



EUROPEAN CENTRAL BANK

**OPINION OF THE EUROPEAN CENTRAL BANK****of 18 December 2002****at the request of the French Minister of Economy, Finance and Industry  
on a draft law on financial security****(CON/2002/32)**

1. On 13 November 2002 the European Central Bank (ECB) received a request from the French Ministry of Economy, Finance and Industry for an opinion on certain aspects of a draft law on financial security (the draft law). The provisions of the draft law submitted for consultation by the French authorities together with the statement of reasons deals with the modernisation of supervisory authorities (Title 1) and the security of savers and insured persons (Title 2).
2. The ECB's competence to deliver an opinion is based on Article 105(4) of the Treaty establishing the European Community and on the second, third, fourth, fifth and sixth indents of Article 2(1) of Council Decision 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions<sup>1</sup>. The French authorities refer in particular, in the consultation letter, to the sixth indent of Article 2(1) of Decision 98/415/EC which concerns the rules applicable to financial institutions "in so far as they materially influence the stability of financial institutions". The second, third, fourth and fifth indents of Article 2(1) should also be mentioned since certain provisions of the draft law affect a national central bank, and/or concern statistics, means of payment and payment and settlement systems. Although the ECB does not need to be consulted on the implementation of Community directives, some of the provisions of the draft law that intend to amend the French Monetary and Financial Code (the Code) in respect of e-money institutions affect means of payment and payment systems. As a consequence, this opinion also relates to these provisions. In accordance with the first sentence of Article 17(5) of the Rules of Procedure of the European Central Bank, the Governing Council of the ECB has adopted this opinion.
3. A large part of the draft law relates to the modernisation of the French financial institutional framework (Title 1 of the draft law). This involves mainly the creation of the Financial Markets Authority - Autorité des marchés financiers - (AMF), as a result of the merger of the functions currently divided amongst the Commission des opérations de bourse (COB), the Conseil des marchés financiers (CMF) and the Conseil de discipline de la gestion financière (CDGF). This part

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<sup>1</sup> OJ L 189, 3.7.1998, p. 42.

of the draft law also deals *inter alia* with the reinforcement of cooperation between the Banking Commission and the Insurance Commission, the simplification of advisory procedures in the field of banking, insurance and financial regulation and with emergency situations in the context of financial markets.

4. This opinion focuses primarily on these amendments as well as on some proposed changes included in Title 2 of the draft law which concern in particular the rules applying to money market instruments and to custody account keepers of financial instruments. Certain aspects of the implementation of the E-money Directive and a proposed amendment to the Statute of the Banque de France are also considered in the present opinion.

**A. The creation of the Financial Markets Authority (AMF)**

5. The ECB welcomes the plans to modernise the French financial authorities and to simplify the French institutional and legal framework for financial regulation. The ECB welcomes in particular the intention of the French authorities to create the AMF, mainly as a result of the merger of the functions currently divided amongst the Commission des opérations de bourse (COB), the Conseil des marchés financiers (CMF) and the Conseil de discipline de la gestion financière (CDGF).
6. The AMF, as an independent administrative authority and a legal person governed by administrative law, will have a *sui generis* status similar to that of the Banque de France. This authority will be mainly composed of a college of 16 representatives and of an entirely separate Sanctions Committee. The ECB welcomes the participation of the Banque de France as a full member in the college of the AMF, the composition of which will offer an appropriate balance between representatives of the public authorities and of the market. In the ECB's view, the draft law should however ensure that the members appointed by the Minister for the College and the Sanctions Committee effectively cover the whole spectrum of market participants, i.e. issuers, financial intermediaries, market undertakings, individual and institutional investors but also representatives of market infrastructure. The ECB also welcomes the entitlement of some representatives of the Banque de France to participate, where required, in the specific ad hoc commissions set up by the College and that the AMF will have the possibility to receive Banque de France staff.
7. As regards the missions and functions of the AMF, they are wide since the authority will be responsible for the protection of savings invested in financial instruments and all other investments giving rise to public offerings, investor information and the smooth functioning of markets for financial instruments. Without prejudice to the respective powers of the Banking Commission and of the Banque de France, the AMF will regulate the operation of the markets placed under its control, the persons making public offerings, as well as the persons who, by reason of their professional activity, are involved in operations relating to financial instruments invested by public offerings, or the persons who provide individual or collective portfolio management services and

