

Financial regulation: 2006 Q1

Introduction

In 2006 Q1 there were few new financial provisions relative to the preceding period.

Firstly, a Guideline of the European Central Bank was published, amending the previous regulations on the monetary policy procedures and instruments of the Eurosystem, specifically in relation to the eligibility criteria of the collateral used in monetary policy operations.

As regards public debt, and is habitual in this period, the State debt issuance conditions for 2006 and for the month of January 2007 were laid down, with the limitation set in the 2006 State Budget Law. Broadly, the issuance conditions of previous years have been maintained.

Further, the circumstances have been stipulated in which the Directorate General of the Treasury and Financial Policy may authorise the opening, outside the Banco de España, of Treasury accounts at credit institutions.

In addition, and in compliance with the regulations on the protection of personal data, the Banco de España has created a new automated personal data file and has modified two of the pre-existing ones.

Finally, in the Community sphere, the exchange, assistance and training programme for the protection of the euro against counterfeiting was extended until the end of the year.

Monetary policy instruments and procedures of the Eurosystem

Guideline ECB/2000/7 of the European Central Bank of 31 August 2000 developed the instruments and procedures to apply a single monetary policy in the Eurosystem, with the national central banks (NCBs) being obliged to act in accordance with the provisions of this Guideline. Later, this regulation was amended by Guideline ECB/2002/2 of 7 March 2002, and by Guideline ECB/2005/2 of 3 February 2005¹, with a view to adapting it to the changes in the definition and implementation of monetary policy in the euro area.

Recently, Guideline ECB/2005/17 of the European Central Bank of 30 December 2005 (OJEU of 2 February 2006) has been published, amending Guideline ECB/2000/7 on the monetary policy instruments and procedures of the Eurosystem, especially regarding the eligibility criteria for Tier one and Tier two assets².

This Guideline substantially maintains the minimum eligibility criteria for Tier *one* assets. Specifically, it continues to accept that such assets should be debt instruments having: a) a fixed, unconditional principal amount, and b) a coupon that cannot result in a negative cash flow. Moreover, the coupon should be a zero coupon, a fixed rate coupon or a floating rate coupon linked to an interest rate reference. Inflation-indexed bonds are also eligible, and their features must be maintained until the redemption of the obligation. The Guideline further clarifies that asset-backed bonds may be eligible as collateral, despite the aforementioned requirement a), since the very nature of asset-backed bonds means their principal amount may be conditional.

1. See "Financial regulation: 2005 Q2", *Economic Bulletin*, July 2005, Banco de España, pp. 103-104. 2. The Eurosystem accepts a broad set of instruments as collateral in its operations. Essentially, a distinction is drawn between two categories of assets: Tier *one* and Tier *two*. Tier *one* comprises tradeable fixed-income instruments that meet uniform eligibility criteria for the whole Monetary Union, and are specified by the ECB. Tier *two* includes other tradeable and non-tradeable assets that are of particular importance for the financial markets and banking systems, and whose eligibility criteria are established by the NCBs, following the ECB's approval.

The Eurosystem shall assess the eligibility of asset-backed securities other than Pfandbrief-type fixed-income instruments, bearing in mind the following criteria.

Assets generating a cash flow, firstly, must be legally acquired in accordance with the laws of a Member State from the originator³ or an intermediary by the securitisation special purpose vehicle in a manner which the Eurosystem considers to be a *true sale* that is enforceable against any third party, and be beyond the reach of the originator and its creditors, including in the event of the originator's insolvency; and secondly, they shall not consist (in part or in whole, actually or potentially) of credit-linked notes or similar claims arising from the transfer of credit risk by means of credit derivatives.

The Eurosystem reserves the right to request from any relevant third party (for instance, the issuer, the originator or the arranger) any clarification or legal confirmation that it deems necessary to assess the eligibility of asset-backed securities.

The Guideline also makes this distinction for the minimum eligibility criteria for Tier *two* assets.

Lastly, the NCBs shall, no later than 1 March 2006, send the ECB detailed information on the texts and mechanisms through which they intend to comply with this Guideline, which shall be applicable from 1 May 2006.

State debt: issuance conditions during 2006 and January 2007

Law 30/2005 of 29 December 2005 on the State Budget for 2006⁴ authorised the Minister of Economy and Finance to increase State debt this year, with the limitation that the outstanding balance thereof at the end of the year should not exceed the related balance as at 1 January by more than €14,082 million.

