

Regulation No. 6 of 24 July 2002

on reserve requirements

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Pursuant to the provisions of Art. 5 and Art. 8 of Law No. 101/1998 - The NBR Act, as amended and added subsequently, Art. 38 of Law No. 58/1998 - The Banking Act, as amended and added subsequently, and Art. 164 and 206 of Government Emergency Ordinance No. 97/2000 on credit co-operatives, as approved and amended by Law No. 200/2002, as amended and added subsequently,

In virtue of Law No. 101/1998, Art. 50, the National Bank of Romania issues the present regulation.

CHAPTER ONE

General Provisions

SECTION 1

Scope

Art. 1.

Banks, Romanian legal entities, foreign banks' branches, *foreign legal entities*, hereinafter referred to as banks, as well as central bodies of credit co-operatives, shall keep ROL- and foreign-exchange-denominated required reserves in accounts opened with the National Bank of Romania.

SECTION 2

Definitions

Art. 2.

The specific terms used in the present regulation shall have the following meanings:

- a) *reserves* are ROL- and foreign-exchange-denominated demand deposits of banks/credit co-operatives with the National Bank of Romania;
- b) *reserve base* is the average level of balance sheet liabilities of banks (countrywide) during the observance period and the aggregate balance sheet of credit co-operative networks drawn up by central bodies of credit co-operatives, to which the reserve ratio applies;
- c) *observance period* is the time span over which the reserve base is determined;
- d) *maintenance period* is the time span over which the required reserves shall be held with the National Bank of Romania;
- e) *required reserves* is the product of the reserve base and the reserve ratio;
- f) *actual reserves* is the average daily balance of the reserve account that banks and central bodies of credit co-operatives record over the maintenance period; the average daily balance is determined by taking into account the number of calendar days of the maintenance period;
- g) *excess reserves* are determined as the positive balance between the actual and the required reserves; and
- h) *deficit reserves* are determined as the negative balance between the actual and the required reserves.

CHAPTER TWO

Required Reserves

SECTION 1

Reserve base of required reserves

Art. 3.

(1) The reserve base of required reserves consists in local-currency and foreign-exchange-denominated liabilities of banks/central bodies of credit co-operatives (at the level of credit co-operative network) arising from deposits accepted and other funds.

(2) The reserve base shall not include the following:

- a) funds raised from the National Bank of Romania;
- b) funds raised from banks, central bodies of credit co-operatives and their affiliates which are bound to set up reserves with the National Bank of Romania;
- c) core capital of banks/central body of credit co-operatives calculated in compliance with regulations issued by the National Bank of Romania.

Art. 4.

(1) The level of the reserve base is determined as the average daily balance of liabilities over the observance period, as described under Art. 3.

(2) The observance period is the 24th day of the previous month and the 23rd day of the current month.

Art. 5.

(1) The average daily balances of foreign-exchange-denominated liabilities are determined for each currency and they are subsequently converted into US dollars or euros, as the case may be.

(2) The exchange rates used for converting the other currencies into US dollars or euros are the foreign exchange market rates released by the National Bank of Romania on the last business day prior to the maintenance period.

SECTION 2

Setting-up of required reserves

Art. 6.

(1) Banks/central bodies of credit co-operatives shall hold required reserves with the National Bank of Romania, as a daily average over the maintenance period.

(2) The maintenance period is from the 24th day of the current month to the 23rd day of the following month.

Art. 7.

Required reserves are measured and held as follows:

- a) in ROL, in the bank's/credit co-operative central body's current accounts opened with the National Bank of Romania, in the case of ROL-denominated funds;
- b) in US dollars or euros, in the bank's/credit co-operative central body's LORO account opened with the National Bank of Romania's, in the case of foreign-exchange-denominated liabilities. Banks/central bodies of credit co-operatives may choose any of the two said currencies. Once the choice is made, it can no longer be changed for 12 calendar months.

Art. 8.

The cost of foreign exchange operations necessary for setting up foreign-exchange-denominated reserves of the bank/central body of credit co-operatives and the currency risk associated with such operations are fully borne by the bank/central body of credit co-operatives in question.

Art. 9.

(1) Central bodies of credit co-operatives shall deposit with the National Bank of Romania the ROL- and foreign-exchange-denominated required reserves belonging to the credit co-operative network.

(2) Credit co-operatives shall hold reserves with central bodies in order to provide liquidity for the setting up of required reserves with the National Bank of Romania.

(3) Every central body of credit co-operatives shall set by means of own norms and procedures the manner in which

credit co-operatives shall set up with National Bank of Romania the reserves necessary for required reserves belonging to credit co-operative networks. Accordingly, such norms and procedures shall incorporate the methodology set forth in the present regulation.

