

This text is meant purely as a documentation tool and has no legal effect. The Union's institutions do not assume any liability for its contents. The authentic versions of the relevant acts, including their preambles, are those published in the Official Journal of the European Union and available in EUR-Lex. Those official texts are directly accessible through the links embedded in this document

► **B** **GUIDELINE (EU) 2015/280 OF THE EUROPEAN CENTRAL BANK**
of 13 November 2014
on the establishment of the Eurosystem Production and Procurement System (ECB/2014/44)
(OJ L 47, 20.2.2015, p. 29)

Amended by:

		Official Journal		
		No	page	date
► <u>M1</u>	Guideline (EU) 2017/2193 of the European Central Bank of 27 October 2017	L 310	49	25.11.2017
► <u>M2</u>	Guideline (EU) 2021/2322 of the European Central Bank of 17 December 2021	L 467	3	29.12.2021

▼B**GUIDELINE (EU) 2015/280 OF THE EUROPEAN CENTRAL BANK****of 13 November 2014****on the establishment of the Eurosystem Production and Procurement System (ECB/2014/44)****TITLE I****GENERAL PROVISIONS***Article 1***Definitions**

For the purposes of this Guideline the following definitions shall apply:

▼M2

- (1) ‘arm’s length principle’ means effective internal arrangements ensuring full separation between a public printing works and its public authority’s accounts and reimbursement by a public printing works of the costs of all administrative and organisational support that it receives from its public authority;

▼B

- (2) ‘in-house printing works’ means any printing works which is (a) legally and organisationally part of an NCB; or (b) a separate legal person, provided that the following cumulative conditions are fulfilled:

- (i) the NCB or NCBs exercise over the legal person concerned control which is similar to that which it exercises over its own departments;
- (ii) more than 80 % of the activities of the controlled legal person are carried out in the performance of tasks entrusted to it by the controlling NCB or NCBs;
- (iii) there is no direct private participation in the controlled legal person.

For the determination of the percentage of activities referred to in point (b)(ii), the average total turnover, or an appropriate alternative activity-based measure, such as costs incurred by the relevant legal person with respect to services, supplies and works for the three years preceding the contract award, shall be taken into consideration.

Where, because of the date on which the relevant legal person was created or commenced activities or because of a reorganisation of its activities, the turnover, or alternative activity-based measure such as costs, are either not available for the preceding three years or no

▼B

longer relevant, it shall be sufficient to show that the measurement of activity is credible, particularly by means of business projections.

An NCB shall be deemed to exercise over a legal person control similar to that which it exercises over its own departments within the meaning of point (b)(i) of the first subparagraph where it exercises a decisive influence over both the strategic objectives and significant decisions of the controlled legal person.

NCBs shall be deemed to jointly control a legal person where the following cumulative conditions are fulfilled: (a) the decision-making bodies of the controlled legal person are composed of representatives of all participating NCBs; individual representatives may represent several or all of the participating NCBs; (b) those NCBs are able to jointly exert decisive influence over the strategic objectives and significant decisions of the controlled legal person; (c) the controlled legal person does not pursue any interests which are contrary to those of the controlling NCBs.

▼M1

Control over in-house printing works organised as a separate legal entity may also be exercised, if applicable jointly with one or more NCBs, by another legal person which is jointly controlled in the sense of the previous paragraph by NCBs;

▼B

- (3) ‘public authorities’ means all public authorities, including the State and regional, local or other territorial authorities and central banks;
- (4) ‘public printing works’ means any printing works over which the public authorities may directly or indirectly exercise a dominant influence by virtue of their ownership of it, their financial participation therein, or the rules which govern it. A dominant influence on the part of the public authorities shall be presumed when these authorities, directly or indirectly in relation to a printing works: (a) hold the major part of its subscribed capital; (b) control the majority of the votes attaching to shares issued by it; or (c) can appoint more than half of the members of its administrative, managerial or supervisory body.

*Article 2***Scope of application**

1. The EPPS establishes a two-pillar model for the production and procurement of euro banknotes. It shall include the tendering of the production of euro banknotes by tendering group NCBs, as well as the production of euro banknotes by in-house group NCBs using an in-house printing works.

2. NCBs shall be responsible for the production and procurement of the euro banknotes that have been allocated to them in accordance with the capital key.

▼ B

TITLE II
TENDERING GROUP NCBs

▼ M1*Article 3***General Principles**

NCBs that neither use in-house printing works nor participate in non-institutionalised horizontal cooperation pursuant to Article 6(3) and Article 8 shall be part of the tendering group (tendering group NCBs).

▼ B*Article 4***Tender procedures**

1. Each tendering group NCB shall be responsible for the tendering of the production of euro banknotes and shall carry out tender procedures individually or jointly with other tendering group NCBs in accordance with applicable procurement rules and in line with the requirements laid down in this Guideline.

2. In order to maintain competition in the market for the production of euro banknotes, in principle and subject to applicable national procurement law, tendering group NCBs shall divide tenders into several lots and multiple lots should not be awarded to the same tenderer(s).