As is habitually the case at this time of year, Ministerial Order EHA/4247/2005 of 30 December 2005 (BOE of 16 January 2006) has been published, providing for the creation of State debt during 2006 and January 2007, and delegating specific powers to the Director-General of the Treasury and Financial Policy. Two Resolutions dated 17 January 2006 have also been published by the Directorate General of the Treasury and Financial Policy (BOE of 27 January and of 24 January 2006, respectively) providing for specific issues of Treasury bills and of medium- and long-term government bonds, and the calendar for auctions for 2006 and for January 2007 has been published.

Broadly, the issuance conditions prevailing in previous years have been maintained. As in 2005, the Ministry of Economy may provide for the creation of debt through issues of securities or credit operations, in euro or in other currencies.

Regarding the issuance procedures for State debt, the arrangements for previous years have been retained, in particular the following: through auctions (competitive and non-competitive bids), and through whatsoever technique not involving inequality of opportunity for the potential purchasers of the securities.

As in previous years, public debt will be in the form of Treasury bills and of medium- and long-term debt, in all cases exclusively in book-entry form.

TREASURY BILLS

For 2006, the issuance criteria and procedures prevailing in previous years are basically retained, as is the obligation to prepare an annual schedule of tenders for publication in the BOE.

³. This is the institution whose assets are going to be securitised. ⁴. See "Financial regulation: 2005 Q4", *Economic Bulletin*, January 2006, Banco de España, pp. 129-130.

Tenders of 12- and 18-month bills are to continue, but those of six-month bills are suspended owing to the reduction in the total volume it is wished to issue. This advises reducing the number of issuance terms, as occurred in 2005, when the three-month term was eliminated. Nonetheless, for reasons of demand or of issuance policy, the Treasury could stage additional tenders to those scheduled at which it could auction shorter-dated bills.

The tenders take place on the third Wednesday of each month, and with this periodicity 12- and 18-month Treasury bills are auctioned. Issuance terms may differ in respect of the number of days needed to allow the grouping of maturities, so that the periodicity of such maturities is two months, taking place in the even-number months and coinciding with the issuance dates so as to make reinvestment easier for holders. In this way, the grouping together of issues is maintained, thereby consolidating the Treasury bill market, ensuring its liquidity and strengthening competitiveness with the other institutional issuers in the euro area.

As in previous years, bids at tenders will be interest-rate based, which is how bills are priced on the secondary markets. Competitive bids will thus indicate the interest rate bid for, and successful bids shall be allotted, in each case, at the price equivalent to the interest rate bid for or at the weighted average, whichever is appropriate on the basis of the outcome of the tender.

The tenders shall continue as at present, and both competitive and non-competitive bids may be formulated. The minimum nominal amount of competitive bids will continue to be €1,000, and higher bids shall be placed in multiples of this amount. As for non-competitive bids the minimum nominal amount is €1,000, and higher bids shall again be in multiples of this amount. A new feature is the raising of the maximum nominal amount per bidder from €200,000 to €1 million, in order to allow subscribers to underwrite bills up to this amount, without having to place competitive bids that may distort the average price of the tender.

Nonetheless, this limit will continue to be €100 million for certain institutions, namely: the Wage Guarantee Fund, the Deposit Guarantee Fund for Banking Establishments, the Deposit Guarantee Fund for Savings Banks, the Deposit Guarantee Fund for Credit Co-operatives, the Social Security Reserve Fund, the Investment Guarantee Fund, and any public entity or State-owned company stipulated by the Treasury.

Finally, tenders will be followed by a second round reserved for those financial institutions that have acquired Market-Maker status in respect of Treasury bills. This will unfold in accordance with the rules regulating market-makers.

MEDIUM- AND LONG-TERM GOVERNMENT BONDS

For 2006, the issuance criteria and procedures established for medium- and long-term government bonds will essentially be as in 2005. It will continue to be obligatory to prepare the annual schedule of tenders for publication in the BOE. This schedule will indicate the dates of tenders, specifying the term of the bonds that will be auctioned quarterly depending on market conditions and on developments in issues during the year. However, if market conditions or financing requirements so advise, the Treasury may, in the monthly Resolution providing for issues of bonds for the following month, decide not to issue at any of the terms which, for information purposes, had been set in the aforementioned quarterly schedule.

