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II

(Non-legislative acts)

REGULATIONS

COMMISSION REGULATION (EU) No 50/2010

of 20 January 2010

establishing the standard import values for determining the entry price of certain fruit and vegetables

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules for Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector ⁽²⁾, and in particular Article 138(1) thereof,

Whereas:

Regulation (EC) No 1580/2007 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XV, Part A thereto,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 138 of Regulation (EC) No 1580/2007 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 21 January 2010.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 20 January 2010.

*For the Commission,
On behalf of the President,*

Jean-Luc DEMARTY
*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 350, 31.12.2007, p. 1.

ANNEX

Standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	JO	64,0
	MA	52,0
	TN	112,1
	TR	100,0
	ZZ	82,0
0707 00 05	EG	174,9
	JO	101,4
	MA	78,1
	TR	109,1
	ZZ	115,9
0709 90 70	MA	113,2
	TR	132,4
	ZZ	122,8
0805 10 20	EG	51,5
	IL	58,8
	MA	51,3
	TN	67,4
	TR	54,6
	ZZ	56,7
0805 20 10	IL	166,5
	MA	83,8
	ZZ	125,2
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	CN	52,8
	EG	77,8
	IL	80,4
	JM	109,6
	MA	93,3
	PK	41,0
	TR	83,1
	ZZ	76,9
0805 50 10	EG	63,3
	IL	67,0
	TR	70,5
	ZZ	66,9
0808 10 80	CA	75,3
	CL	60,1
	CN	67,4
	MK	24,7
	US	133,6
	ZZ	72,2
0808 20 50	CN	61,8
	US	103,1
	ZZ	82,5

⁽¹⁾ Nomenclature of countries laid down by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

COMMISSION REGULATION (EU) No 51/2010**of 20 January 2010****fixing the allocation coefficient to be applied to applications for import licences lodged from 8 to 15 January 2010 under the Community tariff quota for maize opened by Regulation (EC) No 969/2006**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences ⁽²⁾, and in particular Article 7(2) thereof,

Whereas:

- (1) Commission Regulation (EC) No 969/2006 ⁽³⁾ opened an annual import tariff quota of 242 074 tonnes of maize (order number 09.4131).
- (2) Article 2(1) of Regulation (EC) No 969/2006 fixes a quantity of 121 037 tonnes for subperiod 1 from 1 January to 30 June 2010.
- (3) Based on the notification made under Article 4(3) of Regulation (EC) No 969/2006, the applications lodged from 8 January 2010 (13:00 Brussels time) to 15 January 2010 (13:00 Brussels time) in accordance with Article 4(1) of that Regulation relate to quantities

in excess of those available. The extent to which import licences may be issued should therefore be determined and the allocation coefficient laid down to be applied to the quantities applied for.

- (4) Import licences should no longer be issued under Regulation (EC) No 969/2006 for the current quota subperiod.
- (5) In order to ensure sound management of the procedure of issuing import licences, the present Regulation should enter into force immediately after its publication,

HAS ADOPTED THIS REGULATION:

Article 1

1. Each import licence application for maize under the quota referred to in Regulation (EC) No 969/2006 and lodged from 8 January 2010 (13:00 Brussels time) to 15 January 2010 (13:00 Brussels time) shall give rise to the issue of a licence for the quantities applied for, multiplied by an allocation coefficient of 78,205593 %.
2. The issue of licences for the quantities applied for from 15 January 2010 (13:00 Brussels time) is hereby suspended for the current quota subperiod.

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 20 January 2010.

*For the Commission,
On behalf of the President,*

Jean-Luc DEMARTY
*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 238, 1.9.2006, p. 13.

⁽³⁾ OJ L 176, 30.6.2006, p. 44.

COMMISSION REGULATION (EU) No 52/2010**of 20 January 2010****amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EC) No 877/2009 for the 2009/10 marketing year**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (single CMO Regulation) ⁽¹⁾,

Having regard to Commission Regulation (EC) No 951/2006 of 30 June 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 318/2006 as regards trade with third countries in the sugar sector ⁽²⁾, and in particular Article 36(2), second subparagraph, second sentence thereof,

Whereas:

- (1) The representative prices and additional duties applicable to imports of white sugar, raw sugar and certain syrups

for the 2009/10 marketing year are fixed by Commission Regulation (EC) No 877/2009 ⁽³⁾. These prices and duties have been last amended by Commission Regulation (EU) No 35/2010 ⁽⁴⁾.

- (2) The data currently available to the Commission indicate that those amounts should be amended in accordance with the rules and procedures laid down in Regulation (EC) No 951/2006,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties applicable to imports of the products referred to in Article 36 of Regulation (EC) No 951/2006, as fixed by Regulation (EC) No 877/2009 for the 2009/10, marketing year, are hereby amended as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 21 January 2010.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 20 January 2010.

*For the Commission,
On behalf of the President,*

Jean-Luc DEMARTY
*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 178, 1.7.2006, p. 24.

⁽³⁾ OJ L 253, 25.9.2009, p. 3.

⁽⁴⁾ OJ L 10, 15.1.2010, p. 12.

ANNEX

Amended representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 95 from 21 January 2010

(EUR)

CN code	Representative price per 100 kg net of the product concerned	Additional duty per 100 kg net of the product concerned
1701 11 10 ⁽¹⁾	46,85	0,00
1701 11 90 ⁽¹⁾	46,85	0,85
1701 12 10 ⁽¹⁾	46,85	0,00
1701 12 90 ⁽¹⁾	46,85	0,55
1701 91 00 ⁽²⁾	52,07	1,85
1701 99 10 ⁽²⁾	52,07	0,00
1701 99 90 ⁽²⁾	52,07	0,00
1702 90 95 ⁽³⁾	0,52	0,21

⁽¹⁾ For the standard quality defined in point III of Annex IV to Regulation (EC) No 1234/2007.⁽²⁾ For the standard quality defined in point II of Annex IV to Regulation (EC) No 1234/2007.⁽³⁾ Per 1 % sucrose content.

GUIDELINES

GUIDELINE OF THE EUROPEAN CENTRAL BANK

of 4 December 2009

amending Guideline ECB/2007/9 on monetary, financial institutions and markets statistics

(ECB/2009/23)

(2010/34/EU)

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, and in particular Articles 5.1, 12.1 and 14.3 thereof,

Having regard to Regulation (EC) No 63/2002 of the European Central Bank of 20 December 2001 concerning statistics on interest rates applied by monetary financial institutions to deposits and loans vis-à-vis households and non-financial corporations (ECB/2001/18) ⁽¹⁾,

Having regard to Regulation (EC) No 24/2009 of the European Central Bank of 19 December 2008 concerning statistics on the assets and liabilities of financial vehicle corporations engaged in securitisation transactions (ECB/2008/30) ⁽²⁾,

Having regard to Regulation (EC) No 25/2009 of the European Central Bank of 19 December 2008 concerning the balance sheet of the monetary financial institutions sector (ECB/2008/32) ⁽³⁾,

Whereas:

(1) Guideline ECB/2007/9 of 1 August 2007 on monetary, financial institutions and markets statistics ⁽⁴⁾ should be aligned with the recast Regulation (EC) No 25/2009 (ECB/2008/32) and Regulation (EC) No 290/2009 of the European Central Bank of 31 March 2009 amending Regulation (EC) No 63/2002 (ECB/2001/18) concerning statistics on interest rates applied by monetary financial institutions to deposits and loans vis-à-vis households and non-financial corporations (ECB/2009/7) ⁽⁵⁾.

(2) New standards are required for the grossing-up of data on money market funds (MMFs) and for the selection of the most representative reference reporting population.

(3) The new MMF balance sheet should be an aggregated balance sheet consistent with that resulting from Regulation (EC) No 958/2007 of the European Central Bank of 27 July 2007 concerning statistics on the assets and liabilities of investment funds (ECB/2007/8) ⁽⁶⁾. The reporting burden can be reduced by making the compilation of credit institutions (CIs) and MMFs balance sheets more efficient, i.e. by producing the CI balance sheet as the difference between the other monetary financial institutions (MFI) data and the MMF data.

(4) Due to the enhanced requirements for reporting information on securitisation and other transfers of MFI loans granted to non-MFIs introduced by Regulation (EC) No 25/2009 (ECB/2008/32), the reporting of statistics in these areas is no longer necessary.

(5) National central banks have started to report investment funds statistics in the context of other financial intermediaries' statistics under Article 18 of Guideline ECB/2007/9, meaning that the transitional regime under Article 14(6) is no longer required.

(6) New reporting requirements for loans granted by euro area MFIs to non-financial corporations broken down by branch of activity are necessary to enhance the economic and monetary analysis of credit developments.

(7) The names of payment systems are subject to frequent changes and therefore the list of names in Part 13 of Annex III to Guideline ECB/2007/9 should be deleted,

⁽¹⁾ OJ L 10, 12.1.2002, p. 24.

⁽²⁾ OJ L 15, 20.1.2009, p. 1.

⁽³⁾ OJ L 15, 20.1.2009, p. 14.

⁽⁴⁾ OJ L 341, 27.12.2007, p. 1.

⁽⁵⁾ OJ L 94, 8.4.2009, p. 75.

⁽⁶⁾ OJ L 211, 11.8.2007, p. 8.

HAS ADOPTED THIS GUIDELINE:

Article 1

Guideline ECB/2007/9 is amended as follows:

1. Article 1(3) is replaced by the following:

‘3. Back data reporting requirements

Only the reporting set out in Articles 3, 6, 7, 10, 11, 14 to 17 and 18a is subject to back data reporting requirements.

(a) Without prejudice to point (b), the following rules shall apply in cases of accession to the European Union and/or adoption of the euro:

(i) NCBs of Member States that joined the EU in May 2004 shall report back data to the ECB covering at least the period from 2004;

(ii) NCBs of Member States that joined the EU before May 2004, but have not adopted the euro at the date of entry into force of this Guideline, shall report back data to the ECB covering at least the period from 1999 and the period from 2003 for MFI interest rate statistics (hereinafter “MIR statistics”);

(iii) NCBs of Member States that joined the EU after May 2004 shall report back data to the ECB covering at least the previous three years;

(iv) In respect of positions vis-à-vis Member States that adopt the euro following the entry into force of this Guideline, NCBs of participating Member States shall report back data to the ECB covering at least the period: (1) from 1999, if the Member State joined the EU before May 2004; or (2) from 2004, if the Member State joined the EU in May 2004; or (3) covering the previous three years, if the Member State joined the EU after May 2004. This principle shall apply only to statistics for which data broken down by counterpart country are also collected.

(b) The following rules shall apply:

(i) for money market funds (MMFs) transmission of back data to the ECB shall follow the reporting practice of NCBs applied under this Guideline up to end-2008. Without prejudice to Article 10, NCBs which were reporting credit institution balance sheets may transmit MMF balance sheet data for reference periods prior to end-December

2008 on a voluntary basis; NCBs which were reporting quarterly MMF balance sheet data in accordance with the reduced reporting requirements, or which were reporting neither credit institution nor MMF balance sheet data shall transmit historical MMF data starting at least at the time of joining the euro area, but in any case no earlier than the reference period end-September 1997, where these data are available;

(ii) for loans to non-financial corporations broken down by branch of activity following the statistical classification of economic activities in the European Community — NACE Rev.2, back data, where available, shall be transmitted to the ECB as follows: (a) NCBs shall transmit back data as from March 2003; (b) in the case of Member States which joined the euro area after that date, NCBs shall transmit back data for at least two years before the entry into the euro area;

(iii) for other financial intermediaries (OFIs), back quarterly data shall be transmitted to the ECB starting with those for the first available reference period, at least starting with the data for the fourth quarter of 1998 as the reference period;

(iv) for securities, the time series transmitted to the ECB shall commence in December 1989 for outstanding amounts and January 1990 for flows;

(v) for payments statistics, five years of data shall be reported including the latest reference year, on a best effort basis.’

2. Article 3(1)(a) is replaced by the following:

‘(a) General

NCBs shall compile and report two separate aggregated balance sheets, both on a gross basis, in accordance with Regulation (EC) No 25/2009 (ECB/2008/32): one referring to the MFI sub-sector “central bank” and one referring to the sub-sector “other MFIs”.

NCBs shall derive the required statistical information concerning their own central bank balance sheet from their accounting system by means of the bridging tables set out in Annex I. The ECB, for statistical reporting purposes, shall derive data from its own balance sheet, corresponding to the data derived by the NCBs from their own balance sheets.

NCBs shall derive the required statistical information concerning the other MFIs' bank balance sheet by aggregating the balance sheet items (BSI) data collected from resident individual MFIs excluding the resident NCB.

These requirements shall cover end-month and end-quarter outstanding amounts (*) (stocks), monthly and quarterly flow adjustments data, and data on loan securitisations and other loan transfers.

NCBs shall report statistical information on balance sheet items in accordance with Part 1 of Annex III.

(*) In principle the balance sheet is drawn up as at the last calendar day of the month/quarter without regard to local bank holidays. In the many cases where this is not possible the balance sheet is drawn up at the end of the last working day in accordance with national market or accounting rules.'

3. Article 3(4) is replaced by the following:

'4. **Grossing-up**

(a) Composition of the "tail"

Where NCBs grant derogations to MMFs in accordance with Article 8(1)(a) of Regulation (EC) No 25/2009 (ECB/2008/32), NCBs shall ensure that their combined contribution to the total national MMF balance sheet does not exceed:

- (i) 10 % in each participating Member State where the national MMF balance sheet accounts for more than 15 % of the total MMF balance sheet of the euro area;
- (ii) 30 % in all other participating Member States, except for those where the national MMF balance sheet accounts for less than 1 % of the total MMF balance sheet of the euro area, in which case no specific restriction in the allocation of MMFs to the tail shall apply.

(b) Minimum standards for grossing-up

Where NCBs grant derogations to MFIs in accordance with Article 8(1)(a) and/or (d) of Regulation (EC) No 25/2009 (ECB/2008/32), NCBs shall gross up to 100 % coverage for these MFIs in the compilation of the monthly and quarterly MFI balance sheet data reported to the ECB. NCBs may choose the procedure for grossing up to 100 % coverage, provided it fulfils the following minimum standards:

(i) for missing breakdowns data, estimates shall be derived by applying ratios based on a sub-set of the actual reporting population considered to be more representative of the "tail" as follows:

- NCBs of Member States whose contribution to the aggregated MFI balance sheet of the euro area is larger than 2 % shall determine this sub-set so that the total balance sheet of the entities in the sub-set does not exceed 35 % of the national aggregated MFI balance sheet. This requirement shall not apply when the balance sheets of the institutions to which the derogations are granted account for less than 1 % of the national MFI balance sheet,

- NCBs of Member States whose contribution to the total aggregated MFI balance sheet of the euro area is less than 2 % are encouraged to follow the same arrangement. However, should significant costs be involved, NCBs in these Member States may apply ratios based on the reporting population instead;

(ii) in applying point (i), both the "tail" and the sub-set of the actual reporting population may be subdivided in different groups according to the type of institution (e.g. MMFs or credit institutions);

(iii) whenever the contribution of MMFs that only report their total assets once a year exceeds 30 % of the total MMF balance sheet in any given Member State, NCBs shall gross up the data reported by MMFs and credit institutions separately as follows:

- if sufficient coverage exists from MMF that are full reporters, their aggregated balance sheet shall be used as the basis for grossing-up,

- if the coverage from MMF that are full reporters is insufficient or there are no MMF that are full reporters, NCBs shall estimate a balance sheet for the MMF sector from alternative data sources, at least once a year, and use it as the basis for grossing up;

(iv) where the breakdowns data are available, but with a longer delay or at a lower frequency, reported data shall be carried forward into the missing periods by:

- repeating the data when the results have proven to be adequate, or

- applying appropriate statistical estimation techniques to take into account trends in the data or seasonal patterns;

(v) ratios or any other intermediate calculation required to implement the minimum standards for grossing up may be derived from data obtained from supervisory authorities whenever a reliable link can be established between the statistical breakdown to be grossed up and such data.