the collective investment undertakings that they manage. The ECB notes that an important element of modernisation and simplification of the French legal framework in the field of financial regulation will be the adoption by the AMF, for the fulfilment of its tasks, of a single General Regulation which will combine the COB Regulations and the CMF General Regulation and complement the provisions of the Monetary and Financial Code (legislative and regulatory parts). This General Regulation will be adopted by the College of the AMF and endorsed by the Minister of the Economy. It will govern the functioning of the markets under the control of the AMF as well as the persons making public offerings, take-over bids, business conduct rules and other professional obligations. It will also incorporate rules applicable to investment services providers, market undertakings, clearing houses and their members, and the management activities performed on behalf of third parties and collective investments. The General Regulation will also establish the legal framework applicable to custody account keeping services of financial instruments (see below), central depositories and settlement systems of financial instruments (without prejudice to the powers of the Banque de France in this area under Article L.141-4 of the Code).

8. The General Regulation of the AMF will govern regulated markets of financial instruments and financial instruments markets, other than regulated markets. The draft law introduces therefore a legal basis for the regulation of the Alternative Trading System, the current CMF General Regulation being silent on the possibility to “regulate” non-regulated markets. The ECB understands that this provision anticipates to a certain extent the proposal for a directive of the European Parliament and of the Council on investment services and regulated markets adopted by the European Commission on 19 November 2002<sup>2</sup> which “recognises the emergence of a new generation of organised trading systems alongside regulated markets which should be subjected to obligations designed to preserve the efficient and orderly functioning of financial markets”.
9. The ECB notes that the prior consultation of the Banque de France will not be required for the AMF General Regulation since a representative of the Banque de France appointed by the Governor will be a full member of the college of the AMF. However, the ECB recommends retaining, as is currently the case, the possibility for the Banque de France to adopt opinions and recommendations on the General Regulation where the Banque de France is specifically concerned.
10. In respect of investigation powers, the AMF, in line with the current CMF powers, as provided in Article L.622-9 of the Code, will ensure, by carrying out on the spot inspections of documents, that clearing houses for financial instruments *inter alia* comply with applicable legislative and regulatory provisions. This applies also, under the draft law, to the operators of settlement systems for financial instruments. The ECB observes that Article 10 of the draft law (amending Article L.621-9 of the Code) specifies that these two provisions apply without prejudice to the powers conferred upon the Banque de France under Article L.141-4 of the Code.

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<sup>2</sup> amending Council Directives 85/611/EEC and 93/6/EEC and European Parliament and Council Directive 2000/12/EC, COM(2002) 625 final

