



EUROPEAN CENTRAL BANK

OPINION OF THE EUROPEAN CENTRAL BANK

of 12 June 2006

at the request of Sveriges Riksbank on draft regulations on cash provision

(CON/2006/30)

Introduction and legal basis

On 8 May 2006 the European Central Bank (ECB) received a request from Sveriges Riksbank for an opinion on draft Sveriges Riksbank's regulations on cash provision (hereinafter the 'draft regulations').

The ECB's competence to deliver an opinion is based on Article 105(4) of the Treaty establishing the European Community and the second and third indents of Article 2(1) of Council Decision 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions¹, as the draft law relates to means of payment and Sveriges Riksbank. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the European Central Bank, the Governing Council has adopted this opinion.

1. Purpose of the draft regulations

The draft regulations contain the conditions for an institution's right to purchase cash from and return cash to Sveriges Riksbank. The institutions defined in Article 2 in the draft regulations that have entered into a cash provision agreement with Sveriges Riksbank have the right to purchase and return cash. At present, cash handling is regulated by way of cash provision agreements between Sveriges Riksbank and the commercial banks that wish to purchase cash from and return cash to Sveriges Riksbank. Since 2004, Sveriges Riksbank has had the power to issue regulations in the field of cash handling. In November 2005, Sveriges Riksbank issued regulations providing for interest cost remuneration in respect of cash that has been separated and stored in bank-owned depots². Sveriges Riksbank now considers that the purchase and return of cash should be regulated by the same type of legal act, which would be complemented by contractual arrangements. The consulting authority has informed the ECB that the draft regulations do not entail any change to the substance of the cash provision agreements that are already in force. The proposal to issue regulations is thus merely a change of form from a detailed agreement between the parties, to statutory regulations that will be supplemented by shorter agreements.

¹ OJ L 189, 3.7.1998, p. 42.

² See ECB Opinion CON/2005/48 of 18 November 2005 at the request of Sveriges Riksbank on draft regulations on interest cost remuneration for cash that has been separated and stored under a special arrangement.

2. General observations

- 2.1 Sveriges Riksbank is in the process of establishing a new cash provision regime aiming at making cash management in Sweden safer and more efficient and the ECB understands that the draft regulations are the next step in the establishment of this regime. The ECB supports the objectives of the new cash provision regime and generally welcomes the draft regulations, including the proposed change from agreements to regulations in the area of cash provision. The definition of ‘institutions’ that have the right to return and purchase cash in Article 2 of the draft regulations³ is important for the new cash provision regime, and Sveriges Riksbank may wish to reflect further on the formulation of this provision with a view to selecting the most appropriate objective criteria required by the purpose of the draft regulations of attaining safety and efficiency.
- 2.2 Whilst Sweden is a Member State with a derogation and the ECB requirements regarding the organisation of national cash cycles in Member States that have adopted the euro currently do not apply to Sveriges Riksbank, these requirements will apply to Sveriges Riksbank once Sweden adopts the euro and Sveriges Riksbank becomes a fully integrated part of the Eurosystem. As a general comment, therefore, the ECB notes that Sveriges Riksbank’s cash provision practices differ to some extent from Eurosystem practices and that these practices will have to be aligned with Eurosystem practices once Sweden adopts the euro.
- 2.3 The ECB would also like to emphasise again, as it did in Opinion CON/2005/48, that the guiding principle within the Eurosystem is that the central bank must be and remain in a position to perform its tasks, in particular to ensure the smooth and efficient supply of euro banknotes and to maintain their integrity (including ensuring the quality and authenticity of euro banknotes in circulation), in line with the common Eurosystem policy.

³ This definition is the same as the definition of ‘depository owners’ in Article 2 of Sveriges Riksbank’s regulations on interest cost remuneration for cash that has been separated and stored under a special arrangement (RBFS 2005:1).

3. Resolution of disputes regarding differentials

Article 22 of the draft regulations deals with the investigation of disputes regarding differences between the stated and actual value of the cash in question, but it does not provide for the resolution of cases where the parties disagree on the outcome of such investigations. The ECB suggests clarifying how disputes would be resolved in such cases in the draft regulations.

This opinion will be published on the ECB's website.

Done at Frankfurt am Main, 12 June 2006.

[signed]

The President of the ECB

Jean-Claude TRICHET