



EUROPEAN CENTRAL BANK

OPINION OF THE EUROPEAN CENTRAL BANK

**at the request of the Ministry of the Economy, Finance and Industry of the French Republic
under Articles 109l (2) and 109f (6) of the Treaty establishing the European Community and**

Article 1.1, second indent, of the Council Decision 93/717/EC

on a draft Decree modifying the Decree of 3 December 1993 on the Banque de France

CON/98/62

1. On 14 December 1998 the European Central Bank (ECB) received a request from the Ministry of the Economy, Finance and Industry of the French Republic for an ECB Opinion on a draft Decree modifying the Decree of 3 December 1998 on the Banque de France (hereinafter referred to as the “Draft Decree”).
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, second 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 Decree contains provisions concerning the status and powers of the Banque de France and the instruments of monetary policy. 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 understands that the Draft Decree is intended to change the provisions of Decree No. 93-1278 of 3 December 1993, implementing the Law on the Statute of the Banque de France, and, more precisely, the provisions of *Title III – Budgetary and Internal Finance* and *Title IV – Accounting regime of the Banque de France*. The modifications introduced by the Draft Decree are essentially of a technical nature (accounting regime) or repeal legal acts which will no longer be valid after the start of the third stage of Economic and Monetary Union.

4. The ECB welcomes the Draft Decree, which will establish the legal regime for a modified accounting regime of the Banque de France, taking into account general accounting and reporting regime of the European System of Central Banks (ESCB).
5. The ECB understands that Articles 1 and 4 of the Draft Decree involve only changes in references made in the Decree of 3 December 1993 to the Article of the Law on the Statute of the Banque de France referring to the agreement signed between the Banque de France and the State for the management of the foreign reserves of the State. These modifications are the result of amendments made in the articles of the Statute of the Banque de France concerning this agreement (Law of 12 May 1998). They do not entail any modifications to the substance of the previous text.
6. The ECB welcomes Article 2 of the Draft Decree, which (i) deletes the reference previously made to Article 16, first indent, of the French Code of Commerce, which states that French companies shall produce their financial statements in French francs and in French language; (ii) states the obligation for the Banque de France to establish its financial statements in euro and in French language; and (iii) deletes any reference to sub-divisions of the item “own funds” in the balance sheet of the Banque de France.
7. The ECB welcomes Article 3 of the Draft Decree, which explicitly takes into account the submission of the accounting regime of the Banque de France to the mandatory accounting and valuation rules of the ESCB. Operations other than those which are regulated by mandatory rules adopted by the ECB will still be regulated according to the new legal regime implemented in France in the field of accounting (Law of 6 April 1998, which created the Committee for Accounting Regulations, vested with regulatory powers). The Banque de France also has the option of deciding upon adopting non-mandatory accounting rules of the ESCB.
8. The ECB understands that Article 5 of the Draft Decree is a purely technical provision deleting the provision contained in the previous Decree concerning the date of its entry into force.
9. The ECB welcomes Article 6 of the Draft Decree, which states that the independent external auditors of the Banque de France shall be appointed by the General Council of the Banque de France in accordance with the relevant provisions of Article 27.1 of the Statute of the European System of Central Banks and of the European Central Bank (hereinafter referred to as the “Statute”).

10. The ECB takes note that Article 7 of the Draft Decree is not related to accounting matters. Article 7 repeals Article 13 of the Decree of 24 July 1984, which vested the Banque de France with the power to enter into an agreement to delegate to the *Institut d'émission des départements d'outre-mer* (IEDOM) and to the *Institut d'émission d'outre-mer* (IEOM) the power to define a system of minimum reserves. The ECB recalls that, according to the Treaty, for those territories which are part of the Community, the Banque de France will no longer have any power to delegate to the IEDOM, given the fact that the power to impose a minimum reserves system will have been transferred to the Community in accordance with the Treaty. The ECB takes note that, for those territories which are not part of the Community, the Banque de France will no longer be vested with the power to delegate to the IEOM the power to impose a minimum reserve system. The ECB concludes that, from 1 January 1999, the imposition of the minimum reserve system defined by the Governing Council of the ECB, in accordance with the Treaty, will be implemented by the Banque de France in those territories of the French Republic in which the IEDOM was previously delegated by the Banque de France the power to define and implement a minimum reserve system.

The ECB takes note that the definition and implementation of a minimum reserves system to credit institutions located outside the Community, which was previously delegated to the IEOM, does not fall within the field of competence of the ECB, as long as it does not conflict with the provisions of the Statute.

11. The ECB understands that Article 8 of the Draft Decree is a purely technical provision deleting the provision of the previous Decree on the publication in the Official Journal of the French Republic of decisions of the governing bodies of the Banque de France concerning the minimum reserve system and the features of new banknotes issued by the Banque de France.
12. 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 30 December 1998.

The President of the ECB

[signed]

Willem F. Duisenberg