11. The statement of reasons notes that cooperation and understanding between the banking and financial authorities constitute a prerequisite for an efficient regulation of the financial sector. To this end, the French authorities point out that the AMF and the banking authorities (including the Banque de France and the Banking Commission) will have to conclude a protocol to establishing the cooperation and information exchange mechanisms in the areas where legally conferred powers are shared by these authorities or where they share an interest. This concerns for instance the supervision of custody account keepers for financial instrument and of members of clearing houses, the activity programmes of investment services providers and the surveillance of the negotiable debt securities market (see below). The ECB welcomes the fact that the reform of financial authorities foreseen by the draft law provides the opportunity to clarify the powers of the different financial authorities. To the extent this Protocol will affect some Banque de France and Eurosystem functions (for instance, in respect of clearing and settlement systems of financial instruments), the ECB would appreciate having the possibility to provide comments before the Protocol is formally adopted.
12. Article 2 of the draft law amending Article L.621.1 of the Code provides that one of the tasks of the AMF will be to contribute to establishing European and international regulation of these markets. According to the statement of reasons, the purpose of this provision is to recall that the AMF acts in an international context and that this authority will actively participate in European or international fora such as the CESR, IOSCO or the Financial Stability Forum. The ECB welcomes this provision in so far as it legally acknowledges the European and international role to be played by the AMF. More generally, in line with the recommendations of the Report of the Committee of Wise Men on the regulation of the European securities markets of 15 February 2001, the creation of a single authority for financial markets, such as the AMF, contributes to the convergence of regulatory and supervisory structures identified by the Committee of Wise Men as a key condition for the success of the Lamfalussy approach to integrated EU financial markets.
13. Lastly, the ECB proposes that the draft law provide for information sharing between the AMF and central banks, including the national central banks of the ESCB and the ECB, for the purpose of the performance of their respective tasks. First, the exchange of information with the central banks of the Eurosystem involves a cross-border dimension that is not yet acknowledged in the relevant provisions of the Code. Second, information conveyed to a central bank of the Eurosystem may be shared among the central banks of the Eurosystem. Therefore, a provision could be included in the draft law allowing the AMF to share information with central banks, including the national central banks of the ESCB and the ECB for the purpose of the performance of their respective tasks. This proposal is consistent with Article 12(1) of the Directive on the supplementary supervision of financial conglomerates<sup>3</sup> and with Article 54(6) of the proposal for a directive of the European

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<sup>3</sup> See Common Position (EC) No 52/2002 of 12 September 2002 adopted by the Council [...] with a view to adopting a directive of the European Parliament and of the Council on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate, OJ C 253 E, 22.10.2002, p. 1. The Directive was adopted at second reading by the European Parliament on 20 November 2002.

Parliament and of the Council on investment services and regulated markets (ISD) adopted by the European Commission on 19 November 2002<sup>4</sup>.

**B. Reinforcement of the cooperation between the Banking Commission and the Insurance Commission and other institutional changes**

14. The ECB welcomes the reinforcement, within the draft law, of the existing cooperation between the Banking Commission and the Insurance Commission. In particular, Article L.613-3 of the Code will be amended to include the Chairman of the Insurance Commission as a member of the Banking Commission. In addition, the Code will provide that the Banking Commission and the Insurance Commission will meet at least twice a year, and, to the extent necessary, discuss topics of common interest. The ECB understands that a Charter of Cooperation was concluded between the two authorities on 24 October 2001 which notably allows their respective experts to take joint supervisory initiatives, in particular as regards on-site inspections. It also provides them with the possibility of sharing staff and information. For instance, a joint working group was recently established to study in particular the impact of credit derivatives on financial stability. This reinforced cooperation is also in line with the recent legislative and institutional developments at EU level, such as the abovementioned Directive on the supplementary supervision of financial conglomerates and the recent final Report of the Economic and Financial Committee on financial regulation, supervision and stability of 28 November 2002<sup>5</sup> which recommends a strengthened cross-sectoral activity amongst competent authorities, as a prerequisite for the preservation of financial stability.
15. As regards the CECEI<sup>6</sup>, a Committee chaired by the Governor of the Banque de France, Chairman of the Banking Commission (and including in particular the Director of the Treasury and the Chairman of the AMF), the ECB understands that its composition and core functions are not substantially affected by the draft law. The CECEI will continue to grant (and withdraw when necessary) licenses to credit institutions and investment firms (including custody-account keepers of financial instruments). In addition, some amendments are introduced concerning the role of this Committee in relation to certain types of companies providing e-money services (see H below) and to the activity programmes of investment services providers.

