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DECISION (EU) 2025/1114 OF THE EUROPEAN CENTRAL BANK

of 20 May 2025

on the delegation of the power to take certain decisions on the publication of sanctions for failure to hold minimum reserves *(ECB/2025/16)*

THE EXECUTIVE BOARD 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 19.1 and 34.3 thereof,

Having regard to Council Regulation (EC) No 2532/98 of 23 November 1998 concerning the powers of the European Central Bank to impose sanctions ([1]), and in particular Article 6(2) thereof,

Having regard to European Central Bank Regulation (EC) No 2157/1999 of 23 September 1999 on the powers of the European Central Bank to impose sanctions (ECB/1999/4) ([2]), and in particular Article 9(1) and Article 11 thereof,

Whereas:

(1) In accordance with Article 7(1) of Council Regulation (EC) No 2531/98 ([3]), where an institution fails to hold all or part of the minimum reserves imposed in accordance with that Regulation and related European Central Bank (ECB) regulations or decisions, the ECB may impose a sanction.

(2) Pursuant to Article 9(1) of Regulation (EC) No 2157/1999 (ECB/1999/4), the ECB is required to publish decisions imposing sanctions in case of a breach of an ECB regulation or decision on its official website without undue delay, once the decision has become final. Publication is required to take place unless the Executive Board determines that such publication would: (a) jeopardise the stability of the financial markets or the financial system or an ongoing criminal investigation; (b) cause, in so far as can be determined, disproportionate damage to the undertaking concerned; or (c) result in the publication of confidential information, which would put at risk legitimate public interests in security, such as the security and protection of the integrity of euro banknotes or the secure management of cyber or operational risks to systemically important payment systems. If one or several of these circumstances apply, decisions regarding sanctions will be published on an anonymised basis or publication may be postponed. In the circumstances referred to in point (c), the ECB may choose not to publish a decision imposing a sanction.

(3) As specified in Article 11(3) and (4) of Regulation (EC) No 2157/1999 (ECB/1999/4), before any sanction is imposed in the event of failure to hold minimum reserves, the Executive Board or, on its behalf, the competent national central bank shall notify the undertaking concerned of the alleged failure and of the corresponding sanction. Upon receipt of the notification, the undertaking concerned has the possibility to present any written information, explanations or objections which may be deemed relevant to a decision on whether or not to impose the sanction. This includes the possibility to raise objections against the publication of the sanction on the basis that one or several of the exceptions to publication laid down in Article 9(1) of Regulation (EC) No 2157/1999 (ECB/1999/4) apply. In such a case, if the competent national central bank is acting on behalf of the Executive Board, it shall without undue delay forward the file to the Executive Board, which shall then decide whether such an exception to publication applies.

(4) The Executive Board is required to adopt a substantial number of decisions each year on whether an exception to publication of sanctions for failure to hold minimum reserves applies. To facilitate the decision-making process a delegation of decision-making powers is necessary in relation to the adoption of such decisions. The Court of Justice of the European Union has recognised delegation to be necessary and appropriate to enable an institution required to adopt a considerable number of decisions to perform its duties. Similarly, it has recognised the need to ensure that decision-making bodies are able to function as a principle inherent to all institutional systems.

([1]) OJ L 318, 27.11.1998, p. 4, ELI: http://data.europa.eu/eli/reg/1998/2532/oj.
([2]) OJ L 264, 12.10.1999, p. 21, ELI: http://data.europa.eu/eli/reg/1999/2157/oj.
([3]) 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 ELI: http://data.europa.eu/eli/reg/1998/2531/oj).

(5) Such decisions should be delegated to the member of the Executive Board to whom the Directorate-General Legal Services reports, and to the member of the Executive Board to whom the Directorate-General Market Operations reports, acting jointly.

(6) Delegation of decision-making powers should be limited and proportionate, and the scope of the delegation should be clearly defined. The scope of the delegation laid down in this Decision should be limited to the power to take decisions on the publication of sanctions for failure to hold minimum reserves that do not deviate from the general rule laid down in Article 9(1) of Regulation (EC) No 2157/1999 (ECB/1999/4), according to which decisions imposing sanctions in case of a breach of an ECB regulation or decision should be published. Decisions on the publication of sanctions where there are novel elements or where an exception to publication applies should be excluded from the scope of the delegation and should remain with the Executive Board.

(7) To safeguard the control of the Executive Board as the delegator, the decisions taken by the members of the Executive Board to whom the delegation is granted should be reported annually to the Executive Board,

HAS ADOPTED THIS DECISION:

Article 1

Delegation of the power to take certain decisions on the publication of sanctions for failure to hold minimum reserves

The Executive Board delegates to the member of the Executive Board to whom the Directorate-General Legal Services reports and the member of the Executive Board to whom the Directorate-General Market Operations reports, the power to jointly take, in accordance with Article 2, certain decisions on the publication of sanctions for failure to hold minimum reserves imposed pursuant to Article 7(1) of Regulation (EC) No 2531/98.

Article 2

Criteria for the adoption of delegated decisions

Decisions to publish sanctions for failure to hold minimum reserves shall be adopted pursuant to the delegation of powers laid down in Article 1 where the following criteria are met:

(a) the undertaking concerned has objected to the publication of a sanction for the failure to hold minimum reserves, but not to the sanction itself;

(b) the objections to publication raised by the undertaking concerned and the ECB's technical and legal assessment of these objections are similar to those that underlie previous decisions on the publication of sanctions for the failure to hold minimum reserves that have been taken by the Executive Board;

(c) the technical and legal assessment mentioned in point (b) that underlies the decision is that none of the exceptions provided for in Article 9(1) of Regulation (EC) No 2157/1999 (ECB/1999/4) apply and that the sanction should be published;

(d) the competent national central bank that, acting on behalf of the Executive Board, has notified the undertaking concerned of the alleged failure to hold minimum reserves and of the corresponding sanction, agrees with the assessment referred to in point (c).

Article 3

Reporting obligation

The members of the Executive Board to whom the Directorate-General Legal Services and the Directorate-General Market Operations report shall jointly report to the Executive Board on an annual basis on any decisions taken pursuant to Article 1 during the preceding calendar year.

Article 4

Entry into force

This Decision shall enter into force on the tenth day following that of its publication in the *Official Journal of the European Union*.

Done at Frankfurt am Main, 20 May 2025.

The President of the ECB
Christine LAGARDE