

**GUIDELINE OF THE EUROPEAN CENTRAL BANK
of 10 January 2001
adopting certain provisions on the 2002 cash changeover**

(ECB/2001/1)

(2001/151/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty establishing the European Community (hereinafter referred to as the 'Treaty'), and in particular to Article 106(1) thereof, and to Articles 16 and 26.4 of the Statute of the European System of Central Banks and of the European Central Bank (hereinafter referred to as the 'Statute'),

Whereas:

- (1) According to Article 10 of Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro ⁽¹⁾, as from 1 January 2002, the ECB and the central banks of the participating Member States shall put into circulation banknotes denominated in euro.
- (2) Frontloading of euro banknotes before 1 January 2002 to certain target groups would alleviate the logistical burden related to the introduction of the euro and will contribute to reduce the costs associated with dual currency circulation after the end of the transitional period.
- (3) Frontloading of euro banknotes shall not have the effect of anticipated circulation of euro banknotes amongst the general public as the euro banknotes will not have legal tender status until 1 January 2002. Consequently, certain restrictions have to be observed in order to avoid putting euro banknotes into circulation before 1 January 2002.
- (4) Frontloading of euro banknotes to credit institutions or to their appointed agents and sub-frontloading to other organisations may only be put in place if statutory or contractual arrangements are set forth between national central banks (NCBs) of the participating Member States and credit institutions.
- (5) Before 1 January 2002 euro banknotes shall be accounted off-balance sheet, but at their full face value, as there is legal certainty pursuant to Article 10 of Regulation (EC) No 974/98 that such banknotes will become legal tender from 1 January 2002.
- (6) Frontloaded banknotes shall be debited at the dates and according to the debiting model specified in this Guideline. The debiting model takes into account the additional cash holdings caused by the 2002 cash changeover.
- (7) Appropriate means to cover credit risks associated with frontloading must be taken into account. Such means may involve the use of retention of ownership, assets

given as collateral through appropriate arrangements or cash given as collateral in the form of a deposit on a dedicated account remunerated with the same rate as applied for minimum reserves or in another form deemed appropriate by the NCBs.

- (8) For as long as frontloaded banknotes and coins remain the property of NCBs, insurance policies or other appropriate means shall be used to cover at least the risks of damage, theft or robbery. Penalty clauses, inspections and auditing may be used in order to cover the risk of anticipated public use of the frontloaded euro banknotes and with the sole purpose of verifying the presence of the frontloaded banknotes.
- (9) Frontloading of euro banknotes is a logistical operation aimed at facilitating the implementation of the national cash changeover scenarios for which NCBs are primarily responsible. When implementing this Guideline, NCBs shall endeavour to follow an unbureaucratic and flexible approach, shall take into account national peculiarities and shall attempt to minimise the burden on the credit sector in order to ensure a smooth cash changeover.
- (10) It is acknowledged that while the primary competence for establishing the regime for the issuance of euro coins lies with the participating Member States, the NCBs play an essential role in the distribution of the euro coins. Therefore those provisions of this Guideline which relate to euro coins are of a supplementary nature and are only to be applied by NCBs within the framework set up by the competent national authorities.
- (11) In accordance with Articles 12.1 and 14.3 of the Statute, ECB Guidelines form an integral part of Community law,

HAS ADOPTED THIS GUIDELINE:

CHAPTER I

GENERAL PROVISIONS

Article 1

Definitions

For the purposes of this Guideline:

- 'cash in transit companies' (CITs) shall mean entities providing transport, storage and handling services of banknotes and coins for credit institutions,

⁽¹⁾ OJ L 139, 11.5.1998, p. 1.

- 'credit institutions' shall mean the institutions eligible for monetary policy operations in accordance with Guideline ECB/2000/7 of the European Central Bank on monetary policy instruments and procedures of the Eurosystem of 31 August 2000 ⁽¹⁾,
- 'Eurosystem' shall mean the national central banks of the participating Member States (NCBs) and the ECB,
- 'euro area' shall mean the territory of the participating Member States,
- 'frontloading' shall mean the physical delivery of euro banknotes and coins from NCBs to credit institutions or to their appointed agents, between 1 September 2001 and 31 December 2001, according to any statutory or contractual arrangements set forth, respectively, by NCBs or between NCBs and credit institutions,
- 'NCB' shall mean the national central bank of a participating Member State,
- 'participating Member States' shall mean Belgium, Germany, Greece, Spain, France, Ireland, Italy, Luxembourg, Netherlands, Austria, Portugal and Finland,
- 'sub-frontloading' shall mean the delivery of euro banknotes and coins from credit institutions or their appointed agents to third parties between 1 September 2001 and 31 December 2001 according to any contractual arrangements set forth between credit institutions or their appointed agents and such third parties.