(c) **Communication of significant changes**

NCBs shall inform the ECB of any significant changes in their grossing-up procedures.'

4. Article 10 is replaced by the following:

'Article 10

Money market funds balance sheet statistics

1. Scope of reporting

(a) **General**

NCBs shall report to the ECB separate balance sheet items data for the MMF sector in accordance with Tables 1 and 2 in Part 7 of Annex III. The data are used by the ECB to compile both MMF and credit institution balance sheet statistics. Since data on the entire MFI sector are already reported in accordance with Regulation (EC) No 25/2009 (ECB/2008/32), the requirements set out in this Article shall apply only to MMFs. Although in some Member States a small number of other institutions are classified as MFIs, these institutions shall be considered insignificant from a quantitative perspective.

(b) **Flow adjustments**

Reclassification and revaluation adjustments data as referred to Table 1 in Part 7 of Annex III shall be reported in accordance with Article 3(1)(b), taking into account any derogations granted under Article 8(2) of Regulation (EC) No 25/2009 (ECB/2008/32). Where reporting of revaluation adjustments is subject to a derogation granted by NCBs to MMFs under Regulation (EC) No 25/2009 (ECB/2008/32), NCBs shall report, for items in respect of which revaluation adjustments can be significant, data on a best effort basis.

2. Reporting frequency and deadline

Data shall be reported quarterly within 28 working days from the end of the reference period.

3. Grossing-up

The data reported in respect of the MMFs' balance sheet shall cover 100 % of the institutions classified in this sector. Where the actual reporting coverage is less than 100 % due to the application of the cutting-off-the-tail, NCBs shall

gross up the data supplied in accordance with Article 3(4)(b) to ensure 100 % coverage.

4. Revision policy

NCBs which were reporting credit institutions balance sheets for periods prior to end-December 2008 shall transmit revisions to MMF data in accordance with Tables 1 and 2 in Part 7 of Annex III. Any revisions to MMF data shall be consistent with the corresponding end of quarter other MFI data.

In the event that transmission of new or revised MMF data implies changes to the data for the corresponding other MFI reference period, required revisions for other MFI data shall also be transmitted.'

5. Article 13 is deleted.

6. The title of Article 14 is replaced by the following:

'Other financial intermediaries' statistics (except investment funds and financial vehicle corporations).'

7. Article 14(1) is replaced by the following:

'1. Scope of reporting

(a) **General**

NCBs shall report statistical information on other financial intermediaries (OFIs) (except investment funds and financial vehicle corporations engaged in securitisation transactions (FVCs)) in accordance with Part 11 of Annex III. Data shall be transmitted separately for the following sub-categories of OFIs: (i) securities and derivatives dealers (SDDs); (ii) financial corporations engaged in lending (FCLs); and (iii) other OFIs.

Data relating to OFIs shall be transmitted on the basis of data currently available at national level. Where actual data are unavailable or cannot be processed, national estimates shall be provided. Where the underlying economic phenomenon exists but is not monitored statistically and therefore national estimates cannot be provided, NCBs may choose either not to report the time series or to report it as missing. Any unreported time series shall therefore be interpreted as "data that exist but are not collected" and the ECB may make assumptions and estimates for the purpose of compiling euro area aggregates. The reference reporting population shall comprise all types of OFIs resident in the participating Member States: institutions located in the territory, including subsidiaries of parent companies located outside that territory, and resident branches of institutions that have their head office outside that territory.

The following key indicators and supplementary information shall be provided:

- key indicators to be transmitted for the compilation of euro area aggregates: all participating Member States shall transmit these detailed data when actual data are available. When no actual data are available for the required breakdowns or for the agreed frequency, timeliness or time range, estimates shall be provided if feasible,
- supplementary information to be transmitted as “memo items”: these data shall be transmitted by countries for which this information is currently available.

(b) Flow adjustments

Flow adjustment data may be reported in the case of significant breaks in stocks or when reclassifications and other adjustments occur. In particular, flow adjustment data may be provided due to reclassifications in the context of the implementation of the ESA 95 framework.

Reclassification adjustments shall be reported in accordance with Article 3(1)(b).’

8. Article 14(6) is deleted.

9. Article 16(1) is replaced by the following:

‘1. Scope of reporting

For the purposes of MIR statistics, NCBs shall report aggregated national monthly statistics relating to outstanding amounts and new business as specified in Appendices 1 and 2 of Annex II to Regulation (EC) No 63/2002 (ECB/2001/18). In addition, NCBs shall report aggregated national monthly statistical information relating to new business as specified in Part 12a of Annex III.

If the derogation provided for in paragraph 61 of Annex II to Regulation (EC) No 63/2002 (ECB/2001/18) in conjunction with Annex IV to Regulation (EC) No 63/2002 (ECB/2001/18) is granted, NCBs shall submit the items to which the derogation has been granted without values, indicating that the data have not been collected.’

10. Article 17(2), (3) and (4) are replaced by the following:

‘2. Reporting frequency and deadline

The series shall be reported annually to the ECB, regardless of the data frequency. The data frequency shall be annual for all items in Tables 4 to 9. The MFI balance sheet information in Table 1 shall be monthly. The credit institutions’ balance sheet information contained in Tables 2

and 3 shall be quarterly except for items referring to positions with the NCB and electronic money institution items, which shall be annual. Structural information on credit institutions contained in Table 3 shall be annual. For Tables 1 to 3, if the availability of data is severely restricted, NCBs may transmit a minimum set of data to ensure a timely and valid publication.

The minimum set of data shall include:

- monthly series: one observation relating to end-December positions,
- quarterly series: one observation relating to the fourth quarter of the year,
- annual series: one observation relating to end-December positions.

The ECB shall communicate to the NCBs for each year the precise dates for the data submission in the production round. NCBs may transmit actual data either prior to the production round, subject to the ECB’s confirmation of its readiness to receive data, or at any other times during production rounds.

In the absence of actual data, NCBs shall use estimates or provisional data where possible.

3. Revision policy

The data providers or the NCBs may perform revisions based on recalculations or on estimates. NCBs shall transmit revisions to the ECB as part of the production round.

4. Explanatory notes

The ECB shall send to NCBs the previous year’s explanatory notes in Word format, prior to the start of the production round, which shall be completed and/or corrected and returned to the ECB. In these explanatory notes, NCBs shall explain deviations from the requirements in detail, if possible including the impact on the data.’

11. Article 18(10) is replaced by the following:

‘10. Monitoring the quality of the CSDB or national securities database in the context of s-b-s reporting

NCBs shall provide to the ECB on an annual basis either: (i) indicators analysing the coverage and quality of the relevant set of securities in the CSDB, in accordance with the methodology separately communicated to them; or (ii) the relevant information needed to derive the coverage and quality indicators.

NCBs relying on national securities databases shall once a year provide to the ECB aggregated results covering one quarter and at least two statistically significant sub-sectors of IFs. These aggregated results shall not differ by more than 5 % from the results which would be obtained when using the CSDB. This provision shall apply to information which is not reported by IFs.

The above information shall be transmitted to the ECB by the end of February each year by taking as a reference the end-December data of the preceding year.'

12. The following Article 18b is inserted:

'Article 18b

Statistics on MFI loans to non-financial corporations by branch of activity

1. Scope of reporting

NCBs shall report to the ECB, where available, data on MFI loans to domestic non-financial corporations, and MFI loans to other participating Member States' non-financial corporations broken down by branch of activity following the statistical classification of economic activities in the European Community — NACE Rev.2, in accordance with Part 16 of Annex III.

2. Reporting frequency and deadline

NCBs shall report to the ECB the data at biannual frequency, by the end of March and the end of September with reference to the two preceding quarters.

3. Revision policy

NCBs shall report revisions in accordance with the following principles:

- (a) in addition to each regular data transmission, revisions to the previous reference periods shall be sent where required; and
- (b) exceptional revisions which significantly improve the quality of the data may be sent as soon as available.

4. Explanatory notes

The NCBs shall report to the ECB any significant changes in the national definitions and classifications used and shall submit explanatory notes explaining the reasons for significant revisions, where applicable. In addition, NCBs shall provide information on major reclassifications in the

MFI sector and, if available, major reclassifications of non-financial corporations in the NACE Rev.2 breakdowns transmitted.'

13. Article 19(1) is replaced by the following:

'1. Scope of reporting

The variables collected to establish and maintain the list of MFIs for statistical purposes which is referred to in Article 3 of Regulation (EC) No 25/2009 (ECB/2008/32) are specified in Part 1 of Annex VI.

NCBs shall report updates of the variables specified in Part 1 of Annex VI, either when there are changes in the MFI sector or when there are changes in attributes of existing MFIs. There are changes in the MFI sector when an institution joins the MFI sector (i.e. in the event of establishment of an MFI as the result of a merger, establishment of new legal entities as the result of the division of an existing MFI, establishment of a new MFI, or change in the status of a previous non-MFI such that it becomes an MFI) or when an existing MFI leaves the MFI sector (i.e. in the event of the involvement of an MFI in a merger, purchase of an MFI by another institution, division of an MFI into separate legal entities, change in the status of an MFI such that it becomes a non-MFI, or liquidation of an MFI).

When reporting a new institution or an institution to be modified, NCBs shall complete all mandatory variables. When reporting an institution leaving the MFI sector which is not part of a merger NCBs shall report the following information as a minimum: the type of request, i.e. deletion, and the identification code of the MFI, i.e. the "mfi_id" variable.

NCBs shall not reallocate MFI identification codes of deleted MFIs to new MFIs. If this action is unavoidable, NCBs shall submit a written explanation to the ECB at the same time (using the "object_request" type "mfi_req_realloc").

When reporting updates, NCBs may use their national character set, provided they use the Roman alphabet. NCBs shall use Unicode to correctly display all special character sets when receiving information from the ECB via the Register of Institutions and Assets Database (RIAD) Data Exchange System.

Prior to the transmission of updates of the list of MFIs to the ECB, NCBs shall carry out the validation checks set out in the relevant data exchange specifications.'

14. Article 20(1) is replaced by the following:

‘1. Scope of reporting

The variables collected to establish and maintain the list of IFs for statistical purposes, which is referred to in Article 4 of Regulation (EC) No 958/2007 (ECB/2007/8), are specified in Annex VII.

NCBs shall report updates of the variables specified in Part 1 of Annex VII either when there are changes in the IF sector or when there are changes in attributes of existing IFs. There are changes in the IF sector when an institution joins the IF sector or when an existing IF leaves the IF sector.

NCBs shall derive updates by comparing their national list of IFs at the end of two successive end-of-quarters, i.e. they shall not take into account intra-quarter movements.

When reporting a new institution or an institution to be modified, NCBs shall complete all mandatory variables.

When reporting an institution leaving the IF sector, NCBs shall report the following information as a minimum: the type of request, i.e. deletion, and the identification code of the IF, i.e. the “if_id” variable.

Once a year, pertaining to the 31 December reference date, NCBs shall transmit an XML file specifically to report the net asset value (NAV) per IF. That is, the NAV shall be provided separately from changes to other IFs attributes. For all IFs, the following information shall be provided: the type of request, i.e. “if_req_nav”, the IF’s unique identification code, the NAV amount and the applicable NAV date.

For any given reference date, information on any new IFs or changes to the identification codes of existing IFs shall be transmitted first to the ECB, prior to transmitting NAV information.

Where possible, NCBs shall not reallocate IF identification codes of deleted IFs to new IFs. Where unavoidable, NCBs shall submit a written explanation to the ECB via the N13 Cebamail account at the same time as the IF record (using the “object_request” type “if_req_realloc”).

When reporting updates, NCBs may use their national character set, provided they use the Roman alphabet. NCBs shall use Unicode to correctly display all special character sets when receiving information from the ECB via the RIAD Data Exchange System.

Prior to the transmission of updates of the list of IFs to the ECB, NCBs shall carry out the validation checks set out in the relevant data exchange specifications.’

15. Article 24 is replaced by the following:

‘Article 24

Publication

NCBs shall not publish national contributions to the monthly euro area monetary aggregates and their counterparts until the ECB has published these aggregates. Where NCBs publish such data, they shall be the same as data that contributed to the last published euro area aggregates. Where NCBs reproduce euro area aggregates published by the ECB, they shall reproduce them faithfully.’

16. Annexes III to VIII are amended in accordance with the Annex to this Guideline.

17. In the Glossary, the following definition is inserted:

‘Branch of activity is an economic activity included in the statistical classification of economic activities in the European Community — NACE Rev.2 (*).

(*) As set out in Annex I to Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393, 30.12.2006, p. 1).’

Article 2

Entry into force

This Guideline shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

It shall apply from 1 July 2010.

Article 3

Addressees

This Guideline applies to all Eurosystem central banks.

Done at Frankfurt am Main, 4 December 2009.

For the Governing Council of the ECB
The President of the ECB
 Jean-Claude TRICHET

ANNEX

1. Annex III is amended as follows:

(a) In Part 1, Tables 1 and 2 are replaced and Tables 3a and 3b are added as follows:

L 16/14

EN

BALANCE SHEET ITEMS	B. Other participating Member States										C. Rest of the world			D. Not allocated
	MFIs		Non-MFIs								Total	Banks	Non-banks	
	Credit institutions	of which: credit institutions subject to RRs, ECB and NCBs	General government (S.13)		Other resident sectors									
			Central government (S.1311)	Other general government	Total	Other financial intermediaries + financial auxiliaries (S.123 + S.124)		Insurance corporations and pension funds (S.125)	Non-financial corporations (S.11)	Households + non-profit institutions serving households (S.14 + S.15)				
							of which: CCP (1)	of which: FVCs						
LIABILITIES														
8 Currency in circulation													1	
9 Deposits	5			6				7			8			
up to 1 year										9				
over 1 year										10				
of which transferable deposits		14		15	16						17	18		
of which up to 2 years									20					
of which syndicated loans													21	
9e Euro	23													
9.1e Overnight				30	31	32			33	34	35			
of which transferable deposits		37										38		
9.2e With agreed maturit														
up to 1 year				45	46	47			48	49	50			
over 1 and up to 2 years				57	58	59			60	61	62			
over 2 years	71		72	73	74	75			76	77	79	79		
9.3e Redeemable at notice														
up to 3 months				86	87	88			89	90	91			
over 3 months				98	99	100			101	102	103			
of which over 2 years	108		109	110	111							112		
9.4e Repos	122		123	124	125	126	127		128	129	130	131		
9x Foreign currencies														
9.1x Overnight				138	139	140			141	142	143			
9.2x With agreed maturity														
up to 1 year				150	151	152			153	154	155			
over 1 and up to 2 years				162	163	164			165	166	167			
over 2 years	176		177	178	179	180			181	182	183	184		
9.3x Redeemable at notice														
up to 3 months				191	192	193			194	195	196			
over 3 months				203	204	205			206	207	208			
of which over 2 years	213		214	215	216							217		
9.4x Repos	227		228	229	230	231	232		233	234	235	236		
10 MMFs shares/units													237	
11 Debt securities issued														
11e Euro														
up to 1 year													# 238	
over 1 and up to 2 years													# 239	
of which up to 2 years and nominal capital guarantee below 100 %													# 240	
over 2 years													# 241	
11x Foreign currencies														
up to 1 year													# 242	
over 1 and up to 2 years													# 243	
of which up to 2 years and nominal capital guarantee below 100 %													# 244	
over 2 year													# 245	
12 Capital and reserves													# 246	
13 Remaining liabilities													# 247	

