

# Official Journal

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## II

*(Acts whose publication is not obligatory)*

## EUROPEAN CENTRAL BANK

## GUIDELINE OF THE EUROPEAN CENTRAL BANK

of 21 April 2004

amending Guideline ECB/2001/3 on a Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET)

*(ECB/2004/4)*

(2004/501/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty establishing the European Community, and in particular Article 105(2) thereof,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular to Article 3.1, Article 12.1, Article 14.3 and Articles 17, 18 and 22 thereof,

Whereas:

- (1) The fourth indent of Article 105(2) of the Treaty and the fourth indent of Article 3.1 of the Statute empower the European Central Bank (ECB) and the national central banks (NCBs) to promote the smooth operation of payment systems.
- (2) In accordance with Article 22 of the Statute, the ECB and the NCBs may provide facilities to ensure efficient and sound clearing and payment systems within the Community and with other countries.
- (3) Guideline ECB/2001/3 of 26 April 2001 on a Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET) <sup>(1)</sup> should be amended to reflect the following: first, the Governing Council's decision of 24 October 2002 that the NCBs of the ten countries acceding to the European Union on 1 May 2004 should

have the right to connect to TARGET without being obliged to do so; second, changes regarding fees payable in connection with the TARGET Compensation Scheme.

- (4) In accordance with Article 12.1 and Article 14.3 of the Statute, ECB guidelines form an integral part of Community law,

HAS ADOPTED THIS GUIDELINE:

*Article 1***Amending provisions**

Guideline ECB/2001/3 is amended as follows:

1. Article 2 is amended as follows:

the first sentence of paragraph 2 is replaced by the following:

'The RTGS systems of Member States that have not adopted the euro are allowed connection to TARGET in so far as such RTGS systems comply with the minimum common features set out in Article 3 and are able to process the euro as a foreign currency alongside their respective national currency.;

<sup>(1)</sup> OJ L 140, 24.5.2001, p. 72. Guideline as last amended by Guideline ECB/2003/6 (OJ L 113, 7.5.2003, p. 10).

2. with effect from 1 August 2004, Article 8 is amended as follows:
- (a) paragraph 2 is replaced by the following:
- ‘2. Conditions for compensation
- (a) With respect to a sending TARGET participant, a claim for an administration fee and an interest compensation shall be considered if due to a malfunctioning:
- (i) the same day processing of a payment order was not completed;
- or
- (ii) such TARGET participant can show that it had the intention to enter a payment order into TARGET but was unable to do so due to a stop-sending status of a national RTGS system.
- (b) With respect to a receiving TARGET participant, a claim for an administration fee shall be considered if due to a malfunctioning such TARGET participant did not receive a TARGET payment that it was expecting to receive on the day of malfunctioning. In this event a claim for an interest compensation shall also be considered if:
- (i) such TARGET participant had recourse to the marginal lending facility or, if a TARGET participant does not have access to the marginal lending facility, such TARGET participant was left with a debit balance or had a spill-over from intraday credit into overnight credit on its RTGS account at the close of business of TARGET or had to borrow amounts from the respective NCB;
- and
- (ii) either the NCB of the national RTGS system where the malfunctioning occurred (the ‘malfunctioning NCB’) was the receiving NCB, or the malfunctioning occurred so late in the TARGET operating day that it was technically impossible or impracticable for the receiving TARGET participant to have recourse to the money market.’;
- (b) paragraph 3.1(b) is replaced by the following:
- ‘(b) The administration fee shall be determined at EUR 50 for the first payment order not completed on the processing date, and, in case of multiple adjustments, EUR 25 for each of the next four such payment orders and EUR 12,50 for each further such payment order. The administration fee shall be determined by reference to each receiving TARGET participant.’;
- (c) paragraph 3.2 is replaced by the following:
- ‘3.2 Compensation of receiving TARGET participants
- (a) The compensation offer under the TARGET Compensation Scheme shall consist of an administration fee only or an administration fee and an interest compensation.
- (b) The amount of the administration fee shall be as determined under paragraph 3.1(b) and the administration fee shall be determined by reference to each sending TARGET participant.
- (c) The calculation method for the interest compensation as referred to in paragraph 3.1(c) above shall apply, except that the interest compensation shall be based on the difference between the marginal lending rate and the reference rate, and shall be calculated on the amount of the recourse to the marginal lending facility as a result of the malfunctioning.
- (d) With respect to receiving TARGET participants of (i) national RTGS systems of participating Member States that are not counterparties to the Eurosystem monetary policy operations, and (ii) national RTGS systems of non-participating Member States, to the extent that a debit balance or a spill-over from intraday credit into overnight credit or the need to borrow amounts from the respective NCB can be attributed to the malfunctioning, that part of the applicable penalty rate (as stipulated by the applicable RTGS rules in such cases) which is above the marginal lending rate, shall be waived (and disregarded in future cases of spill-over) and for TARGET

participants of national RTGS systems referred to in (ii) above, it shall be ignored for the purpose of access to intraday credit and/or continued participation in the national RTGS system concerned.;

3. Annex I is replaced by the text in the Annex to this Guideline.

*Article 2*

**Entry into force**

This Guideline shall enter into force on 1 May 2004.

*Article 3*

**Addressees**

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

Done at Frankfurt am Main, 21 April 2004.

