

II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COUNCIL

COUNCIL DECISION

of 15 September 2008

amending Decision 2003/77/EC laying down multiannual financial guidelines for managing the assets of the ECSC in liquidation and, on completion of the liquidation, the Assets of the Research Fund for Coal and Steel

(2008/750/EC)

THE COUNCIL OF THE EUROPEAN UNION,

completion of the liquidation, the Assets of the Research Fund for Coal and Steel.

Having regard to the Treaty establishing the European Community,

(2) In accordance with Article 2 of Decision 2003/77/EC⁽³⁾, the Commission has reassessed the operation and effectiveness of the financial guidelines.

Having regard to the Protocol annexed to the Treaty establishing the European Community on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel,

(3) The experience gained in the first five years of implementation of the financial guidelines and developments in financial market practice show a need to adapt those guidelines.

Having regard to Council Decision 2003/76/EC of 1 February 2003 establishing the measures necessary for the implementation of the Protocol, annexed to the Treaty establishing the European Community, on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel⁽¹⁾, and in particular Article 2(2) thereof,

(4) The guidelines should reflect standard market practice and definitions as regards, *inter alia*, the maturity concepts used, equivalent securities in the case of repurchase agreements and applicable ratings.

Having regard to the proposal from the Commission,

(5) Subject to rating requirements, certain public entities should be assimilated to Member States or other sovereigns in the context of the investment limits.

Having regard to the opinion of the European Parliament⁽²⁾,

Whereas:

(1) For the purposes of the Protocol annexed to the Treaty establishing the European Community on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel, the Commission manages the assets of the ECSC in liquidation and, on

(6) The guidelines should take into account the changes in the accounting rules of the Commission.

(7) For reasons of efficiency and in order to reduce administrative costs, the frequency of reporting should be adapted.

⁽¹⁾ OJ L 29, 5.2.2003, p. 22.

⁽²⁾ Opinion of 11 March 2008 (not yet published in the Official Journal).

⁽³⁾ OJ L 29, 5.2.2003, p. 25.

(8) Decision 2003/77/EC should therefore be amended accordingly,

government-controlled public enterprises or institutions, or by supranational borrowers, with a credit rating of not less than "AA" or its equivalent, EUR 100 million per issuer or guarantor;

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Decision 2003/77/EC is hereby amended as follows:

1. point 3 shall be amended as follows:

(a) point (a)(iii) shall be replaced by the following:

'(iii) fixed and floating rate bonds with a maturity or, in the case of asset-backed securities, an expected maturity not exceeding a remaining life of 10 years and six months from the payment date, provided that they are issued by any of the categories of authorised issuers;'

(b) point (b)(i) shall be replaced by the following:

'(i) repurchase and reverse repurchase agreements, provided the counterparts are authorised for such transactions, and provided that the Commission remains in a position to repurchase equivalent securities that it may have sold at the contractual deadline. Equivalent securities are securities (i) issued by the same issuer, (ii) which form part of the same issue, and (iii) are of an identical type, nominal value, description and amount as the securities lent out except where subject to a corporate action or redenomination;'

2. point 4 shall be amended as follows:

(a) point (a)(i) to (iii) shall be replaced by the following:

'(a) The investment shall be limited to the following amounts:

(i) for bonds issued or guaranteed by Member States or institutions of the Union, EUR 250 million per Member State or institution; bonds issued or guaranteed by regional or local authorities or government-owned and/or government-controlled public enterprises or institutions can be included under the limit of the respective Member State, provided that they have a credit rating of not less than "AA" or its equivalent;

(ii) for bonds issued or guaranteed by other sovereign borrowers, their regional or local authorities or government-owned and/or

(iii) for deposits with and/or debt instruments, including bonds, of an authorised bank, the lower of either EUR 100 million per bank or 5 % of the bank's own funds;'

(b) point (b) shall be replaced by the following:

'(b) The investment in any single bond issue, subject to the limits given in point (a), shall not be more than 20 % of the total amount of such issue at the time of purchase.;

(c) the following second subparagraph shall be added to point (d):

'Once the Commission has become aware of a downgrade below the minimum rating requirements, it shall endeavour to replace the corresponding investments.;

(d) the following point (e) shall be added:

'(e) If the rating of a bond is higher than the rating of the issuer or the issuer has no rating, the rating of the bond is applicable.;

3. point 6 shall be replaced by the following:

'6. ACCOUNTING

The management of the funds shall be accounted for in the annual accounts for the ECSC in liquidation and, on completion of the liquidation, the Assets of the Research Fund for Coal and Steel. These shall be based upon and presented in accordance with the EC Accounting Rules as adopted by the Commission's Accounting Officer, taking into account the specific nature of the ECSC in liquidation and, upon completion of the liquidation, the Assets of the Research Fund for Coal and Steel. The accounts will be approved by the Commission and examined by the Court of Auditors. The Commission shall engage external firms to carry out an annual audit of its accounts.;

4. in point 7, the second subparagraph shall be replaced by the following:

'A detailed report on management operations carried out under these guidelines shall be drawn up every six months and sent to the Member States.'

Article 2

This Decision shall take effect on the day following its publication in the *Official Journal of the European Union*.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 15 September 2008.

For the Council
The President
B. KOUCHNER