BALANCE SHEET ITEMS	A. Domestic											
	MFIs	Non-MFIs										
		General government (S.13)	Other resident sectors									
			Total	Other financial intermediaries + financial auxiliaries (S.123 + S.124)		Insurance corporations and pension funds (S.125)	Non-financial corporations (S.11)	Households + non-profit institutions serving households (S.14 + S.15)				
				of which: CCP ⁽¹⁾	of which: FVCs			Total	Credit for consumption	Lending for house purchase	Other lending	
											of which: SP/UP ⁽²⁾	
ASSETS												
1. Cash												
1e of which euro												
2. Loans	# 250	# 251	# 252									
up to 1 year				# 257			# 258	# 259			# 260	# 261
over 1 year and up to 5 years				# 272			# 273	# 274			# 275	# 276
over 5 years				# 287			# 288	# 289			# 290	# 291
of which syndicated loans	# 301	# 302	# 303					# 304			# 292	# 293
of which repos						309						
2e of which euro		# 311	# 312	# 313			# 314	# 315	# 316			
— of which revolving loans and overdrafts								# 323	# 324			
— of which convenience credit card credit								# 327	# 328			
— of which extended credit card credit								# 331	# 332			
3. Securities other than shares						# 335						
3e Euro		# 338	# 339									
up to 1 year	# 342											
over 1 and up to 2 years	# 344											
over 2 years	# 346											
3x Foreign currencies		# 349	# 350									
up to 1 year	# 354											
over 1 and up to 2 years	# 356											
over 2 years	# 358											
4. MMF shares/units	360											
5. Shares and other equity	# 363		# 364									
6. Fixed assets												
7. Remaining assets												

BALANCE SHEET ITEMS	B. Other participating Member States													C. Rest of the world	D. Not allocated			
	MFIs	Non-MFIs																
		General government (S.13)	Total	Other resident sectors								Total	Credit for consumption			Lending for house purchase	Other lending	
				Other financial intermediaries + financial auxiliaries (S.123 + S.124)		Insurance corporations and pension funds (S.125)	Non-financial corporations (S.11)	Households + non-profit institutions serving households (S.14 + S.15)	of which: SP/UP (²)									
				of which: CCP (¹)	of which: FVCs													
ASSETS																		
1. Cash															248			
1e of which euro															249			
2. Loans	# 253	# 254	# 255											# 256				
up to 1 year				# 264			# 265	# 266		# 267	# 268	# 269	# 270	# 271				
over 1 year and up to 5 years				# 279			# 280	# 281		# 282	# 283	# 284	# 285	# 286				
over 5 years				# 294			# 295	# 296		# 297	# 298	# 299	# 300					
of which syndicated loans	# 305	# 306	# 307					# 308										
of which repos						310												
2e of which euro		# 317	# 318	# 319			# 320	# 321	# 322									
— of which revolving loans and overdrafts								# 325	# 326									
— of which convenience credit card credit								# 329	# 330									
— of which extended credit card credit								# 333	# 334									
3. Securities other than shares							# 336							# 337				
3e Euro		# 340	# 341															
up to 1 year	# 343																	
over 1 and up to 2 years	# 345																	
over 2 years	# 347																	
3x Foreign currencies		# 352	# 353															
up to 1 year	# 355																	
over 1 and up to 2 years	# 357																	
over 2 years	# 359																	
4. MMF shares/units	361													362				
5. Shares and other equity	# 365		# 366											# 367				
6. Fixed assets															# 368			
7. Remaining assets															# 369			

(¹) Central counterparties.

(²) Sole proprietors/unincorporated partnerships.

BALANCE SHEET ITEMS	A. Domestic													
	Non-MFIs													
	General government (S.13)					Other resident sectors								
	Total	Central government (S.1311)	Other general government				Total	Other financial inter- mediaries + fi- nancial auxiliaries (S.123 + S.124)	Insurance corporations and pension funds (S.125)	Non-financial corporations (S.11)		Households + non-profit institutions serving households (S.14 + S.15)		
Total			State government (S.1312)	Local government (S.1313)	Social security funds (S.1314)	Real estate collateral				Total	Credit for consumption	Lending for house purchase	Other lending	
	Real estate collateral	Real estate collateral					Real estate collateral	Real estate collateral						
LIABILITIES														
8. Currency in circulation														
9. Deposits														
9.1. Overnight														
9.2. With agreed maturity														
9.3. Redeemable at notice														
9.4. Repos														
10. MMFs shares/units														
11. Debt securities issued														
12. Capital and reserves														
13. Remaining liabilities														
ASSETS														
1. Cash														
2. Loans														
up to 1 year														
over 1 and up to 5 years														
over 5 years														
2e Euro														
Loans with original maturity over 1 year of which loans with remaining maturity of less than or equal to 1 year of which loans with remaining maturity over 1 year and with interest rate reset in the next 12 months														
Loans with original maturity over 2 years of which loans with remaining maturity of less than or equal to 2 years of which loans with remaining maturity over 2 years and with interest rate reset in the next 24 months														
3. Securities other than shares														
up to 1 year														
over 1 year														
4. MMFs shares/units														
5. Shares and other equity														
6. Fixed assets														
7. Remaining assets														

BALANCE SHEET ITEMS	B. Other participating Member States													C. Rest of the world			
	Non-MFIs													Total			
	General government (S.13)					Other resident sectors								Banks	Non-banks		
	Total	Central government (S.1311)	Other general government			Total	Other financial intermediaries + financial auxiliaries (S.123 + S.124)	Insurance corporations and pension funds (S.125)	Non-financial corporations (S.11)	Real estate collateral	Households + non-profit institutions serving households (S.14 + S.15)				General government	Other resident sectors	
			Total	State government (S.1312)	Local government (S.1313)						Social security funds (S.1314)	Total	Credit for consumption				Lending for house purchase
Real estate collateral																	
LIABILITIES																	
8. Currency in circulation														370			
9. Deposits														371			
9.1. Overnight														372			
9.2. With agreed maturity																	
9.3. Redeemable at notice																	
9.4. Repos																	
10. MMFs shares/units																	
11. Debt securities issued																	
12. Capital and reserves																	
13. Remaining liabilities																	
ASSETS																	
1. Cash																	
2. Loans	# 402													# 407			
up to 1 year														# 408			
over 1 and up to 5 years														# 409			
over 5 years																	
2e Euro																	
Loans with original maturity over 1 year of which loans with remaining maturity of less than or equal to 1 year of which loans with remaining maturity over 1 year and with interest rate reset in the next 12 months																	
Loans with original maturity over 2 years of which loans with remaining maturity of less than or equal to 2 years of which loans with remaining maturity over 2 years and with interest rate reset in the next 24 months																	
3. Securities other than shares	# 459													# 460			
up to 1 year														# 461			
over 1 year														# 462			
4. MMFs shares/units																	
5. Shares and other equity																	
6. Fixed assets																	
7. Remaining assets																	

TABLE 3a

Securitisations and other loan transfers: items for which monthly flow adjustments are required (**)

BALANCE SHEET ITEMS	A. Domestic							B. Other participating Member States							C. Rest of the world
	General government (S.13)		Other resident sectors					General government (S.13)		Other resident sectors					
	Total	Other gen.gov't (S.1312 + S.1313 + S.1314)	Total	Other financial inter- mediaries + fi- nancial auxiliaries (S.123 + S.124)	Insurance corporations and pension funds (S.125)	Non-financial corporations (S.11)	Households + non-profit insti- tutions serving households (S.14 + S.15)	Total	Other general government (S.1312 + S.1313 + S.1314)	Total	Other financial inter- mediaries + financi- al auxiliaries (S.123 + S.124)	Insurance corporations and pension funds (S.125)	Non-financial corporations (S.11)	Households + - non-profit insti- tutions serving households (S.14 + S.15)	
1. Outstanding amounts of securitised loans not derecognised															
1.1. Total	497	498		499	500	501	502	503	504		505	506	507	508	509
1.1.1. of which securitised through a euro area FVC	510	511		512	513	514	515	516	517		518	519	520	521	522

(b) Section 3 of Part 4 is replaced by the following:

'Section 3: Quarterly memorandum items to compile monetary union financial accounts

NCBs/ECB/other MFIs' data (stocks)

	Domestic		Other participating Member States		Rest of the world	Not allocated
	Total	Central government	Total	Central government		

LIABILITIES

14. Remaining liabilities

Net equity of households in pension funds reserves	M70
Revaluation accounts	M90
Liability to non-resident branches/offices	M91
Liability adjustment accounts	M92
Debit balance on income/expenditure accounts; current/previous years' profits/losses; securities lending business; short positions in securities; depreciation	M93
Provisions	M94

ASSETS

3. Securities other than shares

Up to 1 year	M71	M72	M73
Of which: euro	M74	M75	M76
Over 1 year	M77	M78	M79
Of which: euro	M80	M81	M82

5. Shares and other equity

Quoted shares	M83	M84	M85
Investment fund (not MMF) shares	M86	M87	M88

7. Remaining assets

Prepayment of insurance premiums and reserves for outstanding claims	M89
Revaluation accounts	M95
Claims/capital injections into non-resident branches/offices	M96
Asset adjustment accounts	M97
Credit balance on income/expenditure accounts; current/previous years' profits/losses; own shares; securities lending business	M98

M70: liabilities of MFIs with households in the form of technical provisions established to provide pensions for employees. This typically refers to employee pension funds that have not been externalised to an independent institution.

M83, M84, M85: shares with prices quoted on a recognised stock exchange or other form of secondary market.

M86, M87, M88: shares issued in the context of an organised financial arrangement that pools investor funds for the purpose of acquiring financial or non-financial assets, excluding those included in the MFI sector (also called mutual fund shares).

M89: the part of gross premiums paid by MFIs which is to be allocated to the following accounting period plus claims by MFIs that are not yet settled.

M93, M98: Additional information should be reported to the ECB clarifying the content of these composite items, if available. These composite items include some sub-items which are not currently reported by some countries in accordance with Regulation (EC) No 2423/2001 (ECB/2001/13) (securities lending business, short positions in securities, own shares) but within remaining assets/remaining liabilities. This additional information allows the ECB to correct monetary union financial accounts data as necessary.'

- (c) The following text is added at the end of Part 5:

'Calculation of lump-sum allowance for control purposes (R6):

Lump-sum allowance: The allowance is applied to every credit institution. Each credit institution may deduct a maximum lump sum designed to reduce the administrative cost of managing very small reserve requirements. Should [reserve base × reserve ratio] be less than EUR 100 000, then the lump sum allowance equals [reserve base × reserve ratio]. Should [reserve base × reserve ratio] be greater than or equal to EUR 100 000, then the lump sum allowance equals EUR 100 000. Institutions allowed to report statistical data regarding their consolidated reserve base as a group (as defined in Annex III, Part 2, Section 1 of Regulation (EC) No 25/2009 (ECB/2008/32)) hold minimum reserves through one of the institutions in the group which is acting as intermediary exclusively for these institutions. In accordance with Article 11 of Regulation (EC) No 1745/2003 of the European Central Bank on the application of minimum reserves (ECB/2003/9) (*), in the latter case only the group as a whole is entitled to deduct the lump sum allowance.

The minimum (or "required") reserves are computed as follows:

Minimum (or "required") reserves = reserve base × reserve ratio – lump sum allowance

The reserve ratio applies as follows:

A reserve ratio of 2 % applies to the following liability categories (as defined in Regulation (EC) No 25/2009 (ECB/2008/32)): (a) overnight deposits; (b) deposits with agreed maturity of up to and including two years; (c) deposits redeemable at notice of up to and including two years; and (d) debt securities issued with an agreed maturity of up to and including two years. A reserve ratio of 0 % applies to repos and other liabilities with an agreed maturity of over two years included in the reserve base. Liabilities vis-à-vis the ECB, the NCBs and other institutions subject to the Eurosystem's minimum reserve system are excluded from the reserve base.

(*) OJ L 250, 2.10.2003, p. 10.'

- (d) Part 7 is replaced by the following:

'PART 7

Money market funds balance sheet statistics

TABLE 1
MMFs — Stocks
Quarterly serie

BALANCE SHEET ITEMS	A. Domestic							B. Other participating Member States							C. Rest of the world			D. Not allocated	
	MFIs	Non-MFIs						MFIs	Non-MFIs										
		General government		Other residents					General government		Other residents				Total	Banks	Non-banks		
		Central government	Other general government	Total	OFIs (S.123) and financial auxiliaries (S.124)	Insurance corp. and pension funds (S.125)	Non-financial corp. (S.11)		Households etc. (S.14 + S.15)	Central government	Other general government	Total	OFIs (S.123) and financial auxiliaries (S.124)	Insurance corp. and pension funds (S.125)			Non-financial corp. (S.11)		Households etc. (S.14 + S.15)
LIABILITIES																			
Deposits																			
MMFs shares/units																			
Capital & reserves																			
Remaining liabilities																			
ASSETS																			
Loans																			
Sec. other than shares																			
Total currencies																			
up to 1 year																			
over 1 year																			
Euro																			
up to 1 year																			
over 1 & up to 2 years																			
over 2 years																			
Foreign currencies																			
up to 1 year																			
over 1 & up to 2 years																			
over 2 years																			
MMF shares/units																			
Shares and other equity																			
Remaining assets																			

(Monthly and quarterly) requirements addressed to MFIs by Regulation (EC) No 25/2009 (ECB/2008/32).

(Quarterly) requirements addressed to IFs by Regulation (EC) No 958/2007 (ECB/2007/8), to be reported for MMFs as memo items if available at the NCBs.

MMFs — Reclassifications

Quarterly series

BALANCE SHEET ITEMS	A. Domestic							B. Other participating Member States							C. Rest of the world				D. Not allocated								
	MFIs	Non-MFIs						MFIs	Non-MFIs																		
		General government		Other residents					General government		Other residents				Total	Banks	Non-banks										
		Central government	Other general government	Total	OFIs (S.123) and financial auxiliaries (S.124)	Insurance corp. and pension funds (S.125)	Non-financial corp. (S.11)		Households etc. (S.14 + S.15)	Central government	Other general government	Total	OFIs (S.123) and financial auxiliaries (S.124)	Insurance corp. and pension funds (S.125)			Non-financial corp. (S.11)	Households etc. (S.14 + S.15)		General government	Other non-resident sectors						
LIABILITIES																											
Deposits																											
MMFs shares/units																											
Capital & reserves																											
Remaining liabilities																											
ASSETS																											
Loans																											
Sec. other than shares																											
Total currencies																											
up to 1 year																											
over 1 year																											
Euro																											
up to 1 year																											
over 1 & up to 2 years																											
over 2 years																											
Foreign currencies																											
up to 1 year																											
over 1 & up to 2 years																											
over 2 years																											
MMF shares/units																											
Shares and other equity																											
Remaining assets																											

(Monthly and quarterly) requirements addressed to MFIs by Regulation (EC) No 25/2009 (ECB/2008/32).

(Quarterly) requirements addressed to IFs by Regulation (EC) No 958/2007 (ECB/2007/8), to be reported for MMFs as memo items if available at NCBs.

MMFs — Revaluations

Quarterly series

BALANCE SHEET ITEMS	A. Domestic							B. Other participating Member States							C. Rest of the world				D. Not allocated
	MFIs	Non-MFIs						MFIs	Non-MFIs										
		General government		Other residents					General government		Other residents				Total	Banks	Non-banks		
		Central government	Other general government	Total	OFIs (S.123) and financial auxiliaries (S.124)	Insurance corp. and pension funds (S.125)	Non-financial corp. (S.11)		Households etc. (S.14 + S.15)	Central government	Other general government	Total	OFIs (S.123) and financial auxiliaries (S.124)	Insurance corp. and pension funds (S.125)			Non-financial corp. (S.11)	Households etc. (S.14 + S.15)	
LIABILITIES																			
Deposits																			
MMFs shares/units																			
Capital & reserves																			
Remaining liabilities																			
ASSETS																			
Loans																			
Sec. other than shares																			
Total currencies																			
up to 1 year																			
over 1 year																			
Euro																			
up to 1 year																			
over 1 & up to 2 years																			
over 2 years																			
Foreign currencies																			
up to 1 year																			
over 1 & up to 2 years																			
over 2 years																			
MMF shares/units																			
Shares and other equity																			
Remaining assets																			

(Monthly and quarterly) requirements addressed to MFIs by Regulation (EC) No 25/2009 (ECB/2008/32).

