



EUROPEAN CENTRAL BANK

OPINION OF THE EUROPEAN CENTRAL BANK

at the request of the Spanish Ministry of Economy on a draft law of modification of

Law 46/1998, on the introduction of the euro

CON/00/22

1. On 5 September 2000 the European Central Bank (ECB) has received a request from the Spanish Ministry of Economy for an opinion on a draft law amending Law 46/1998, on the introduction of the euro (hereinafter the “Draft Law”).
2. The ECB’s competence to deliver an opinion on the Draft Law is based on Article 2 (1), first indent, of the Council Decision (98/415/EC) of 29 June 1998 on the consultation of the ECB by the authorities of the Member States on draft legislative provisions, as the legislative proposal contains provisions concerning currency matters. In accordance with Article 17.5, first sentence, of the Rules of Procedure of the European Central Bank, this ECB Opinion has been adopted by the Governing Council of the ECB.
3. The Draft Law is purported to amend Law 46/1998 on the introduction of the euro (hereinafter “Law 46/1998”). Law 46/1998 deals with the introduction of the euro and therefore concerns currency matters which fall within the consultative competence of the ECB under the aforementioned provisions. The ECB has already given its opinion at the request of the Spanish Ministry of Economy and Finance on the Law 46/1998 on 21 July 1998 (CON/98/31) (hereinafter the “Opinion on Law 46/1998”). The Draft Law now submitted is equally subject to the opinion of the ECB for the same reasons that applied to the Law 46/1998 that it modifies. This opinion must be read in the light of Opinion on Law 46/1998.
4. The amendments proposed by the Draft Law concern (i) the shortening of the period during which banknotes and coins denominated in national currency units shall remain legal tender after the transitional period, as defined by Article 1 of Council Regulation 974/98 of 3 May 1998 on the introduction of the euro (hereinafter the “Council Regulation”),¹ and their replacement by euro banknotes and coins (Articles 1, 2 and 3 of the Draft Law); and (ii) the

¹ OJ L 139, 11.5.1998, p. 1-5.

empowering of the Ministry of Economy and Finance to adopt all necessary measures regarding both the front-loading of euro banknotes and coins and the optimal implementation of the Law 46/1998 concerning the period of exchange (Article 4 of the Draft Law).

5. Article 1 of the Draft Law modifies Article 2, paragraph 2 of Law 46/98 reducing to two months after the end of the transitional period the time during which banknotes and coins denominated in pesetas may circulate simultaneously as legal tender with banknotes and coins denominated in euro, that is, until 28 February 2000 (as opposed to the previous 6 months – i.e. until 30 June 2002). Article 2 of the Draft Law gives a new wording to paragraph 1 of Article 24 of Law 46/98 in order to ensure that banknotes and coins denominated in pesetas may be exchanged against euro banknotes and coins until 30 June 2002, free of charge and according to the conversion rates, at the Banco de España and at Credit Institutions as defined under paragraph 2 of Article 24 of Law 46/98. In so far as the exchange after 1 July 2002 is concerned, Article 3 of the Draft Law modifies Article 25 of Law 46/1998. This new provision maintains the obligation of Banco de España, with the exclusion of credit institutions, to exchange banknotes and coins denominated in national currency units against euro banknotes and coins after the aforementioned date and provides that such exchange will be done in accordance with the general rounding rules contained in Article 11 of Law 46/1998.
6. Finally, Article 4 of the Draft Law adds two new indents to the Second Final Article of Law 46/1998 which empower the Minister of Economy (i) to enact all rules necessary for the frontloading of limited quantities of banknotes and coins before 1 January 2002 with the aim of facilitating the transition to the new currency; and (ii) to enact all necessary rules to ensure the best implementation of the provisions of Law 46/1998 concerning the period of exchange.
7. The Draft Law constitutes the exercise by the Kingdom of Spain of its prerogative under paragraph 1 of Article 15 of the Council Regulation,² to decide on a shortening of the period when banknotes and coins denominated in national currency units may circulate as legal tender in its national territory after the end of the transitional period as defined in Article 1 of the Council Regulation. As such, the ECB welcomes the proposed amendments as they are in line with the initiatives adopted by all other participating Member States and since they will contribute to an earlier general circulation of the new euro banknotes and coins. The assessment is therefore positive, and no major inconsistencies or problems are to be mentioned. The ECB would, however, like to note that as the proposed amendments stand, credit institutions referred to under paragraph 2 of Article 24 of Law 46/1998, will remain under the obligation to exchange banknotes and coins denominated in pesetas against euro banknotes and coins, free of

² Paragraph 1 of Article 15 of Council Regulation reads: “Banknotes and coins denominated in a national currency unit as referred to in Article 6(1) shall remain legal tender within their territorial limits until six months after the end of the transitional period at the latest; this period may be shortened by national law”

charge, until 30 June 2002, even though banknotes and coins denominated in pesetas will cease to be legal tender as from 28 February 2002. This solution is very much appreciated by the ECB as it guarantees citizens and undertakings a reasonable period to effectuate the exchange.

8. In relation to the article 4 of the Draft Law, in view of the possibility that the decision-making bodies of the ESCB adopt rules concerning some aspects of the frontloading exercise by National Central Banks and in order to guarantee consistency between the actions of all public actors involved, the ECB recommends the addition of a sentence in the proposed new indent c) of Second Final Article of Law 46/1998 to the effect that, when adopting the necessary measures to ensure the frontloading of banknotes denominated in euro, the Minister of Economy should act consistently with the acts adopted by the Banco de España in the exercise of its role within the ESCB.
9. Finally, the ECB requests that it be consulted with respect to any royal decree and/or ministerial order to be enacted pursuant to the Law 46/1998, as eventually amended by the proposed Draft law.
10. The ECB confirms that it has no objection to the publication of this opinion at the discretion of the consulting authority.

Done at Frankfurt am Main on 5 October 2000.

The President of the ECB

[signed]

Willem F. Duisenberg