



EUROPEAN CENTRAL BANK

OPINION OF THE EUROPEAN CENTRAL BANK

of 9 February 2005

at the request of Magyar Nemzeti Bank on a draft regulation on the processing and distribution of forint banknotes and coins

(CON/2005/3)

1. On 23 November 2004, the European Central Bank (ECB) received a request from Magyar Nemzeti Bank (MNB) for an opinion on a draft legislative proposal concerning the processing and distribution of forint banknotes and coins (hereinafter the ‘draft regulation’).
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 draft regulation contains provisions concerning means of payment and the Hungarian national 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. The draft regulation is intended to streamline the existing legal framework for cash recycling of forint banknotes and coins in order to improve the quality of banknotes and coins in circulation and to contribute to the fight against counterfeiting. It is addressed to ‘cash-in-transit companies’² and ‘cash distribution institutions’³, extending the scope of the latter to ‘institutions carrying out foreign exchange activities’⁴. The draft regulation introduces rules and procedures on cash processing and distribution. For instance, it contains detailed requirements for the circulation fitness of banknotes and coins. Moreover, cash-in-transit companies will be obliged to provide in their internal regulations a detailed description of the general requirements for handling cash, detailed rules on work processes, the basic concepts (such as genuineness, fitness, banknote bundling, etc.) relating

¹ OJ L 189, 3.7.1998, p. 42.

² Cash-in-transit companies are defined as institutions entitled to carry out cash processing activities in accordance with Article 3(2)(c) of Law CXII of 1996 on credit institutions and financial enterprises (hereinafter the ‘Credit Institutions Law’).

³ Cash distribution institutions are defined – with reference to the Credit Institutions Law) as (a) entities providing cash transfer services (without having to open a bank account) in licensed premises; and (b) credit institutions operating a counter to perform cash receiving and cash dispensing, as well as exchange of denominations (but not qualifying as cash processing or bureaux de change); and (c) institutions providing postal cash transfer services in accordance with Article 4(1)(d) of Law CI of 2003 on the post office; and (d) the MNB, and (e) after amendment to the law, institutions carrying out foreign exchange activities.

⁴ In accordance with Article 3(2)(a) of the Credit Institutions Law.

to cash processing foreseen in the draft regulation, as well as concepts related to sorting requirements. The same detailed descriptions and rules must also be reflected in the regulations on processing and handling cash within the framework of daily transactions at the counters of cash distributing institutions. The draft regulation provides that cash processing by cash-in-transit companies must be carried out either manually or by various kinds of processing devices with suitable sensor configuration, without, however, specifying suitability in any more detail. Moreover, as regards examining banknotes and coins, cash distributing institutions will be obliged to use relevant devices and accessories required for cash processing (such as ultraviolet lamps) in line with the size of their cash turnover⁵. The draft regulation also provides that suspected counterfeits found during the required checking must be handled in accordance with the Magyar Nemzeti Bank Law and the Magyar Nemzeti Bank Regulation on technical and other tasks related to the protection against counterfeiting of Hungarian and foreign legal tender.

4. The ECB generally welcomes this approach to setting requirements for and regulating the activities of entities engaged in cash recycling which will improve the quality of banknotes and coins in circulation and contribute to the fight against counterfeiting. The ECB also generally welcomes the extension of the provisions on cash handling to institutions carrying out foreign exchange activities as the ECB understands that thereafter all entities currently distributing cash to the public will be bound by the MNB Regulation setting requirements for the quality and genuineness of cash in circulation. The ECB also understands that this framework does not apply as such to foreign legal tender such as euro banknotes and coins and that any measures necessary to implement Article 6 of Council Regulation (EC) No 1338/2001 of 28 June 2001 laying down measures necessary for the protection of the euro against counterfeiting⁶ will be taken by Hungary within the coming months.
5. In this context, the ECB would like to point out that the Eurosystem has established its own framework for recycling euro banknotes⁷ in order to improve the quality of euro banknotes and coins in circulation and to contribute to the fight against euro counterfeiting. These procedures as well as other Eurosystem rules and procedures related to issuing euro banknotes, including e.g. their handling and processing and the relevant security measures, will have to be taken into account when a Member State adopts the euro as its currency.
6. More specifically, the ECB would like to comment on the draft law's consistency. As Articles 4 and 5 of the draft regulation not only apply to cash distributing institutions but also to cash-in-transit companies, the respective sub-heading 'requirements for banknotes and coins in cash distribution' could be extended beyond 'cash distribution'. Similarly, the title of Annex 2 of the draft regulation could refer not only to Article 6 but also to Article 13 of the draft regulation.

⁵ The existing law already provides that when processing cash, cash-in-transit companies need to use tools to examine genuineness and fitness of banknotes and coins (setting out examples such as ultraviolet lamps) without, however, referring to their turnover.

⁶ OJ L 181, 4.7.2001, p. 6.

⁷ Framework for the detection of counterfeits and fitness sorting by credit institutions and other professional cash handlers; published on the ECB web page: <http://www.ecb.int/press/pr/date/2005/html/pr050106.en.html>.

7. Moreover, the draft law requires that cash processing and cash-in-transit companies include in their internal rules a detailed description of the basic concepts relating to cash processing and sorting requirements. To the extent that the draft law does not contain definitions (such as for ‘genuineness’), the ECB understands that such concepts will be defined by other MNB regulations or other national legislation. The ECB considers it advisable to clarify this point in the draft law. In any case the ECB points out that discretion as regards the definition of such concepts by entities engaged in cash recycling is not possible within the Eurosystem. As regards the requirements concerning devices and accessories needed for fitness sorting and banknote and coin authentication, the ECB notes that the Eurosystem rules and procedures do not specify which type of devices should be used, but rather provides that cash recycling is possible only by machines that have been successfully tested in the Eurosystem test procedures.
8. This opinion will be published on the ECB’s website.

Done at Frankfurt am Main, 9 February 2005.

[signed]

The President of the ECB

Jean-Claude TRICHET