

DECISION OF THE EUROPEAN CENTRAL BANK
of 10 November 2000
on the publication of certain legal acts and instruments of the European Central Bank
(ECB/2000/12)
(2001/150/EC)

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 (hereinafter referred to as the 'Statute') and in particular to Articles 10.4, 34.1 and 34.2 thereof,

After consulting the General Council of the European Central Bank (ECB),

Whereas:

- (1) The ECB attaches great importance to enhancing the transparency of the regulatory framework of the European System of Central Banks (ESCB). In line with this approach, legal acts and instruments adopted by the ECB should be made available to the general public for public awareness even in the absence of an obligation to do so pursuant to the Treaty establishing the European Community or the Statute.
- (2) Transparency can best be served through the publication of ECB acts and instruments in all official Community languages in the *Official Journal of the European Communities*,

HAS DECIDED AS FOLLOWS:

Article 1

Guideline ECB/1998/NP10 of 3 November 1998 on the implementation of Article 52 of the Statute of the European System of Central Banks and of the European Central Bank (Annex I to

this Decision), Guideline ECB/1999/NP11 of 22 April 1999 on the authorisation to issue national banknotes during the transitional period (Annex II to this Decision) and Guideline ECB/1998/NP28 of 22 December 1998 concerning the common rules and minimum standards to protect the confidentiality of the individual statistical information collected by the European Central Bank with the assistance of the national central banks (Annex III to this Decision); Decision ECB/1998/NP1 of 19 June 1998 on the appointment and on the duration of the mandate of the external auditor of the European Central Bank (Annex IV to this Decision); Decision ECB/1998/NP15 of 1 December 1998 concerning the performance by the European Central Bank of certain functions relating to medium-term financial assistance for Member States' balance of payments (Annex V to this Decision) and Recommendation ECB/1999/NP7 of 8 April 1999 on the accounting treatment of costs incurred in connection with the issue of banknotes (Annex VI to this Decision) are hereby published.

Article 2

This Decision shall be published in the *Official Journal of the European Communities*.

Done at Frankfurt am Main, 10 November 2000.

The President of the ECB
Willem F. DUISENBERG

ANNEX I

GUIDELINE OF THE EUROPEAN CENTRAL BANK
of 3 November 1998
on the implementation of Article 52 of the statute of the European System of Central Banks and of the European Central bank
(ECB/1998/NP10)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty establishing the European Community (hereinafter referred to as the 'Treaty') and in particular to Article 105(a)(1) thereof and to Articles 12.1, 14.3 and 52 of the Statute of the European System of Central Banks and of the European Central Bank (hereinafter referred to as the 'Statute'),

Whereas:

- (1) The euro will become the currency of the participating Member States on 1 January 1999; whereas Article 109 L(4) of the Treaty requires the EU Council to adopt the conversion rates at which the currencies of the Member States without a derogation shall be irrevocably fixed and at which irrevocably fixed rate the euro shall be substituted for these currencies. The national currency units will be sub-units of the euro according to the conversion rates. Article 52 of the Statute empowers the Governing Council of the European Central Bank (ECB) to take the necessary measures to ensure that banknotes denominated in currencies with irrevocably fixed exchange rates are exchanged by the national central banks (NCBs) at their respective par values.
- (2) The objective of Article 52 of the Statute is to ensure a high degree of substitutability between the national currency units after the adoption of the conversion rates referred to in Article 109 L(4) of the Treaty and, to that end, the Governing Council of the ECB is to ensure that each NCB is ready to exchange, at the conversion rates, any legal tender banknote issued by the NCB of another Member State without a derogation into banknotes of its own.
- (3) Article 52 of the Statute will be effective until the end of the transitional period, as defined in the sixth indent of Article 1 of Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro ⁽¹⁾ (the transitional period). After the end of the transitional period the exchange of banknotes of other participating Member States will be addressed in conjunction with the cash changeover to the euro.
- (4) The national central banks shall ensure that banknotes of other participating Member States can be either exchanged against national banknotes and coins or, according to national legislation, credited to an account. NCBs shall ensure that the exchange of banknotes of other participating Member States against national banknotes and coins can be performed at par value. NCBs are obliged to provide such service themselves or to appoint an agent to perform this service on their behalf.
- (5) In accordance with Articles 12.1 and 14.3 of the Statute, ECB guidelines form an integral part of Community law,

HAS ADOPTED THIS GUIDELINE:

Article 1

Definitions

For the purposes of this ECB Guideline:

- 'banknotes of other participating Member States' shall mean banknotes issued by an NCB that are presented to another NCB or to its appointed agent for exchange,
- 'exchange of banknotes of other participating Member States' shall mean the exchange of legal tender banknotes issued by an NCB and presented to another NCB or to its appointed agent to be exchanged against its national banknotes and coins or against the crediting of funds to an account,
- 'NCBs' shall mean the national central banks of Member States which have adopted the single currency in accordance with the Treaty,

⁽¹⁾ OJ L 139, 11.5.1998, p. 1.