**C. Simplification of the banking, insurance and financial regulation advisory procedures**

16. The ECB welcomes the provisions of the draft law that will simplify the banking, insurance and financial regulation advisory procedures. It welcomes in particular the creation of two advisory

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<sup>4</sup> COM(2002) 625 final.

<sup>5</sup> EFC/ECFIN/598/02.

<sup>6</sup> Comité des établissements de crédit et des entreprises d'investissement.

Committees, i.e. the Advisory Committee on the Financial Sector (CCSF) and the Advisory Committee on Financial Legislation and Regulation (CCLRF), since they will contribute to clarifying the French institutional framework in the financial sector for market operators in France and abroad. They will also increase the functional convergence between the different areas of the financial sector (banking, insurance and investment services sectors).

17. First, the Advisory Committee of the Financial Sector (CCSF) will be common to the banking, insurance and investment services sectors, taking into account the increasing convergence of issues in these sectors. This Committee composed of industry and consumer representatives will study relationships between companies and users and perform the functions currently exercised by the Conseil national du crédit et du titre (CNCT), the Comité consultatif (Advisory Committee) and the Commission consultative de l'assurance (Advisory Insurance Commission). It will adopt opinions and recommendations of a general nature.

Second, the Advisory Committee of Financial Legislation and Regulation (CCLRF) will replace the Comité de la réglementation bancaire et financière (CRBF) and the Conseil national des assurances (CNA). According to Article 22 of the draft law, this Committee will be consulted by the Minister of Economy and Finance on any draft law or ordinance as well on any every proposal for a Community directive dealing with issues related to banking, insurance and investment services. In addition, draft decrees and ministerial orders in these areas will only be adopted after consultation of the CCLRF. The Minister of the Economy and Finance, the Banque de France, the CECEI, the Banking Commission, the Advisory Committee of the Financial Sector, the AMF and some insurance authorities may make referrals to the CCLRF for this purpose. In case of a negative opinion, draft decrees or ministerial orders can only be adopted once a second deliberation of the Committee has taken place at the request of the Minister. The draft law provides that a decree will establish the composition, the conditions of appointment of the CCLRF members and the Committee's rules.

18. In the statement of reasons, the French authorities provide some additional information on the possible content of the decree envisaged in respect of the CCLRF. This Committee would be composed in a similar manner to the CRBF (including a representative of the Governor of the Banque de France, Chairman of the Banking Commission), except that it would include representatives from the insurance and investment services sectors, depending on the matters examined by the Committee. As for the CRBF, the Chairman will be the Minister of Economy, or his representative, with a casting vote.
19. The scope of intervention of the CCLRF will be wider since it will cover banking, insurance and investment services sectors. Moreover, as mentioned above, the Committee will not only examine ministerial orders and decrees but also regulations, draft laws and proposed Community directives. However, unlike the CRBF, the new Committee does not have regulatory powers and its powers are only of an advisory nature. The Minister of Economy will be directly in charge of banking and financial regulation in the areas mentioned in Article L.611-2 of the Code, without prejudice to the

missions conferred upon the ESCB in accordance with Article 105(2) of the Treaty (and not Article 106(2) of the Treaty, as mentioned in the Code). Since the CCLRF (in which the Banque de France should participate) will be consulted on any draft provisions related to the financial sector, the consulting authority might wish to consider involving this Committee in contributing to ensuring the implementation of the abovementioned Council Decision 98/415/EC.

#### **D. Emergency measures relating to financial markets**

20. Article L.621-7-1 of the Code, once amended by the draft law, will provide that, in case of the AMF's incapacity to act, emergency measures required by circumstances will be adopted by a decree. This provision mirrors an existing similar provision of the Code regarding the CMF. The ECB understands that this provision aims to provide the French authorities with the powers to adopt emergency measures in relation to financial markets should the AMF be unable to act. Since the proposed provision is included in the Section of the Code on the powers of the AMF, some of which, as mentioned above, are shared with the Banque de France in relation to Eurosystem activities (for instance, regarding clearing and settlement systems of financial instruments)<sup>7</sup>, the attention of the French authorities is drawn to the recommendations contained in the ECB Opinion of 31 October 2002<sup>8</sup> concerning the possibility for Member States to adopt emergency measures for the financial markets. In the interests of clarification, the abovementioned draft provision could be amended as follows: "In case of (...) and without prejudice to the powers of the Banque de France in particular in the context of ESCB activities (...)".