Under Article 8(2) of Regulation (EC) No 25/2009 (ECB/2008/32), NCBs may grant a derogation in respect of the reporting of revaluation adjustments to MMFs. Nevertheless, if the amounts involved are significant, NCBs are requested to provide information on a best effort basis.

- (e) Part 10 is deleted.
- (f) Part 11 is replaced by the following:

'PART 11

Other financial intermediaries' statistics (except investment funds and financial vehicle corporations)

Section 1: Reporting tables

Data to be reported for SDDs (security and derivative dealers), FCLs (financial corporations engaged in lending) and remaining OFIs (other financial intermediaries) are set out in the table below.

Data on SDDs, FCLs and remaining OFIs. Key indicators/memorandum items

Item name and maturity/geographical/sectoral breakdown	SDDs	FCLs	Remaining OFIs
ASSETS			
Deposits/world/total	Key		
Loans/world/total		Key	
Loans/world/MFIs		Key	
Loans/world/non-MFIs/total		Key	
Loans/world/non-MFIs/non-financial corporations		Key	
Loans/world/non-MFIs/households/total		Key	
Loans/world/non-MFIs/households/consumer credit		Key	
Loans/world/non-MFIs/households/lending for house purchase		Key	
Loans/world/non-MFIs/households/other purposes (residual)		Key	
Loans/domestic/total		Key	
Loans/domestic/MFIs		Key	
Loans/domestic/non-MFIs/total		Key	
Loans/domestic/non-MFIs/non-financial corporations		Key	
Loans/domestic/non-MFIs/households/total		Key	
Loans/domestic/non-MFIs/households/consumer credit		Key	
Loans/domestic/non-MFIs/households/lending for house purchase		Key	
Loans/domestic/non-MFIs/households/other purposes (residual)		Key	
Loans/other participating Member States/total		Key	
Loans/other participating Member States/MFIs		Key	
Loans/other participating Member States/non-MFIs/total		Key	
Loans/other participating Member States/non-MFIs/non-financial corporations		Key	
Loans/other participating Member States/non-MFIs/households/total		Key	

Item name and maturity/geographical/sectoral breakdown	SDDs	FCLs	Remaining OFIs
Loans/other participating Member States/non-MFIs/households/consumer credit		Key	
Loans/other participating Member States/non-MFIs/households/lending for house purchase		Key	
Loans/other participating Member States/non-MFIs/households/other purposes (residual)		Key	
Securities other than shares/world/total	Key	Key	
Shares and other equity excluding investment fund shares/world/total	Key	Key	
Investment fund shares/world/total	Key		
Financial derivatives/world/total	Key		
Other assets including "loans"/world/total	Key		
Other assets including "deposits", "cash", "investment fund shares", "fixed assets" and "financial derivatives"/world/total		Key	
Total assets/liabilities/world/total	Key	Key	Memo

LIABILITIES

Deposits and loans taken/world/total	Key	Key	
Debt securities issued/world/total	Key	Key	
Capital and reserves/world/total	Key	Key	
Financial derivatives/world/total	Key		
Other liabilities/world/total	Key		
Other liabilities including "financial derivatives"/world/total		Key	

Section 2: Instrument categories and valuation rules

In line with the European System of National and Regional Accounts in the Community (ESA 95), in principle assets and liabilities must be valued using current market prices on the date to which the balance sheet relates. Deposits and loans must be reported at face value, excluding accrued interests.

Assets

Total assets/liabilities: total assets must equal the sum of all items separately identified on the assets side of the balance sheet and should also equal total liabilities.

1. *Deposits:* this item (*) consists of two main sub-categories: transferable deposits and other deposits. Holdings of currency must also be included under this item.

In the case of FCLs, this item should be allocated under "Other assets".

2. *Loans:* this item consists of:

- loans granted to households in the form of consumer credit i.e. loans granted for the purpose of personal use in the consumption of goods and services; lending for house purchases i.e. credit extended for the purpose of investing in housing, including building and home improvements; and other i.e. loans granted for purposes such as business, debt consolidation, education, etc.,

- financial leases granted to third parties,
- bad debt loans that have not yet been repaid or written off,
- holdings of non-negotiable securities,
- subordinated debt in the form of loans.

For the sub-category SDDs, loans must be allocated under “Other assets”.

Valuation rules: loans made by OFIs must be recorded gross of all related provisions, both general and specific, until the loans are written off by the reporting institution, at which point the loans must be removed from the balance sheet.

In accordance with the general principle of accruals accounting, interest earned on loans must be subject to on-balance-sheet recording as it accrues i.e. on an accruals basis, rather than when it is actually received or paid i.e. on a cash basis. Accrued interest on loans must be classified on a gross basis under the category “Other assets”.

3. *Securities other than shares:* this item includes holdings of securities which give the holder the unconditional right to a fixed or contractually determined income in the form of coupon payments and/or a stated fixed sum at a specific date or dates or starting from a date defined at the time of issue. It also includes negotiable loans that have been restructured into a large number of identical documents and that are traded on organised markets.

Valuation rules: in line with the ESA 95, securities other than shares must be reported at market value.

4. *Shares and other equity excluding investment fund shares:* this category comprises three main sub-categories:

- quoted shares, excluding investment fund shares: shares with prices quoted on a recognised stock exchange or other form of secondary market (ESA 95, paragraphs 5.88-5.93),
- unquoted shares, excluding investment fund shares: shares that are not quoted (ESA 95, paragraphs 5.88-5.93),
- other equity: all transactions in other equity that are not covered by quoted and unquoted shares (ESA 95, paragraphs 5.94-5.95).

Valuation rules: in line with the ESA 95, shares and other equities must be reported at market value.

5. *Investment fund shares/units:* investment fund shares/units must be considered exclusively MFI liabilities, i.e. only MMFs and investment funds classified as OFIs.

For the sub-category FCLs, investment fund shares/units must be allocated under “Other assets”.

Valuation rules: in line with the ESA 95, investment fund shares/units must be reported at market value.

6. *Financial derivatives:* under this item, the following financial derivatives must be reported:

- (i) options, tradable and OTC;
- (ii) warrants;
- (iii) futures, but only if they have a market value because they are tradable or can be offset;
- (iv) swaps, but only if they have a market value because they are tradable or can be offset.

In the case of FCLs, this item should be allocated under “Other assets”.

Derivatives must be recorded on the balance sheet on a gross basis. Individual derivative contracts with gross positive market values must be recorded on the asset side of the balance sheet and contracts with gross negative market values on the liability side. Gross future commitments arising from derivative contracts must not be entered as on-balance-sheet items. Financial derivatives may be recorded on a net basis according to different valuation methods. Where only net positions are available, or positions are recorded other than at market value, these positions must be reported as default.

7. *Other assets*: all amounts that cannot be allocated in one of the main balance sheet items (BSI) must be allocated in "Other assets". This item comprises assets such as accrued interest receivable on loans and accrued rent on buildings, dividends to be received, amounts receivable not related to the main OFI business, gross amounts receivable in respect of suspense items, gross amounts receivable in respect of transit items, other assets not separately identified, e.g. fixed assets, loans and deposits depending on the sub-category of OFI.

Liabilities

Total assets/liabilities: total liabilities must equal the sum of all items separately identified on the liability side of the balance sheet and also equal total assets (see also asset item "Total assets/liabilities").

1. *Deposits and loans taken*: this item consists of:

- deposits: transferable deposits and other deposits (see assets) placed with OFIs. These deposits are generally placed by MFIs,
- loans: loans granted to the reporting OFIs which are not evidenced by documents or are represented by a single document even if it has become negotiable.

2. *Debt securities issued*: in some countries, OFIs may issue negotiable instruments with characteristics that are similar to those of debt securities issued by MFIs. In this reporting scheme, all such instruments must be classified as debt securities.

3. *Capital and reserves*: this item comprises the amounts arising from the issue of equity capital by reporting OFIs to shareholders or other proprietors, representing for the holder property rights in the OFI and generally an entitlement to a share in its profits and a share in its own funds in the event of liquidation. Funds arising from undistributed benefits or funds set aside by reporting OFIs in anticipation of likely future payments and obligations are also included. Capital and reserves comprise the following elements:

- equity capital,
- undistributed benefits or funds,
- specific provisions against loans, securities and other types of assets,
- operating profit/loss.

4. *Financial derivatives*: see asset item "Financial derivatives".

5. *Other liabilities*: all amounts that cannot be allocated in one of these main items of the liability side must be allocated in "Other liabilities". This item comprises liabilities such as gross amounts payable in respect of suspense items, gross amounts payable in respect of transit items, accrued interest payable on deposits, dividends to be paid, amounts payable not related to the main OFI business, provisions representing liabilities against third parties, margin payments made under derivative contracts representing cash collateral placed to protect against credit risk but remaining in the ownership of the depositor and being repayable to the depositor when the contract is closed out, net positions arising from securities lending without cash collateral, net amounts payable in respect of future settlements of transactions in securities, other liabilities not separately identified, e.g. debt securities, financial derivatives depending on the sub-category of OFI.

Section 3: National explanatory notes

1. *Data sources/data collection system*: this must include:

- data sources used to compile OFI statistics, except insurance corporations and pension funds, e.g. statistical offices, direct reporting from OFIs and/or fund managers,
- details on the collection systems, e.g. voluntary reports, business surveys, sampling, reporting subject to the existence of thresholds and grossing up.

2. *Compilation procedures*: the method used to compile data must be described, e.g. detailed description of estimates/assumptions made and how series are aggregated if two series have different frequencies.

3. *Legal framework*: comprehensive information on the institutions' national legal framework must be provided. Links with Community legislation must be specifically outlined. If several types of institutions are included under the same category, information must be provided for all types of institutions.
4. *Deviations from the ECB's reporting instructions*: NCBs must provide information on deviations from the reporting instructions.

Deviations from the reporting instructions may occur with respect to:
 - instrument breakdown: the instrument coverage may differ from the ECB's reporting instructions, e.g. two different instruments cannot be separately identified,
 - geographical breakdown,
 - sectoral breakdown,
 - valuation methods.
5. *Reporting population*: The NCBs may classify in a specific OFI sub-category all institutions complying with the OFI definition. They must describe all institutions included in or excluded from each OFI sub-category. Where possible, NCBs must provide estimates of data coverage in terms of total assets of the reporting population.
6. *Breaks in historical series*: breaks and major changes over time in the collection, reporting coverage, reporting schemes and compilation of the historical series must be described. In the case of breaks, the extent to which old and new data may be considered comparable must be indicated.
7. *Other comments*: any other relevant comments or indications.

(*) In the MFI balance sheet no distinction is made between deposits and loans on the asset and liability side. Instead, all non-negotiable funds placed with/lent to MFIs (= liabilities) are deemed to be in "deposits" and all funds placed by/lent by the MFIs (= assets) are deemed to be "loans". However, the ESA 95 outlines the difference based on the criterion of who initiates the transaction. Where the borrower takes the initiative, the financial transaction must be classified as a loan. Where the lender takes the initiative, the transaction must be classified as a deposit.'

(g) Section 1 of Part 12 of Annex III is replaced by the following:

'Section 1: Introduction

Securities issues statistics for the euro area provide two main aggregates:

- all issues by euro area residents in any currency, and
- all issues made worldwide in euro, both domestic and international.

A principal distinction must be drawn on the basis of the residency of the issuer whereby the Eurosystem NCBs collectively cover all issues by the residents of the euro area. The Bank for International Settlements (BIS) reports issues by the "rest of the world" (RoW), referring to all non-euro area residents (including international organisations).

The chart below summarises the reporting requirements.

	Securities issues		
	By euro area residents (each NCB reporting on its domestic residents)	By RoW residents (BIS/NCB)	
		Non-participating Member States	Other countries
In euro/national denominations	Block A	Block B	
In other currencies (*)	Block C	Block D not required	

(*) "Other currencies" refers to all other currencies, including the national currencies of non-participating Member States.'

(h) Sub-sections 4 and 5 of Section 2 of Part 12 of Annex III are replaced by the following:

'4. Classification of issues

Issues are analysed under two broad groupings: (1) debt securities i.e. securities other than shares excluding financial derivatives (*); and (2) quoted shares excluding investment fund shares/units (**). Private placements are covered as far as possible. Money market paper is included as part of debt securities. Unquoted shares and other equity may be reported on a voluntary basis as two separate memo items.

The following instruments contained in the BIS database are classified as debt securities in the securities issue statistics:

- certificates of deposit,
- commercial paper,
- treasury bills,
- bonds,
- euro commercial paper (ECP),
- medium-term notes,
- other short-term paper.

Non-exhaustive coverage of instruments in the securities issue statistics:

(a) Debt securities

(i) Short-term debt securities

The following instruments are included as a minimum:

- treasury bills and other short-term paper issued by general government,
- negotiable short-term paper issued by financial and by non-financial corporations. A variety of terms are used for such paper including: commercial paper, commercial bills, promissory notes, bills of trade, bills of exchange and certificates of deposit,
- short-term securities issued under long-term underwritten note issuance facilities,
- bankers' acceptances.

(ii) Long-term debt securities

The following instruments are illustrative and included as a minimum:

- bearer bonds,
- subordinated bonds,
- bonds with optional maturity dates, the latest of which is more than one year away,
- undated or perpetual bonds,
- variable rate notes,
- convertible bonds,
- covered bonds,
- index-linked securities where the value of the principal is linked to a price index, the price of a commodity or to an exchange rate index,

- deep-discounted bonds,
- zero coupon bonds,
- euro bonds,
- global bonds,
- privately issued bonds,
- securities resulting from the conversion of loans,
- loans that have become negotiable de facto,
- debentures and loan stock convertible into shares, whether shares of the issuing corporation or shares of another company, so long as they have not been converted. Where separable from the underlying bond, the conversion option, considered to be a financial derivative, is excluded,
- shares or stocks that pay a fixed income but do not provide for participation in the distribution of the residual value of the corporation on dissolution, including non-participating preference shares,
- financial assets issued as part of the securitisation of loans, mortgages, credit card debt, accounts receivable and other assets.

The following instruments are excluded:

- transactions in securities as part of repurchase agreements,
- issues of non-negotiable securities,
- non-negotiable loans.

Long-term debt securities issues are divided into:

- fixed rate issues, i.e. bonds whose nominal coupon payment does not change during the life of the issue,
- variable rate issues, i.e. bonds where the coupon rate or underlying principal are linked to an interest rate or some other index resulting in a variable nominal coupon payment over the life of the issue,
- zero coupon issues, i.e. instruments that do not pay any periodic coupon payments. Usually such bonds are issued at discount and redeemed at par. Most of the discount represents the equivalent of the interest accrued during the life of the bond.

(b) Quoted shares

Quoted shares include:

- capital shares issued by limited liability companies,
- redeemed shares in limited liability companies,
- dividend shares issued by limited liability companies,
- preferred or preference stocks or shares which provide for participation in the distribution of the residual value on dissolution of a corporation. These may be quoted or unquoted on a recognised exchange,
- private placements where possible.

If a company is privatised and the government keeps part of the shares but the other part is quoted on a regulated market, the whole value of the company's capital is recorded within the outstanding amounts of quoted shares, since all shares could potentially be traded at any time at market value. The same applies if part of the shares is sold to large investors and only the remaining part, i.e. free float, is traded on the stock exchange.

Quoted shares exclude:

- shares offered for sale but not taken up on issue,
- debentures and loan stock convertible into shares. These are included once they are converted into shares,
- the equity of partners with unlimited liability in incorporated partnerships,
- government investments in the capital of international organisations which are legally constituted as corporations with share capital,
- issues of bonus shares at the time of issue only and split share issues. Bonus shares and split shares are however included indistinguishably in the total stock of quoted shares.