- 'par value' shall mean the value resulting from the conversion rates adopted by the EU Council under Article 109 L(4) of the Treaty without any spread between 'buying and selling rates',
- 'participating Member States' shall mean all Member States which have adopted the single currency in accordance with the Treaty,
- 'transitional period' shall mean the period starting on 1 January 1999 and ending on 31 December 2001.

Article 2

Obligation to exchange at par value

1. The NCBs shall, at least in one location in the national territory, by themselves or through their appointed agent, ensure that banknotes of other participating Member States can be either exchanged against national banknotes and coins or, upon request, credited to an account with the institution effecting the exchange, if the national legislation provide for such possibility, in both cases at their respective par value.
2. NCBs may limit the number and/or the total value of banknotes of other participating Member States that they are prepared to accept for any given transaction or on any one day.

Article 3

Banknotes which qualify for exchange

Banknotes of other participating Member States that qualify for exchange under this ECB Guideline must not be badly mutilated. In particular, they must not consist of more than two parts of the same banknote joined together or have been damaged by anti-theft equipment.

Article 4

Reporting

The Executive Board of the ECB shall report to the Governing Council of the ECB on the implementation of this ECB Guideline once a year and in July 1999 for the first time.

Article 5

Final provisions

This ECB Guideline shall be effective as from the starting-date of the transitional period. However, each of the NCBs shall communicate to the ECB the means by which they intend to comply with this ECB Guideline by no later than 1 December 1998.

This ECB Guideline shall apply to all banknotes of other participating Member States presented for exchange under Article 52 of the Statute before the end of the transitional period.

This Guideline is addressed to the national central banks of participating Member States.

Done at Frankfurt am Main, 3 November 1998.

On behalf of the Governing Council of the ECB
Willem F. DUISENBERG

ANNEX II

GUIDELINE OF THE EUROPEAN CENTRAL BANK
of 22 April 1999
on the authorisation to issue national banknotes during the transitional period
(ECB/1999/NP11)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty establishing the European Community (hereinafter referred to as the 'Treaty'), in particular to Article 105(a)(1) thereof, and to the Statute of the European System of Central Banks and of the European Central Bank (hereinafter referred to as the 'Statute'), in particular to Article 16 thereof,

Whereas:

- (1) The European Central Bank (ECB) has the exclusive right to authorise the issue of banknotes within the Community from 1 January 1999. In the light of Articles 2, 3 and 6 of Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro ⁽¹⁾ banknotes denominated in national currency units are subdivisions of the euro from 1 January 1999. The aforementioned provisions entail that the right to authorise the issue of national banknotes during the transitional period, as defined in the sixth indent of Article 1 of Council Regulation (EC) No 974/98 belongs to the ECB from 1 January 1999.
- (2) The issuance of banknotes is a demand-driven process. With regard to national banknotes the national central banks are, during the transitional period, in a good position to assess the necessary volume to be issued. The Governing Council of the ECB will decide at the beginning of 2001 on the authorisation of the issue of euro banknotes.
- (3) In accordance with Articles 12.1 and 14.3 of the Statute, ECB Guidelines form an integral part of Community law,

HAS ADOPTED THE FOLLOWING GUIDELINE:

Article 1

Authorisation to issue national banknotes

1. National central banks are hereby authorised to continue to issue national banknotes during the transitional period according to national practice.
2. National central banks shall inform the ECB by the end of February of each year of the amount of national banknotes issued during the preceding year.

Article 2

Final provisions

This Guideline is addressed to the national central banks of participating Member States.

Done at Frankfurt am Main, 22 April 1999.

On behalf of the Governing Council of the ECB
Willem F. DUISENBERG

⁽¹⁾ OJ L 139, 11.5.1998, p. 1.

