

GUIDELINES

GUIDELINE (EU) 2018/797 OF THE EUROPEAN CENTRAL BANK

of 3 May 2018

on the Eurosystem's provision of reserve management services in euro to central banks and countries located outside the euro area and to international organisations (ECB/2018/14)

(recast)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular Articles 12.1, 14.3 and Article 23 thereof,

Whereas:

- (1) Guideline ECB/2006/4 ⁽¹⁾ has been amended several times ⁽²⁾. Since further amendments are to be made, Guideline ECB/2006/4 should be recast in the interests of clarity.
- (2) Pursuant to Article 23 in conjunction with Article 42.4 of the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the 'Statute of the ESCB'), the European Central Bank (ECB) and the national central banks of the Member States whose currency is the euro may establish relations with central banks and financial institutions in other countries and, where appropriate, with international organisations, and conduct all types of banking transactions in their relations with third countries and international organisations.
- (3) When providing Eurosystem reserve management services to customers, irrespective of the Eurosystem central bank through which such services are provided, the Eurosystem should act as a single system. To this end, this Guideline aims to ensure, inter alia, that Eurosystem reserve management services are provided on a standardised basis under harmonised terms and conditions, that the ECB receives adequate information regarding these services, and that the minimum common features required in contractual arrangements with customers are identified.
- (4) All information, data and documents drafted by and/or exchanged between Eurosystem central banks in the context of Eurosystem reserve management services are of a confidential nature and are subject to Article 37 of the Statute of the ESCB,

HAS ADOPTED THIS GUIDELINE:

Article 1

Definitions

For the purposes of this Guideline:

- (1) 'all types of banking transactions' includes the provision of Eurosystem reserve management services to customers;
- (2) 'authorised ECB personnel' means such persons at the ECB as shall be identified by the Executive Board, from time to time, as the authorised senders and recipients of the information to be provided within the framework of Eurosystem reserve management services;
- (3) 'central bank' includes monetary authorities;
- (4) 'customer' means any central bank or any country (including any public authority or government agency) located outside the euro area, or any international organisation to which Eurosystem reserve management services are provided by a Eurosystem central bank;

⁽¹⁾ Guideline ECB/2006/4 of 7 April 2006 on the Eurosystem's provision of reserve management services in euro to central banks and countries located outside the euro area and to international organisations (OJ L 107, 20.4.2006, p. 54).

⁽²⁾ See Annex I.

- (5) 'Eurosysteem central bank' means the ECB and the national central banks of the Member States whose currency is the euro;
- (6) 'Eurosysteem reserve management services' means the reserve management services listed in Article 2 that may be provided by Eurosysteem central banks to customers and that allow customers to comprehensively manage their reserves through a single Eurosysteem central bank;
- (7) 'Eurosysteem service provider' (ESP) means a Eurosysteem central bank which undertakes to provide the complete set of Eurosysteem reserve management services;
- (8) 'Individual service provider' (ISP) means a Eurosysteem central bank which does not undertake to provide the complete set of Eurosysteem reserve management services;
- (9) 'international organisation' means any organisation, other than Union institutions and bodies, established by or under the authority of an international treaty;
- (10) 'potential customer' means any central bank or any country (including any public authority or government agency) located outside the euro area, or any international organisation that has entered into negotiations with an ESP or an ISP with the intention of establishing a business relationship and that has received a contract for negotiation and possible signature;
- (11) 'reserves' means the customer's eligible euro-denominated assets, i.e. cash and all securities that are included in the Eurosysteem list of eligible marketable assets, as published and updated daily on the ECB's website, with the exception of:
 - (a) securities falling under 'haircut category V' (asset-backed securities);
 - (b) assets exclusively held for the purpose of meeting the pension and related obligations of the customer vis-à-vis its former or existing staff;
 - (c) euro-denominated assets held on dedicated accounts opened with a Eurosysteem central bank by a customer for public debt rescheduling purposes within the framework of international agreements;
 - (d) euro-denominated assets of the International Monetary Fund (IMF) held in the No 1 and No 2 Accounts and in the Securities Account of the IMF with Eurosysteem central banks; and
 - (e) such other categories of euro-denominated assets as decided from time to time by the Governing Council.