5. Currency of issue

Dual currency bonds, where the bond is redeemed or the coupon paid in a different currency from the denomination of the bond, must be classified according to the denomination of the bond. If a global bond is issued in more than one currency, each portion must be reported as a separate issue, according to its currency of issue. Where issues are denominated in two currencies, for example 70 % in euro and 30 % in US dollars, the relevant components of the issue must be reported separately where possible according to the currency denomination. Hence 70 % of the issue must be reported as issues in euro/national denominations (***) and 30 % as issues in other currencies. Where it is not possible to separately identify the currency components of an issue, the actual breakdown made by the reporting country must be indicated in the national explanatory notes.

Quoted shares must be assumed to be issued in the currency of the corporation's country of residence; issues of shares in other currencies are negligible or non-existent. Hence, the data on quoted shares refer to all issues by euro area residents.

(*) ESA 95 category F.33.

(**) ESA 95 category F.511.

(***) Block A for NCBs and Block B for the BIS.

(i) The following Part 12a is inserted:

'PART 12a

Additional monthly MFI interest rate statistics (to be transmitted to the ECB by close of business on the 19th working day after the end of the reference month)

TABLE 1 (*)

	Sector	Type of instrument	Initial period of interest rate fixation	New business indicator	Reporting obligation
Loans (in EUR)	To non-financial corporations	Loans up to an amount of EUR 1 million	Floating rate and up to 1 year period of initial rate fixation	24	AAR/NDER, amount
			Over 1 and up to 5 years period of initial rate fixation	25	AAR/NDER, amount
			Over 5 years period of initial rate fixation	26	AAR/NDER, amount
		Loans over an amount of EUR 1 million	Floating rate and up to 1 year period of initial rate fixation	27	AAR/NDER, amount
			Over 1 and up to 5 years period of initial rate fixation	28	AAR/NDER, amount
			Over 5 years period of initial rate fixation	29	AAR/NDER, amount

TABLE 2 (**)

	Sector	Type of instrument	New business indicator	Reporting obligation
Loans (in EUR)	To households	Revolving loans and overdrafts, convenience and extended credit card debt	86	AAR/NDER, amount
	To non-financial corporations	Revolving loans and overdrafts, convenience and extended credit card debt	87	AAR/NDER, amount

(*) An annualised agreed rate (AAR) or narrowly defined effective rate (NDER) is reported for the categories included in Table. The reporting of the AAR/NDER is accompanied by the related new business volumes if indicated in the Table by the word "amount".

However, in the case of revolving loans and overdrafts and convenience and extended credit card debt, the concept of new business volumes is equivalent to outstanding amounts.

Indicators 24 to 29 are calculated on the basis of items 37 to 54 in Appendix 2 of Annex II to Regulation (EC) No 63/2002 (ECB/2001/18). Interest rates are calculated as weighted averages of the corresponding items in Appendix 2 of Annex II to Regulation (EC) No 63/2002 (ECB/2001/18) while new business volumes should be sum of the corresponding items in Appendix 2 of Annex II to Regulation (EC) No 63/2002 (ECB/2001/18).

(**) An annualised agreed rate (AAR) or narrowly defined effective rate (NDER) is reported for the categories included in the Table. The reporting of the AAR/NDER is accompanied by the related new business volumes if indicated in the Table by the word "amount".

However, in the case of revolving loans and overdrafts and convenience and extended credit card debt, the concept of new business volumes is equivalent to outstanding amounts.

Indicators 86 and 87 are calculated on the basis of items 12, 23, 32 and 36 in Appendix 2 of Annex II to Regulation (EC) No 63/2002 (ECB/2001/18), and the outstanding amounts reported for convenience and extended credit card credit and revolving loans and overdrafts in accordance with Regulation (EC) No 25/2009 (ECB/2008/32). Interest rates are calculated as weighted averages of the corresponding items in Appendix 2 of Annex II to Regulation (EC) No 63/2002 (ECB/2001/18), taking a zero interest rate for convenience credit card credit. Indicators 86 and 87 are intended to provide continuity with the indicators 12 and 23 (overdrafts) as previously defined in Regulation (EC) No 63/2002 (ECB/2001/18), i.e. prior to their amendment by Regulation (EC) No 290/2009 (ECB/2009/7).

(j) Sections 1 and 2 of Part 13 are replaced by the following:

'Section 1: Settlement media

Settlement media are assets or claims on assets which are used for payments.

TABLE 1

Settlement media used by non-MFIs (*)

(EUR million)

	Items	
	I. NCB liabilities Deposits held at NCB	II. Other MFI liabilities Deposits held at other MFIs
I.a. Overnight deposits — euro	of domestic central government of other euro area Member States central governments of rest of the world, except banks	of domestic central government of euro area central governments of rest of the world, except banks
I.b. Overnight deposits — Other currencies	of domestic central government of other euro area Member States central governments of rest of the world, except banks	of domestic central government of euro area central governments of rest of the world, except banks
I.c. Transferable deposits ⁽¹⁾ — All currencies	of domestic general government of domestic other resident sectors of other euro area Member States general governments of other euro area Member States other resident sectors of rest of the world, except banks	of domestic general government of domestic other resident sectors of other euro area Member States general governments of other euro area Member States other resident sectors of rest of the world, except banks

⁽¹⁾ As from June 2010 end-month reference period (2011 data submission).

TABLE 2

Settlement media used by credit institutions

(EUR million)

Items
Overnight deposits in euro held at other credit institutions (end of period)
Transferable overnight deposits in euro held at other credit institutions (end of period)
Memorandum item:
Intraday borrowing in euro from the central bank (average for last reserve maintenance period) ⁽¹⁾
⁽¹⁾ Total value of credit extended by the central bank to credit institutions and reimbursed within a period of less than one business day. This is the average of the daily maximum value of simultaneous and actual intraday overdraft positions or drawings on intraday credit facilities during the day for all credit institutions taken together. All days in the maintenance period, including weekends and bank holidays, are considered in the average.

Section 2: Institutions offering payment services

Institutions offering payment services are legally independent institutions operating in the reporting country, and are:

- the central bank,
- credit institutions legally incorporated in the reporting country (includes “Electronic money institutions”),
- branches of euro area-based credit institutions,
- branches of EEA-based credit institutions outside the euro area,
- branches of non-EEA-based banks,
- other institutions offering payment services to non-MFIs.

TABLE 3

Institutions offering payment services to non-MFIs (*)

Items	
Central bank	Number of offices
	Number of overnight deposits held by non-MFIs ⁽¹⁾ (thousands)
	Number of transferable overnight deposits ⁽²⁾
Credit institutions irrespective of their legal incorporation	Number of overnight deposits held by non-MFI ⁽¹⁾ (thousands) of which: Internet/PC-linked ⁽¹⁾ (thousands)
	Number of transferable overnight deposits held by non-MFI ⁽¹⁾ , ⁽²⁾ (thousands) of which: Internet/PC-linked ⁽¹⁾ , ⁽²⁾ (thousands)
— Credit institutions legally incorporated in the reporting country	Number of institutions ⁽³⁾
	Number of offices
	Value of overnight deposits held by non-MFI (euro million)
	Value of transferable overnight deposits ⁽⁴⁾
— Branches of euro area-based credit institutions	Number of institutions ⁽³⁾
	Number of offices
	Value of overnight deposits held by non-MFI (euro million)
	Value of transferable overnight deposits ⁽⁴⁾

Items	
— Branches of EEA-based credit institutions outside the euro area	Number of institutions ⁽³⁾
	Number of offices
	Value of overnight deposits held by non-MFI (euro million)
	Value of transferable overnight deposits ⁽⁴⁾
— Branches of non-EEA-based banks	Number of institutions ⁽³⁾
	Number of offices
	Value of overnight deposits held by non-MFI (euro million)
	Value of transferable overnight deposits ⁽⁴⁾
Other institutions offering payment services to non-MFIs	Number of institutions ⁽³⁾
	Number of offices
	Number of overnight deposits held by non-MFIs ⁽¹⁾ (thousands)
	Value of overnight deposits held by non-MFI (euro million)
Memorandum items Electronic money institutions	Value of transferable overnight deposits ⁽⁴⁾
	Number of institutions ⁽³⁾
	Outstanding value of e-money issued by electronic money institutions and held by entities other than the issuer, including credit institutions other than the issuer (euro million)

⁽¹⁾ If a non-MFI maintains several accounts, each account is counted separately.

⁽²⁾ As from 2010 end-year reference period (2011 data submission).

⁽³⁾ Each institution is counted once, irrespective of the number of offices it maintains in the country. The sub-categories of institutions are mutually exclusive. The total number of institutions is the sum of all sub-categories. Institutions are included from the first time that they are reported to the ECB for the purposes of MFI statistics.

⁽⁴⁾ As from Q2 2010 end-quarter data reference period (2011 data submission).

— Number of offices includes the head office of the institution if it offers payment services with cashless clearing and settlement. Mobile offices are not included. Each place of business set up in the same reporting country is counted separately,

— Internet/PC-linked deposits: deposits which can be accessed and used electronically via the Internet or PC banking using dedicated software and telephone lines. Deposits with telephone or mobile phone banking access are not included, unless they are also accessible via Internet or PC banking applications.

(*) End of period.'

(k) The introductory part of Section 5 of Part 13 is replaced by the following:

'Interbank funds transfer systems (IFTs) are included, whether managed by a central bank or a private operator. Figures are provided on a system-by-system basis. Only systems handling a significant volume of business are listed. Mostly these are the systems mentioned in the textual part of the Blue Book. Systems are included if they were operational during any of the previous five reference years.

IFTs are divided into TARGET2/TARGET components and non-TARGET payment systems:

— a TARGET2/TARGET component is a national real-time gross settlement (RTGS) system which is a part of TARGET2/TARGET as identified in Guideline ECB/2007/2 of 26 April 2007 on a Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET2) (*) or in Guideline ECB/2005/16 of 30 December 2005 on a Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET) (**), the ECB payment mechanism (EPM) or the RTGS system of a Member State that had not yet adopted the euro but was connected directly to TARGET and signed a TARGET Agreement,

— a non-TARGET payment system is an IFTS which is not a component part of TARGET2/TARGET.

(*) OJ L 237, 8.9.2007, p. 1.

(**) OJ L 18, 23.1.2006, p. 1.'

(l) Table 7 of Part 13 is replaced by the following:

TABLE 7

Participation in selected interbank funds transfer systems (*)

Items		
TARGET component	Non-TARGET payment system [refer to list of payment systems]	
	LVPS [reported separately for each LVPS 1, 2, 3, 4]	Retail system [reported separately for each retail payment system 1, 2, 3, 4, 5, 6]
Number of participants	Number of participants	Number of participants
(a) Direct participants	(a) Direct participants	(a) Direct participants
of which:	of which:	of which:
Credit institutions	Credit institutions	Credit institutions
Central bank	Central bank	Central bank
Other direct participants	Other direct participants	Other direct participants
of which:	of which:	of which:
— Public administration	— Public administration	— Public administration
— Postal institution	— Postal institution	— Postal institution
— Clearing and settlement organisations	— Clearing and settlement organisations	— Clearing and settlement organisations
— Other financial institutions	— Other financial institutions	— Other financial institutions
— Others	— Others	— Others
(b) Indirect participants	(b) Indirect participants	(b) Indirect participants

(*) End of period, original units.

(m) The 'List of payment systems in Tables 7, 8 and 9' at the end of Part 13 is deleted.

(n) The following Part 16 is inserted:

PART 16

Loans to non-financial corporations by branch of activity

NCBs either report data for individual sections in accordance with Template I or, if data is not available for individual sections, in accordance with Template II.

NCBs report amounts outstanding in respect of loans to domestic non-financial corporations (NFCs) and loans to other participating Member States' non-financial corporations (where available) separately. All data is reported in EUR million.

Template I		Template II	
1	A. Agriculture, forestry and fishing	1	A. Agriculture, forestry and fishing
2	B. Mining and quarrying	2	B. Mining and quarrying
3	C. Manufacturing	3	C. Manufacturing
4	D. Electricity, gas, steam and air conditioning supply	4	D. Electricity, gas, steam and air conditioning supply
5	E. Water supply, sewerage, waste management and remediation activities		+ E. Water supply, sewerage, waste management and remediation activities

Template I		Template II	
6	F. Construction	5	F. Construction
7	G. Wholesale and retail trade. Repair of motor vehicles and motorcycles	6	G. Wholesale and retail trade. Repair of motor vehicles and motorcycles
8	I. Accommodation and food service activities	7	I. Accommodation and food service activities
9	H. Transportation and storage	8	H. Transportation and storage +
10	J. Information and communication		J. Information and communication
11	L. Real estate activities	9	L. Real estate activities +
12	M. Professional, scientific and technical activities		M. Professional, scientific and technical activities
13	N. Administrative and support service activities		N. Administrative and support service activities
14	All remaining sections relevant for the NFCs	10	All remaining sections relevant for the NFCs

Note: Letters refer to the corresponding NACE Rev.2 classification.'

2. Annex IV is amended as follows:

(a) Point 3.1 in Part 2 is replaced by the following:

'3.1. The DSI "ECB_BSI1" is used to define the series keys for data on:

- MFIs balance sheet statistics,
- e-money,
- credit institutions balance sheet statistics,
- MMF balance sheet statistics,
- central government deposit liabilities and holdings of cash and securities,
- memo items,
- supplementary BSI data reported by the NCBs to the IMF by using the ECB gateway services,
- securitised and sold MFI loans to third parties,
- reserve base statistics,
- data on macro ratio,
- data on loans to non-financial corporations broken down by branch of activity.'

(b) The table entitled 'UNIT (Unit)' in Section 3 of Part 4 is replaced by the following:

UNIT (Unit)	
BSI	For euro area Member States: EUR
SSI	For euro area Member States: EUR For series reported as absolute values and for indices: PURE_NUMB For the series reported as percentages: PCT

OFI	For euro area Member States: EUR
MIR	For business volumes: EUR For interest rates: PCPA
SEC	For euro area Member States: EUR
PSS	For series on original units (Annex III, Part 13, Tables 4, 5, 7 and 8) and series on concentration ratios (Annex III, Part 13, Tables 8 and 9): PURE_NUMB For series on value of transactions on TARGET2 (Annex III, Part 13, Table 8): EUR For series on value of transactions by participating Member States (Annex III, Part 13, Tables 6 and 9): EUR
IVF	For euro area Member States: EUR'

3. Annex V is amended as follows:

(a) Point 2 of sub-section 3 of Section 1 of Part 2 is replaced by the following:

'2. Changes in classification occur for a number of reasons. A change in the sectoral classification of counterparties may occur because a public sector body is transferred to the private sector or because mergers/de-mergers alter the principal activity of corporations.'

(b) In sub-section 1 of Section 2 of Part 3 the following point 4 is added:

'4. Write-downs that occur at the time when a loan is securitised and write-downs/write-offs on serviced loans are reported to the ECB on a best effort basis in accordance with Table 3 (*).

(*) Write-offs/write-downs on loans for which the MFI acts as a servicer may occur because the loans are still subject to on-balance sheet recording, either on the individual accounts of the MFI or at group level, and the servicing data reported to the NCB is sourced from these. They may also occur when the servicer must state a reduced principal loan balance for impaired loans in order to be in compliance with the investor agreements.'

(c) Point 5 of sub-section 2 of Section 2 of Part 3 is replaced by the following:

'5. The Regulation allows flexibility in terms of the type of data needed to calculate the price revaluation of securities and the form in which these data are collected and compiled. The decision on the method is left to the NCBs, based on the following options:

— *MFIs to report adjustments*: MFIs report the adjustments applicable to each item, reflecting the valuation changes due to change in prices. NCBs that choose this method aggregate the adjustments reported by MFIs for the submission of data to the ECB,

— *MFIs to report transactions*: MFIs accumulate transactions during the month and transmit the value of purchase and sale of securities to the NCB. The compilation and submission to the NCB of net transactions is acceptable. NCBs that receive transactions data have to calculate the "revaluation adjustment" as a residual from the difference between the stocks and the transactions and other adjustments, and submit the revaluation adjustment to the ECB in accordance with this Guideline,

— *security-by-security reporting*: MFIs report to NCBs all relevant information on holdings of securities, such as the nominal (i.e. face) value, accounting (i.e. book) value, market value, sales and purchases, on a security-by-security basis. This information permits NCBs to obtain accurate information on the "revaluation adjustment" to be submitted to the ECB. This method is intended to accommodate NCBs that already follow such an approach in collecting data at a local level.'

