
Financial regulation: 2002 Q3

1. INTRODUCTION

During 2002 Q3, very few new financial provisions (just four of some importance) have been enacted.

The first two regulations amend the accounting standards and the formats for the financial statements of credit institutions, and the prudential returns of collective investment undertakings, to adapt the Economic and Monetary Union (EMU) statistical requirements to the new demands of the European Central Bank (ECB).

The third regulation stipulates the procedure for authorising public debt issues by local authorities. It also amends various regulatory rules so that the benefits and conditions of government debt may be extended to local public debt issues.

Finally, a new ECB Guideline revises and makes certain amendments relating to the principles, instruments and procedures of the single monetary policy in the euro area.

2. CREDIT INSTITUTIONS: AMENDMENT OF ACCOUNTING STANDARDS

CBE (Banco de España Circular) 4/1991 of 14 June 1991 (1), which sets out the accounting standards and the formats for the financial statements of credit institutions, has undergone frequent amendments to adapt its content to the changes affecting the credit system in recent years.

In this respect, the publication of ECB Regulation (EC) No. 2423/2001 of 22 November 2001 (ECB/2001/13) concerning the consolidated balance sheet of the monetary financial institutions sector, which repealed ECB Regulation (EC) No. 2819/98, has necessitated the amendment of Circular 4/1991 of 14 June 1991 to adapt the EMU statistical requirements to the new demands of the ECB. Hence the Banco de España, under the powers conferred on it by the Order of the Ministry of Economy and Finance dated 31 March 1989 (2), implementing article 48 of Law 26/1988 of 29 July 1988 (3) on the Disciplining and Intervention of Credit Institutions, has amended CBE 4/1991 through *CBE 5/2002 of 24 September 2002* (BOE of 4 October 2002).

(1) See "Regulación financiera: segundo trimestre de 1991", in *Boletín económico*, Banco de España, July-August 1991, pp. 58-60.

(2) See "Regulación financiera: segundo trimestre de 1989", in *Boletín económico*, Banco de España, July-August 1989, pp. 116-117.

(3) See "Regulación financiera: tercer trimestre de 1988", in *Boletín económico*, Banco de España, October 1988, pp. 56-58.

The main amendments involve, first, the monthly request for information which had previously been reported quarterly; and second, the requirement for new information on the *rest of the world* sector and other sectors of the euro area countries, as well as on net write-downs during the month of loans and credits, and a more detailed breakdown of the valuation adjustments made to the securities portfolio. To meet these new information requirements, the current EMU statements are to be replaced by new ones and statement T.4 on movements in the securities portfolio is to be amended.

Furthermore, new concepts and clarifications are added to those already existing, these being needed to compile the statements to be submitted to the ECB. In this connection, under the sectoral grouping *Other resident sectors in Spain*, the name of the sub-section *Other monetary financial institutions* has been changed in Spanish from "*Otras instituciones monetarias financieras*" to "*Resto de instituciones monetarias financieras*". This sub-section includes all financial institutions, other than credit institutions, which engage in receiving deposits and/or close substitutes for deposits from deposit institutions other than monetary financial institutions, and in extending loans or in investing in securities for their own account (at least in economic terms).

This group is divided, in turn, into *Money market funds* and *other institutions*. The first sub-group, money market funds, covers collective investment undertakings, the shares in which are, in terms of liquidity, close substitutes for deposits. These undertakings invest essentially in money market instruments, shares in money market funds, other transferable debt instruments with a residual maturity of one year at most and bank deposits; alternatively, they seek a return similar to that on money market instruments. This category will exclusively include entities in the official list of *Monetary Financial Institutions* published by the ECB. The second sub-group includes the monetary financial institutions, other than credit institutions and money market funds, that appear as such in the official list of *Monetary Financial Institutions* published by the ECB.

In addition, slight amendments are made to some prudential returns containing statistical information. These are considered necessary to be able to prepare the quarterly financial accounts and other statistics that the Banco de España has to publish as a result of various international agreements.

