



EUROPEAN CENTRAL BANK

EUROSYSTEM

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ECB-PUBLIC

OPINION OF THE EUROPEAN CENTRAL BANK

of 4 September 2018

on new rounding rules for payments denominated in euro

(CON/2018/41)

Introduction and legal basis

On 8 August 2018 the European Central Bank (ECB) received a request from the Belgian Ministry of Employment, Economy and Consumers for an opinion on a draft law setting out new rounding rules for payments denominated in euro (hereinafter the 'draft law').

The ECB's competence to deliver an opinion is based on Article 127(4) and 282(5) of the Treaty on the Functioning of the European Union and the first and second indents of Article 2(1) of Council Decision 98/415/EC¹, as the draft law 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 law

- 1.1 The main purpose of the draft law is to enhance the efficiency of cash payments in Belgium.
- 1.2 Under the current legal framework², retailers may round the total price to be paid by consumers to the nearest five euro cent, regardless of whether the relevant payment is made with banknotes, coins, electronic money or comparable means of payment. If retailers decide to round amounts to be paid, they must do so in a consistent manner and duly inform consumers.
- 1.3 The explanatory memorandum accompanying the draft law mentions a recent survey conducted in Belgium according to which only 30 % of retailers apply the existing optional rule on rounding of payments, although 80 % of retailers are in favour of such rounding. The same survey indicates that eight out of ten consumers have difficulties using coins of one or two euro cent and seven out of ten consumers are in favour of their abolition through the rounding of cash payments. Furthermore, according to the explanatory memorandum, the *agence pour la simplification administrative/ Dienst voor de Administratieve Vereenvoudiging* (the office for Administrative Simplification) has estimated that the costs related to the delivery, sorting, counting and transport of one and two euro cent coins amount to EUR 44 million. In addition, the explanatory memorandum highlights the high cost to the *administration générale de la trésorerie/ Algemene Administratie van de Thesaurie* (general administration for treasury) caused by the issuance of one

¹ Council Decision 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions (OJ L 189, 3.7.1998, p. 42).

² See Article VI.7/1, VI.7/2 and VI.7/3 of the "Code de droit économique"/ "Wetboek van economisch recht" (Economic Law Code), as most recently amended by a Law of 15 May 2014.

and two euro cent coins, for which there is a continuous need due to the limited circulation thereof. As a consequence, the *administration générale du trésor/ Algemene Administratie van de Thesaurie general administration for (treasury)* had to put approximately 60 million coins into circulation last year.

- 1.4 In order to address the limited efficiency of the existing rules on payments and alleviate the costs caused by the minting and circulation of one and two euro cent coins, the draft law provides that, from 1 December 2019, it will be mandatory for retailers to round the total price paid in cash by consumers to the nearest five cent multiple. Total prices ending with one, two, six or seven cents shall be rounded down to the nearest five cent. Total prices ending with three, four, eight or nine cents shall be rounded up to the nearest five cent. Rounding also applies to the amounts paid back in cash by retailers to consumers.
- 1.5 Furthermore, the draft law authorises retailers on an optional basis to round the total price when the payment is carried out with means of payment other than cash. This option, if used by retailers, must be implemented for all other means of payment and applies to the amounts paid back by retailers to consumers. Furthermore, retailers must inform consumers about the rounding of all payments by openly and clearly displaying on their premises where the payments take place a sign stating that the total amount is always rounded.
- 1.6 When voluntary rounding is widespread, the draft law empowers the King of Belgium to impose by royal decree the mandatory rounding of payments carried out with other means of payment, including, for example, electronic money or meal vouchers.
- 1.7 Rounding of all payments – whether on a mandatory basis for cash from 1 December 2019 or on an optional or mandatory basis for other means of payment - may only be implemented if the payment takes place in the physical presence of the consumer of the retailer and if the total amounts due exceed five euro cent.
- 1.8 According to the explanatory memorandum, the proposed amendments to the rules on payments would not affect the legal tender of the one and two euro cent coins, as consumers and enterprises would still be authorised to use them.