#### **E. Rules on money market instruments**

21. A reform of the French rules applying to negotiable debt securities (TCN), as last amended in 1998<sup>9</sup>, is under way, comprising in particular the amendment by the draft law of certain provisions of the Code concerning TCN and aiming to further increase the competitiveness of the TCN market and facilitate conditions of issuance.
22. As regards the rules on the organisation and supervision of the TCN market, the ECB notes that the French authorities intend to clarify within the Code the respective roles and functions of the AMF and of the Banque de France. For instance, Article L.213-4 of the Code, as amended, will provide that the financial documentation is to be submitted to the Banque de France which is in charge of ensuring that issuers comply with the conditions of issuance provided for in Article L.213-3 of the Code. Although there is no express provision in the draft law, the ECB understands that, under the

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<sup>7</sup> See in this respect Article L.141-4 of the Code, as amended by MURCEF law n°2001-1168 of 11 December 2001 regarding urgent measures of an economic and financial nature.

<sup>8</sup> ECB Opinion CON/2002/27 regarding a draft Finnish Act on emergency powers.

<sup>9</sup> See in this respect the ECB opinion of 4 September 1998, CON/98/40 on a draft decree on the modernisation of the regulation of negotiable certificates of deposit, commercial paper and medium-term notes

new provisions on negotiable debt securities envisaged by the French authorities, the AMF, as for the debt securities markets, will be empowered in particular to ensure the surveillance of financial information continuously without having to deliver any visa, and the compliance of operators with business conduct rules. Moreover, as mentioned above, the surveillance of the TCN market should be part of the joint exercise to be undertaken respectively by the AMF and the Banque de France in the context of the adoption of the protocol between the two authorities. The ECB welcomes this clarification which should ultimately benefit TCN issuers, investors and other market participants.

23. Under the draft law, the applicable provisions contained in the Code (and in particular Articles L.213-2 and L.213-4 of the Code) will also be amended to relax the applicable language regime and to provide the possibility for issuers, under certain circumstances, to submit financial documentation in a language customary in the sphere of finance other than French. Moreover, the current obligation imposed on TCN issuers to prove two years of existence will be repealed. The ECB welcomes these amendments since they should open the market to a wider range of issuers and contribute to a further integration of short-term securities markets in Europe.
24. The ECB understands that some amendments to Decree n°92-137 of 13 February 1992 (which are not part of the present consultation) are envisaged by the French authorities. If the amendments to the Decree and any related regulation fall within the scope of the abovementioned Council Decision, the ECB would be available to provide its comments on the matter.

#### **F. Rules relating to custody account keeping of financial instruments**

25. At present, the French legislation refers to custody account keeping services of financial instruments in Article L.622-7 of the Code which provides that the CMF General Regulation deals with the conditions for the authorisation of custody account keepers of financial instruments. The French authorities clarify in the draft law, within a specific and autonomous chapter of the Code (Article 33 of the draft law), the nature of the persons likely to be authorised to exercise such activity, i.e. corporate issuers making public offerings, French financial institutions subject to prudential supervision (credit institutions, investment firms or institutions such as La Poste), and “pure” custody account keepers of financial instruments, assimilated to investment firms, licensed by the CECEI, respectively supervised by the AMF for business conduct rules and by the Banking Commission for their management standards. Foreign legal persons (credit institutions, investment firms and custody account keepers) would be authorised to provide such services provided that the provisions applicable to them in their home country in terms of exercise of the activity and of supervision are equivalent to the rules applicable in France. The conditions will be specified in the AMF General Regulation. The statement of reasons indicates that this differentiated treatment of EEA providers compared to French providers is justified by the absence of harmonisation of such services in Europe.

