



**EUROPEAN CENTRAL BANK**

**OPINION OF THE EUROPEAN CENTRAL BANK**

**at the request of the Luxembourg Minister of Finance under Articles 109l (2) and 109f (6) of the Treaty establishing the European Community and Article 5.3 of the Statute of the European Monetary Institute on draft regulations by the “Institut belgo-luxembourgeois du change” on the recording of foreign payments and on the establishment of the balance of payments**

1. On 15 September 1998 the European Central Bank (ECB) received a request from the Luxembourg Minister of Finance for an ECB Opinion on draft regulations by the “Institut belgo-luxembourgeois du change” (hereinafter referred to as “IBLC”) on the recording of foreign payments and on the establishment of the balance of payments (hereinafter referred to as the “Draft Regulations”).
2. In accordance with Article 109l(2) of the Treaty establishing the European Community (hereinafter referred to as the “Treaty”), the ECB has taken over the advisory functions of the European Monetary Institute (EMI), which went into liquidation upon the establishment of the ECB on 1 June 1998. The ECB’s competence to deliver an opinion is based on Article 1.1, third indent, of the Council Decision (93/717/EC) of 22 November 1993 on the consultation of the EMI by the authorities of the Member States on draft legislative provisions, as the Draft Regulations contain provisions concerning the collection, compilation and dissemination of monetary, financial, banking and balance of payments statistics. In accordance with Article 17.5, first sentence, of the Rules of Procedure of the ECB, this ECB Opinion has been adopted by the Governing Council of the ECB.
3. The ECB notes that the objective of the Draft Regulations is to update the existing regulations of the IBLC regarding the collection of the statistical information necessary for the production of the balance of payments of the Belgian-Luxembourg Economic Union and the current account of Luxembourg.

4. The ECB welcomes the Draft Regulations since the definitions and classification principles given in the proposed Draft Regulations are compliant with the IMF Balance of Payments Manual (5<sup>th</sup> edition) released in October 1993 and the harmonisation proposals defined by the EMI. This relates in particular to the residence criterion, the principles underlying the classification of the resident entities, and the breakdown by instruments. At the same time, the ECB would like to put forward the following important technical points.
5. In Draft Regulation L3, the definitions for a “paiement avec l'étranger” and for the “pays de la contrepartie non résidente” might be confusing. It is understood that the reporting of payments between residents, which are neither to be compiled within the balance of payments nor in the international investment position, may be requested for checking purposes. Nonetheless, it should be stressed that the corresponding data must be clearly isolated from those recorded in the statistics (see neutral codes in Annex 1 to proposed Draft Regulation L3).
6. In Annex 1 of proposed Draft Regulation L3, options are included amongst portfolio investment, while other derivatives are recorded in another chapter, which is not fully compliant with the agreed harmonisation proposals on derivatives and might also be confusing. It has to be stressed that, since a change in international standards as defined by the IMF may be made in the near future, derivatives may soon have to be isolated as a separate item of the financial account.
7. No specific information is requested in Draft Regulation L2 regarding transactions of Monetary Financial Institutions with their branches and subsidiaries abroad. This should not reduce the ability of the IBLC to identify transactions between direct investors and direct investment enterprises, as requested in Chapter 18 of the 5<sup>th</sup> edition of the IMF Balance of Payments Manual.
8. Article 15 of Draft Regulation L2 makes a special case of holding companies that follow the rules of the law of 31 July 1929. This special treatment is welcome as long as it allows the correct identification and recording of transactions with non-residents by this category of institutions.
9. The annex of Draft Regulation L2 is not exactly identical to the annex of the Kingdom of Belgium's Regulation B2. In particular, commercial loans are not distinguished, which may give rise to difficulties in establishing the quarterly breakdown on instruments (including trade credits) as requested by the EMI's report entitled “Statistical Requirements for Stage Three of Monetary

Union – Implementation Package” (July 1996), hereinafter referred to as “the Implementation Package”, approved by the ECB Governing Council in September 1998.

10. Although the Implementation Package does not request any country breakdown, it states this question is not resolved yet, as regards the quarterly and annual balance of payments. In accordance with recent discussions on this topic, the ECB would be in favour of leaving open the possibility to request this kind of information from reporting agents. Draft Regulation L1 states in its article 5 that residents will have to report this type of information to the credit institution in charge of the payments, and Draft Regulation L2, article 7 paragraph 2 requests this information from credit institutions for their own transactions. However, it is noted that the information which credit institutions should report on their own assets and liabilities, as described in Article 17 of Draft Regulation L2, does not include such a country breakdown.
  
11. The classification of the Monetary Financial Institutions (hereinafter referred to as “MFIs”) is important not only due to their role in the collection system in Luxembourg, but also for the sectoral breakdown requested for the quarterly and annual balance of payments and for the annual international investment position. The classification must comply with the definition of MFIs for statistical purposes and the criteria set out in Annex 4 of the General Documentation on ESCB monetary policy instruments and procedures published by the ECB in September 1998. A list of MFIs for statistical purposes is now available for information on the ECB’s internet site. In this regard, the branch of the National Bank of Belgium in Luxembourg will no longer exist as from the end of December 1998, which may be mentioned in the Draft Regulations. Financial services of Post and Telecommunications should not be considered as MFIs, but as part of the General Government sector. The sectoral breakdown (including the MFIs) applies to portfolio investment and other investment in the financial account. Moreover, the MU/non-MU split for direct investment abroad and for portfolio investment (assets and liabilities) is also a major requirement for the ECB’s “monthly key items”. The ECB is pleased to note that the economic and sectoral classifications given in Annex 1 and 2 to the proposed Draft Regulation L3 appear to be compliant with both requirements on sectoral breakdown and MU/non-MU split.
  
12. The ECB is pleased to note that the timeliness required (Draft Regulation L1 article 5 paragraph 7, Draft Regulation L2 article 4 paragraph 1, Draft Regulation L4 article 3, Draft Regulation L5 article 5) is fully compliant with the deadlines described in the Implementation Package, approved

by the ECB Governing Council last September, for monthly, quarterly and annual balance of payments as well as for the annual international investment position.

13. Article 2 of Draft Regulation L4 states that individual answers to the survey are not to be disseminated outside the IBLC and the “Service Central de la Statistique et des Etudes Economiques” (STATEC). This should not prejudice the possibility for the ECB to be communicated information made available to these institutions, under the conditions prescribed by Community law.
14. Finally, the ECB notes that, as opposed to the project submitted recently by the Kingdom of Belgium, no mention has been made of the possibility of enforcing adequate verification. Such a regulation would in the view of the ECB be a useful means of ensuring the quality of the reporting on balance of payments transactions.
15. The ECB confirms that it has no objection to this ECB Opinion being made public by the competent national authorities at their discretion.

Done at Frankfurt am Main on 5 November 1998.

The President of the ECB

[signed]

Willem F. Duisenberg