

GUIDELINES

GUIDELINE (EU) 2021/564 OF THE EUROPEAN CENTRAL BANK

of 17 March 2021

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 and repealing Guideline (EU) 2020/1284 of the European Central Bank (recast) (ECB/2021/9)

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) A number of amendments are to be made to Guideline (EU) 2018/797 of the European Central Bank (ECB/2018/14) ⁽¹⁾. In the interest of clarity, that Guideline should be recast.
- (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.
- (5) Guideline (EU) 2020/1284 of the European Central Bank (ECB/2020/34) ⁽²⁾ provided that the Eurosystem central banks must comply with that Guideline from 1 April 2021. As the Eurosystem central banks need more time to implement the provisions introduced by that Guideline aimed at further increasing transparency in reporting and information sharing within the Eurosystem in the context of Eurosystem reserve management services, and in particular to obtain their customers' consent, these provisions should be implemented by way of this recast with effect from 1 July 2021. Therefore, Guideline (EU) 2020/1284 (ECB/2020/34) should be repealed,

HAS ADOPTED THIS GUIDELINE:

Article 1

Definitions

For the purposes of this Guideline, the following definitions shall apply:

- (1) 'all types of banking transactions' includes the provision of Eurosystem reserve management services to customers;

⁽¹⁾ 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) (OJ L 136, 1.6.2018, p. 81).

⁽²⁾ Guideline (EU) 2020/1284 of the European Central Bank of 7 September 2020 amending Guideline (EU) 2018/797 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/2020/34) (OJ L 301, 15.9.2020, p. 39).

- (2) 'authorised ECB personnel' means such persons at the ECB as are identified from time to time by the Executive Board 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;
- (5) 'Eurosystem central bank' means the ECB and the national central banks of the Member States whose currency is the euro;
- (6) 'Eurosystem reserve management services' means the reserve management services listed in Article 2 that may be provided by Eurosystem central banks to customers allowing customers to comprehensively manage their reserves through a single Eurosystem central bank;
- (7) 'ERMS provider' means a Eurosystem central bank which undertakes to provide all or a subset of the Eurosystem reserve management services;
- (8) 'international organisation' means any organisation, other than Union institutions and bodies, established by or under the authority of an international treaty;
- (9) '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 ERMS provider with the intention of establishing a business relationship and that has received a contract for negotiation and possible signature;
- (10) 'reserves' means the customer's eligible euro-denominated assets, i.e. cash and all securities that are included in the Eurosystem 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 to its former or existing staff;
 - (c) euro-denominated assets held on dedicated accounts opened with a Eurosystem 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 IMF's No 1 Account, No 2 Account or Securities Account with Eurosystem central banks; and
 - (e) such other categories of euro-denominated assets as decided from time to time by the Governing Council.

Article 2

Eurosystem reserve management services

ERMS providers may offer the following Eurosystem reserve management services to customers in accordance with this Guideline:

- (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, including for example 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, an investment mandate 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) opening and managing cash accounts;
 - (b) execution and recording of incoming and outgoing cashless payment transactions in connection with Eurosystem reserve management services.

Article 3

Provision of services by ERMS providers

1. ERMS providers may also offer other reserve management services to customers in addition to the services listed in Article 2. ERMS providers shall determine such services on an individual basis and such services shall not be subject to this Guideline.
2. Customers may have arrangements for the provision of reserve management services with several Eurosystem central banks.

Article 4

Information regarding Eurosystem reserve management services

1. ERMS providers shall provide to the ECB any relevant information on the provision of Eurosystem reserve management services to new and existing customers and inform the ECB when a potential customer approaches them. The ECB may share relevant information within the Eurosystem.
2. ERMS providers shall endeavour to obtain a customer's consent to the disclosure of its identity to the Eurosystem central banks acting as ERMS providers for the following legitimate purposes:
 - (a) analysis of Tier 1 usage;
 - (b) protection of customers and other ERMS providers from damage through cyber incidents; and
 - (c) support of lending/repo operations with the customer.

3. If a customer's consent to the disclosure of its identity for the legitimate purposes referred to in paragraph 2 is not obtained, the national central bank concerned shall provide to the ECB the relevant information without revealing the identity of that customer. In that case, that customer's limit for the Tier 1 investment facility balances shall be set to zero by each national central bank which does not obtain that customer's consent to the disclosure of its identity to the Eurosystem central banks.

4. ERMS providers are encouraged to offer customers the possibility to consent to the disclosure of their identity to the Eurosystem central banks not only for the legitimate purposes referred to in paragraph 2 but also for other reporting purposes related to Eurosystem reserve management services.

Article 5

Prohibition and suspension of Eurosystem reserve management services

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

2. Where, 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, the Eurosystem central bank concerned 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. Articles 4(2) and 4(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 customer's identity will be disclosed to other Eurosystem central banks only where such disclosure is in accordance with applicable law.

Article 6

Responsibility for Eurosystem reserve management services

1. Each ERMS provider 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 ERMS provider 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 contain 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 with respect to 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 customers shall, in accordance with applicable law, be bound by the fee revisions that may 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 the customer, 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 ERMS provider or that terminates its status as an ERMS provider shall inform the ECB accordingly.

Article 9

Repeal of Guideline (EU) 2020/1284 (ECB/2020/34)

Guideline (EU) 2020/1284 (ECB/2020/34) is repealed with effect from 1 April 2021.

Article 10

Repeal of Guideline (EU) 2018/797 (ECB/2018/14)

1. Guideline (EU) 2018/797 (ECB/2018/14) is repealed with effect from 1 July 2021.
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 the Annex.

Article 11

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 Article 9 from 1 April 2021 and with the remaining provisions of this Guideline from 1 July 2021.

Article 12

Addressees

This Guideline is addressed to all Eurosystem central banks.

Done at Frankfurt am Main, 17 March 2021.

For the Governing Council of the ECB
The President of the ECB
Christine LAGARDE

ANNEX

Correlation table

Guideline (EU) 2018/797 (ECB/2018/14)	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
Article 9	Article 10
Article 10	Article 11
Article 11	Article 12