ANNEX III

**GUIDELINE OF THE EUROPEAN CENTRAL BANK
of 22 December 1998**

concerning the common rules and minimum standards to protect the confidentiality of the individual statistical information collected by the European Central Bank assisted by the national central banks

(ECB/1998/NP28)

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 (hereinafter referred to as the 'Statute') and in particular to Articles 5, 12.1, 14.3 and 38 thereof,

Having regard to Council Regulation (EC) No 2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank⁽¹⁾ and in particular to Article 8 thereof,

Whereas:

- (1) Article 8(3) of the said Regulation (EC) No 2533/98 provides that the reporting agents shall be informed of the statistical and other administrative uses to which statistical information provided by them may be put. The said Article also provides that reporting agents shall have the right to obtain information on the legal basis for the transmission and the protective measures adopted.
- (2) Article 8(9) of the said Regulation (EC) No 2533/98 requires that the European Central Bank (ECB) and the national central banks (NCBs) shall take all the necessary regulatory, administrative, technical and organisational measures to ensure the protection of confidential statistical information. The said Article requires that the ECB shall define common rules and minimum standards to prevent unlawful disclosure and unauthorised use of confidential statistical information.
- (3) Internal procedures are in force in the ECB and the NCBs which provide a high level of protection of confidential statistical information in the ECB and the NCBs. Therefore the purpose of the common rules and minimum standards required by Article 8(9) of Council Regulation (EC) No 2533/98 can be achieved by setting a basic level of protection across the European System of Central Banks without prejudice to any higher level that is achieved through the actual protection measures in force within the ECB and the NCBs and without impinging on these actual protection procedures or imposing specific technical solutions on the ECB and the NCBs, provided that the common rules and minimum standards are fulfilled.
- (4) The ECB needs regular information from the NCBs on the actual protection measures in order to fulfil its task of defining the common rules and minimum standards set out in the said Article 8(9) of Regulation (EC) No 2533/98 and in order to assess the fulfilment of the required basic level of protection.
- (5) In accordance with Articles 12.1 and Article 14.3 of the Statute, ECB Guidelines form an integral part of Community law,

HAS ADOPTED THIS GUIDELINE:

Article 1

Definitions

For the purpose of this Guideline:

1. 'confidential statistical information' shall mean statistical information which is defined as confidential in accordance with Article 8(1) of Council Regulation (EC) No 2533/98;
2. 'protection measures' shall mean the appropriate procedures for the protection, both logical and physical, of confidential statistical information;
3. 'logical protection' shall mean the protection measures that prevent unauthorised access to the confidential statistical information itself;
4. 'physical protection' shall mean the protection measures that prevent unauthorised access to the physical area and the physical media;

⁽¹⁾ OJ L 318, 27.11.1998, p. 8.

5. 'physical area' shall mean any part of the building in which are located the physical media on which confidential statistical information is stored or over which it is transmitted;
6. 'physical media' shall mean hard copy (paper) and the computer equipment (including peripherals and storage devices) on which confidential statistical information is stored or processed.

Article 2

Logical protection

1. The ECB and the NCBs shall each define and implement authorisation rules and protection measures for the logical access of their staff to confidential statistical information.
2. Without prejudice to the continuity of the system administration function, the minimum protection measure shall be a unique user identifier and personalised password.
3. All appropriate measures shall be taken to ensure that confidential statistical information is arranged in such a way that any published data covers at least three economic agents. Where one or two economic agents make up a sufficiently large proportion of any observation to make them indirectly identifiable, published data shall be arranged in such a way as to prevent their indirect identification. These rules shall not apply if the reporting agents or the other legal persons, natural persons, entities or branches that can be identified have explicitly given their consent to the disclosure.

Article 3

Physical protection

The ECB and the NCBs shall each define and implement authorisation rules and protection measures for access of their staff to any physical area, without prejudice to Article 4 of this Guideline.

Article 4

Third party access

In the event of any third party having access to confidential statistical information, the ECB and the NCBs shall ensure through appropriate means, where possible by way of a contract, that the confidentiality requirements as laid down in Regulation (EC) No 2533/98 and in this Guideline are respected by the third party.

Article 5

Data transmission and networks

1. Where allowed by Article 8 of Regulation (EC) No 2533/98, confidential statistical information shall be transmitted *extra muros* electronically, following encryption.
2. The ECB and the NCBs shall each define authorisation rules for such transmission of confidential statistical information.
3. For internal networks, appropriate protection measures shall be taken to prevent unauthorised access.
4. Interactive access to confidential statistical information from unsecured networks shall be prohibited.

Article 6

Documentation and staff awareness

The ECB and the NCBs shall ensure that all their rules and procedures relating to the protection of confidential statistical information are documented, and that this documentation is kept up to date. The staff involved shall be informed about the importance of the protection of confidential statistical information and kept up to date about all rules and procedures that affect their work.

Article 7

Reporting

1. The NCBs shall inform the ECB at least once a year of the problems experienced in the last period, the actions taken in response to these and the planned improvements with regard to the protection of confidential statistical information. The ECB shall draw up a corresponding report.