Article 2

List of Eurosysteem reserve management services

Eurosysteem reserve management services shall consist of the following:

- (1) custody (safe keeping) accounts for the reserves;
- (2) the following custodian (safe keeping) services:
 - (a) end-of-month custody statements, with the possibility of also providing statements at other dates at the customer's request;
 - (b) transmission of statements via SWIFT to all customers capable of receiving statements via SWIFT, and via other means as appropriate for non-SWIFT customers;
 - (c) notification of corporate actions (e.g. coupon payments and redemptions) in relation to customers' securities holdings;
 - (d) processing corporate actions on behalf of customers;
 - (e) facilitating arrangements between customers and third party agents, under certain restrictions, in connection with the operation of automatic securities lending programmes;
- (3) the following settlement services:
 - (a) free of payment/delivery versus payment settlement services for all euro-denominated securities for which custody accounts are provided;
 - (b) confirmation of settlement of all operations via SWIFT (or other means as appropriate for non-SWIFT customers);

- (4) the following cash/investment services:
- (a) purchase/sale of foreign exchange for customers' accounts on a principal basis, covering the spot purchase/sale of euro against non-euro area G10 currencies as a minimum;
 - (b) fixed-term deposit services:
 - (i) on an agency basis; or
 - (ii) on a principal basis;
 - (c) overnight credit balances:
 - (i) Tier 1 — automatic investment of a limited fixed amount per customer on a principal basis;
 - (ii) Tier 2 — possibility of investing funds with market participants on an agency basis;
 - (d) execution of investments for customers according to their standing instructions and in accordance with the set of Eurosystem reserve management services;
 - (e) execution of customers' orders for securities purchases/sales in the secondary market;
- (5) the following cash account service:
- (a) execution of incoming and outgoing cashless payment transactions in connection with Eurosystem reserve management services.

Article 3

Provision of services by ESPs and ISPs

1. Within the framework of the Eurosystem reserve management services, Eurosystem central banks shall be considered as being either an ESP or an ISP.
2. In addition to the services listed in Article 2, ESPs may also offer other reserve management services to customers. ESPs shall determine such services on an individual basis and such services shall not be subject to this Guideline.
3. ISPs shall be subject to this Guideline and the requirements of Eurosystem reserve management services as regards one or more Eurosystem reserve management services, or part of such service, which such ISPs provide and which form part of the complete set of Eurosystem reserve management services. Furthermore, ISPs may also offer other reserve management services to customers and shall determine such services on an individual basis. Such services shall not be subject to this Guideline.
4. With regard to the reserve management services provided to customers, such customers may have arrangements with several Eurosystem central banks.

Article 4

Information regarding Eurosystem reserve management services

1. Eurosystem central banks shall provide the authorised ECB personnel with any relevant information on providing Eurosystem reserve management services to new and existing customers and inform the authorised ECB personnel when a potential customer approaches them.
2. Before Eurosystem central banks disclose the identity of an existing, new or potential customer to the authorised ECB personnel, they shall endeavour to obtain the customer's consent to the disclosure.
3. If consent is not obtained, the Eurosystem central bank concerned shall provide the authorised ECB personnel with the required information without revealing the identity of the customer.

Article 5

Prohibition and suspension of Eurosystem reserve management services

1. The ECB shall maintain for consultation by the Eurosystem central banks a list of existing, new or potential customers whose reserves are affected by a freezing order or similar measure imposed either by one of the European Union Member States on the basis of a United Nations Security Council resolution or by the Union.

2. If, on the basis of a measure or decision other than those referred to in paragraph 1, adopted for national policy or national interest reasons by a Eurosystem central bank or by the Member State in which the Eurosystem central bank is located, the Eurosystem central bank suspends the provision of Eurosystem reserve management services to an existing customer or refuses to provide such services to a new or potential customer, this Eurosystem central bank shall promptly notify the authorised ECB personnel thereof. The authorised ECB personnel shall promptly inform the other Eurosystem central banks thereof. Any such measure or decision shall not prevent the other Eurosystem central banks from providing Eurosystem reserve management services to such customers.