*For the Governing Council of the ECB*  
*The President of the ECB*  
Jean-Claude TRICHET

ANNEX  
NATIONAL RTGS SYSTEMS

Member State	Name of system	Settlement Agent	Location
<b>Belgium</b>	Electronic Large-value Interbank Payment System (ELLIPS)	Banque Nationale de Belgique/Nationale Bank van België	Brussels
<b>Germany</b>	RTGS <sup>plus</sup>	Deutsche Bundesbank	Frankfurt
<b>Greece</b>	Hellenic Real-time Money Transfer Express System (HERMES)	Bank of Greece	Athens
<b>Spain</b>	Servicios de Liquidación del Banco de España (SLBE)	Banco de España	Madrid
<b>France</b>	Transferts Banque de France (TBF)	Banque de France	Paris
<b>Ireland</b>	Irish Real-time Interbank Settlement System (IRIS)	Central Bank and Financial Services Authority of Ireland	Dublin
<b>Italy</b>	Sistema di regolamento lordo (BIREL)	Banca d'Italia	Rome
<b>Luxembourg</b>	Luxembourg Interbank Payment Systems (LIPS-Gross)	Banque centrale du Luxembourg	Luxembourg
<b>Netherlands</b>	TOP	De Nederlandsche Bank	Amsterdam
<b>Austria</b>	Austrian Real-time Interbank Settlement System (ARTIS)	Oesterreichische Nationalbank	Vienna
<b>Portugal</b>	Sistema de Pagamentos de Grandes Transacções (SPGT)	Banco de Portugal	Lisbon
<b>Finland</b>	Bank of Finland (BoF-RTGS)	Suomen Pankki	Helsinki

## DECISION OF THE EUROPEAN CENTRAL BANK

of 22 April 2004

## on the national central banks' percentage shares in the key for subscription to the European Central Bank's capital

(ECB/2004/5)

(2004/502/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 and in particular Article 29.4 and Article 49.3 thereof,

Having regard to the contribution of the General Council of the European Central Bank (ECB) in accordance with the fourth indent of Article 47.2 of the Statute,

Whereas:

- (1) Decision ECB/2003/17 of 18 December 2003 on the national central banks percentage shares in the key for subscription to the European Central Bank's capital <sup>(1)</sup> laid down with effect from 1 January 2004 the weightings assigned to those national central banks (NCBs) that were part of the European System of Central Banks (ESCB) on 1 January 2004 in the key for subscription to the ECB's capital (hereinafter the 'capital key weightings' and the 'capital key' respectively).
- (2) In view of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union and their respective NCBs becoming part of the ESCB on 1 May 2004, the ECB's subscribed capital should automatically be increased pursuant to Article 49.3 of the Statute. This increase requires the calculation of the capital key weighting of each NCB that is part of the ESCB on 1 May 2004 by analogy with Article 29.1 and in compliance with Article 29.2 of the Statute. The ECB's expanded capital key and each NCB's capital key weighting applies with effect from 1 May 2004.
- (3) In accordance with Council Decision 2003/517/EC of 15 July 2003 on the statistical data to be used for the adjustment of the key for subscription to the capital of the European Central Bank <sup>(2)</sup>, the European Commission provided the ECB with the statistical data to be used in determining the expanded capital key.
- (4) In view of Article 3.3 of the Rules of Procedure of the General Council of the European Central Bank and in view of the General Council's contribution to this Decision, the Governors of Česká národní banka, Eesti Pank, the Central Bank of Cyprus, Latvijas Banka, Lietuvos bankas, Magyar Nemzeti Bank, the Central Bank of Malta, Narodowy Bank

Polski, Banka Slovenije and Národná banka Slovenska had the opportunity to submit observations regarding this Decision prior to its adoption,

HAS DECIDED AS FOLLOWS:

## Article 1

**Rounding**

Where the European Commission provides revised statistical data to be used in expanding the capital key and the figures do not total 100 %, the difference shall be compensated for: (i) if the total is below 100 %, by adding 0,0001 of a percentage point to the smallest share(s) in ascending order until exactly 100 % is reached, or (ii) if the total is above 100 %, by subtracting 0,0001 of a percentage point in descending order from the largest share(s) until exactly 100 % is reached.

## Article 2

**Capital key weightings**

The weighting assigned to each NCB in the capital key described in Article 29 of the Statute shall be as follows with effect from 1 May 2004:

Nationale Bank van België/Banque Nationale de Belgique	2,5502 %
Česká národní banka	1,4584 %
Danmarks Nationalbank	1,5663 %
Deutsche Bundesbank	21,1364 %
Eesti Pank	0,1784 %
Bank of Greece	1,8974 %
Banco de España	7,7758 %
Banque de France	14,8712 %
Central Bank and Financial Services Authority of Ireland	0,9219 %
Banca d'Italia	13,0516 %

<sup>(1)</sup> OJ L 9, 15.1.2004, p. 27.

<sup>(2)</sup> OJ L 181, 19.7.2003, p. 43.

Central Bank of Cyprus	0,1300 %
Latvijas Banka	0,2978 %
Lietuvos bankas	0,4425 %
Banque centrale du Luxembourg	0,1568 %
Magyar Nemzeti Bank	1,3884 %
Central Bank of Malta	0,0647 %
De Nederlandsche Bank	3,9955 %
Oesterreichische Nationalbank	2,0800 %
Narodowy Bank Polski	5,1380 %
Banco de Portugal	1,7653 %
Banka Slovenije	0,3345 %
Národná banka Slovenska	0,7147 %
Suomen Pankki	1,2887 %
Sveriges Riksbank	2,4133 %
Bank of England	14,3822 %

*Article 3***Final provisions**

1. This Decision shall enter into force on 23 April 2004.
2. Decision ECB/2003/17 is hereby repealed with effect from 1 May 2004.

Done at Frankfurt am Main, 22 April 2004.

