates to minimum reserves requirements, and the authorities of Member States other than participating Member States are obliged to consult the ECB on any draft legislative provisions on 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 circular

- 1.1 The main purpose of the draft circular is to align the minimum reserves regime in Romania with the corresponding standards of the Eurosystem concerning the minimum reserve base. To this end, the draft circular amends the definition of the liability elements included in the minimum reserve base. In particular, it excludes the amounts in transit from the minimum reserves base. Moreover, the amounts in transit are also excluded from the calculation of the average rate of the sight deposit interest, reported by the credit institutions for the establishment of the interest rate paid for the minimum reserves.
- 1.2 In addition, the draft circular introduces changes regarding building societies. It introduces a 0% minimum reserves ratio for such credit institutions².

¹ OJ L 189, 3.7.1998, p. 42.

² Article 288 of Government Emergency Ordinance No 99 of 6 December 2006 on credit institutions and capital adequacy published in Monitorul Oficial al României, Part I, No 1027 of 27 December 2006 defines building societies as follows: 'Romanian legal persons, as credit institutions specialised in long-term financing for housing, which have as their primary activity collective savings and lending for housing.'

2. General observations

- 2.1 The ECB notes that, although non-participating Member States retain their powers in the field of monetary policy, it is nevertheless beneficial to gradually achieve consistency with Eurosystem standards so that credit institutions operating in their territory can become acquainted with the minimum reserve requirements that will apply once the respective Member States have joined the euro area. 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 the European Central Bank; and (ii) Council Regulation (EC) No 2531/98 of 23 November 1998 concerning the application of minimum reserves by the European Central Bank³; and (iii) Regulation ECB/2003/9 of 12 September 2003 on the application of minimum reserves⁴; and (iv) relating to the definition and calculation of the reserve base, Regulation ECB/2001/13 of 22 November 2001 concerning the consolidated balance sheet of the monetary financial institutions sector⁵. 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.
- 2.2 In the course of preparing for the introduction of the euro in Romania, Banca Națională a României will need to examine whether the Eurosystem's requirements can be fulfilled effectively and whether the necessary measures have been adopted in Romania to ensure that the authorities have the requisite powers, under Romanian law, to assist and cooperate with the ECB to collect and verify the information necessary for the Eurosystem's minimum reserve system.

3. Concept of minimum reserves

- 3.1 The ECB welcomes the provisions of the draft circular which narrow the minimum reserve base as it contributes to aligning Romanian minimum reserves regime with that of the Eurosystem. Article 3 of the Regulation ECB/2003/9 does not include amounts in transit in the reserve base when determining the liabilities comprising an institution's reserve base.
- 3.2 However, the ECB observes that the general Romanian framework for the minimum reserves requirements still significantly differs from that of the Eurosystem (e.g. the calculation of the reserve base in correlation with the residual maturity; indirect holdings for minimum reserves not generally admitted; specific definition of credit institutions for the purpose of minimum reserves; differentiation between ratios applied to holdings in national and foreign currencies; definitions of reference and maintenance periods according to previous Eurosystem standards)⁶. Differences from the legal framework under which the Eurosystem operates will have to be eliminated on adoption of the euro by Romania.

³ OJ L 318, 27.11.1998, p. 1.

⁴ OJ L 250, 2.10.2003, p. 10.

⁵ OJ L 333, 17.12.2001, p. 1. Regulation as last amended by Regulation ECB/2006/20 (OJ L 2, 5.1.2007, p. 3).

⁶ Please note that some aspects of the Eurosystem framework were changed in March 2004.

4. The 0% minimum reserve ratio for building societies

- 4.1 The draft circular introduces a 0% minimum reserve ratio for building societies. This amendment would further widen the divergence between the Romanian and the Eurosystem's minimum reserve frameworks, at least with respect to their holdings with a maturity of less than two years. Indeed, according to Article 2 of Regulation ECB/2003/9, all credit institutions in the euro area are subject to a minimum reserve requirement and the Romanian regime also explicitly defines building societies as credit institutions for statistical reporting and minimum reserve obligations⁷. For the Eurosystem, Article 2(2) of the Regulation only admits exceptions to the minimum reserve system on a non-discriminatory basis for: '(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; (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'. This means that under the Eurosystem's regime there can only be exemptions by decision on a case-by-case basis for individual credit institutions based on a thorough analysis of their specific situation. The foreseen automatic application of a 0% minimum reserve ratio for all building societies in Romania leads to a *de facto* exemption of this category of credit institutions from minimum reserve requirements, which would not meet the abovementioned Eurosystem's exemption criteria. As such treatment also differs considerably from the Eurosystem's regime, it would have to be re-adjusted upon the introduction of the euro at the latest⁸.

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

Done at Frankfurt am Main, 1 August 2007.

[signed]

The President of the ECB

Jean-Claude TRICHET

⁷ See Section 1 Article 1 of Regulation No 6 of 24 July 2002 of Banca Națională a României on the minimum reserves regime.

⁸ See ECB Opinion CON/2006/11 of 23 February 2006 at the request of Latvijas Banka on draft amendments to the Regulation on calculating and fulfilling the minimum reserve requirements for banks and ECB Opinion CON/2006/59 of 14 December 2006 at the request of Eesti Pank on a draft decree establishing a procedure to calculate and comply with reserve requirements.