The opportunity afforded by the publication of this Circular has been used first, to request a new statement in which a more detailed breakdown of bonds and equities entrusted by third parties is required; further, to delete the references in the text and in certain prudential returns to Banco de España Certificates, to the peseta and to other monetary units that disappeared with the introduction of the euro; and finally, to remove a redundant reference to foreign institutions' branches in Spain. Moreover, the way in which the securities making up the equity portfolio of individual institutions and of the economic group are reported has been unified.

Lastly, the timeframe within which certain prudential returns have to be submitted by specialised credit institutions has been reduced, and all institutions are obliged to transmit their returns to the Banco de España by means of teleprocessing. Only in exceptional circumstances may they send them on magnetic support or using forms.

3. COLLECTIVE INVESTMENT UNDERTAKINGS: AMENDMENT OF STATISTICAL REPORTING REQUIREMENTS

By virtue of the powers conferred by Law 46/1984 of 26 December 1984 regulating collective investment undertakings, implemented by Royal Decree 1393/1990 of 2 November 1990, CC-NMV (Spanish National Securities Market Commission Circular) 2/1998 of 27 July 1998, on the statistical reporting requirements for euro area collective investment undertakings, was issued. This Circular set out, in conformity with the provisions of ECB Regulation (EC) No. 2819/98, the reporting requirements to be met and the information to be transmitted by collective investment undertakings to the CNMV, so that such information may be used by the ECB to monitor monetary policy in the euro area.

In this respect, and as discussed in the previous section in connection with credit institutions, the issuance of ECB Regulation No. 2423/2001 of 22 November 2001, repealing ECB Regulation (EC) No. 2819/98, has made it necessary to amend Circular 2/1998 of 27 July 1998 by means of CCNMV 1/2002 of 16 September 2002 (BOE 243/2002 of 10 October 2002), to adapt EMU formats to the new reporting requirements of the ECB.

The first information to be submitted in accordance with these formats will be that relating to 31 January 2003.

4. AUTHORISATION OF PUBLIC DEBT ISSUES BY LOCAL AUTHORITIES

Law 50/1998 of 30 December 1998 (4), on Fiscal, Administrative and Social Measures, which amended Law 39/1988 of 28 December 1988 regulating local tax authorities, brought the benefits and conditions applicable to public debt issues by local authorities onto the same footing as government debt issues. This affected, *inter alia*, the following aspects: replacement of the execution of a public deed with publication in the BOE (Official State Gazette) as a prerequisite for the dematerialisation of issues (into book-entry form); lifting of the need for prior verification by the CNMV for admission to listing; and the possibility of trading local public debt on the Public Debt Book-Entry Market.

Recently, Royal Decree 705/2002 of 19 July 2002 has been enacted. This legislation regulates the authorisation of issues of public debt by local authorities (BOE 183/2002 of 1 August 2002), and has a dual aim. On one hand, the procedure for the authorisation by the Ministry of Finance of local public debt issues has been regulated; and on the other, various rules that prevented, in practice, the extension of the benefits and conditions of government debt issues to local public debt issues have been amended.

Regarding the first of the foregoing objectives, Law 39/1988 of 28 December 1988 regulating local tax authorities establishes that, for the issuance of public debt by local authorities, prior authorisation by the Ministry of Finance is required. Consequently, it is deemed necessary to regulate in the greatest detail the procedure for obtaining this authorisation, with a view to the guarantees that should be made to future purchasers of debt securities. To this end, two authorisation procedures – one regular, the other abridged – have been established. Their key features are detailed below.

4.1. Regular procedure

This is the procedure generally for all local authorities seeking to make a public debt issue. It is aimed at local authorities that make public debt issues on a discrete or one-off basis, not as an habitual resort for financing purposes. Under this procedure, both the economic and financial situation of the local authority and its solvency must be verified, as must too the terms of the issue in respect of those prevailing on the market and the procedure for placing the securities on the market.

(4) See "Financial regulation: fourth quarter 1998" in *Economic bulletin*, Banco de España, January 1999, p.104.

Local authorities and their autonomous agencies shall publish in full in the BOE the resolution authorising the public debt issue and, once the issue has been authorised and its characteristics published, the local authority or autonomous agency may proceed with the issue and apply for its admission to trading on the related market, provided that it meets the minimum admission requirements, if any, that the market stipulates.