*The President of the ECB*

Jean-Claude TRICHET

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## DECISION OF THE EUROPEAN CENTRAL BANK

of 22 April 2004

laying down the measures necessary for the paying-up of the European Central Bank's capital by the participating national central banks

(ECB/2004/6)

(2004/503/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

HAS DECIDED AS FOLLOWS:

Having regard to the Statute of the European System of Central Banks and of the European Central Bank and in particular Article 28.3 thereof,

Whereas:

- (1) Decision ECB/2003/18 of 18 December 2003 laying down the measures necessary for the paying-up of the European Central Bank's capital by the participating national central banks <sup>(1)</sup> determined how and to what extent the national central banks (NCBs) of the Member States that have adopted the euro (hereinafter the participating NCBs) should pay up the European Central Bank's (ECB's) capital on 1 January 2004.
- (2) In view of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union and their respective NCBs becoming part of the European System of Central Banks (ESCB) on 1 May 2004, Decision ECB/2004/5 of 22 April 2004 on the national central banks' percentage shares in the key for subscription to the European Central Bank's capital <sup>(2)</sup> establishes with effect from 1 May 2004 the weightings assigned to the participating NCBs in the key for subscription to the ECB's expanded capital (hereinafter the capital key weightings and the capital key respectively).

- (3) The ECB's subscribed capital will be EUR 5564 669247,19 from 1 May 2004.
- (4) The expanded capital key requires the adoption of a new ECB decision repealing Decision ECB/2003/18 with effect from 1 May 2004 and determining how and to what extent the participating NCBs should pay up the ECB's capital on 1 May 2004,

<sup>(1)</sup> OJ L 9, 15.1.2004, p. 29.

<sup>(2)</sup> See page 5 of this Official Journal.

## Article 1

**Extent and form of paid-up capital**

Each participating NCB shall pay up its subscription to the ECB's capital in full on 1 May 2004. Taking into account the capital key weightings described in Article 2 of Decision ECB/2004/5, each participating NCB shall therefore pay up on 1 May 2004 the amount shown next to its name in the following table:

Participating NCB	(EUR)
Nationale Bank van België/Banque Nationale de Belgique	141 910 195,14
Deutsche Bundesbank	1 176 170 750,76
Bank of Greece	105 584 034,30
Banco de España	432 697 551,32
Banque de France	827 533 093,09
Central Bank and Financial Services Authority of Ireland	51 300 685,79
Banca d'Italia	726 278 371,47
Banque centrale du Luxembourg	8 725 401,38
De Nederlandsche Bank	222 336 359,77
Oesterreichische Nationalbank	115 745 120,34
Banco de Portugal	98 233 106,22
Suomen Pankki	71 711 892,59

## Article 2

**Adjustment of paid-up capital**

Each participating NCB has already paid up its share of the ECB's subscribed capital as applicable until 30 April 2004 under Decision ECB/2003/18. In view of this fact, either a participating NCB shall transfer an additional amount to the ECB, or the ECB shall transfer an amount back to a participating NCB, as appropriate, in order to arrive at the amounts shown in the table in Article 1. These transfers shall be made according to the terms and conditions set out in Decision ECB/2004/7 of 22 April 2004 laying down the terms and conditions for transfers of the European Central Bank's capital shares between the national central banks and for the adjustment of the paid-up capital <sup>(3)</sup>.

<sup>(3)</sup> See page 9 of this Official Journal.

Article 3

Done at Frankfurt am Main, 22 April 2004.

**Final provisions**

1. This Decision shall enter into force on 23 April 2004.
2. Decision ECB/2003/18 is hereby repealed with effect from 1 May 2004.

*The President of the ECB*

Jean-Claude TRICHET

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## DECISION OF THE EUROPEAN CENTRAL BANK

of 22 April 2004

## laying down the terms and conditions for transfers of the European Central Bank's capital shares between the national central banks and for the adjustment of the paid-up capital

(ECB/2004/7)

(2004/504/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 and in particular Article 28.5 thereof,

Whereas:

- (1) The adjustment of the weightings assigned to the national central banks (NCBs) in the expanded key for subscription to the European Central Bank's (ECB's) capital (hereinafter the capital key weightings and the capital key respectively) as provided for in Decision ECB/2004/5 of 22 April 2004 on the national central banks' percentage shares in the key for subscription to the European Central Bank's capital <sup>(1)</sup> requires the Governing Council to determine the terms and conditions for transfers of capital shares between the NCBs that are part of the European System of Central Banks (ESCB) on 30 April 2004 in order to ensure that the distribution of these shares corresponds to the adjustments made.
- (2) Česká národní banka, Eesti Pank, the Central Bank of Cyprus, Latvijas Banka, Lietuvos bankas, Magyar Nemzeti Bank, the Central Bank of Malta, Narodowy Bank Polski, Banka Slovenije and Národná banka Slovenska (hereinafter the acceding country NCBs) only become part of the ESCB on 1 May 2004, which means that transfers of capital shares pursuant to Article 28.5 of the Statute do not apply to the acceding country NCBs.
- (3) Decision ECB/2004/6 of 22 April 2004 laying down the measures necessary for the paying-up of the European Central Bank's capital by the participating national central banks <sup>(2)</sup> determines how and to what extent the NCBs of the Member States that have adopted the euro (hereinafter the participating NCBs) should pay up the ECB's capital in view of the expanded capital key. Decision ECB/2004/10 of 23 April 2004 laying down the measures necessary for the paying-up of the European Central Bank's capital by the non-participating national central banks <sup>(3)</sup> determines

the percentage that the NCBs of the Member States that have not adopted the euro on 1 May 2004 (hereinafter the non-participating NCBs) should pay up on 1 May 2004 in view of the expanded capital key.