2. The Governing Council of the ECB shall assess the implementation of this Guideline at least once a year. In preparation for the assessment, the ECB shall be informed of, and report on, the authorisation rules and types of protection measures applied by the ECB and the NCBs as referred to in Articles 2, 3 and 5 of this Guideline.

Article 8

Final provisions

This Guideline is addressed to the national central banks of participating Member States.

This Guideline shall be effective as of 1 January 1999.

Done at Frankfurt am Main, 22 December 1998.

On behalf of the Governing Council of the ECB
Willem F. DUISENBERG

ANNEX IV

**DECISION OF THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK
of 19 June 1998
on the appointment and on the duration of the mandate of the external auditor of the European Central Bank
(ECB/1998/NP1)**

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK (hereinafter referred to as the 'Governing Council'),

Having regard to the Statute of the European System of Central Banks and of the European Central Bank and in particular to Article 27.1 thereof,

Whereas:

- (1) The accounts of the European Central Bank (hereinafter referred to as the 'ECB') and of the national central banks shall be audited by independent external auditors recommended by the Governing Council and approved by the Council of the European Union.
- (2) The Council of the European Monetary Institute agreed to recommend Coopers & Lybrand as the external auditor of the ECB for a mandate of five years with an escape clause after two years,

HAS DECIDED AS FOLLOWS:

Article 1

Coopers & Lybrand shall be recommended to the Council of the European Union as the external auditor of the ECB.

Article 2

The external auditor of the ECB shall have a mandate of five years with an escape clause after two years.

Done at Frankfurt am Main, 19 June 1998.

On behalf of the Governing Council of the ECB

The President

Willem F. DUISENBERG

ANNEX V

DECISION OF THE EUROPEAN CENTRAL BANK
of 1 December 1998
concerning the performance by the European Central Bank of certain functions relating to medium-term
financial assistance for Member States' balances of payments
(ECB/1998/NP15)

THE GENERAL COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty establishing the European Community (hereinafter referred to as the 'Treaty') and in particular to Article 109 L(2) thereof,

Having regard to the Statute of the European Monetary Institute (hereinafter referred to as the 'Statute of the EMI') and in particular to the third indent of Article 6.1, thereof,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank (hereinafter referred to as the 'Statute') and in particular to the first indent of Article 47.1 thereof,

Whereas:

- (1) Decision No 8/95 of 2 May 1995 of the Council of the European Monetary Institute (Council of the EMI) established that the European Monetary Institute (EMI) should perform the tasks stipulated in Article 11 of Council Regulation (EEC) No 1969/88 of 24 June 1988.
- (2) Decision ECB/98/NP2 of 23 June 1998 stipulated that Decision No 8/95 shall remain valid and shall continue to apply in its entirety until no later than the day immediately preceding the first day of the third stage.
- (3) Two medium-term loans to Italy from the European Community under Regulation (EEC) No 1969/88 mature in the year 2000.
- (4) The European Central Bank (ECB) will have to continue to perform the tasks of the EMI with respect to the administration of the borrowing and lending operations providing medium-term financial assistance for Member States' balances of payments. In order to administrate such medium-term financial assistance, it is necessary for the ECB to continue to apply Decision No 8/95 as of the first day of the third stage,

HAS ADOPTED THIS DECISION:

Article 1

1. Subject to paragraph 2 below, Decision No 8/95 which, in accordance with Decision ECB/1998/NP2 remains valid and continues to apply in its entirety until the day immediately preceding the first day of the third stage, shall remain valid and shall continue to apply as of the first day of the third stage.
2. In the Articles of Decision No 8/95 referred to in paragraph 2, the term 'EMI' shall be read as 'ECB'.

Article 2

The executive Board of the ECB shall make all the arrangements necessary to give effect to this Decision.

Done at Frankfurt am Main, 1 December 1998.

The President of the ECB
Willem F. DUISENBERG

*Appendix***EUROPEAN MONETARY INSTITUTE****Decision NO 8/95****concerning the administration of the borrowing and lending operations concluded by the European Community under the medium-term financial assistance mechanism**

THE COUNCIL OF THE EUROPEAN MONETARY INSTITUTE (called hereinafter 'Council of the EMI'),

Having regard to Article 6.1 of the Statute of the EMI,

Whereas:

- (1) Pursuant to the third indent of Article 6.1 of its Statute, the EMI shall perform the functions referred to in Article 11 of Council Regulation (EEC) No 1969/88 of 24 June 1988 establishing a single facility providing medium-term financial assistance for Member States' balances of payments ⁽¹⁾.
- (2) The EMI has established the necessary infrastructure for performing itself these functions,

HAS DECIDED UNANIMOUSLY that:

Article 1

The EMI shall perform the tasks stipulated in Article 11 of Regulation (EEC) No 1969/88, in the manner described in Articles 2 to 8 hereafter.