CHAPTER II

FRONTLOADING

Article 2

Eligible counterparties

1. NCBs shall be entitled to frontload euro banknotes and coins to credit institutions.
2. NCBs may allow credit institutions to appoint CITs or entities such as Automatia in Finland having an account with the NCBs to act on behalf of such credit institutions as their appointed agents for frontloading.
3. NCBs shall be entitled to frontload euro banknotes and coins to the institutions referred to in the second indent of Article 2(3) of 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 ⁽²⁾, as amended by Directive 2000/28/EC of 18 September 2000 ⁽³⁾, which provide deposit services for private individuals.
4. NCBs may allow national post offices having an account with the NCBs to receive euro banknotes and coins for frontloading purposes.

Article 3

Delivery

1. NCBs may start frontloading to credit institutions or to their appointed agents from 1 September 2001.
2. NCBs shall require that credit institutions and their appointed agents keep the frontloaded euro banknotes and coins in safe custody.
3. NCBs shall prohibit credit institutions and their appointed agents from disposing of the euro banknotes delivered pursuant to the above before 00.00 on 1 January 2002 local time, except as otherwise provided for under this Guideline.

Article 4

Property rights over frontloaded euro banknotes

1. Frontloaded euro banknotes shall remain the property of NCBs until 00.00 on 1 January 2002, local time.
2. In the event that arrangements for the retention of ownership are not considered by NCBs to be legally feasible or legally enforceable, eligible assets as defined in Article 11 can be provided as collateral for the NCBs' rights over frontloaded euro banknotes. Such assets may also be provided as collateral in parallel with arrangements for the retention of ownership.

Article 5

Coverage of the risks of damage, theft or robbery of banknotes and coins

NCBs shall ensure that credit institutions or their appointed agents, as the case may be, cover at least the risks of damage, theft or robbery of frontloaded banknotes and coins which remain the property of NCBs by subscribing to insurance policies or by any other appropriate means. The conditions for frontloading do not address the insurance of the own risk of the credit institution or their appointed agents, as the case may be, which is their exclusive responsibility.

Article 6

Prevention of anticipated public use

In order to ascertain compliance by credit institutions or their appointed agents with their obligations regarding prevention of the anticipated public use of the frontloaded euro banknotes, and with the sole purpose of verifying the presence of the frontloaded banknotes, NCBs may provide that auditing and inspection provisions are included in any statutory or contractual arrangements set forth for frontloading.

⁽¹⁾ OJ L 310, 11.12.2000, p. 1.

⁽²⁾ OJ L 126, 26.5.2000, p. 1.

⁽³⁾ OJ L 275, 27.10.2000, p. 37.

*Article 7***Contractual or statutory penalties**

Any breach by the credit institutions or their appointed agents of their obligations, including but not limited to putting or acting in a way that is conducive to putting the euro banknotes into circulation before 1 January 2002, shall be deemed to damage the Eurosystem objective of a smooth cash changeover and shall be subject to the payment of contractual or statutory penalties, as appropriate, to be required by NCBs in an amount proportional to the respective damage. Such penalties shall not be required by NCBs where a regulatory framework providing an equivalent level of protection has been set forth by the participating Member State in question.

*Article 8***ESCB reporting**

For the purposes of drawing up the weekly consolidated financial statements and the consolidated balance sheet of the ESCB/Eurosystem:

- (a) between 1 September and 31 December 2001, the amount of frontloaded euro banknotes and coins shall be recorded off-balance sheet at their face value by the NCBs. From 1 January 2002 euro banknotes and coins shall be regarded as on-balance sheet items with their actual recording required to be conducted by the first business day in 2002;
- (b) from 1 January 2002 the overall amount of frontloaded banknotes shall be recorded in the banknotes in circulation figure with the actual recording required to be conducted by the first business day in 2002. The difference between the overall amount of frontloaded banknotes and the amounts of banknotes debited in the accounts of credit institutions or their appointed agents, as appropriate, with the NCBs, shall be treated as a collateralised non-remunerated loan to be paid back in accordance with the provisions laid down in Article 9.

*Article 9***Debiting and crediting**

1. Euro banknotes and coins frontloaded to credit institutions or to their appointed agents shall be debited in their respective accounts with the NCBs, as the case may be, for their face value, according to the following 'linear debiting model': one-third of the frontloaded sum on 2 January 2002, 23 January 2002, and 30 January 2002 respectively.

2. Euro banknotes and coins delivered to credit institutions or to their appointed agents from 1 January 2002, shall be debited in their respective accounts with NCBs, as the case may be, according to current practice; and euro banknotes and coins returned by credit institutions or their appointed agents from 1 January 2002, shall be credited to their respective accounts with NCBs, as the case may be, according to current practice.

3. Banknotes and coins denominated in national currency units and returned by credit institutions or by their appointed

agents shall be credited to their respective accounts with NCBs, as the case may be, according to current practice.

*Article 10***Coverage of credit risks**

Eligible assets as defined in Article 11 shall be provided to NCBs by close of business on the last business day of 2001, at the latest, as collateral for the amounts of frontloaded banknotes and coins delivered on or before 31 December 2001. The assets referred under Article 11(1) shall be submitted through appropriate arrangements in accordance with Guideline ECB/2000/7. Sufficient collateral shall be maintained until discharge of the guaranteed obligations.

