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(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

EUROPEAN CENTRAL BANK

DECISION OF THE EUROPEAN CENTRAL BANK

of 19 March 2009

amending Decision ECB/2004/2 of 19 February 2004 adopting the Rules of Procedure of the European Central Bank

(ECB/2009/5)

(2009/328/EC)

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 (hereinafter the Statute of the ESCB), and in particular Article 10.2 and Article 12.3 thereof,

Whereas:

(1) Upon adoption of the euro by Slovakia the number of members of the Governing Council of the European Central Bank (ECB) exceeds 21. Article 10.2 of the Statute of the ESCB provides that as from the date on which the number of members of the Governing Council exceeds 21, each member of the Executive Board will have one vote and the number of governors with a voting right will be 15. It also specifies the rules on the rotation of the voting rights. Under the sixth indent of Article 10.2, the Governing Council, acting by a two-thirds majority of all its members, may decide to postpone the start of the rotation system until the date on which the number of governors exceeds 18. In December 2008 the Governing Council decided to postpone the start of the rotation system until such a date ⁽¹⁾.

(2) Under the sixth indent of Article 10.2 of the Statute of the ESCB, the Governing Council, acting by a two-thirds majority of all its members, has to take all measures necessary for the implementation of the rotation

system. These measures cover: (i) the rotation rate: the number of governors losing or gaining voting rights at the same time; (ii) the rotation period: the length of the period during which the composition of voting governors does not change; (iii) how governors will be ordered within their groups; and (iv) the transition from a two to a three-group system. The Governing Council has decided to take such measures, which require amendment of Decision ECB/2004/2 of 19 February 2004 adopting the Rules of Procedure of the European Central Bank ⁽²⁾, to be applied as from the date on which the number of governors exceeds 18.

(3) The implementation of the rotation system respects the principles of equal treatment of governors, transparency and simplicity,

HAS DECIDED AS FOLLOWS:

Article 1

Amendments to the Rules of Procedure of the European Central Bank

Decision ECB/2004/2 is amended as follows:

1. The following Article 3a is inserted:

'Article 3a

Rotation system

1. Governors shall be allocated to groups as set out in the first and second indents of Article 10.2 of the Statute.

⁽¹⁾ Decision ECB/2008/29 of 18 December 2008 to postpone the start of the rotation system in the Governing Council of the European Central Bank (OJ L 3, 7.1.2009, p. 4).

⁽²⁾ OJ L 80, 18.3.2004, p. 33.

2. Governors shall be ordered in each group, following EU convention, in accordance with a list of their national central banks which follows the alphabetical order of the names of the Member States in the national languages. The rotation of voting rights within each group shall follow this order. The rotation shall start at a random point in the list.

3. The voting rights within each group shall rotate every month, starting on the first day of the first month of the implementation of the rotation system.

4. For the first group, the number of voting rights that rotate in each one month period shall be one; for the second and third groups, the number of voting rights that rotate in each one month period shall be equal to the difference between the number of governors allocated to the group and the number of voting rights assigned to it, minus two.

5. Whenever the composition of the groups is adjusted in accordance with the fifth indent of Article 10.2 of the Statute, the rotation of voting rights within each group shall continue to follow the list referred to in paragraph 2. From the date on which the number of governors reaches 22, the rotation within the third group shall start at a random point in the list. The Governing Council may decide to change the order of rotation for the second and third groups to avoid the situation that certain governors are always without a voting right at the same periods of the year.

6. The ECB shall publish in advance a list of the members of the Governing Council with a voting right on the ECB's website.

7. The share of each national central bank's Member State in the total aggregated balance sheet of the monetary financial institutions shall be calculated on the basis of the annual average of monthly average data over the most recent calendar year for which data are available. Whenever the aggregate gross domestic product at market prices is adjusted in accordance with Article 29.3 of the Statute or whenever a country becomes a Member State and its national central bank becomes part of the European System of Central Banks, the total aggregated balance sheet of the monetary financial institutions of the Member States which have adopted the euro shall be recalculated on the basis of the data relating to the most recent calendar year for which data are available.'

2. The first sentence of Article 4.1 is replaced by the following:

'In order for the Governing Council to vote, there shall be a quorum of two-thirds of the members with a voting right.'

3. The following sentence is added to Article 4.7:

'Decisions to be taken by written procedure shall be approved by the members of the Governing Council with a voting right at the time of approval.'

4. The fourth sentence of Article 5.1 is replaced by the following:

'An item shall be removed from the agenda at the request of at least three of the members of the Governing Council with a voting right if the related documents were not submitted to the members of the Governing Council in due time.'

5. Article 5.2 is replaced by the following:

'The minutes of the proceedings of the Governing Council shall be approved at the subsequent meeting (or if necessary earlier by written procedure) by the members of the Governing Council who had a voting right at the meeting to which the minutes refer and shall be signed by the President.'

Article 2

Final provision

This Decision shall enter into force on the day when the number of governors in the Governing Council of the ECB exceeds 18.

Done at Frankfurt am Main, 19 March 2009.

The President of the ECB

Jean-Claude TRICHET