



OPINION OF THE EUROPEAN CENTRAL BANK

of 22 December 2008

**at the request of the Magyar Nemzeti Bank on draft regulations on the processing and distribution of banknotes and coins and on technical tasks relating to the protection of banknotes and coins against counterfeiting
(CON/2008/90)**

Introduction and legal basis

On 11 November 2008 the European Central Bank (ECB) received a request from the Magyar Nemzeti Bank (MNB) for an opinion on two draft MNB regulations: one on the processing and distribution of banknotes and on technical tasks relating to their protection against counterfeiting (hereinafter the ‘draft banknote regulation’), and one on the processing and distribution of coins and on technical tasks relating to their protection against counterfeiting (hereinafter the ‘draft coin regulation’; the draft banknote regulation and the draft coins regulation are hereinafter referred to jointly as ‘the draft regulations’).

The ECB’s competence to deliver an opinion is based on Article 105(4) of the Treaty establishing the European Community and the first and second 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 relates to currency matters and means of payment. 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.

1. Purpose of the draft regulation

By replacing MNB Regulations 13/2005 and 14/2005 with the draft regulations, the MNB aims to separate its regulations for banknotes from those for coins. The draft regulations focus on ensuring high-quality forint banknotes and coins and protecting the banknotes and coins against counterfeiting. The new legislative environment maintains the MNB’s central role in protecting banknotes and coins. The MNB operates a recycling framework for forint banknotes similar to the Eurosystem’s *Framework for the detection of counterfeits and fitness sorting by credit institutions and other professional cash handlers*² (the ‘Banknote Recycling Framework’). In addition, the MNB proposes new rules for the obligatory exchange of denominations.

¹ OJ L 189, 3.7.1998, p. 42.

² Available on the ECB’s website at www.ecb.europa.eu. Equivalent rules for euro coins are contained in the Commission Recommendation of 27 May 2005 concerning authentication of euro coins and handling of euro coins unfit for circulation (OJ L 184, 15.7.2005, p. 60).

2. General observations

- 2.1 Since Hungary is a Member State with a derogation, the ECB's requirements regarding the organisation of national cash recycling in Member States that have adopted the euro do not apply to the MNB. These requirements will apply to the MNB once Hungary adopts the euro and the MNB becomes a fully integrated member of the Eurosystem. The ECB welcomes the MNB's initiative to implement a framework for forint banknote recycling similar to the Banknote Recycling Framework and, in addition, to lay down mandatory authenticity checks for euro banknotes recycled by cash distributors and processors.
- 2.2 Under Article 106 of the Treaty, the ECB has the exclusive right to authorise the issue of banknotes within the Community, whereas coins are issued by euro area Member States subject to the ECB's approval of the volume. Consequently, the ECB's regulatory competence concerns only banknotes. In addition, in respect of the national central banks, which will become part of the Eurosystem, the ECB supports the policy of keeping a clear and consistent separation between national rules relating to banknotes and rules relating to coins. The ECB therefore welcomes the draft regulations' separation between rules on banknotes and coins as it facilitates the legal convergence of the national legislative framework necessary for Hungary's preparations for full participation in economic and monetary union.

3. Specific observations

- 3.1 Under Article 4(2) of the draft banknote regulation, forint banknotes may be dispensed via automated teller machines if they are duly checked for authenticity and fitness by banknote handling machines installed *inter alia* with the latest version of the updated authentication hardware and/or software. In the ECB's view, the current wording could be interpreted in such a way that in all cases the latest software/hardware version supplied by the machine manufacturer must be installed in the banknote handling machines used by cash processors and distributors. This is a rather strict requirement and could imply that technical adjustments must be made to banknote handling machines that are already able to detect all counterfeit or falsified banknotes, as used in the machine tests conducted by the MNB with the manufacturers. The ECB considers that this requirement could be reformulated as a recommendation to users of banknote handling machines. In this context, Article 11(1) requiring updates to be made to banknote handling machines which are in operation for every new type of counterfeit forint banknote may be re-considered.
- 3.2 Under Article 6(1) of the draft banknote regulation, the banknote handling machines must be able to identify the various categories of banknotes (i.e. genuine, suspect, not clearly authenticated and non-forint banknotes) and separate them accordingly. The ECB draws the MNB's attention to the fact that, under the Banknote Recycling Framework, the ability to physically sort each of these banknote categories into such different categories is only required for customer-operated banknote handling machines and not for staff-operated machines. Staff-operated banknote handling machines

are typically able to identify such categories, but do not provide for functions to physically sort and separate each of them into separate compartments. Accordingly, the MNB may consider refining Article 6 of the draft banknote regulation.

- 3.3 Table II in Annex 2 of the draft banknote regulation ('Customer-operated machines') should specify whether suspect forint banknotes (under Category 2) will be credited to the customer's account.

This opinion will be published on the ECB's website.

Done at Frankfurt am Main, 22 December 2008.

[signed]

The President of the ECB

Jean-Claude TRICHET