3. Article 4(2) and (3) shall apply to any disclosure of the identity of an existing, new or potential customer made pursuant to paragraph 2. In the absence of a customer's consent, the disclosure of a customer's identity to other Eurosystem central banks shall only take place where such disclosure would be in line with the applicable law.

Article 6

Responsibility for Eurosystem reserve management services

1. Each Eurosystem central bank shall be responsible for the execution of any contractual arrangements with its customers that it considers appropriate for the provision of Eurosystem reserve management services.
2. Subject to any specific provisions applicable to, or agreed upon by a Eurosystem central bank, each Eurosystem central bank providing Eurosystem reserve management services or any part thereof to its customers, shall be liable for any such services that it provides.

Article 7

Minimum common features in contractual arrangements with customers

Eurosystem central banks shall ensure that their contractual arrangements with customers are consistent with this Guideline and with the following minimum common features. The contractual arrangements shall:

- (a) state that the counterparty of the customer is the Eurosystem central bank with whom that customer has concluded an arrangement for the provision of Eurosystem reserve management services or any part thereof, and that such arrangement does not in itself create customer rights or entitlements vis-à-vis any other Eurosystem central banks;
- (b) refer to the links that may be used for the settlement of securities held by customers' counterparties and the relevant risks of using links not eligible for monetary policy operations;
- (c) refer to the fact that certain transactions within the framework of Eurosystem reserve management services shall be carried out on a best effort basis;
- (d) refer to the fact that the Eurosystem central bank may make suggestions to customers as to the timing and execution of a transaction to avoid conflicts with the Eurosystem's monetary and exchange rate policy, and that such Eurosystem central bank shall not be liable for any consequences that such suggestions may have for the customer;
- (e) refer to the fact that the fees that Eurosystem central banks charge to their customers for the provision of Eurosystem reserve management services are subject to reviews by the Eurosystem and that the customers shall, in accordance with applicable law, be bound by the fee revisions that might result from such reviews;
- (f) state that the customer shall confirm to the Eurosystem central bank that it complies with all Union and national laws for the prevention of money laundering and terrorist financing, in so far as and to the extent applicable to it, including instructions given by competent authorities, and that it is not involved with any form of money laundering or terrorist financing.

Article 8

Role of the ECB

The ECB shall coordinate the general provision of Eurosystem reserve management services and the related information framework. Any Eurosystem central bank that becomes an ESP or that terminates its status as an ESP shall inform the ECB thereof.

*Article 9***Repeal**

1. Guideline ECB/2006/4 as amended by the Guidelines listed in Annex I is repealed with effect from 1 October 2018.
2. References to the repealed Guideline shall be construed as references to this Guideline and shall be read in accordance with the correlation table in Annex II.

*Article 10***Taking effect and implementation**

1. This Guideline shall take effect on the day of its notification to the national central banks of the Member States whose currency is the euro.
2. The Eurosystem central banks shall comply with this Guideline from 1 October 2018.

*Article 11***Addressees**

This Guideline is addressed to all Eurosystem central banks.

Done at Frankfurt am Main, 3 May 2018.

For the Governing Council of the ECB
The President of the ECB
Mario DRAGHI

ANNEX I

REPEALED GUIDELINE WITH LIST OF THE SUCCESSIVE AMENDMENTS THERETO

Guideline ECB/2006/4 (OJ L 107, 20.4.2006, p. 54).

Guideline ECB/2009/11 (OJ L 139, 5.6.2009, p. 34).

Guideline ECB/2013/14 (OJ L 138, 24.5.2013, p. 19).

ANNEX II

CORRELATION TABLE

Guideline ECB/2006/4	This Guideline
Article 1	Article 1
Article 2	Article 2
Article 3	Article 3
Article 4	Article 4
Article 5	Article 5
Article 6	Article 6
Article 7	Article 7
Article 8	Article 8
Article 9	Articles 9-11