(d) Appendix III is deleted.

4. Annex VI is amended as follows:

(a) Part 1 is replaced by the following:

‘PART 1

Variables for the purpose of the list of MFIs for statistical purpose

Variable name	Variable description	Status
object_request	This specifies the type of monetary financial institution (MFI) update sent and can take one of seven predefined values: “mfi_req_new”: specifies that information on a new MFI is given, “mfi_req_mod”: specifies that information on modifications to an existing MFI is given, “mfi_req_del”: specifies that information on an existing MFI to be deleted is given, “mfi_req_merger”: specifies that information on institutions involved in a merger (*) is given, “mfi_req_realloc”: specifies that reallocation of a deleted mfi_id to a new MFI is required, “mfi_req_mod_id_realloc”: specifies that a change of the mfi_id of an existing MFI to that of a deleted MFI is required, “mfi_req_mod_id”: specifies that a change of “mfi_id” is required.	Mandatory
mfi_id	This is the primary key for the MFI dataset. It specifies the unique identification code (hereinafter the “id code”) of the MFI, and is comprised of two parts: “host” and “id”. The values for the two parts combined should ensure that the “mfi_id” is unique to that MFI.	Mandatory
host	This variable specifies the country of registration of the MFI, given as a two-character country ISO code.	Mandatory when part of id code
id	This specifies the id code for the MFI (without the “host” two-character ISO country code as a prefix)	Mandatory when part of id code
name	This specifies the full registration name of the MFI, including the company designation (i.e. Plc, Ltd, SpA, etc.).	Mandatory
address	This specifies the location details of the MFI, and is composed of four parts: “postal_address”, “postal_box”, “postal_code” and “city”.	Mandatory for “new” and “mod” requests
postal_address	This specifies the street name and the building number.	Mandatory for “new” and “mod” requests
postal_box	This specifies the post office box number, using national box convention systems.	Mandatory for “new” and “mod” requests
postal_code	This specifies the post code, using the national postal systems conventions.	Mandatory for “new” and “mod” requests
city	This specifies the city of location.	Mandatory for “new” and “mod” requests
category	This indicates the type of MFI, and can have one of four predefined values: “central bank”, “credit institution”, “money market fund” or “other institution”.	Mandatory for “new” and “mod” requests

Variable name	Variable description	Status
report	This indicates whether or not the MFI reports monthly balance sheet statistics and can take one of two predefined values which are mutually exclusive: (i) "true" when the MFI is subject to the full reporting requirements; or (ii) "false" when the MFI is not subject to the full reporting requirements.	Mandatory for "new" and "mod" requests
order_r	This indicates the desired order of the list of MFIs if the English alphabetical order does not apply. A numeric value must be assigned to each MFI in ascending order.	Non-mandatory
head_of_branch	This indicates that the MFI is a foreign branch. This can take one of three values: "non_eu_head", "eu_non_mfi_head" and "eu_mfi_head".	Mandatory for foreign branches
non_eu_head	This indicates that the head office is extra EU resident, and is composed of two parts: "host" and "name".	Mandatory for foreign branches
eu_non_mfi_head	This indicates that the head office is an EU resident and is not an MFI. This is comprised of two parts: "non_mfi_id" (country of registration and identification code) and "name" (name of the head office). The identification code of the non-MFI can be either "OFI" (other financial institution) or a two-character ISO country code followed by a suffix referring to the appropriate sectoral classification of the ESA 95.	Mandatory for foreign branches
eu_mfi_head	This indicates that the head office is an EU resident and an MFI. The value for this variable is comprised of "mfi_id".	Mandatory for foreign branches
sub-merger	This is used to report institutions sharing the same "date" of legal effect of merger activity, and is composed of four parts: "date", "comment", "involved_mfi" and "involved_non_mfi".	Mandatory for mergers
involved_mfi	This specifies that an MFI is involved in a cross-border merger. The value for this variable is comprised of "mfi_ref".	Mandatory for cross-border mergers
involved_non_mfi	This specifies that a non-MFI is involved in the merger. The value for this variable is comprised of "non_mfi_obj".	Mandatory for mergers
mfi_ref	This specifies details of an MFI involved in a cross-border merger, and is composed of two parts: "mfi_id" and "name".	Mandatory for cross-border mergers
non_mfi_obj	This specifies details of a non-MFI involved in a merger with an MFI, and is composed of two parts: "non_mfi_id" and "name".	Mandatory for mergers
non_mfi_id	This specifies details of a non-MFI involved in a merger with an MFI, and is comprised of two parts: "host" and "id".	Mandatory for mergers

(*) Unless explicitly stated otherwise, the term "mergers" refers to domestic mergers.*

(b) Part 2 is deleted.

5. Annex VII is amended as follows:

(a) Part 1 is replaced by the following:

PART 1

Variables for reporting the list of investment funds for statistical purposes

Variable name	Variable description	Status
object_request	This variable specifies the type of investment fund (IF) update sent and may have one of eight predefined values: "if_req_new": information on a new IF "if_req_mod": information on modifications to an IF "if_req_del": information on an IF to be deleted "if_req_merger": information on institutions involved in a merger (*) "if_req_realloc": reallocation of a deleted if_id to a new IF "if_req_mod_id_realloc": a change of the if_id of an IF to that of a deleted IF "if_req_mod_id": a change of "if_id" "if_req_nav": information on the net asset value (NAV) per investment fund	Mandatory
If_confidentiality_flag	This variable indicates the confidentiality status of the entire record. One of three pre-defined values should be selected: "F" (free, not confidential), "N" (confidential; may be released for European System of Central Banks (ESCB) use only; not for external release) or "C" (confidential; not for release to the ESCB or the public) If partial confidentiality of any one particular variable is required, the value "F" must be used	Mandatory
if_id	The primary key for the IF dataset specifying the unique IF's identification code (hereinafter the "id code"), and is comprised of two parts: "host" and "id". The values for the two parts combined ensure that the "if_id" is unique to that IF	Mandatory
host	The two-character country ISO code for the IF's country of registration — one of two parts of the "if_id" variable — see above	Mandatory when part of id code
id	The IF's id code — one of two parts of the "if_id" variable — see above	Mandatory when part of id code
name	The IF's full registration name, including the company designation i.e. Plc, Ltd, SpA, etc.	Mandatory
address	The IF's location details, or its management company where applicable composed of four parts: "postal_address", "postal_box", "postal_code" and "city"	Mandatory for "new" and "mod" requests
postal_address	The street name and the number of the building	Mandatory for "new" and "mod" requests
postal_box	The post office box number, using national box convention systems	Mandatory for "new" and "mod" requests
postal_code	The post code, using the national postal system conventions	Mandatory for "new" and "mod" requests
city	The city of location	Mandatory for "new" and "mod" requests

Variable name	Variable description	Status
management company name	The full, registered name of the IF's management company. If this information is missing, the value "not available" (where the IF has a management company) or "not applicable" (where the IF does not have a management company) must be reported	Mandatory
management company name_confidentiality_flag	This variable indicates the confidentiality status of the information on the management company name One of three pre-defined values should be selected: "F" (free, not confidential), "N" (confidential; may be released for ESCB use only; not for external release) or "C" (confidential; not for release to the ESCB or to the public)	Mandatory
investment policy	The type of asset in which the investment portfolio is primarily invested. Seven pre-defined values are possible: "bonds", "equities", "hedge", "mixed", "real estate", "other" or "not available"	
investment policy_confidentiality_flag	This variable indicates the confidentiality status of the information on the investment policy One of three pre-defined values should be selected: "F" (free, not confidential), "N" (confidential; may be released for ESCB use only; not for external release) or "C" (confidential; not for release to the ESCB or to the public)	Mandatory
variability of the capital	This variable specifies the legal form which the IF can take, and can have one of three predefined values: "open-end" or "closed-end" or "not available"	Mandatory
variability of the capital_confidentiality_flag	This variable indicates the confidentiality status of the information on the variability of capital One of three pre-defined values should be selected: "F" (free, not confidential), "N" (confidential; may be released for ESCB use only; not for external release) or "C" (confidential; not for release to the ESCB or to the public)	Mandatory
structure_1	This variable specifies the IF structure and can have one of three predefined values: "UCITS" (**) or "non-UCITS" or "not available"	Mandatory
structure_1_confidentiality_flag	This variable indicates the confidentiality status of the information on the variable structure_1 One of three pre-defined values should be selected: "F" (free, not confidential), "N" (confidential; may be released for ESCB use only; not for external release) or "C" (confidential; not for release to the ESCB or to the public)	Mandatory
structure_2	More detailed information on the investment fund structure with one of 11 predefined values. Refer to Part 2 below	Mandatory
structure_2_confidentiality_flag	This variable indicates the confidentiality status of the information on the variable structure_2 One of three pre-defined values should be selected: "F" (free, not confidential), "N" (confidential; may be released for ESCB use only; not for external release) or "C" (confidential; not for release to the ESCB or to the public)	Mandatory
sub-fund	This variable specifies whether the investment fund is a sub-fund or otherwise and can have one of four predefined values: "yes" or "no" or "not available" or "not applicable"	Mandatory

Variable name	Variable description	Status
sub-fund_confidentiality_flag	This variable indicates the confidentiality status of the information on the variable sub-fund One of three pre-defined values should be selected: "F" (free, not confidential), "N" (confidential; may be released for ESCB use only; not for external release) or "C" (confidential; not for release to the ESCB or to the public)	Mandatory
ISIN codes	This variable specifies the ISIN (***) codes for each share class per investment fund. The variable is composed of several parts including reference to: "ISIN_1", "ISIN_2", "ISIN_3", "ISIN_4" and "ISIN_n". All applicable ISIN codes per investment fund must be reported. If reporting an IF for which ISIN codes are not applicable, the 12 characters term "XXXXXXXXXXXX" must be reported for "ISIN_1"	Mandatory
If_req_nav	This variable specifies that information on the net asset value of the investment fund is being sent. It is composed of two parts: "if_nav_value" and "if_nav_date". If this information is missing, the value "not available" must be reported	Mandatory on an annual basis
nav_confidentiality_flag	This variable indicates the confidentiality status of the information on the net-asset value One of three pre-defined values should be selected: "F" (free, not confidential), "N" (confidential; may be released for ESCB use only; not for external release) or "C" (confidential; not for release to the ESCB or to the public)	Mandatory
sub-merger	This variable is used to report institutions sharing the same "date" of legal effect of merger activity, and is composed of four parts: "date", "comment", "involved_if" and "involved_non_if"	Mandatory for mergers
involved_if	This variable specifies that an IF is involved in a cross-border merger. Value for this variable is comprised of "if_ref"	Mandatory for cross-border mergers
involved_non_if	This variable specifies that an entity which is not an IF is involved in the merger with an IF. Value for this variable is comprised of "non_if_obj"	Mandatory for mergers
if_ref	This variable specifies details of an IF involved in a cross-border merger, and is composed of two parts: "if_id" and "name"	Mandatory for cross-border mergers
non_if_obj	This variable specifies details of a entity which is not an IF involved in a merger with an IF, and is composed of two parts: "non_if_id" and "name"	Mandatory for mergers
non_if_id	This variable specifies details of an entity which is not an IF involved in a merger with an IF, and is comprised of two parts: "host" and "id"	Mandatory for mergers
free_text	Explanatory information on the investment fund	

(*) Unless explicitly stated otherwise, the term "mergers" refers to domestic mergers.

(**) Council Directive 85/611/EEC of 20 December 1985 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 375, 31.12.1985, p. 3).

(***) International securities identification number: a code uniquely identifying a securities issue, composed of 12 alphanumeric characters.'

(b) Part 3 is deleted.

6. Annex VIII is amended as follows:

- (a) In Part 1 the description of the variable 'ISIN codes' is replaced by the following:

This variable specifies the ISIN (*) codes of all securities issued by the FVC. The variable is composed of several parts including reference to: "ISIN_1", "ISIN_2", "ISIN_3", "ISIN_4" and "ISIN_n". As a minimum requirement, at least one ISIN code (ISIN_1) must be reported. If reporting an FVC for which ISIN codes are not applicable, or not available, the 12 characters term "XXXXXXXXXXXX" must be reported for "ISIN_1".

(*) International Securities Identification Number: a code uniquely identifying a securities issue composed of 12 alphanumeric characters.'

- (b) Part 2 is deleted.
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IV

(Acts adopted before 1 December 2009 under the EC Treaty, the EU Treaty and the Euratom Treaty)

COMMISSION DECISION

of 28 October 2009

concerning the aid granted by Italy for the restructuring of cooperatives in the fisheries sector and of their consortia (State aid C 29/06)

(notified under document C(2009) 8040)

(Only the Italian text is authentic)

(Text with EEA relevance)

(2010/35/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

within the meaning of Article 1(f) of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty ⁽¹⁾ [now Article 88].

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

Having called on interested parties to submit their comments pursuant to that article,

- (4) Italy was asked several times for further information. By letter C(2005) 161 of 20 January 2005 the Commission also sent Italy an information injunction under Article 10(3) of Regulation (EC) No 659/1999. By letter of 3 March 2005, Italy replied to that injunction. Another letter was subsequently received by the Commission on 12 July 2005.

Whereas:

1. PROCEDURE

- (1) By letter of 17 October 2002, Italy notified Legislative Decree No 226 of 18 May 2001 (the Decree of 18 May 2001) to the Commission, stating that the measures laid down in Articles 7 and 8 of that decree had been put into effect.
- (2) In Article 8 of that decree there is a system of State aid for the restructuring of cooperatives in the fisheries sector and of their consortia. In accordance with Article 8, the scope of assistance of the Fondo centrale per il credito peschereccio (Central Fund for Fisheries Credit) is extended to the funding of the business restructuring plans provided for under Article 11(8) ter of Law No 41 of 17 February 1982 (Law No 41/1982) for cooperatives and their consortia operating in the fisheries and aquaculture sector and in the processing and marketing of products of that sector.
- (3) Given that Italy made it known that that measure had been put into effect, it was registered as unlawful aid

- (5) Following doubts as to the compatibility of that aid scheme with the common market, the Commission decided to initiate the formal investigation procedure laid down in Article 93 [now Article 88] of the EC Treaty. The Commission informed Italy of that decision by letter C(2006) 2312 of 22 June 2006 ⁽²⁾.

- (6) Italy communicated its comments by letters of 14 September and 31 October 2006.

2. DESCRIPTION

- (7) As stated above, the Decree of 18 May 2001 is intended to extend the scope of assistance of the Fondo centrale per il credito peschereccio to the restructuring operations of cooperatives in the fisheries sector and their consortia, as provided for by Article 11(8) ter of Law No 41/1982.

⁽¹⁾ OJ L 83, 27.3.1999, p. 1.

⁽²⁾ Letter published in OJ C 202, 25.8.2006, p. 11.

