



EUROPEAN CENTRAL BANK

OPINION OF THE EUROPEAN CENTRAL BANK

of 31 August 2004

at the request of Sveriges Riksbank on two draft legal acts amending the Sveriges Riksbank Act concerning certain matters related to the circulation of banknotes and coins

(CON/2004/28)

1. On 25 June 2004, the European Central Bank (ECB) received a request from Sveriges Riksbank for an opinion on two legislative proposals from Sveriges Riksbank to the Swedish Parliament to adopt two draft legal acts amending the Sveriges Riksbank Act (1988:1385) (hereinafter the 'legislative proposals').
2. The ECB's competence to deliver an opinion is based on the second and third 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 provisions¹ as the legislative proposals relate to means of payment and the Swedish central bank. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the European Central Bank, the Governing Council has adopted this opinion.
3. One of the two legislative proposals is intended to enhance the ways in which Sveriges Riksbank may cooperate with third parties in the handling and circulation of banknotes and coins (hereinafter the 'draft act on cash distribution'). The other legislative proposal introduces a prohibition on the circulation of banknotes and coins that have been changed or otherwise tampered with (hereinafter the 'draft act on the prohibition on the circulation of changed banknotes and coins'). The background to and rationale behind the legislative proposals are explained in the explanatory memoranda which form part of them.
4. Sweden is a Member State with a derogation and the ECB requirements regarding the issue of euro banknotes by the national central banks (NCBs) of the Member States that have adopted the euro do not apply to Sveriges Riksbank before the adoption by Sweden of the euro. The regime applicable within the Eurosystem for the issue of banknotes will however also apply to Sveriges Riksbank as soon as Sweden adopts the euro and it becomes a fully integrated part of the Eurosystem. The ECB would therefore wish to take this opportunity to mention that the

¹ OJ L189, 3.7.1998, p. 42.

Eurosystem is itself in the process of developing its own set of principles in the important area of euro banknote issuance, as further explained in paragraph 7 below.

The draft act on cash distribution

5. The ECB notes that the draft act on cash distribution is proposed in the context of a new cash handling model that was introduced by Sveriges Riksbank in February 2003². According to this new model, the cash is delivered by the Riksbank to its subsidiary company *Svensk Kontantförsörjning AB* (SKAB). SKAB is fully owned and controlled by the Riksbank and acts as a cash wholesaler. The ECB understands that SKAB is entrusted, on the one hand, with the issuance and acceptance of cash for deposits with and withdrawals from banks' accounts with the Riksbank and, on the other hand, with authenticity and fitness sorting as well as destruction of banknotes. Furthermore, SKAB has the task of storing logistical and strategic stocks. Sveriges Riksbank is responsible for overseeing that destruction and fitness sorting are carried out in a secure and correct manner. The ECB further notes that, under the new cash handling model, SKAB only receives banknotes and coins when a net surplus of cash exists among cash retailers (i.e. cash-in-transit companies and counting centers). In order to have banknotes returned to SKAB, these must be delivered in standard packages and sorted for fitness and authentication. From the explanatory memorandum³, the ECB understands that SKAB branches are faced with an overcapacity situation and, at the same time, that there are strong incentives for private parties to deliver to the Riksbank any excess cash at their depositories in order to avoid having to pay unnecessary interest. This, in turn, leads to situations where these parties transport excess cash over long distances to avoid paying interest, when these transports are not otherwise justified, at great societal costs and with significant security risks.
6. In order to address the above problem, the draft act on cash distribution contains a proposal for amendments to Chapter 5, Section 3 of the Riksbank Act aiming at a more efficient circulation of cash. Chapter 5, Section 3 states that Sveriges Riksbank shall be responsible for the supply of Sweden's banknotes and coins. In this respect, the preparatory work on the Riksbank Act (SOU 1986:22, p. 108) states that cash supply, comprising both the issue and distribution of banknotes and coins, belongs to the core tasks of central banks, which shall be laid down by legislation. The draft act on cash distribution amends Chapter 5, Section 3 of the Riksbank Act by introducing a clarification that Sveriges Riksbank may carry out its tasks with regard to the distribution of banknotes and coins in cooperation with third parties. Moreover, it enables the Riksbank to compensate or provide credit free of charge to entities that separate and store banknotes and coins in accordance with its instructions.