▼ M2

3. Tendering group NCBs shall state in tender documentation that in order to be eligible for any tender, public printing works must have implemented the arm's length principle prior to taking part in the tender. In order to ensure fair competition when public printing works are responding to a call for tenders, this eligibility criterion shall require that:

- (a) euro banknote printing activities are fully separated financially from the public printing works' other activities;
- (b) no direct or indirect state aid is provided to the public printing works that is in any way incompatible with the Treaty;
- (c) the public printing works are responsible for implementing an appropriate organisational structure and cost accounting system that ensures clear cost allocation and full financial separation between euro banknote printing activities and other activities;

▼ M2

- (d) all costs for the production of euro banknotes, including costs incurred for administrative and organisational support for the production of euro banknotes are allocated to the public printing works;
- (e) the allocation of the costs incurred must be traceable and consistently applied and accompanied by supporting documentation of the cost allocation; and
- (f) the financial separation is checked and certified annually by an independent external auditor and reported to the tendering NCB, which must provide a copy of the auditor's statement for each calendar year to the ECB.

▼ B*Article 5***Harmonisation of requirements**

In order to ensure a level playing field, tendering group NCBs shall seek to align their tendering requirements, including eligibility criteria, in accordance with the requirements of Union and national procurement law.

TITLE III

IN-HOUSE GROUP NCBs*Article 6***General principles**

1. NCBs producing euro banknotes using an in-house printing works shall be part of the in-house group (in-house group NCBs).
2. The in-house group NCBs shall ensure that their in-house printing works do not participate in any tender procedures for the production of euro banknotes organised and carried out within the Union and do not accept orders for the production of euro banknotes from third parties outside the in-house group NCBs.

▼ M2

3. Without prejudice to applicable Union and national legislation on public procurement, an NCB that closes its in-house printing works may decide to become part of the tendering group within the meaning of Article 3 or participate in horizontal cooperation on the basis of a cooperation agreement within the meaning of Article 8.

For a transitional period of five years starting from the date the in-house group NCB is notified of the revocation of the accreditation of its in-house printing works, the NCB that closes its printing works can switch between participating in either the in-house group or the tendering group before making a final decision, provided that the respective legal requirements are fulfilled.

▼ M2

The second subparagraph shall apply also in the case of an NCB that has already closed its printing works, provided that the NCB was notified of the revocation of the accreditation of its in-house printing works after 1 November 2019. The transitional period shall start retroactively from the date of this notification.

4. Without prejudice to applicable Union and national legislation on public procurement, an NCB from a Member State that will join the euro area in the future may choose between becoming part of the tendering group within the meaning of Article 3 or participating in horizontal cooperation on the basis of a cooperation agreement within the meaning of Article 8, provided that a cooperation agreement within the meaning of Article 8(2)(b) is in place as of the first euro banknote allocation.

5. Without prejudice to the applicable Union and national legislation on public procurement, the Governing Council may, in emergency situations and on a case-by-case basis, decide on deviations from the two-pillar model laid down in Article 6.

▼ B*Article 7***Cooperation among in-house group NCBs**

1. In order to improve the cost-efficiency of the production of euro banknotes, in-house group NCBs shall consider establishing appropriate forms of cooperation such as joint purchasing and sharing and implementing best practices for the production process in order to fulfil their public task of banknote production in the best possible way.

2. In-house group NCBs may decide whether or not to join in any such forms of cooperation, provided that if they do so they commit to remain involved in the relevant initiatives for at least three years (unless they become a tendering group NCB within this period), given the need for continuity and in view of the investments made by the parties.

*Article 8***Establishment of a separate legal person, or non-institutionalised horizontal cooperation, to jointly fulfil public tasks****▼ M1**

1. To jointly fulfil public tasks, in-house group NCBs shall explore the establishment of: (a) a separate legal person consisting of or holding a participation in their in-house printing works; or (b) non-institutionalised horizontal cooperation on the basis of a cooperation agreement.

▼ B

2. The following conditions shall apply to the forms of cooperation mentioned in paragraph 1:

▼B

- (a) If a legal person established under Article 8(1)(a) is directly awarded a contract for the production of euro banknotes, it must be jointly controlled by the NCBs concerned within the meaning of the definition of joint control under point (2) of Article 1.
- (b) Any agreement entered into under Article 8(1)(b) shall comply with the following cumulative conditions:
 - (i) the agreement establishes or implements cooperation between the in-house group NCBs with the aim of ensuring that public services they have to perform are provided with a view to achieving objectives they have in common;
 - (ii) the implementation of that cooperation is governed solely by considerations relating to the public interest;
 - (iii) in-house group NCBs perform on the open market less than 20 % of the activities concerned by the cooperation. For the determination of the percentage of the abovementioned activities the second and third paragraphs of point (2) of Article 1 shall apply accordingly.

TITLE IV

FINAL PROVISIONS

*Article 9***Repeal**

Guideline ECB/2004/18 is repealed with effect from 1 January 2015.

*Article 10***Taking effect and implementation**

This Guideline shall take effect on the day of its notification to the national central banks of the Member States whose currency is the euro. The Eurosystem central banks shall comply with this Guideline from 1 January 2015.

*Article 11***Transitional period with respect to the application of Article 4(3)**

By way of derogation from Article 4(3), tender procedures launched before 1 July 2015 may apply differing requirements with respect to the exclusion of tender participants.

▼M1**▼B***Article 13***Addressees**

This Guideline is addressed to all Eurosystem central banks.