- (8) The Decree of 18 May 2001 is a provision which, from its entry into force, provides for the funding of aid measures laid down by the decree of the Minister for Agriculture of 10 February 2008 (the Decree of 10 February 1998), which sets out the detailed rules for the application of Article 11(8) ter of Law No 41/1982.
- (9) The characteristics of that aid scheme, as described in the Decree of 10 February 1998, are the following:
- the aid is granted in the form of a non-repayable grant up to a maximum of 40 % of eligible expenditure or a soft loan for an amount of up to 85 % of that expenditure,
 - the purpose of the restructuring plan must be the recovery of the cooperative and the restoration of its economic and financial viability,
 - the eligible costs comprise: the planning and implementation of the restructuring plan; the modernisation, extension and reorganisation of production as regards plant, equipment and immovable property under programmes for the recovery and rehabilitation of firms on the basis of greater efficiency and competitiveness; the funding of any property losses deriving from the cessation of activities and from fixed assets not depreciated in full or the funding of depreciation charges of material and non-material assets which are no longer used in the production process; the organisation of training courses; charges relating to the incorporation and starting up of companies, incurred in order to promote the acquisition by the employees of activities or branches of the firm excluded from the restructuring process; payments in respect of severance and early retirement, facilitation of voluntary redundancies; financial and capital rebalancing owing to write-offs of debts deriving from losses accumulated in the years prior to the adoption of the restructuring plan.
- (10) By letter of 3 May 2005, Italy clarified that such aid is intended for firms in the form of cooperatives which correspond to the definition of small and medium-sized enterprises for the purposes of Community law and that that aid is limited to the period necessary for the restructuring and may be granted to the same firm only once.
- (11) According to Italy, the duration of that aid scheme is not limited. There are no limits either in the Decree of 10 February 1998 or in the Decree of 18 May 2001. Further, the letter from Italy of 12 July 2005 expressly states that the provisions of that decree remain in force and may be put into effect in subsequent years.
- (12) The Commission has not has any information on the amount of the aid actually granted.
- 3. GROUNDS FOR INITIATING THE FORMAL INVESTIGATION PROCEDURE**
- (13) The Commission found that that State aid scheme was an unlawful aid scheme within the meaning of Article 1(f) of Regulation (EC) No 659/1999, that is to say, new aid put into effect in contravention of the obligation to notify the Commission in advance.
- (14) In the exchange of letters prior to the preliminary analysis carried out by the Commission, Italy maintained that that aid scheme was not a new scheme but a scheme extending the aid scheme examined under number NN 24/98 considered by the Commission to be compatible with the common market (letter SG (99) D/1851 of 11 March 1999).
- (15) The Commission could not share Italy's view, even though it had in fact decided in favour of aid scheme NN 24/98 concerning the scheme laid down by the Decree of 10 February 1998. However, the aid measure which had been analysed by the Commission concerned the implementation of the restructuring plans for the years 1997 to 1999 and, by decision of 11 March 1999, the Commission had pointed out to the Italian authorities that they had to inform the Commission, in accordance with Article 88(3) of the EC Treaty, of any plans to refinance, extend or alter that aid measure. On those grounds the Commission found that the Decree of 18 May 2001 constituted a new implementation or refinancing of the aid measure in question through the funds of the Fondo centrale per il credito peschereccio.

- (16) On the other hand, by letter of 12 March 2003, Italy informed the Commission that the Regions rather than the Ministry now had powers for the implementation of that measure and that the funds from the Fondo centrale per il credito peschereccio had therefore been transferred to them. Italy also attached to the letter of 1 July 2004 two letters from the Regions of Sicily and Apulia concerning the aid measures implemented under the scheme at issue: in respect of Sicily a letter of 19 June 2004 which stated that that measure had been put into effect by decree of the regional minister for fisheries No 158 of 3 December 2003 and, in respect of Apulia, a letter of 19 May 2004 stating that the measure had been implemented by a dossier which had been submitted to the Region in 2001; Apulia's letter also stated that the financial resources for 2003 had been received only at the end of the same year. Italy did not, however, provide any information on the amount of the funds used under that scheme. In any event, those letters confirmed that some of those funds were made available by the Regions, in accordance with Article 8 of the Decree of 18 May 2001, which means that that aid scheme had in fact been put into effect.
- (17) In addition, the Commission found that if, as maintained by Italy, an existing aid scheme were at issue and the Decree of 18 May 2001 did not alter that scheme, the aid scheme notified became a new aid scheme on 1 July 2001.
- (18) In fact, that aid scheme had been approved in the light of the Guidelines for the examination of State aid to fisheries and aquaculture ⁽¹⁾, adopted by the Commission in 1997 (the 1997 Fisheries Guidelines).
- (19) On 1 January 2001 those Fisheries Guidelines were replaced by the Guidelines for the examination of State aid to fisheries and aquaculture ⁽²⁾ (the 2001 Fisheries Guidelines). By letter of 21 December 2000, in accordance with point 3.2 of the 2001 Fisheries Guidelines, the Commission proposed, under the appropriate measures mechanism, that Member States amend their existing aid schemes relating to aids in the fishery sector by 1 July 2001 at the latest. The Member States were invited to confirm that they accept that proposal in writing by 1 March 2001 at the latest. It was specified that in the event that a Member State failed to reply, under the third paragraph of point 3.2 the Commission would assume that the Member State concerned had accepted the proposal. On the other hand, point 3.4 of the 2001 Fisheries Guidelines states that an unlawful aid is to be appraised in accordance with the guidelines prevailing at the time of the entry into force of the administrative measure setting up the aid. Italy did not reply to the Commission's letter of 21 December 2000. By letter of 7 May 2001, the Commission drew Italy's attention to the wording of that letter, informing it that, from that time the Commission considered that Italy's failure to indicate its disagreement in writing meant that it had accepted the proposal for appropriate measures. The Commission therefore took the view that Italy had accepted that proposal and that the existing aid schemes would be amended by 1 July 2001 at the latest.
- (20) According to the case-law of the Court of Justice of the European Communities, where new guidelines are set out and accepted by the Member States, the acceptance of appropriate measures has the effect of converting existing aid into new aid. The existing aid must be adapted in accordance with the appropriate measures or converted into new aid schemes and subjected to the obligation of prior notification to the Commission ⁽³⁾.
- (21) The provisions in the 2001 Fisheries Guidelines accepted by Italy therefore had the effect of withdrawing the authorisation previously granted to the aid not adapted to those Guidelines and of classifying it as new aid. This was the case with the aid for the restructuring of cooperatives. The 1997 Fisheries Guidelines did not lay down any specific provision on aid for the restructuring of firms in the fisheries sector; they contained, in the last indent of the last paragraph of point 1.3, only a provision stating that operating aid would be examined on a case-by-case basis if it was directly linked to a restructuring plan. On the other hand, the 2001 Fisheries Guidelines contain a specific provision, in point 2.2.4, on aid for rescuing and restructuring firms in difficulty which provided for the application of the Guidelines on State aid for rescuing and restructuring firms in difficulty ⁽⁴⁾ (the 1999 Restructuring Guidelines) in force on that date.
- (22) Consequently, since, according to the wording of Italy's first letter, the aid measure provided for by the Decree of 18 May 2001 was put into effect on 17 October 2002, it became an unlawful aid measure in respect of the period after 1 July 2001, the date fixed for the amendment of existing State aid schemes.
- ⁽¹⁾ OJ C 100, 27.3.1997, p. 12.
⁽²⁾ OJ C 19, 20.1.2001, p. 7.
⁽³⁾ The effect of acceptance of appropriate measures by a Member State was clearly set out in the judgment in Case C-313/90 *Comité International de la Rayonne et des Fibres Synthétiques and Others v Commission* [1993] ECR I-1125: '... the rules set out in the discipline and accepted by the Member States themselves have the effect, inter alia, of withdrawing from certain aid falling within its scope the authorisation previously granted and hence of classifying it as new aid and subjecting it to the obligation of prior notification.' (paragraph 35).
⁽⁴⁾ OJ C 288, 9.10.1999, p. 2.

(23) The Commission carried out a preliminary analysis of that aid scheme in the light of both the 2001 and 2004 Fisheries Guidelines. Pursuant to the second paragraph of point 5.3 of the Guidelines for the examination of State aid to fisheries and aquaculture⁽¹⁾ of 2004 (the 2004 Fisheries Guidelines), those Guidelines are applicable in the case of aid granted from 1 November 2004, whereas for aid granted prior to that date the 2001 Guidelines apply.

(24) Both the 2001 Fisheries Guidelines (point 2.2.4) and the 2004 Fisheries Guidelines (point 4.1.2) lay down that State aid aimed at rescuing and restructuring firms in difficulty is to be assessed in accordance with the Restructuring Guidelines. In respect of aid granted up to 9 October 2004 the 1999 Restructuring Guidelines are to apply and in respect of aid granted from 10 October 2004 the Community Guidelines on State aid for rescuing and restructuring firms in difficulty⁽²⁾ of 2004 (the 2004 Restructuring Guidelines) are to apply. In specific cases of firms whose principal activity is fishing at sea, both the 2001 and the 2004 Fisheries Guidelines add that that aid may be granted only when a plan designed to reduce fleet capacity has been submitted to the Commission.

(25) Those Fisheries Guidelines provide that only firms in difficulty are eligible for restructuring aid. The criteria for recognising what constitutes 'difficulty' are set out in points 4 to 8 of the 1999 Restructuring Guidelines and in points 9 to 13 of the 2004 Restructuring Guidelines. The Commission observed that the Decree of 10 February 1998 did not serve to check fulfilment of those criteria. Even firms which did not fulfil the criteria referred to in those Guidelines could therefore benefit from the aid granted by Italy.

(26) Further, the Commission observed that it did not have information on fulfilment of some of the criteria for implementing restructuring plans referred to in the aforesaid Guidelines: criteria on the restoration of long-term viability of beneficiary cooperatives (points 31 to 34 of the 1999 Restructuring Guidelines and points 34 to 37 of the 2004 Restructuring Guidelines), adoption of compensatory measures when medium-sized firms benefit under that aid scheme (point 82(b) of the 2004 Restructuring Guidelines) or contribution of beneficiaries to the financial restructuring of the firm (point 40 of the 1999 Restructuring Guidelines and point 43 of the 2004 Restructuring Guidelines). The Commission also observed

that, for firms whose principal activity is fishing at sea, Italy had not submitted a plan designed to reduce fleet capacity.

(27) For all of those reasons the Commission decided to initiate the formal investigation procedure.

4. ITALY'S COMMENTS

(28) Italy states, first of all, that it put the aid at issue into effect entirely in good faith. For Italy, the Decree of 18 May 2001 was merely a renewal of measure NN 24/98 already approved at Community level. It did not consider it to be an unlawful aid scheme. In contradictory fashion, Italy also observes that the Directorate-General of Maritime Fisheries and Aquaculture, like the Regions, to which powers were transferred in 2000, in no case made provision to implement interventions on the basis of that Decree.

(29) Italy states that strict criteria were laid down for the implementation of that aid scheme. In particular, a significant contribution was required from the beneficiary, to ensure that the aid was limited to the minimum needed to restore the viability of the firm, keeping distortions of competition to the minimum. Italy adds that a large part of the aid concerns training and technological innovation programmes; moreover, more than half of the funds paid were not non-repayable but were subject to a repayment obligation since they were long-term loans subject to a special guarantee scheme. In addition, a calculation of the aid intensity showed that the latter was well below the *de minimis* aid threshold.

(30) Moreover, the principle of one-off payment was strictly observed. The purpose of that aid, in accordance with the requirements of the Restructuring Guidelines, is to enable beneficiaries to cover their own costs after restoration of long-term economic capacity. In Italy's opinion, that restructuring aid scheme serves to contribute to the development of economic activities without adversely affecting trade to an extent contrary to the Community interest by meeting the conditions set out in those Guidelines: restructuring of firms within a reasonable period of time, avoidance of distortions of competition, proportionality of the aid, the spreading of payments on the basis of the implementation of the restructuring plan of the firm concerned, monitoring of the implementation of that plan.

⁽¹⁾ OJ C 229, 14.9.2004, p. 5.

⁽²⁾ OJ C 244, 1.10.2004, p. 2.

- (31) Italy concludes its observations by referring to the Communication from the Commission on improving the economic situation in the fishing industry of 9 March 2006 (the Communication of 9 March 2006) ⁽¹⁾ and observes that the unfavourable economic situation in the fisheries sector has been aggravated by a rapid rise in fuel costs. In addition, price trends in respect of various fish species has not followed production cost trends. For those reasons, according to Italy it is necessary to retain that type of measure and interventions which have the sole purpose of supporting an economic sector in difficulty.

5. ASSESSMENT

5.1. Existence of unlawful State aid

- (32) The Commission observes that that aid scheme, which is designed to grant funding for the restructuring of a particular category of firm which carries on its activities in a specific sector, has the effect of giving a financial advantage to those firms. Since the products of the beneficiary firms are sold on the Community market, that aid scheme strengthens their position, both on the Italian market in relation to the firms of other Member States who want to bring their products into that market and on the markets of other Member States in relation to firms who sell their products on those markets.
- (33) Further, firms in a specific sector of the economy benefit from that aid scheme. Consequently, given that the resources needed to put that scheme into effect are public resources, that scheme is a State aid scheme within the meaning of Article 87(1) of the EC Treaty.
- (34) The observations which Italy sent to the Commission in reply to the initiation of the formal investigation procedure does not call into question the classification of that State aid scheme as unlawful aid. In fact, irrespective of the way in which Italy's comments may be interpreted, the Commission observes that, in any event, that aid scheme reactivates the aid scheme set up by the Decree of 10 February 1998 and examined and approved by the Commission under number NN 24/98. As stated in the decision to initiate the formal investigation procedure, that reactivation constitutes implementation of a new aid scheme, that is to say, an unlawful aid scheme. A change in the identity of the public authority which puts that scheme into effect does not affect its aid nature and the classification which the Commission may give to it; it is irrelevant that that aid scheme, based on the Decree of 1 February 1998, was reactivated by the Decree of 18 May 2001 or by the Regions, on the basis of other provisions of which the Commission is unaware.
- (35) Further, as stated in the decision to initiate the formal investigation procedure, if the aid scheme notified were an existing aid scheme and the Legislative Decree of 18 May 2001 did not alter that scheme, as maintained by the Italian authorities, the Commission considers that it became a new aid scheme on 1 July 2001 when, following the adoption of the new Fisheries Guidelines applicable from 1 January 2001, the existing aid schemes which had not been adapted in line with those Guidelines could no longer benefit from the authorisation previously granted and had to be converted into new aid schemes subject to the obligation to notify the Commission. The Commission, in accordance with point 3.2 of the 2001 Fisheries Guidelines, proposed to the Member States by letter of 21 December 2000, under the appropriate measures mechanism, that they amend their existing aid schemes relating to aids in the fisheries sector by 1 July 2001 at the latest, stating that in the event that the Member State concerned failed to reply it would be assumed that that it had accepted the proposal. Italy did not reply to the Commission's letter of 21 December 2000 nor to the reminder of 7 May 2001 informing it that, from that time, the Commission considered that Italy's failure to indicate its disagreement in writing meant that it had accepted the proposal for appropriate measures. The Commission therefore took the view that Italy had accepted that proposal and that the existing aid schemes had been amended by 1 July 2001 at the latest.
- (36) The rules contained in the 2001 Fisheries Guidelines and accepted by Italy had therefore had the effect of withdrawing from certain aid falling within its scope the authorisation previously granted and of classifying it as new aid. This was the case with the restructuring aid for cooperatives. Unlike the 1997 Fisheries Guidelines, the 2001 Fisheries Guidelines contained, in point 2.2.4, a specific rule in respect of aid for rescuing and restructuring firms in difficulty, which provided for the application of the 1999 Restructuring Guidelines.
- (37) As stated in the decision to initiate the formal investigation procedure, that State aid scheme therefore certainly constitutes, from 1 July 2001, a new aid scheme which Italy was required to notify to the Commission before putting it into effect.

⁽¹⁾ COM(2006) 103 final.