² See Section 2.3 of the explanatory memorandum concerning the draft act on cash distribution.

³ See Section 3.3 of the explanatory memorandum concerning the draft act on cash distribution.

7. The ECB shares the view that the issue of banknotes belongs to the core tasks of central banks and, in the case of the Eurosystem, considers that the issue of euro banknotes is a public task attributed to the ECB and the Eurosystem NCBs by Article 106(1) of the Treaty establishing the European Community and Article 16 of the Statute of the European System of Central Banks and of the European Central Bank⁴. The ECB is currently in the process of elaborating certain relevant aspects of the regime for the issue of euro banknotes with regard to (i) the putting of euro banknotes into circulation; (ii) the taking of individual banknotes out of circulation; and (iii) the withdrawal of types or series of banknotes from circulation⁵, in particular the involvement of third parties in this activity. In this context, the ECB is furthermore considering the competence to decide on the sorting standards, the rules on the issuance and return of banknotes and regarding the denominations, specifications, reproductions, exchange and withdrawal of banknotes, as well as the competence to take all necessary legal measures to protect the integrity of euro banknotes as a means of payment. Once these deliberations have been concluded within the Eurosystem, the ECB would be pleased to share the outcome with Sveriges Riksbank, including the criteria that it may establish for the cooperation with third parties in the field of euro banknote issuance, in view of the prospective adoption of the euro by Sweden.

The draft act on the prohibition on the circulation of changed banknotes and coins

8. The draft act on the prohibition on the circulation of changed banknotes and coins aims at a phenomenon referred to as ‘advertisement coins’. During the spring of 2004, a company in the advertisement business circulated ordinary coins issued by the Riksbank, onto which it had applied an adhesive label with a marketing message. The coins are therefore used as vehicles for these marketing messages once they are reintroduced into circulation. According to information in the press, an individual marketing campaign may involve as many as 100,000 one krona coins and it is not known to what extent the adhesive labels may damage the counting machines for coins and other coin operated machines. The relevant explanatory memorandum considers that the Swedish legislation is insufficient in this regard and it is therefore proposed in the draft act on the prohibition on the circulation of changed banknotes and coins that a prohibition is added to the Riksbank Act against the circulation of banknotes and coins which have been changed or otherwise tampered with. In order to enforce this new prohibition, Sveriges Riksbank is entitled to issue more detailed regulations, including the possibility of setting financial penalties which would apply if the prohibition was breached.
9. The ECB notes that the phenomenon of advertisement coins is not unknown elsewhere and legislation addressing this issue exists in other countries (e.g. France, Belgium and Poland). The

⁴ See also Decision ECB/2001/15 of 6 December 2001 on the issue of euro banknotes, OJ L 337, 20.12.2001, p. 52.

⁵ See Article 5 of Decision ECB/2003/4 of 20 March 2003 on the denominations, specifications, reproduction, exchange and withdrawal of euro banknotes, OJ L 78, 25.3.2003, p. 16.

ECB welcomes the draft act on the prohibition on the circulation of changed banknotes and coins as it constitutes a legal measure to deter behaviour which affects the integrity of banknotes and coins. The ECB notes that, in the case of euro banknotes, where NCBs know or have sufficient reason to believe that they have been intentionally mutilated or damaged, the Eurosystem NCBs shall refuse to exchange and shall withhold them as per Article 3(3)(a) of Decision ECB/2003/4 of 20 March 2003 on the denominations, specifications, reproduction, exchange and withdrawal of euro banknotes. The ECB suggests in this regard that the effectiveness of the draft act on the prohibition on the circulation of changed banknotes and coins could be further enhanced if a similar provision was included in it.

10. The ECB confirms that it has no objection to the competent national authorities making this opinion publicly available at their discretion. This opinion will be published on the ECB's website six months after the date of its adoption.

Done at Frankfurt am Main, 31 August 2004.

[signed]

The President of the ECB

Jean-Claude TRICHET