*Article 11***Eligible assets**

1. All assets considered eligible collateral for Eurosystem credit operations in accordance with ECB Guideline ECB/2000/7 or such other assets as may be approved by the Governing Council on the proposal of an NCB are eligible as collateral for frontloading and sub-frontloading.

2. Cash in the form of a deposit on a dedicated account, remunerated at the same rate as applied for minimum reserves, or in another form deemed appropriate by the NCBs, can also be provided as eligible collateral.

*Article 12***Statistical aspects**

For the purposes of the application of Regulation (EC) No 2819/98 of the European Central Bank of 1 December 1998 concerning the consolidated balance sheet of the monetary financial institutions sector ⁽¹⁾, as amended by Regulation (EC) No 1921/2000 of 31 August 2000 ⁽²⁾, NCBs shall ensure that MFIs do not record on-balance sheet the positions and transactions relating to frontloaded banknotes and coins between 1 September and 31 December 2001.

*Article 13***Distribution to branches established inside the euro area**

Subject to the conditions laid down in this Guideline, NCBs shall allow credit institutions or their appointed agents to distribute frontloaded banknotes from 1 September 2001, to their branches established inside the euro area.

*Article 14***Distribution to branches or headquarters located outside the euro area**

Subject to the conditions laid down in this Guideline, in particular to the delivery of appropriate collateral according to Article 4(2), NCBs shall allow credit institutions or their appointed agents to distribute frontloaded banknotes from 1 December 2001, to their branches or headquarters located outside the euro area, as appropriate.

⁽¹⁾ OJ L 356, 30.12.1998, p. 7.

⁽²⁾ OJ L 229, 9.9.2000, p. 34.

CHAPTER III

SUB-FRONTLOADING*Article 15***Delivery conditions**

1. NCBs shall allow credit institutions or their appointed agents to sub-frontload euro banknotes and coins to third parties from 1 September 2001 until 31 December 2001. Sub-frontloading by credit institutions or by their appointed agents shall take place at their own risk and full responsibility and shall be subject to the conditions laid down by the NCBs in accordance with this Guideline.
2. NCBs may subject sub-frontloading by credit institutions or by their appointed agents to reporting obligations.
3. NCBs shall require that credit institutions or their appointed agents specifically provide in their sub-frontloading arrangements that:
 - (a) third parties receiving euro banknotes pursuant to the above shall not dispose of them in any way before 00.00 on 1 January 2002, local time;
 - (b) third parties receiving frontloaded banknotes shall keep the frontloaded euro banknotes in safe custody;
 - (c) any breach of the obligations of third parties receiving frontloaded banknotes be subject to the payment of contractual penalties, except where such penalties overlap with existing national legislation providing for an equivalent level of protection.

*Article 16***Exclusion of the general public**

NCBs shall prohibit credit institutions and their appointed agents from concluding any sub-frontloading arrangements regarding euro banknotes which would have the effect of anticipated circulation of euro banknotes amongst the general public.

*Article 17***Coverage of credit risks**

If not provided earlier pursuant to Article 4(2), eligible assets as specified under Article 11 shall be provided to NCBs as collateral from the moment of sub-frontloading and for the amounts of sub-frontloaded banknotes and coins until discharge of the guaranteed obligations. The assets referred to under Article 11(1) shall be submitted through appropriate arrangements in accordance with Guideline ECB/2000/7.

*Article 18***Sub-frontloading outside the euro area**

1. Notwithstanding paragraph 2, NCBs shall prohibit credit institutions and their appointed agents from sub-frontloading

to any other third parties, including retailers, located outside the euro area.

2. NCBs shall allow sub-frontloading to (i) credit institutions, as defined in Article 1(1)(a) of Directive 2000/12/EC, which are located outside the euro area and which are subsidiaries of credit institutions whose main place of business is located inside the euro area; and to (ii) other credit institutions, which have neither their registered nor their head office inside the euro area, under the following conditions:

- (a) the sub-frontloading shall take place from 1 December 2001;
- (b) the provisions of this Chapter III shall apply;
- (c) the entities referred to in paragraph 2(i) and (ii) shall be prohibited from further sub-frontloading to any other third parties whatsoever.

CHAPTER IV

FINAL PROVISIONS*Article 19***Verification**

NCBs shall forward to the ECB copies of the legal instruments adopted by them in order to comply with this Guideline by 2 March 2001, at the latest.

*Article 20***Final provision**

1. This Guideline shall not apply to the physical delivery of euro banknotes and coins from NCBs to other central banks located outside the euro area.
2. It is recommended that NCBs apply the provisions of this Guideline that refer to euro coins unless otherwise provided for by the national rules governing the relationship between each NCB and the respective Treasury.
3. This Guideline is addressed to the national central banks of participating Member States.
4. This Guideline shall be published in the *Official Journal of the European Communities*.

Done at Frankfurt am Main, 10 January 2001.

*On behalf of the Governing Council of the
ECB*

The President

Willem F. DUISENBERG