4.2. Abridged procedure

The second, voluntary procedure is aimed at those local authorities with over 200,000 inhabitants that make public debt issues periodically and systematically, and that have undertaken to comply with a four-year debt plan. In this case, and provided the issue is within the limits set under the plan, verification is confined to the formal aspects of the planned issue.

The debt plan shall be approved by the Directorate General of Community Funds and Territorial Financing of the Ministry of Finance. It should include all public debt issues envisaged over the following four years, along with the budgetary outline and the total indebtedness projected for said years, in respect both of the local authority itself and its autonomous agencies and corporations. Compliance with the debt plans in force will be monitored annually by the Directorate General of Community Funds and Territorial Financing. Failure by an issuer to comply will lead to it being moved under regular-procedure arrangements. Moreover, such non-compliance will be taken into consideration in respect of the provisions of Law 39/1998 regulating local tax authorities, in the case of the authorisation of future issues.

As in the previous instance, local authorities and their autonomous agencies shall publish in full in the BOE the resolution authorising the public debt issue and, once the issue is authorised and its characteristics published in the BOE, the local authority or the autonomous agency may proceed with the debt issue and, where appropriate, apply for admission to trading on the related market, provided that it meets the minimum admission requirements, if any, that the market stipulates.

Elsewhere, in connection with the second objective (bringing the benefits and conditions of local public debt issues onto the same footing as government debt issues), several regulations addressing substantial aspects of the securities markets have been adapted. In this respect, a Royal Decree has been enacted amending the following regulations: Royal Decree 291/1992 of

27 March 1992 (5), on securities issues and offerings of securities to the public; Royal Decree 116/1992 of 14 February 1992 (6), on the representation of securities in book-entry form and the clearing and settlement of stock market transactions; and Royal Decree 505/1987 of 3 April 1987 (7), providing for the creation of a book-entry system for government debt. These respective amendments ensure that local debt is legally placed on a par with government debt.

5. EUROSISTEM MONETARY POLICY INSTRUMENTS AND PROCEDURES

In accordance with the Treaty establishing the European Community and, in particular, with the Statute of the European System of Central Banks and of the ECB, the ECB is authorised to adopt the necessary guidelines in respect of the instruments and procedures to be used in applying the single monetary policy, and the national central banks (NCBs) are obliged to act in conformity with the provisions of these guidelines, which are an integral part of Community law.

(5) See "Regulación financiera: primer trimestre de 1992" in *Boletín Económico*, Banco de España, April 1992, pp.70-72.

(6) See "Regulación financiera: primer trimestre de 1992" in *Boletín Económico*, Banco de España, April 1992, pp.68-70.

(7) See "Regulación financiera: segundo trimestre de 1987" in *Boletín Económico*, Banco de España, July-August 1987, pp. 46-48.

In this connection, an ECB Guideline was issued on 31 August 2000 on Eurosystem monetary policy instruments and procedures. This covered the principles, instruments and procedures for application of the single monetary policy in the euro area. The NCBs were obliged to adopt the measures needed to adjust monetary policy operations to the criteria laid down in this Guideline.

Recently, the Guideline of the European Central Bank of 7 March 2002 (OJEC 185/2002 of 15 July 2002) amending the Guideline of 31 August 2000 was issued. Among other aspects, the aim was to revise its terminology, to add certain clarifications and to incorporate the latest provisions on the Eurosystem monetary policy, particularly those affecting the amendment of minimum reserve requirements in Regulation (EC) No 690/2002 of the European Central Bank of 18 April 2002 (8).

Finally, the title of annex 1 to Guideline ECB 2000/7, *The single monetary policy in Stage Three – general documentation on Eurosystem monetary policy instruments and procedures*, is replaced by *The single monetary policy in Economic and Monetary Union – general documentation on Eurosystem monetary policy instruments and procedures*.

16.10.2002.

(8) See "Financial regulation: 2002 Q2" in *Economic bulletin*, Banco de España, July 2002, pp. 77-78.