Article 2

Payments connected with the European Community's borrowing and lending operations shall be effected through the accounts that the EMI shall open in its name.

Article 3

Sums received by the EMI for the account of the European Community under borrowing arrangements entered into by the latter shall be transferred on the same value date to the account specified by the central bank of the country receiving the corresponding loan.

Sums received by the EMI for the account of the European Community, either in respect of payment of interest or repayment of the principal from the country which has received the loan, or from Member States participating in any refinancing arrangements in respect of the loan, shall be transferred on the same value date to the accounts specified by the creditors under the borrowing arrangements entered into by the European Community.

When a Member State, which has been temporarily exempted in whole or in part either in respect of a payment due from it or in respect of participation in refinancing arrangements subsequently makes payment or provides its share to the European Community, the funds in question shall be transferred on the same value date to the accounts specified by the central banks of the Member States which have participated in the refinancing arrangements, in proportion to the amount of their claims on the European Community.

Article 4

For each borrowing and lending operation the EMI shall open the following accounts in its books:

1. A nostro account entitled 'Balances in... held with...' corresponding to the funds received for the account of the European Community;
2. An account on the liabilities side forming the counterpart of the account referred to under paragraph 1;
3. A memorandum account, 'Community liabilities in respect of the Community borrowing operation', divided where applicable into sub-accounts corresponding to the individual creditors in respect of the borrowing arrangements;
4. Where applicable, a memorandum account, 'Community liabilities in respect of the refinancing of the Community borrowing operation', divided into sub-accounts corresponding to the individual creditor member countries;
5. A memorandum account, 'Community claims in respect of the lending operation'.

⁽¹⁾ OJ L 178, 8.7.1988, p. 1.

The accounts mentioned under paragraphs 1 and 2 shall be kept in the monetary unit of payment and those under 3 to 5 in the monetary unit of the respective contracts.

Article 5

The EMI shall book the financial operations described under Article 3 of the present Decision on their value date by debiting or crediting the abovementioned accounts.

Article 6

The EMI shall keep a check on the due dates laid down in the borrowing and lending contracts for the payment of interest and repayment of the principal.

Fifteen working days before each due date the EMI shall give notification thereof to the central bank of the country that is in debt to the European Community.

Article 7

The EMI shall immediately inform the European Commission of the operations it has carried out for the account of the European Community.

It shall address these communications to the General Directorate for Economic and Financial Affairs at the European Commission.

Article 8

At the end of each calendar year the EMI shall prepare a report for the information of the European Commission on the financial operations it has carried out during the year in connection with borrowing and lending operations. This report shall be accompanied by a statement of the European Community's claims and liabilities arising out of the borrowing and lending operations.

Article 9

The present Decision enters into force with effect from 15 May 1995.

Done at Frankfurt an Main, 2 May 1995.

For the Council of the EMI

The President

A. LAMFALUSSY

ANNEX VI

RECOMMENDATION OF THE EUROPEAN CENTRAL BANK
of 8 April 1999
on the accounting treatment of costs incurred in connection with the issue of banknotes
(ECB/1999/NP7)

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 (hereinafter referred to as the 'Statute') and in particular to Article 26 thereof,

Whereas:

- (1) It is appropriate to harmonise the accounting treatment of costs incurred in connection with the issue of banknotes as from the start of stage three of Economic and Monetary Union in order to standardise the reporting of operations undertaken by the national central banks (NCBs).
- (2) The harmonised accounting treatment should apply to the costs incurred in connection with the issue of both national banknotes and euro banknotes.
- (3) This Recommendation shall be without prejudice to any Decision which may be taken by the Governing Council of the European Central Bank under Article 32.4 of the Statute,

HAS ADOPTED THIS RECOMMENDATION:

Article 1

Accounting treatment of banknote costs

It is recommended that the costs incurred in connection with the issue of both national banknotes and euro banknotes should be taken to the profit and loss account as they are invoiced to, or otherwise incurred by, the NCBs.

Article 2

Final provisions

1. This recommendation shall apply to all costs of the type specified in Article 1 that are incurred as from 1 January 1999.
2. This recommendation is addressed to the NCBs of the Member States that have adopted the single currency in accordance with the Treaty establishing the European Community.

Done at Frankfurt am Main, 8 April 1999.

The President of the ECB
Willem F. DUISENBERG
