

DECISIONS

DECISION (EU) 2016/1734 OF THE EUROPEAN CENTRAL BANK

of 21 September 2016

amending Decision ECB/2013/54 on the accreditation procedures for manufacturers of euro secure items and euro items (ECB/2016/25)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 128(1) thereof,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular Article 12.1, Article 16 and Article 34.3 thereof,

Whereas:

- (1) Article 128(1) of the Treaty and Article 16 of the Statute of the European System of Central Banks and of the European Central Bank provide that the European Central Bank (ECB) has the exclusive right to authorise the issue of euro banknotes within the Union. This right includes the competence to take measures to protect the integrity of euro banknotes as a means of payment and in doing so to also have the possibility to amend the scope of such competence from time to time so that the means available for ensuring the integrity of euro banknotes remain appropriate.
- (2) In order to ensure the integrity of euro banknotes, accredited manufacturers are therefore subject to continuing obligations in Decision ECB/2013/54 ⁽¹⁾. Certain continuing obligations should be amended following the practical experience gained after the entry into force of Decision ECB/2013/54.
- (3) Measures that might affect an accredited manufacturer's accreditation status, including the transfer or assignment of an existing accreditation, should be allowed where the ECB has given its prior written consent to such a measure. The obligation to inform the ECB about changes of ownership structure should be limited to cases where such a change of ownership structure may directly or indirectly enable an entity involved in the intended change of ownership structure to gain access to confidential information.
- (4) In addition, the Executive Board should be put in a position to implement economic sanctions in the field of Common Foreign and Security Policy and to take into consideration sanctions imposed under international agreements. Likewise other relevant instruments may be taken into account such as UN Security Council resolutions.
- (5) Therefore Decision ECB/2013/54 should be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Amendment

Article 12 of Decision ECB/2013/54 is replaced by the following:

'Article 12

Continuing obligations of accredited manufacturers

1. An accredited manufacturer shall keep the substantive requirements confidential.

⁽¹⁾ Decision ECB/2013/54 of 20 December 2013 on the accreditation procedures for manufacturers of euro secure items and euro items and amending Decision ECB/2008/3 (OJ L 57, 27.2.2014, p. 29).

2. An accredited manufacturer shall provide the ECB, for the relevant manufacturing site, with a copy of the relevant certificate referred to in Article 4(3) each time any such certificate is renewed or changed within three months from the relevant date of continuation or change. An accredited manufacturer shall immediately inform the ECB in writing if any of the certificates referred to in Article 4(3) are revoked.

3. An accredited manufacturer shall immediately inform the ECB in writing if it intends to carry out any of the following acts:

- (a) change any of the arrangements at the relevant manufacturing site after accreditation has been granted in any way that affects, or may affect, compliance with the relevant accreditation requirements, including changes to the details referred to in Article 5(2)(a) to (d);
- (b) transfer or assign its accreditation to a third party, including any of its subsidiaries and associated companies;
- (c) change its ownership structure, where such change of ownership structure may directly or indirectly enable an entity involved in the intended change of the ownership structure to gain access to confidential information such as substantive requirements for which the accredited manufacturer is required to safeguard confidentiality under applicable ECB legal acts or under contractual obligations vis-à-vis the ECB, one or more NCBS or one or more accredited manufacturers;
- (d) initiate a procedure for the winding-up of the manufacturer or any analogous procedure;
- (e) reorganise its business or structure in any way that might affect the activity for which accreditation has been granted;
- (f) subcontract or involve third parties, other than the accredited manufacturer's employees, in a euro items activity or euro secure activity for which the manufacturer has accreditation, regardless of whether the subcontracting or involvement of third parties in a euro items activity or euro secure activity is to be carried out at the relevant manufacturing site or at another site;
- (g) outsource or transfer any part of the euro secure activity or euro items activity or any euro secure items or euro items to a third party, including the manufacturer's subsidiaries and associated companies.