26. Under Directives 2000/12/EC and 93/22/EEC, EEA credit institutions and investment firms which were granted a licence in their home country and are entitled to provide custody account keeping financial instrument services are not subject to any additional licensing requirements under the law of the host country. It is noted, however, that the abovementioned proposal for a directive of the European Parliament and of the Council on investment services and regulated markets (ISD) adopted by the European Commission on 19 November 2002 considers safekeeping and administration of financial instruments for the account of clients (including custodianship and related services such as cash/collateral management) as “ancillary/non-core” services. Moreover, according to Article 5 of the proposal (“Scope of authorisation”), the “European passport” is not granted solely for the provision of ancillary services. The ECB notes that this situation currently prevails in the context of the existing ISD<sup>10</sup>.
27. The ECB acknowledges that the legal framework for the provision of custody account keeping services of financial instruments is not harmonised at European level. In France, the rules are detailed and binding, thus providing market participants with a high level of security. The ECB shares the view that, from a systemic perspective, custodians are a key component of the securities settlement chain and that the financial soundness stemming from a set of detailed rules may also play an important role in respect of the constitution and realisation of collateral. Therefore, the ECB believes that efforts for further harmonisation, possibly with a view to establishing minimum common standards (for instance in terms of business practices, capital adequacy, performance requirements) and an adequate legal framework should be pursued by the relevant fora to ensure a level playing field throughout Europe while further increasing confidence in the securities settlement chain.

#### **G. Issue of electronic money, payment systems and money laundering**

28. The draft law introduces some amendments to the Code in respect of e-money institutions. The ECB understands in this respect that most of the provisions of the Directives on electronic money<sup>11</sup> were recently implemented by a Regulation of the CRBF n°2002-13 of 21 November 2002 relating to electronic money and electronic money institutions<sup>12</sup>.
29. The provisions of the draft law amending Article L.511-7 II of the Code intend to implement Article 8(1)(b) and (c) of Directive 2000/46/EC (the Directive) which allows Member States to waive the application of the Directive in certain defined cases. The waiver contained in Article 8 of

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<sup>10</sup> Council Directive 93/22/EEC of 10 May 1993 on investment services in the securities field, OJ L 141, 11.6.1993, p. 27, Annex, Section C.

<sup>11</sup> Directive 2000/28/EC of the European Parliament and of the Council of 18 September 2000 amending Directive 2000/12/EC relating to the taking up and pursuit of the business of credit institutions, OJ L 275, 27.10.2000, p. 37; Directive 2000/46/EC of the European Parliament and of the Council of 18 September 2000 on the taking up, pursuit of and prudential supervision of the business of electronic money institutions, OJ L 275, 27.10. 2000, p. 39.

<sup>12</sup> The CRBF Regulation has not yet been endorsed by a formal approval of the Ministry of the Economy, which will determine its entry into force and its publication.

Directive provides a derogation from the main provisions of the Directive which are intended to ensure sound and prudent operations and in particular the financial integrity of electronic money institutions. In this respect, the ECB had the opportunity to indicate, in a recent opinion on a draft Finnish Act<sup>13</sup>, that, in the interest of the smooth functioning of the payments systems as well as for monetary policy reasons in general, it would favour a more restrictive use of the waiver.