SECTION 3

Observance of reserve requirements

Art. 10.

Reserve requirements are observed when the actual reserves, as defined in Art. 2, letter (f), are equal to the required reserves, as defined in Art. 2, letter (e).

Art. 11.

No setoffs are allowed between ROL- or foreign-exchange denominated excess and deficit reserves.

Art. 12.

(1) In the case of deficit reserves as defined in Art. 2, letter (h), the penal interest rate is calculated and applied during the respective maintenance period.

(2) The penal interest rate is set by the National Bank of Romania and is notified by means of circulars.

(3) The changes in penal interest rate are notified at least one day prior to the beginning of the maintenance period.

SECTION 4

Required reserve ratios

Art. 13.

(1) The National Bank of Romania sets the required reserve ratios via circulars, depending on the monetary policy objectives.

(2) The changes in required reserve ratios are notified via circulars at least 7 days prior to the start of the maintenance period.

Art. 14.

(1) For ROL- and foreign-exchange-denominated funds included in the reserve base with residual maturity longer than two years from the end of the observance period and which do not imply contractual clauses referring to repayments, withdrawals, advanced transfers, and non-redeemable loans, the reserve ratio is zero.

(2) A zero ratio shall apply to the amounts repaid by instalments as long as the residual maturity of these amounts exceeds two years from the end of the observance period.

SECTION 5

Remuneration of required reserves

Art. 15

The National Bank of Romania pays interest on the actual reserves, as defined in Art. 2, letter (f).

Art. 16

The National Bank of Romania sets and alters the interest paid for required reserves via circulars. The interest rate shall equal at least the average interest rate on demand deposits with banks.

Art. 17

(1) The National Bank of Romania calculates the weighted-average interest rate on demand deposits on a monthly basis, separately for ROL and foreign exchange reserves, based on the reports submitted by banks.

(2) The balances on demand deposits, including the non-remunerated ones, as well as the related interest rates, are those applicable on the last calendar day of the observance period. The interest rates calculated in the said manner apply to the required reserves during the maintenance period related to the observance period.

Art. 18

The National Bank of Romania shall not pay interest on excess reserves, as defined in Art. 2, letter (g).

Art. 19

When computing the interest, the following formula shall be used: the number of calendar days during the maintenance period/360 days.

Art. 20

The payment of interest on required reserves and collection of the penal interest rate for reserve deficits shall be made on the first business day after the end of the maintenance period for which the calculation was done.

SECTION 6**Reporting and checking the reports on required reserves****Art. 21**

(1) Within three business days since the end of the observance period, banks/central bodies of credit co-operatives shall submit in writing the reserve base for the determination of required reserves and the data necessary for calculating the average interest rate on demand deposits with the National Bank of Romania - The Monetary Policies Department (in accordance with Appendices 1-4).

(2) A newly established bank/central body of credit co-operatives shall start to report and hold required reserves after the completion of the first observance period from the date the first bank operation was notified.

(3) A bank/central body of credit co-operatives holding a current account reopened with the National Bank of Romania shall start to report and hold required reserves as from the date the account's reopening was recognised in the NBR's books.

Art. 22

(1) The National Bank of Romania shall perform on-site inspections to check the accuracy of the reported data as regards the calculation of required reserves and the average interest rate on demand deposits. Banks/central bodies of credit co-operatives shall keep primary documents underlying reports according to the laws in force.

(2) The inspection may be carried out at the head office, the branches and other sub-offices of banks/central bodies of credit co-operatives.

Art. 23

In case that discrepancies are detected between the data reported by banks/central bodies of credit co-operatives and the findings of inspections performed by the National Bank of Romania:

a) for reserve deficits arising from reporting a smaller reserve base, a penal interest rate set by the National Bank of Romania and valid for the maintenance period is applied during the respective maintenance period; the penalties stipulated under Art. 27 hereof shall be applied as well;

b) in case that a larger reserve base was reported, the National Bank of Romania shall recover the interest overpaid for the actual reserves from the bank/central body of credit co-operatives;

c) collection of penal interest for reserve deficits and of the interest overpaid for the actual reserves is effected without prior notice within five business days at most subsequent to the completion of the inspection, i.e. the registration of the inspection by the bank/central body of credit co-operatives or the notification about the grounds underlying divergent opinions presented by the bank/central body of credit co-operatives.

Art. 24

(1) In case of a bank/central body of credit co-operatives informing on its own initiative about the emergence of discrepancies between the reported reserve base and that resulting from the enforcement of the present regulation and of the circulars issued in support of its enforcement, it shall notify the National Bank of Romania - the Monetary Policies Department and the Supervision Department of the National Bank of Romania about these discrepancies.