The maturities for both types of bonds will be unchanged, i.e. 3 and 5 years for medium-term bonds, and 10 and 30 years for long-term bonds. The resumption of the 15-year issue has not been envisaged so as to square, on one hand, the reduction in the total volume it is wished to issue, and, on the other, the increase in the liquidity of the types of instruments being issued. It will also continue to be possible to auction issues that are extensions of

other, previous issues, in order to make up the necessary volume to ensure their liquidity on the secondary markets.

Tender arrangements remain as at present and will be followed, as in previous years, by a second round reserved for those financial institutions that have acquired Market-Maker status in respect of medium- and long-term bonds. However, some minor amendments have been made to improve how the arrangements work and to adapt regulations to the migration from the former Public Debt Book-Entry System to Iberclear. In connection with these amendments, the minimum nominal amount of €1,000 is maintained for non-competitive bids, but the maximum nominal amount per bidder is raised from €200,000 to €1 million, so that subscribers can underwrite Treasury securities up to this amount, without having to place competitive bids that may distort the average price of the tender. Finally, for the special institutions quoted in the previous section, this limit will continue to be €100 million.

Treasury accounts outside the Banco de España

In accordance with General Budgetary Law 47/2003 of 26 November 2003⁵, the revenue and expenditure of the State and its autonomous agencies shall generally be routed through the accounts it holds at the Banco de España, with the opening of accounts outside the central bank of Treasury funds being subject to authorisation by the Directorate General of the Treasury and Financial Policy.

The Minister of Economy and Finance was empowered to establish the exceptional cases in which the Directorate General of the Treasury and Financial Policy could authorise the opening of such accounts.

By virtue of these powers, Ministerial Order EHA/333/2006 of 9 February 2006 (BOE of 15 February 2006) was enacted. The Order establishes the cases in which the Directorate General of the Treasury and Financial Policy may authorise the opening, outside the Banco de España, of Treasury fund accounts at credit institutions.

These cases are as follows:

- a) Restricted accounts of non-tax revenue.
- b) Current accounts for the payment of the wages and salaries of serving employees of the State and its autonomous agencies through banks or savings banks.
- c) Current accounts for payments pending substantiation and for fixed cash advances.
- d) Current accounts for payments via an intermediary.
- e) Current accounts for the payment of expenses incurred through the holding of elections.
- f) Accounts for payments by State autonomous agencies other than those above, provided the following requirements are met:

5. See "Financial regulation: 2003 Q4", *Economic Bulletin*, January 2004, Banco de España, pp. 90-91.

- That there is no Banco de España branch in the same municipality in which the headquarters of the agency that is to be the account holder is located, and that, moreover, this service cannot be provided by any other means.
- That provisions are made to meet specific payments, for the precise amounts and with the minimum notice needed for their correct execution, so that the account balance is at all times that required for the proper effectiveness of transactions.

New personal data files managed by the Banco de España

Banco de España Circular CBE 2/2005 of 25 February 2005 had compiled the descriptions of the automated files containing personal data in the Banco de España, in compliance with Organic Law 15/1999 of 13 December 1999 on the Protection of Personal Data, regarding the creation, modification or destruction of general government files.

Several measures to be launched shortly will amend certain aspects of the automated treatment of personal data in the Banco de España, necessitating the creation of a file and the modification of two of those already existing. Consequently, CBE 4/2005 of 23 December 2005 (BOE of 16 January 2006), updating CBE 2/2005 of 25 February 2005 on automated personal data files managed by the Banco de España, has been published.

The update involves the inclusion of the description of a new file, called “Central Credit Register System Files”, and the modification of the current descriptions for the file “Central Credit Register System” and the file “Most active appraisers by appraised value of appraisal companies and services”, the latter changing its name to “Most active appraisers and main customers of appraisal companies and services”. Both the file created and the two that have been modified are described in detail in the annex to this Circular.

Programme for the protection of the euro against counterfeiting

In accordance with Council Decision 2001/923/EC of 21 December 2001, the Commission submitted to the European Parliament and to the Council on 30 November 2004 a report, which was independent of the programme manager, evaluating the relevance and the effectiveness of the exchange, assistance and training programme for the protection of the euro against counterfeiting. The report stated the need for the programme to be maintained in the future. Further, the effectiveness of the programme could be enhanced if technical support were extended to provide, with the involvement of Europol, for financial support for Member-State co-operation in cross-border operations.

In the light of this report, Council Decision of 30 January 2006 (OJEU of 8 February 2006) was published, amending and extending Decision 2001/923/EC establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting (the ‘Pericles’ Programme), at least until 31 December 2006.

6.4.2006.