30. First, the ECB observes that the CECEI will be empowered to grant exemptions from credit institution licensing to those institutions fulfilling the conditions of Article 8(1)(b) and (c), as implemented under French law. According to the draft law, companies issuing electronic money who benefit from the waiver would as a consequence not be regarded as credit institutions. In this respect, the ECB would like to recall that Article 1(4) of the Directive provides that Member States must prohibit persons or undertakings that are not credit institutions from issuing electronic money. Furthermore, the Council's common position concerning the Directive<sup>14</sup> stated that even though the Member States have the option to waive the application of some or all of the provisions of the Directive and the application of Directive 2000/12/EC, this does not affect the nature of the institutions concerned; they remain credit institutions, as defined in Article 1, point 1, first subparagraph of Directive 2000/12/EC<sup>15</sup>. In addition, the entitlement of monetary authorities to impose minimum reserve requirements is not affected. The question of which types of institution are regarded as credit institutions is important in the context of the ESCB's operations and for credit institutions' access to central banks' payments systems as well as to the standing facilities, as they are instruments of Community monetary policy.
31. Second, the draft law authorises the CECEI to grant the above exemption "unless it considers this to be incompatible with the payment systems". The reference to payment systems in this provision of the draft law is, in the view of the ECB, relatively unclear. The ECB understands, however, that this provision intends to specify that the CECEI would grant such exemption unless it considers this to be incompatible with the security of means of payment. In addition, this provision is to be assessed in the context of the protection granted by the Settlement Finality Directive<sup>16</sup> to credit institutions as participants in a system.
32. Third, and subject to the above reservation, the ECB notes that these "exempted" institutions (which do not have the status of credit institutions) will however be subject to obligations to declare any suspicion under Article L.562-1 of the Code.

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<sup>13</sup> See ECB Opinion CON/2002/1 of 4 January 2002 at the request of the Finnish Ministry of Finance on a draft proposal concerning the revision of the Credit Institution Act.

<sup>14</sup> Common Position (EC) No 8/2000 adopted by the Council on 29 November 1999 with a view to the adoption of Directive 2000/46/EC of the European Parliament and of the Council on the taking up, pursuit and prudential supervision of the business of electronic money institutions (including the statement of Council's reasons), OJ C 26, 28.1.2000, p. 1.

<sup>15</sup> Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions, OJ L 126, 26.5.2000, p. 1.

<sup>16</sup> Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems, EC OJ 1166 of 11 June 1998, p. 45.

**H. Discontinuation of the publication by the Banque de France of its weekly balance sheets and amendment to the Statute of the Banque de France**

33. Article L.144-5 of the Code, which is part of the Statute of the Banque de France, requires the balance sheets of the Banque de France to be published weekly. The draft law provides for the repeal of this requirement. According to Article 2(1) of Decision ECB/2001/16 of 6 December 2001<sup>17</sup>, the intra-Eurosystem balances on euro banknotes in circulation, as defined in Article 1(e) of that Decision, which result from the allocation of the euro banknote issued, are calculated on a monthly basis and are recorded in the books of the ECB and the NCBs on the first business day of the month with a value date of the last business day of the preceding month. By extension, the recording of the allocation to NCBs of their share of the liability arising from the total value of euro banknotes in circulation, as a result of the application of Article 4 of Decision ECB/2001/15 of 6 December 2001<sup>18</sup> on the issue of euro banknotes, occurs with the same frequency. The publication by an NCB of its balance sheet more frequently than at the end of a month would disclose liabilities for euro banknotes in circulation that reflect day-to-day accounting transactions occurring between the periodic allocations recorded in its books. This would therefore conflict with Article 4 of Decision ECB/2001/15. Accordingly, on 4 July 2002 the Governing Council of the ECB recommended that those euro area NCBs which currently publish weekly balance sheets discontinue their publication. The ECB therefore welcomes this repeal.
34. This opinion will be published on the ECB's website.

Done at Frankfurt am Main on 18 December 2002.

*The President of the ECB*

[signed]

Willem F. DUISENBERG

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<sup>17</sup> 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, OJ L 337, 20.12.2001, p. 55.

<sup>18</sup> Decision ECB/2001/15 of 6 December 2001 on the issue of euro banknotes, OJ L 337, 20.12.2001, p. 52.