4. An accredited manufacturer may only involve a third party, including any of the accredited manufacturer's subsidiaries and associated companies, in the activities referred to in points (f) and (g) of paragraph 3 under the condition that the third party has been granted accreditation or provisional accreditation in accordance with Article 2. The third party shall confirm in writing to the ECB in the initiation request for a provisional accreditation if it intends to carry out the euro secure activity or the euro items activity without changes to any of the arrangements at the relevant manufacturing site for which the ECB has granted the transferring or assigning accredited manufacturer an accreditation or provisional accreditation. In this case, the ECB may limit its assessment of the initiation request to an assessment of the information and documentation provided by the manufacturer in the written confirmation, unless major non-compliance with the relevant substantive requirements at the relevant manufacturing site has been detected during inspections of the relevant manufacturing site and has not yet been remedied.

5. The ECB's prior written consent shall be required before an accredited manufacturer carries out any of the acts listed in paragraph 3. The Executive Board may refuse to grant the ECB's prior written consent, or may grant the ECB's prior written consent only under the condition that restrictions or obligations to act are complied with by the requesting entity or entities, in the following situations.

- (a) Where it has reasonable doubts about the requesting entity or entities' compliance with any relevant accreditation requirement.
- (b) Where an entity which is involved in the intended activity is (i) located in a third state which is not a Member State of the Union or a Member State of the European Free Trade Association, or (ii) located in a Member State of the Union or of the European Free Trade Association but whose conduct of business is controlled, via ownership, partial ownership or other means of direct or indirect control, by entities based outside a Member State of the Union or of the European Free Trade Association. When taking a decision on granting consent, the

Executive Board shall take into consideration whether the act for which consent is sought could be seen as in conflict with sanctioning regimes possibly affecting the involved entity, such as:

- (i) any decision or regulation of the Council of the European Union on economic sanctions in the field of Common Foreign and Security Policy or an expressed aim or the intention of such a decision or regulation;
- (ii) any obligation of the Member States which is provided for in directly applicable Union legal acts to implement economic sanctions in the field of Common Foreign and Security Policy;
- (iii) any international agreement which has been approved by the legislative bodies of the Union or of all Member States whose currency is the euro.

Restrictions and obligations to act shall be limited in nature and scope to the extent necessary to achieve the objective stated in the Executive Board's decision. They shall be framed in a manner which intervenes as little as possible in the freedom to carry out economic activity. The Governing Council shall be notified immediately of any decision of the Executive Board to refuse the ECB's prior written consent or to grant the ECB's prior written consent only under the condition that restrictions or obligations to act are complied with by the requesting entity or entities.

The Executive Board shall be entitled to sub-delegate the power to grant the ECB's written consent to the ECB's operational level in cases where all relevant accreditation requirements are complied with and no entity which is involved in the intended activity is located outside the European Union or the European Free Trade Association.

6. An accredited manufacturer shall immediately inform the ECB in writing if it carries out any of the acts referred to under paragraph 3, regardless of whether the ECB's prior written consent has been granted, or if any of the following events occurs:

- (a) commencement of any procedure for the winding-up of the manufacturer or any analogous procedure;
- (b) commencement of any procedure for the reorganisation of the manufacturer in any way that might affect the activity for which accreditation has been granted;
- (c) appointment of a liquidator, receiver, administrator or similar officer in relation to the manufacturer; or
- (d) the lapse of an uninterrupted period of 34 months since its last production.

7. An accredited manufacturer with provisional accreditation shall immediately inform the ECB when it receives an official order to produce from another accredited manufacturer, an NCB or the ECB, so that relevant inspections can take place as soon as possible. The notification shall include information about the official order to produce and the planned start and end date of production.

8. An accredited manufacturer with a provisional accreditation shall provide the ECB with the information on environmental, health and safety aspects as required in the relevant substantive requirements.

9. If an accredited manufacturer is a printing works, it shall arrange for the conduct of analysis on the chemical substances of finished euro banknotes and shall report to the ECB in accordance with the relevant environmental, health and safety requirements.'

Article 2

Final provisions

This Decision shall take effect on the day of its notification to the addressees.

It shall apply from 1 November 2016.

*Article 3***Addressees**

This Decision is addressed to manufacturers of euro secure items and euro items and to the national central banks of Member States whose currency is the euro, whenever the latter perform stock-checks, checks on destruction or checks on transport.

Done at Frankfurt am Main, 21 September 2016.

The President of the ECB
Mario DRAGHI