- (4) The participating NCBs paid up their shares in the ECB's subscribed capital as required under Decision ECB/2003/18 of 18 December 2003 laying down the measures necessary for the paying-up of the European Central Bank's capital by the participating national central banks <sup>(4)</sup>. In view of this fact, Article 2 of Decision ECB/2004/6 states that either a participating NCB should transfer an additional amount to the ECB, or the ECB should transfer an amount back to a participating NCB, as appropriate, in order to arrive at the amounts shown in the table in Article 1 of Decision ECB/2004/6. Likewise, Danmarks Nationalbank, Sveriges Riksbank and the Bank of England paid up their shares in the ECB's subscribed capital as required under Decision ECB/2003/19 of 18 December 2003 laying down the measures necessary for the paying-up of the European Central Bank's capital by the non-participating national central banks <sup>(5)</sup>. In view of this fact, Article 2(1) of Decision ECB/2004/10 states that each of these three NCBs should either transfer an additional amount to the ECB, or receive an amount back from the ECB, as appropriate, in order to arrive at the amounts shown in the table in Article 1 of Decision ECB/2004/10. Article 2(2) of Decision ECB/2004/10 states that each of the acceding country NCBs should transfer to the ECB the amount shown next to its name in the table in Article 1 of the same Decision,

HAS DECIDED AS FOLLOWS:

*Article 1***Transfer of capital shares**

Considering the share in the ECB's capital that each of the participating NCBs, as well as Danmarks Nationalbank, Sveriges Riksbank and the Bank of England, will have subscribed on 30 April 2004 and the share in the ECB's capital that each of these NCBs will subscribe from 1 May 2004 as a consequence of the adjustment of the capital key weightings as described in Article 2 of

<sup>(1)</sup> See page 5 of this Official Journal.

<sup>(2)</sup> See page 7 of this Official Journal.

<sup>(3)</sup> See page 19 of this Official Journal.

<sup>(4)</sup> OJ L 9, 15.1.2004, p. 29.

<sup>(5)</sup> OJ L 9, 15.1.2004, p. 31.

Decision ECB/2004/5, these NCBs shall transfer capital shares among themselves via transfers to and from the ECB to ensure that the distribution of capital shares on 1 May 2004 corresponds to the adjusted weightings. To this effect, each of these NCBs shall, by virtue of this Article and without any further formality or act being required, either transfer or receive on 1 May 2004 the share in the ECB's subscribed capital shown next to its name in the fourth column of the table in Annex I to this Decision, whereby '+' shall refer to a capital share that the ECB shall transfer to the NCB and '-' to a capital share that the NCB shall transfer to the ECB.

#### Article 2

##### **Adjustment of the paid-up capital**

1. Considering the amount of the ECB's capital that each NCB has paid up (if any) and the amount of the ECB's capital that each NCB shall pay up on 1 May 2004, as set out in Article 1 of Decision ECB/2004/6 for the participating NCBs and Article 1 of Decision ECB/2004/10 for the non-participating NCBs respectively, each NCB shall on 3 May 2004 either transfer or receive the net amount (in euro) shown next to its name in the fourth column of the table in Annex II to this Decision, whereby '+A' shall refer to an amount that the NCB shall transfer to the ECB and '-' to an amount that the ECB shall transfer to that NCB.

2. On 3 May 2004, the ECB and the NCBs that are under an obligation to transfer an amount under paragraph 1 shall each separately transfer any interest accruing over the period from 1 May 2004 until 3 May 2004 on the respective amounts due from the ECB and such NCBs under paragraph 1. The transferors and recipients of this interest shall be the same as the transferors and recipients of the amounts on which the interest accrues.

#### Article 3

##### **General provisions**

1. The transfers described in Article 2 shall take place through the Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET).
2. Where an NCB does not have access to TARGET on 3 May 2004, it shall transfer the amounts described in Article 2 on 3 May 2004 by crediting an account that the ECB shall nominate in due time.
3. Any interest accruing under Article 2(2) shall be calculated on a daily basis, using the actual 360-day method of calculation, at a rate equal to the marginal interest rate used by the ESCB in its most recent main refinancing operation.
4. The ECB and NCBs that are under an obligation to make a transfer under Article 2 shall, in due course, give the necessary instructions for duly executing such transfer on time.

#### Article 4

##### **Final provision**

This Decision shall enter into force on 23 April 2004.

Done at Frankfurt am Main, 22 April 2004.

*The President of the ECB*  
Jean-Claude TRICHET

ANNEX I  
NCBs' subscribed capital

(EUR)

	Share subscribed on 30 April 2004	Share subscribed from 1 May 2004	Share to be transferred
<i>Participating NCBs</i>			
Nationale Bank van België/Banque Nationale de Belgique	141 485 000	141 910 195,14	+425 195,14
Deutsche Bundesbank	1 170 200 000	1 176 170 750,76	+5 970 750,76
Bank of Greece	108 070 000	105 584 034,30	-2 485 965,70
Banco de España	439 005 000	432 697 551,32	-6 307 448,68
Banque de France	825 875 000	827 533 093,09	+1 658 093,09
Central Bank and Financial Services Authority of Ireland	51 270 000	51 300 685,79	+30 685,79
Banca d'Italia	728 630 000	726 278 371,47	-2 351 628,53
Banque centrale du Luxembourg	8 540 000	8 725 401,38	+185 401,38
De Nederlandsche Bank	221 615 000	222 336 359,77	+721 359,77
Oesterreichische Nationalbank	115 095 000	115 745 120,34	+650 120,34
Banco de Portugal	100 645 000	98 233 106,22	-2 411 893,78
Suomen Pankki	71 490 000	71 711 892,59	+221 892,59
<i>Non-participating NCBs</i>			
Česká národní banka	0	81 155 136,30	Not applicable
Danmarks Nationalbank	86 080 000	87 159 414,42	+1 079 414,42
Eesti Pank	0	9 927 369,94	Not applicable
Central Bank of Cyprus	0	7 234 070,02	Not applicable
Latvijas Banka	0	16 571 585,02	Not applicable
Lietuvos bankas	0	24 623 661,42	Not applicable
Magyar Nemzeti Bank	0	77 259 867,83	Not applicable
Central Bank of Malta	0	3 600 341	Not applicable
Narodowy Bank Polski	0	285 912 705,92	Not applicable
Banka Slovenije	0	18 613 818,63	Not applicable
Národná banka Slovenska	0	39 770 691,11	Not applicable
Sveriges Riksbank	133 180 000	134 292 162,94	+1 112 162,94
Bank of England	798 820 000	800 321 860,47	+1 501 860,47
Total:	5 000 000 000	5 564 669 247,19	0