2. General observations

- 2.1 The draft law is not likely to have real impact on inflation in Belgium, particularly considering that total prices and amounts paid back ending with one, two, six or seven cents would be rounded down to the nearest five cent, while total prices ending with three, four, eight or nine cents would be rounded up to the nearest five cent as equal shares of payments are likely to be rounded upwards or downwards (symmetric rounding).
- 2.2 In accordance with Article 128(2) of the Treaty, the competence to adopt measures to harmonise the denomination and technical specifications of all euro coins intended for circulation to the extent necessary to permit their smooth circulation within the Union is vested in the Council of the European Union, on a proposal from the European Commission and after consulting the European Parliament and the ECB. The legal tender status of euro cent coins within the euro area is laid

down in Article 11 of Council Regulation (EC) No 974/98³. In addition, Article 2 of Regulation (EC) No 974/98 provides that the euro, as the currency of the euro area, is divided into one hundred cent. The denomination structure of the euro coins (i.e. 1, 2, 5, 10, 50 euro cents, 1 euro and 2 euro coins) has remained unchanged since the introduction of the euro⁴. However, the use of different denominations of euro coins, as currently devised, should be periodically and carefully examined by the competent institutions against the criteria of cost and public acceptability. In particular, the Commission should conduct an impact assessment on the continued issuance of one and two euro cent coins⁵.

- 2.3 The ECB recalls that the competent authorities have repeatedly expressed their concern as regards rounding rules which undermine not only the legal tender status of one and two euro cent coins but also the existence of these denominations. In particular, making rounding mandatory would in practice endanger the existence of one and two euro cent denominations. Rounding legislation should not prevent the one and two euro cent coins from being used as a means of payment as they are *de jure* legal tender in the entire euro area. Member States' legislation should not lead to divergent treatment of the euro. In its 'Report on the definition, scope and effects of legal tender of euro banknotes and coins', the Euro Legal Tender Expert Group (ELTEG)⁶ advised that 'rounding rules seem to be contradictory to the notion of legal tender of coins [as] tendering the exact amount due does not extinguish the debt (except in the Netherlands), while the very notion of legal tender implies the possibility to settle the exact amount owed'. In its Recommendation of 22 March 2010 on the scope and effects of legal tender of euro banknotes and coins⁷, the Commission recommended that 'Member States should [...] refrain from adopting new rounding rules since they affect negatively the power to discharge from a payment obligation by tendering the exact amount owed and since it may lead in some circumstances to a surcharge on cash payments'⁸.
- 2.4 With a view to preserving the unity and integrity of the single monetary area, the ECB therefore recommends that any rounding rules are established in a harmonised manner at Union, rather than at national level⁹. Accordingly, any mandatory rounding rules on euro coins would appear to call exclusively for Union rather than national legislation given that the euro coins are the only legal tender coins in the Members States whose currency is the euro.
- 2.5 Notwithstanding this general concern, the ECB nevertheless welcomes that, as emphasised in the preparatory work for the draft law and the consultation letter, the draft law does not alter the legal tender status of one and two euro cent coins in Belgium, which shall still be accepted for payments if the payer wants to use one or two euro cent coins. This may be the case for payments amounting

³ Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro (OJ L 139, 11.5.1998, p. 1).

⁴ See paragraph 2.1 of Opinion CON/2014/6. All ECB opinions are published on the ECB's website at www.ecb.europa.eu.

⁵ See Recital 7 of Regulation (EU) No 651/2012 of the European Parliament and of the Council of 4 July 2012 on the issuance of euro coins (OJ L 201, 27.7.2012, p. 135).

⁶ This report is available at http://ec.europa.eu/economy_finance/articles/euro/documents/elteg_en.pdf.

⁷ Commission Recommendation of 22 March 2010 on the scope and effects of legal tender of euro banknotes and coins (OJ L 83, 30.3.2010, p. 70). See in particular the ninth recommendation.

⁸ See paragraph 6 of Opinion CON/2002/15 and paragraph 2.3 of Opinion CON/2014/6.

⁹ See paragraph 2.4 of Opinion CON/2014/6.

to one, two, three or four euro cent and (ii) payments of rounded prices, if the customer wants to use one and two euro cent coins in this respect.

- 2.6 As a matter of principle, the ECB is not opposed to the voluntary symmetric rounding of cash payments where it may contribute to the reduction of costs for authorities, banks and retailers in minting, supplying, sorting and handling these coins. Such concerns are, however, irrelevant for cashless payments, in respect of which the need for rounding is hence arguable. In the context of equal treatment of cash and cashless payments, the ECB has a clear preference for voluntary rounding for both types of payment.
- 2.7 In view of the above, the ECB encourages the Belgian legislator to find alternative methods to promote the more widespread implementation of the current optional rules on rounding, for example by related communication measures, especially as the survey referred to in the preparatory work acknowledges the strong preference of both retailers and consumers for such rounding.

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

Done at Frankfurt am Main, 4 September 2018.

[signed]

The President of the ECB

Mario DRAGHI