5.2. Compatibility with the common market

- (38) The scheme may be considered compatible with the common market only if it may qualify for one of the exceptions provided for in the Treaty. Since it is firms in the fisheries and aquaculture sector which benefit from that scheme, it must be examined in the light of the Guidelines for the examination of State aid to fisheries and aquaculture. The analysis set out in the decision to initiate the formal investigation procedure remains valid.
- (39) The measure is clearly presented as an aid scheme for the restructuring of firms with implementation of restructuring plans by the beneficiary firms. The list of eligible costs referred to in the Decree of 10 February 1998 shows that the operations which may be funded in fact correspond to the operations which serve to restructure the beneficiary firms. Those costs reflect investments or financial and operating charges of firms. It is expenditure which may certainly be linked to a reorganisation of the activities of the beneficiary firms or their adaptation to new economic conditions for the purpose of enabling the restoration of economic and financial viability.
- (40) It is therefore appropriate to analyse that aid scheme in the light of the relevant provisions in the Fisheries Guidelines.
- (41) Both the 2001 Fisheries Guidelines (point 2.2.4) and the 2004 Fisheries Guidelines (point 4.1.2) state that State aid aimed at rescuing and restructuring firms in difficulty is to be assessed in accordance with the Restructuring Guidelines. If aid had still been paid after 1 April 1998, which is possible since that aid scheme was set up without limits on its duration (see recital 2 above), the Guidelines for the examination of State aid to fisheries and aquaculture ⁽¹⁾ adopted in 2008 (the 2008 Fisheries Guidelines), which refer in the same manner to the Restructuring Guidelines, are applicable. For aid granted up to 9 October 2004, the 1999 Restructuring Guidelines apply and for aid granted from 10 October 2004, the 2004 Restructuring Guidelines apply. It is also important to recall that, in the specific case of firms whose principal activity is fishing at sea, the Fisheries Guidelines add that that aid may be granted only when a plan designed to reduce fleet capacity has been submitted to the Commission.
- (42) Accordingly, it is appropriate to assess, first of all, whether the conditions for putting that scheme into effect reflect those laid down in the Restructuring Guidelines.
- (43) First, the Restructuring Guidelines provide that it is only firms in difficulty fulfilling the express criteria in points 4 to 8 of the 1999 Restructuring Guidelines or in points 9 to 13 of the 2004 Restructuring Guidelines which are eligible for restructuring aid. Those rules set strict criteria for defining what constitutes a firm in difficulty. In accordance with point 5 of the 1999 Restructuring Guidelines and point 10 of the 2004 Restructuring Guidelines, in order to be regarded as being in difficulty a firm must, in the case of a limited company, have lost more than half of its capital, at least one quarter of that capital over the preceding 12 months or, for all other types of company, fulfil the criteria for being the subject of collective insolvency proceedings. Point 11 of the 2004 Restructuring Guidelines also states that, in addition to those criteria, a firm may still be considered to be in difficulties where the usual signs are present, such as increasing losses, diminishing turnover, rising financial charges and so on (pursuant to point 18, Member States may take that criterion into account also for restructuring aid granted to firms in the fisheries sector under an aid scheme).
- (44) The Commission observes that the Decree of 10 February 1998 does not contain any criterion of the same or similar kind. Aid granted by Italy may thus benefit firms which do not fulfil the criteria referred to in those Guidelines and which therefore may not be firms in difficulty.
- (45) Secondly, given that that aid scheme is directed at small and medium-sized undertakings, in accordance with point 67(a) of the 1999 Restructuring Guidelines the criteria set out in points 31 to 34 of those Guidelines are applicable. The same conditions, in accordance with point 82(a), are restated in points 34 to 37 of the 2004 Restructuring Guidelines. According to those provisions, the restructuring plan must, inter alia, restore the long-term viability of the firm within a reasonable timescale and on the basis of realistic assumptions, it must describe the circumstances that led to the firm's difficulties and must provide for a turnaround that will enable the firm, after completing its restructuring, to cover all its costs; the grant of the aid is possible only if the restructuring plan submitted contains all of those elements.
- (46) The Commission observes that Italy did not set up a procedure to check fulfilment of those conditions. The information communicated in reply to the initiation of the formal investigation procedure refers only to the general conditions in the Decree of 10 February 1998 for the grant of such aid. But those conditions do not lay down objective criteria for checking that the individual restructuring plans of the firms concerned are really drawn up in accordance with those principles. There is therefore no guarantee that the conditions laid down in points 31 to 34 of the 1999 Restructuring Guidelines or in points 34 to 37 of the 2004 Restructuring Guidelines have been fulfilled.

⁽¹⁾ OJ C 84, 3.4.2008, p. 10.

- (47) Thirdly, according to points 40 and 41 of the 1999 Restructuring Guidelines, applicable to small and medium-sized enterprises under point 67(c) of the same, beneficiaries must make a significant contribution to the restructuring plan from their own resources in order to limit aid to the minimum. The same principle is found in points 43 and 44 of the 2004 Restructuring Guidelines, applicable pursuant to point 82(c).
- (48) In accordance with the Decree of 10 February 1998, the aid is granted in the form of a non-repayable grant up to a maximum of 40 % of eligible expenditure or a soft loan for an amount of up to 85 % of that expenditure. There is no distinction depending on the type of eligible cost (see Part 2 'Description' above). The Commission infers therefrom that the contribution may concern any of the costs in question, for example expenditure for the modernisation of plant, the funding of property losses, debt write-offs and so on.
- (49) It is therefore possible that some beneficiaries have made a significant contribution to the implementation of the restructuring plan which concerns them. However, the Commission observes that Italy did not lay down any criterion for adjusting the amount of the aid granted on the basis of the contribution of each beneficiary. The only criterion contained in the Decree of 19 February 1998 is a criterion relating to the order in which the aid applications are received. For those reasons, the Commission considers that Italy did not lay down, in that aid scheme, any procedure for checking that the conditions of contribution of beneficiaries from their own resources and limitation of aid to the minimum have been fulfilled. It is therefore possible that some aid beneficiaries have not fulfilled those conditions.
- (50) Fourthly, point 67(b) of the 1999 Restructuring Guidelines states that the compensatory measures to be taken to avoid undue distortions of competition, set out in points 35 to 39 of those Guidelines, do not apply to small and medium-sized undertakings. On the other hand, according to point 82(b) of the 2004 Restructuring Guidelines the compensatory measures, described in points 38 to 42 of those Guidelines, must be taken when a medium-sized undertaking is an aid beneficiary. The Commission observes that Italy did not provide for putting into effect compensatory measures of that type when a medium-sized undertaking benefited from the aid scheme.
- (51) Finally, when cooperatives whose principal activity is fishing at sea benefited from that aid scheme, Italy did not submit a plan to reduce fleet capacity, as required by point 2.2.4 of the 2001 Fisheries Guidelines, point 4.1.2 of the 2004 Fisheries Guidelines or point 4.2 of the 2008 Fisheries Guidelines.
- (52) The Commission also points out to Italy that the Communication of 6 March 2006 did not change the criteria and conditions applicable to restructuring aid schemes. The purpose was to invite the Member States to use several instruments for the purpose of resolving the difficulties facing the fisheries sector. Among the instruments proposed by the Commission is the opportunity for the Member States to set up rescue and restructuring aid schemes. In that Communication, the Commission wished to specify how to apply the Restructuring Guidelines, but did not make any reference to the possibility of derogating from them. The Restructuring Guidelines remain applicable in their entirety.
- (53) Finally, the Italian authorities have not put forward other arguments or submitted additional information to suggest that the aid in question could be compatible with the common market on the basis of other provisions of the EC Treaty or the rules, frameworks or guidelines on State aid.
- ## 6. CONCLUSION
- (54) The Commission considers that Italy unlawfully put into effect, in breach of Article 88(3) of the EC Treaty, the aid scheme for the restructuring of cooperatives in the fisheries sector and of their consortia.
- (55) On the basis of the analysis set out in Part 5 of this decision, the Commission finds that that aid scheme is incompatible with the common market.
- ## 7. RECOVERY
- (56) Pursuant to Article 14(1) of Regulation (EC) No 659/1999, where State aid granted unlawfully is incompatible with the common market, it must be recovered from the beneficiaries. The objective is achieved when the aid at issue, together with any default interest, is repaid by the beneficiaries or, in other words, by the firms who actually received it. However, Article 14(1) states that 'the Commission shall not require recovery of the aid if this would be contrary to a general principle of Community law.' In this case, it is appropriate to examine whether a general principle of Community law, such as the principle of the protection of legitimate expectations or legal certainty, might apply to preclude the recovery of the unlawful and incompatible aid from the beneficiaries.

- (57) It is for the Member States to ensure that national measures are compatible with Community rules in the State aid sector in order to avoid distortions of competition; moreover, they are required to notify any State aid to the Commission, in accordance with Article 88(3) of the EC Treaty, and to refrain from putting that measure into effect until it has been examined. For that reason, so far as concerns the possibility of beneficiaries relying on the principle of the protection of legitimate expectations in order to avoid recovery of unlawful and incompatible aid, it is evident from the case-law of the Court that 'undertakings to which an aid has been granted may not, in principle, entertain a legitimate expectation that the aid is lawful unless it has been granted in compliance with the procedure laid down in that article. A diligent businessman should normally be able to determine whether that procedure has been followed.'⁽¹⁾
- (58) In Case 265/85 *Van den Bergh en Jurgens v Commission* ⁽²⁾, the Court of Justice stated that '... any trader in regard to whom an institution has given rise to justified hopes may rely on the principle of the protection of legitimate expectation. On the other hand, if a prudent and discriminating trader could have foreseen the adoption of a community measure likely to affect his interests, he cannot plead that principle if the measure is adopted'.
- (59) In order to adapt existing aid in line with the new 2001 Fisheries Guidelines, the Commission proposed that Member States amend their existing aid schemes relating to aids in the fishery sector by 1 July 2001 at the latest. The case-law ⁽³⁾ confirmed that such a proposal set out in the Guidelines is one element of the regular, periodic cooperation with which the Commission, in cooperation with the Member States, is to keep under constant review the systems of aid existing and propose to them any appropriate measures required. In that manner, an agreement between the Commission and each Member State on a complete list of all existing aid schemes would be impractical and it is reasonable for the Member States to remain responsible for adapting their schemes when necessary. That is particularly true since they participate in drawing up the new guidelines and are well aware, before those guidelines come into force, of the impact which they will have on existing aid schemes.
- (60) Italy submits that it considered that the measure at issue was merely a renewal of measure NN 24/98 approved by the Commission on 11 March 1999 and therefore was existing aid. In the Commission's opinion, the measure was existing aid only up to 30 June 2001. In that respect, as stated above, the Commission observes that Italy, under the appropriate measures mechanism, accepted the proposal to amend their existing aid schemes in the fisheries and aquaculture sector after the adoption of both the 2001 Fisheries Guidelines and the 2004 Fisheries Guidelines. From 1 July 2001 the aid therefore became new aid, in view of the fact that it should have been adapted in line with the new 2001 Fisheries Guidelines.
- (61) On the basis of Article 26(1) of Regulation (EC) No 659/1999, it is conceivable that the fact that the Commission did not publish the Italian Government's acceptance of the 2001 Fisheries Guidelines might have led some beneficiaries to believe in good faith that the national measure in question was still to be regarded as existing aid. Article 26 stipulates that the Commission must publish 'a summary notice of the decisions which it takes pursuant to Article 18 in conjunction with Article 19(1).' Under Article 18 of that Regulation, 'where the Commission ... concludes that the existing aid scheme is not, or is no longer, compatible with the common market, it shall issue a recommendation proposing appropriate measures to the Member State concerned.' Article 19(1) of Regulation (EC) No 659/1999 provides that, when the Member State accepts the proposed appropriate measures, the Commission 'shall record that finding' and inform the Member State thereof.
- (62) The Commission did not publish in the *Official Journal of the European Communities* each Member State's acceptance of the appropriate measures it proposed for the implementation of the new 2001 Fisheries Guidelines. It is therefore difficult for the Commission to prove that the beneficiaries were correctly informed of the acceptance of the Italian Government and the change in the status of the aid which resulted. By contrast, that was done for the 2004 Fisheries Guidelines by means of a notice ⁽⁴⁾.
- (63) Accordingly, although there is a principle according to which economic operators may not, in general, rely on the principle of the protection of legitimate expectations as far as concerns unlawful State aid, the Commission notes that, in the present case, until the publication of the notice of acceptance of the appropriate measures, on 11 November 2005, a circumspect and prudent economic operator could properly be entitled to consider that the State aid in question was still an existing scheme and it had not therefore become a new aid scheme.

⁽¹⁾ Case C-5/89 *Commission v Germany* [1990] ECR I-3437, paragraph 14; Case C-169/95 *Spain v Commission* [1997] ECR I-135, paragraph 51, and Case T-55/99 *CETM v Commission* [2000] ECR II-3207, paragraph 121.

⁽²⁾ Case 265/85 *Van den Bergh en Jurgens v Commission* [1987] ECR 1155, paragraph 44.

⁽³⁾ Case C-311/94 *Ijssel-Vliet v Minister van Economische Zaken* [1996] ECR I-5023, paragraphs 36 to 44.

⁽⁴⁾ OJ C 278, 11.11.2005, p. 14.

(64) Consequently, in the present case the Commission considers that the recovery of the aid granted up to 11 November 2005 might run counter to the principle of the protection of legitimate expectations and legal certainty. It follows that, in accordance with Article 14 of Regulation (EC) No 659/1999, recovery is sought in respect only of the aid granted after 12 November 2005.

(65) This decision concerns the aid scheme in question and must be implemented with immediate effect, in particular so far as concerns the recovery of all the individual aid granted under that scheme, except for that granted to specific projects which, when it was granted, fulfilled all the conditions set in the *de minimis* Regulation or for an applicable exemption or in an aid scheme approved by the Commission,

HAS ADOPTED THIS DECISION:

Article 1

The aid scheme set up for the restructuring of cooperatives in the fisheries sector and for their consortia and unlawfully put into effect by Italy, in breach of Article 88(3) of the EC Treaty, is incompatible with the common market.

Article 2

The individual aid granted to a fisheries cooperative or to one of its consortia under the regime referred to in Article 1 of this Decision is not aid if, at the time at which it was granted, it fulfilled the conditions laid down in the Regulation adopted pursuant to Article 2 of Council Regulation (EC) No 994/98 ⁽¹⁾ and applicable at that time.

Article 3

Individual aid granted under the scheme referred to in Article 1 of this Decision which, at the time at which it was granted, fulfilled the conditions laid down by a regulation adopted pursuant to Article 1 of Regulation (EC) No 994/98 or by any other approved aid scheme is compatible with the common market up to the maximum intensity applicable to that type of aid.

Article 4

1. Italy is required to make the beneficiaries repay the incompatible aid referred to in Article 1 granted from 12 November 2005.

2. Interest shall be paid on the amounts to be repaid, from the date on which they were made available to the beneficiaries until they are actually repaid.

3. The interest shall be calculated on a compound basis in accordance with Chapter V of Commission Regulation (EC) No 794/2004 ⁽²⁾.

4. Italy shall cancel all outstanding payments of the aid referred to in Article 1 from the date of adoption of this Decision.

Article 5

1. Recovery of the aid referred to in Article 1 shall be immediate and effective.

2. Italy shall ensure that this Decision is put into effect within four months of the date of its notification.

Article 6

1. Within two months of notification of this Decision, Italy shall submit the following information:

- (a) the list of the fisheries cooperatives and their consortia which have received aid under Articles 2 and 3 and the total amount received by each of them;
- (b) the total amount (principal and interest) to be recovered from each beneficiary;
- (c) a detailed description of the measures already taken and those planned to comply with this Decision;
- (d) documents demonstrating that the beneficiaries have been ordered to repay the aid.

2. Italy shall keep the Commission informed of the progress of the national measures adopted to implement this Decision until recovery of the aid referred to in Articles 1, 2 and 3 has been completed. It shall immediately submit, on simple request by the Commission, information on the measures already taken and those planned to comply with this Decision. It shall also provide detailed information concerning the amounts of aid and interest already recovered from the beneficiaries.

Article 7

This Decision is addressed to the Italian Republic.

Done at Brussels, 28 October 2009.

For the Commission

Joe BORG

Member of the Commission

⁽¹⁾ OJ L 142, 14.5.1998, p. 1.

⁽²⁾ OJ L 140, 30.4.2004, p. 1.

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