ANNEX II  
NCBs' paid-up capital

	Share paid up on 30 April 2004	Share paid up from 1 May 2004	Amount of transfer payment (EUR)
<i>(EUR)</i>			
<i>Participating NCBs</i>			
Nationale Bank van België/Banque Nationale de Belgique	141 485 000	141 910 195,14	+425 195,14
Deutsche Bundesbank	1 170 200 000	1 176 170 750,76	+5 970 750,76
Bank of Greece	108 070 000	105 584 034,30	-2 485 965,70
Banco de España	439 005 000	432 697 551,32	-6 307 448,68
Banque de France	825 875 000	827 533 093,09	+1 658 093,09
Central Bank and Financial Services Authority of Ireland	51 270 000	51 300 685,79	+30 685,79
Banca d'Italia	728 630 000	726 278 371,47	-2 351 628,53
Banque centrale du Luxembourg	8 540 000	8 725 401,38	+185 401,38
De Nederlandsche Bank	221 615 000	222 336 359,77	+721 359,77
Oesterreichische Nationalbank	115 095 000	115 745 120,34	+650 120,34
Banco de Portugal	100 645 000	98 233 106,22	-2 411 893,78
Suomen Pankki	71 490 000	71 711 892,59	+221 892,59
<i>Non-participating NCBs</i>			
Česká národní banka	0	5 680 859,54	+5 680 859,54
Danmarks Nationalbank	4 304 000	6 101 159,01	+1 797 159,01
Eesti Pank	0	694 915,90	+694 915,90
Central Bank of Cyprus	0	506 384,90	+506 384,90
Latvijas Banka	0	1 160 010,95	+1 160 010,95
Lietuvos bankas	0	1 723 656,30	+1 723 656,30
Magyar Nemzeti Bank	0	5 408 190,75	+5 408 190,75
Central Bank of Malta	0	252 023,87	+252 023,87
Narodowy Bank Polski	0	20 013 889,41	+20 013 889,41
Banka Slovenije	0	1 302 967,30	+1 302 967,30
Národná banka Slovenska	0	2 783 948,38	+2 783 948,38
Sveriges Riksbank	6 659 000	9 400 451,41	+2 741 451,41
Bank of England	39 941 000	56 022 530,23	+16 081 530,23
Total:	4 032 824 000	4 089 277 550,12	+56 453 550,12

## DECISION OF THE EUROPEAN CENTRAL BANK

of 22 April 2004

laying down the measures necessary for the contribution to the European Central Bank's accumulated equity value, for adjusting the national central banks claims equivalent to the transferred foreign reserve assets, and for related financial issues

(ECB/2004/8)

(2004/505/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 and in particular Article 30 thereof,

Whereas:

- (1) In view of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union and their respective national central banks (NCBs) becoming part of the European System of Central Banks (ESCB) on 1 May 2004, the weightings assigned to the NCBs of the Member States that have adopted the euro (hereinafter the participating NCBs) in the ECB's capital key (hereinafter the capital key weightings and the capital key respectively) shall be adjusted, as provided for in Decision ECB/2004/5 of 22 April 2004 on the national central banks' percentage shares in the key for subscription to the European Central Bank's capital <sup>(1)</sup>.
- (2) This adjustment also results in the need to adjust the claims which the ECB has credited under Article 30.3 of the Statute to the participating NCBs and which are equivalent to the participating NCBs' contributions of foreign reserve assets to the ECB (hereinafter the claims).
- (3) Those participating NCBs whose claims increase due to the expansion of the capital key on 1 May 2004 should therefore effect a compensatory transfer to the ECB, while the ECB should effect a compensatory transfer to those participating NCBs whose claims decrease due to this expansion.
- (4) The limit on the amount of foreign reserve assets that may be transferred to the ECB will be EUR 55 646 692 471,89 from 1 May 2004.
- (5) In accordance with the general principles of fairness, equal treatment and the protection of legitimate expectations underlying the Statute, those participating NCBs whose relative share in the ECB's accumulated equity value

increases due to the abovementioned adjustments should also effect a compensatory transfer to those participating NCBs whose relative share decreases.

- (6) The respective capital key weightings of each participating NCB until 30 April 2004 and from 1 May 2004 should be expressed as a percentage of the ECB's total capital as subscribed to by all participating NCBs for the purpose of calculating the adjustment of the value of each participating NCB's share in the ECB's accumulated equity value,

HAS DECIDED AS FOLLOWS:

*Article 1*

**Definitions**

For the purposes of this Decision:

- (a) the 'accumulated equity value' shall mean the total of the ECB's reserves, revaluation accounts and provisions equivalent to reserves as calculated by the ECB on 30 April 2004, plus or minus the ECB's calculated accumulated net profit or loss, as the case may be, from 1 January 2004 until 30 April 2004 after including the undistributed ECB's income on euro banknotes accrued for the month of April 2004, but excluding the ECB's income on euro banknotes in the first quarter of 2004 that has already been distributed to the NCBs. The ECB's reserves and those provisions equivalent to reserves shall include, without limitation to the generality of the 'accumulated equity value', the general reserve fund and the provisions equivalent to reserves for valuation losses with respect to foreign exchange rates and market prices;
- (b) the 'transfer date' shall mean 19 May 2004;
- (c) the 'ECB's income on euro banknotes' shall have the same meaning as the term 'ECB's income on euro banknotes in circulation' as defined in Article 1(d) of Decision ECB/2002/9 of 21 November 2002 on the distribution of the income of the European Central Bank on euro banknotes in circulation to the national central banks of the participating Member States <sup>(2)</sup>.