(2) In order to adjust differences, the procedure described under Art. 23, letters (a) and (b) shall apply.

(3) Penal interest on reserve deficits and the interest overpaid for actual reserves shall be collected without prior notice, within at most five business days from the date the notification drawn up by the bank/central body of credit co-operatives was registered with the National Bank of Romania.

(4) The National Bank of Romania may order an on-site inspection at the bank/central body of credit co-operatives in question in order to check the accuracy of the report and, depending on the findings, it may proceed to the imposition of the penalties stipulated under Art. 27 hereof.

Art. 25

In case a bank/central body of credit co-operatives fails to duly report the reserve base, the required reserves arising from the report of the bank/central body of credit co-operatives shall be raised by 10 percent. In case a bank/central body of credit co-operatives fails to report the reserve base by the 10th calendar day of the maintenance period, the required reserves shall be set by raising by 15 percent the required reserves relative to the previous maintenance period.

Art. 26

Failure to duly report the data necessary for the calculation of the average interest rate on demand deposits with the banks, the National Bank of Romania shall use the latest data submitted by the bank/central body of credit co-operatives.

CHAPTER THREE

Penalties

Art. 27

(1) Repeated failure to report or the faulty reporting of the reserve base and the data necessary for the calculation of the average interest rate on demand deposits shall be treated as violation of banking discipline.

(2) The alteration of accounting operations and/or statistical reports, for the obvious purpose of diminishing the required reserves, unless the deeds have been committed in such conditions that fall under the criminal law, shall be treated as a violation of banking discipline.

(3) The deeds stipulated under indents (1) and (2) shall be punished pursuant to the provisions of Art. 69 of Law No. 58/1998-The Banking Act, as added and amended subsequently, and of Art. 189 of Government Emergency Ordinance No. 97/2000 on credit co-operative organisations, as approved and amended by Law No. 200/2002, as amended and added subsequently.

Art. 28

(1) Should a bank/central body of credit co-operatives post reserve deficit in two successive maintenance periods, it shall be subject to prudential supervision, namely on-site inspection at the bank's head-office/central body of credit co-operatives, by the National Bank of Romania.

(2) Should a bank/central body of credit co-operatives post reserve deficits more than twice during the last twelve months, the National Bank of Romania shall impose, pursuant to provisions of Art. 69 of Law No. 58/1998-The Banking Act, as amended and added subsequently, and of Art. 189 of Government Emergency Ordinance No. 97/2000 on credit co-operative organisations, as approved and amended by Law No. 200/2002, as amended and added subsequently, one of the following penalties:

- a) written warning sent to the bank, the Romanian branch of a foreign bank, the central body of credit co-operatives;
- b) fine applicable to the bank, the Romanian branch of a foreign bank, the central body of credit co-operatives, ranging from 0.1 to 1 percent of share capital of the bank/central body of credit co-operatives, the core capital of the Romanian branch of a foreign bank respectively;
- c) fine applicable to Board members, managers or auditors of the bank, ranging from one to six average salaries of the previous month per bank, namely to the Board members, chief executives or auditors of the central body of credit co-operatives, ranging from one to six salaries received by them in the previous month; and
- d) restrictions imposed on the operations effected by the bank, the Romanian branch of a foreign bank, and the central body of credit co-operatives.

CHAPTER FOUR

Final and Transitory Provisions

Art. 29

In the case of banks/central bodies of credit co-operatives undergoing restructuring approved by the National Bank of Romania or which are subject to special supervision by the National Bank of Romania, the NBR Board of Directors may approve, for a limited period, a distinct regime of reserve requirements.

Art. 30

(1) The present regulation shall come into force starting with the 24 August - 23 September 2002 maintenance period and the 24 July - 23 August 2002 observance period respectively. For the 16-23 August 2002 maintenance period, the observance period shall be 1-15 August 2002, and required reserves shall be calculated, reported and set up pursuant to the provisions of NBR Regulation No. 4/1998, as republished.

(2) The stipulations of the present regulation governing credit co-operative networks arising from reorganisation of credit co-operative organisations shall come into force within six months from their being notified about the licence granted by the National Bank of Romania.

Art. 31

(1) Appendices 1-4 are an integral part of the present regulation.

(2) Upon the coming into force of the present regulation, NBR Regulation No. 4/1998 governing reserve requirements, as republished in Monitorul Oficial al României, No. 121/24 March 1999, Part One, as well as any other provisions contrary to the provisions of the present regulation shall be repealed.