<sup>(1)</sup> See page 5 of this Official Journal.

<sup>(2)</sup> OJ L 323, 28.11.2002, p. 49.

*Article 2***Contribution to the ECB's reserves and provisions**

1. If a participating NCB's share in the accumulated equity value increases due to the increase in its capital key weighting on 1 May 2004, such an NCB shall transfer the amount determined pursuant to paragraph 3 to the ECB on the transfer date.
2. If a participating NCB's share in the accumulated equity value decreases due to the decrease in its capital key weighting on 1 May 2004, such an NCB shall receive the amount determined pursuant to paragraph 3 from the ECB on the transfer date.
3. The ECB shall, on or before 14 May 2004, calculate and confirm to each participating NCB either the amount to be transferred by that NCB to the ECB where paragraph 1 applies, or the amount which that NCB shall receive from the ECB where paragraph 2 applies. Subject to rounding, each amount to be transferred or received shall be calculated by multiplying the accumulated equity value by the absolute difference between each participating NCB's capital key weighting on 30 April 2004 and its capital key weighting from 1 May 2004 and dividing the result by 100.
4. Each amount described in paragraph 3 shall be due in euro on 1 May 2004 but shall be effectively transferred on the transfer date.
5. On the transfer date, a participating NCB or the ECB having to transfer an amount under paragraph 1 or paragraph 2 shall also separately transfer any interest accruing over the period from 1 May 2004 until the transfer date on each of the respective amounts due from such participating NCB and the ECB. The transferors and recipients of this interest shall be the same as the transferors and recipients of the amounts on which the interest accrues.
6. If the accumulated equity value is less than zero, the amounts that have to be transferred or received under paragraph 3 and paragraph 5 shall be settled in the opposite directions to those specified in paragraph 3 and paragraph 5.

*Article 3***Adjustment of the claims equivalent to the transferred foreign reserve assets**

1. The participating NCBs' claims shall be adjusted on 1 May 2004 in accordance with their adjusted capital key weightings. The value of the participating NCBs' claims from 1 May 2004 is shown in the third column of the table in the Annex to this Decision.

2. Each participating NCB shall, by virtue of this provision and without any further formality or act being required, be considered to have either transferred or received on 1 May 2004 the absolute value of the claim (in euro) shown next to its name in the fourth column of the table in the Annex to this Decision, whereby '-' shall refer to a claim that the NCB shall transfer to the ECB and '+' to a claim that the ECB shall transfer to the NCB.

3. On 3 May 2004, each participating NCB shall either transfer or receive the absolute value of the amount (in euro) shown next to its name in the fourth column of the table in the Annex to this Decision, whereby '+' shall refer to an amount that the NCB shall transfer to the ECB and '-' to an amount that the ECB shall transfer to the NCB.

4. On 3 May 2004, the ECB and the participating NCBs that are under an obligation to transfer amounts under paragraph 3 shall also separately transfer any interest accruing over the period from 1 May 2004 until 3 May 2004 on the respective amounts due from the ECB and such NCBs. The transferors and recipients of this interest shall be the same as the transferors and recipients of the amounts on which the interest accrues.

*Article 4***Related financial issues**

1. In derogation from the third subparagraph of Article 2(1) of Decision ECB/2001/16 of 6 December 2001 on the allocation of monetary income of the national central banks of participating Member States from the financial year 2002<sup>(1)</sup>, the intra-Eurosystem balances on euro banknotes in circulation shall, for the period from 1 May 2004 until 31 May 2004, be calculated on the basis of the expanded capital key applicable from 1 May 2004 applied to balances on the total euro banknotes in circulation on 30 April 2004. The average rate of return, as described in Article 3(3) Decision ECB/2001/16, shall be calculated separately for the period from 1 January 2004 until 30 April 2004 and for the period from 1 May 2004 until 31 December 2004. For the period from 1 May 2004 until 31 December 2004, the compensatory amounts and the accounting entries to balance those amounts, as described in Article 4(3) of Decision ECB/2001/16, shall be recorded in the books of each NCB with a value date of 1 May 2004. In derogation from the third sentence of Article 5(1) of Decision ECB/2001/16, the ECB shall inform the NCBs of the amounts of cumulative monetary income relating to the period from 1 January 2004 to 30 April 2004 on a four-monthly basis and relating to the period from 1 May 2004 to 30 June 2004 on a two-monthly basis.

2. In relation to the period from 1 January 2004 until 30 April 2004, the NCBs' pooled monetary income, the remuneration on the NCBs' claims equivalent to the foreign reserve assets transferred to the ECB and the remuneration on the intra-Eurosystem balances on euro banknotes in circulation shall be allocated and distributed in accordance with the capital key weightings applicable on 30 April 2004. The ECB's income on euro banknotes for the first quarter of 2004 shall be allocated in accordance with

<sup>(1)</sup> OJ L 337, 20.12.2001, p. 55. Decision as amended by Decision ECB/2003/22 (OJ L 9, 15.1.2004, p. 39).

the capital key weightings applicable on 30 April 2004, and for the second quarter of 2004 in accordance with the capital key weightings applicable from 1 May 2004.

3. The ECB's net profit or loss, as the case may be, for the financial year 2004 shall be allocated on the basis of the capital key weightings applicable from 1 May 2004.

4. If at the end of 2004 the ECB calculates that it is likely to make an overall loss for the financial year 2004, or if its likely net profit is lower than the amount of the ECB's income on euro banknotes earned during the year, the ECB shall retain the ECB's income on euro banknotes for the fourth quarter of 2004. Depending on the size of any estimated loss, the ECB shall also require the reversal of part or all of any interim distributions of the ECB's income on euro banknotes earned in the third, second and first quarters of 2004, in that order, until such loss is covered. In the event that the ECB makes a loss in the financial year 2004 and the ECB's income on euro banknotes earned during the financial year 2004 is insufficient to cover such loss, the ECB shall offset the loss against the following:

- (a) funds released from the ECB's general reserve fund;
- (b) subject to a decision of the Governing Council under Article 33 of the Statute, the NCBs' pooled monetary income from 1 May 2004 until 31 December 2004;
- (c) subject to a decision of the Governing Council under Article 33 of the Statute, the NCBs' pooled monetary income from 1 January 2004 to 30 April 2004.

5. If any part of the distributed ECB's income on euro banknotes for the first quarter of 2004 needs to be repaid pursuant to paragraph 4 and if the NCBs' pooled monetary income from 1 January 2004 until 30 April 2004 needs to be transferred back to the ECB, compensatory payments in addition to the payments described in Article 2 and Article 3 shall be made. Each participating NCB whose capital key weighting increases on 1 May 2004 shall make such a payment to the ECB, and the ECB shall make such a payment to each participating NCB whose capital key weighting decreases on 1 May 2004. The amount of the compensatory payments shall be calculated as follows. The total repayable ECB's income on euro banknotes for the first quarter of 2004 shall be multiplied by the absolute difference between the participating NCB's capital key weighting on 30 April 2004 and its capital key weighting on 31 December 2004 and the result shall be divided by 100. The total retransferable monetary income for the period from 1 January 2004 until 30 April 2004 shall be multiplied by the absolute difference between the participating

NCB's capital key weighting on 30 April 2004 and its capital key weighting on 31 December 2004 and the result shall be divided by 100. Interest shall accrue on the compensatory payments relating to the NCBs' pooled monetary income from 1 January 2005 until the payment date of these payments.

6. The additional compensatory payments relating to the ECB's income on euro banknotes as described in paragraph 5 shall be paid on 4 January 2005. The additional compensatory payments relating to the NCBs' pooled monetary income as described in paragraph 5, as well as the interest accrued thereon, shall be paid on the second working day after the second Governing Council meeting held in March 2005.

#### Article 5

#### General provisions

1. The interest accruing under paragraph 5 of Article 2, paragraph 4 of Article 3 and paragraph 5 of Article 4 shall be calculated on a daily basis, using the actual 360-day method of calculation, at a rate equal to the marginal interest rate used by the ESCB in its most recent main refinancing operation.

2. Each transfer pursuant to paragraphs 1, 2 and 5 of Article 2, paragraphs 3 and 4 of Article 3 and paragraphs 5 and 6 of Article 4 shall take place separately through the Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET).

3. The ECB and the participating NCBs that are under an obligation to effect any of the transfers referred to in paragraph 2 shall, in due course, give the necessary instructions for duly executing such transfers on time.

#### Article 6

#### Final provision

This Decision shall enter into force on 23 April 2004.

Done at Frankfurt am Main, 22 April 2004.

*The President of the ECB*  
Jean-Claude TRICHET

## ANNEX

## Claims equivalent to the foreign reserve assets transferred to the ECB (\*)

(EUR)

Participating NCB	Claim equivalent to the foreign reserve assets transferred to the ECB, on 30 April 2004	Claim equivalent to the foreign reserve assets transferred to the ECB, from 1 May 2004	Amount of transfer
Nationale Bank van België/Banque Nationale de Belgique	1 414 850 000	1 419 101 951,42	+4 251 951,42
Deutsche Bundesbank	11 702 000 000	11 761 707 507,63	+59 707 507,63
Bank of Greece	1 080 700 000	1 055 840 342,96	-24 859 657,04
Banco de España	4 390 050 000	4 326 975 513,23	-63 074 486,77
Banque de France	8 258 750 000	8 275 330 930,88	+16 580 930,88
Central Bank and Financial Services Authority of Ireland	512 700 000	513 006 857,90	+306 857,90
Banca d'Italia	7 286 300 000	7 262 783 714,66	-23 516 285,34
Banque centrale du Luxembourg	85 400 000	87 254 013,80	+1 854 013,80
De Nederlandsche Bank	2 216 150 000	2 223 363 597,71	+7 213 597,71
Oesterreichische Nationalbank	1 150 950 000	1 157 451 203,42	+6 501 203,42
Banco de Portugal	1 006 450 000	982 331 062,21	-24 118 937,79
Suomen Pankki	714 900 000	717 118 925,89	+2 218 925,89
Total:	39 819 200 000	39 782 265 621,70	-36 934 378,30

(\*) Due to rounding, totals may not correspond to the sum of all figures shown.

**DECISION OF THE EUROPEAN CENTRAL BANK**  
**of 22 April 2004**  
**amending Decision ECB/2001/15 of 6 December 2001 on the issue of euro banknotes**  
**(ECB/2004/9)**  
**(2004/506/EC)**

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty establishing the European Community and in particular Article 106(1) thereof, and to the Statute of the European System of Central Banks and of the European Central Bank and in particular Article 16 thereof,

Having regard to Decision ECB/2001/15 of 6 December 2001 on the issue of euro banknotes <sup>(1)</sup>,

Whereas:

- (1) In view of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union and their respective national central banks becoming part of the European System of Central Banks (ESCB) on 1 May 2004, Decision ECB/2004/5 of 22 April 2004 on the national central banks' percentage shares in the key for subscription to the European Central Bank's capital <sup>(2)</sup> lays down with effect from 1 May 2004 the new weightings assigned to the national central banks (NCBs) in the key for subscription to the European Central Bank's (ECB's) capital.
- (2) Article 1(d) of Decision ECB/2001/15 defines the 'banknote allocation key' by reference to the Annex to Decision ECB/2001/15, which specifies the key applying from

1 January 2004. Decision ECB/2001/15 needs to be amended accordingly in order to determine the banknote allocation key applying from 1 May 2004,

HAS DECIDED AS FOLLOWS:

*Article 1*

**Amendment to Decision ECB/2001/15**

Decision ECB/2001/15 is amended as follows:

1. the final sentence of Article 1(d) is replaced by the following:  
‘The Annex to this Decision specifies the banknote allocation key applying from 1 May 2004.’;
2. the Annex to Decision ECB/2001/15 is replaced by the text set out in the Annex to this Decision.

*Article 2*

**Final provision**

This Decision shall enter into force on 1 May 2004.

Done at Frankfurt am Main, 22 April 2004.

*The President of the ECB*  
Jean-Claude TRICHET

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<sup>(1)</sup> OJ L 337, 20.12.2001, p. 52. Decision as amended by Decision ECB/2003/23 (OJ L 9, 15.1.2004, p. 40).

<sup>(2)</sup> See page 5 of this Official Journal.

## ANNEX

**Banknote allocation key from 1 May 2004**

European Central Bank	8,0000 %
Nationale Bank van België/Banque Nationale de Belgique	3,2820 %
Deutsche Bundesbank	27,2000 %
Bank of Greece	2,4415 %
Banco de España	10,0065 %
Banque de France	19,1375 %
Central Bank and Financial Services Authority of Ireland	1,1865 %
Banca d'Italia	16,7960 %
Banque centrale du Luxembourg	0,2020 %
De Nederlandsche Bank	5,1415 %
Oesterreichische Nationalbank	2,6765 %
Banco de Portugal	2,2715 %
Suomen Pankki	1,6585 %
TOTAL	100,0000 %

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## DECISION OF THE EUROPEAN CENTRAL BANK

of 23 April 2004

## laying down the measures necessary for the paying-up of the European Central Bank's capital by the non-participating national central banks

(ECB/2004/10)

(2004/507/EC)

THE GENERAL COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank and in particular Article 48 thereof,

Whereas:

(1) Decision ECB/2003/19 of 18 December 2003 laying down the measures necessary for the paying-up of the European Central Bank's capital by the non-participating national central banks<sup>(1)</sup>, determined the percentage of the subscription to the European Central Bank's (ECB's) capital which the national central banks (NCBs) of the Member States that would not have adopted the euro on 1 January 2004 should pay up on 1 January 2004 as a contribution to the ECB's operational costs.

(2) In view of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union and their respective NCBs becoming part of the European System of Central Banks (ESCB) on 1 May 2004, Decision ECB/2004/5 of 22 April 2004 on the national central banks' percentage shares in the key for subscription to the European Central Bank's capital<sup>(2)</sup> establishes with effect from 1 May 2004 the weightings assigned to each NCB that is part of the ESCB on 1 May 2004 in the key for subscription to the ECB's capital (hereinafter the capital key weightings and the capital key respectively).

(3) The ECB's subscribed capital will be EUR 5 564 669 247,19 from 1 May 2004.

(4) The expanded capital key requires the adoption of a new ECB decision repealing Decision ECB/2003/19 with effect from 1 May 2004 and determining the percentage of the subscription to the ECB's capital which the NCBs of the Member States that will not have adopted the euro by 1 May 2004 (hereinafter the non-participating NCBs) should pay up on 1 May 2004.

(5) In view of Article 3.3 of the Rules of Procedure of the General Council of the European Central Bank, the Governors of Česká národní banka, Eesti Pank, the Central Bank of Cyprus, Latvijas Banka, Lietuvos bankas, Magyar Nemzeti Bank, the Central Bank of Malta, Narodowy Bank Polski, Banka Slovenije and Národná banka Slovenska had the opportunity to submit observations regarding this Decision prior to its adoption,

HAS DECIDED AS FOLLOWS:

## Article 1

## Extent and form of paid-up capital

Each non-participating NCB shall pay up 7 % of its subscription to the ECB's capital on 1 May 2004. Taking into account the capital key weightings described in Article 2 of Decision ECB/2004/5, each non-participating NCB shall therefore pay up on 1 May 2004 the amount shown next to its name in the following table:

(EUR)	
Non-participating NCBs	
Česká národní banka	5 680 859,54
Danmarks Nationalbank	6 101 159,01
Eesti Pank	694 915,90
Central Bank of Cyprus	506 384,90
Latvijas Banka	1 160 010,95
Lietuvos bankas	1 723 656,30
Magyar Nemzeti Bank	5 408 190,75
Central Bank of Malta	252 023,87
Narodowy Bank Polski	20 013 889,41
Banka Slovenije	1 302 967,30
Národná banka Slovenska	2 783 948,38
Sveriges Riksbank	9 400 451,41
Bank of England	56 022 530,23

<sup>(1)</sup> OJ L 9, 15.1.2004, p. 31.

<sup>(2)</sup> See page 5 of this Official Journal.

*Article 2***Adjustment of the paid-up capital**

1. Danmarks Nationalbank, Sveriges Riksbank and the Bank of England have already paid up 5 % of their share in the ECB's subscribed capital as applicable until 30 April 2004 under Decision ECB/2003/19. In view of this, each of them shall either transfer an additional amount to the ECB, or receive an amount back from the ECB, as appropriate, in order to arrive at the amounts shown in the table in Article 1.

2. Each of the other non-participating NCBs shall transfer to the ECB the amount shown next to its name in the table in Article 1.

3. All transfers pursuant to this Article shall be made according to the terms and conditions set out in Decision ECB/2004/7 of 22 April 2004 laying down the terms and conditions for transfers of the European Central Bank's capital shares between the

national central banks and for the adjustment of the paid-up capital <sup>(1)</sup>.

*Article 3***Final provisions**

1. This Decision shall enter into force on 23 April 2004.

2. Decision ECB/2003/19 is hereby repealed with effect from 1 May 2004.

Done at Frankfurt am Main, 23 April 2004.

*The President of the ECB*  
Jean-Claude TRICHET

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<sup>(1)</sup> See page 9 of this Official Journal.