

EUROPEAN CENTRAL BANK

GUIDELINE OF THE EUROPEAN CENTRAL BANK

of 13 September 2001

adopting certain provisions on the frontloading of euro banknotes outside the euro area

(ECB/2001/8)

(2001/703/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

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

Whereas:

(1) According to Article 10 of Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro ⁽¹⁾, from 1 January 2002, '... the ECB and the central banks of the participating Member States shall put into circulation banknotes denominated in euro'.

(2) Guideline ECB/2001/1 of 10 January 2001 adopting certain provisions on the 2002 cash changeover ⁽²⁾ allows frontloading of euro banknotes to credit institutions that are eligible for monetary policy operations of the Eurosystem under certain conditions. Furthermore, the Guideline allows to a limited extent sub-frontloading to (i) credit institutions 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 (ii) other credit institutions which have neither their registered nor their head office inside the euro area.

(3) Frontloading to central banks outside the euro area could contribute to the smooth changeover to euro banknotes; therefore, frontloading to central banks outside the euro area, and their subsequent sub-frontloading operations to credit institutions in their jurisdictions, should be allowed under certain conditions.

(4) In addition, the existing distribution channels provided by non-euro area credit institutions specialising in the wholesale distribution of banknotes to other credit institutions could also be used for the cash changeover, thereby contributing to the smooth changeover to euro banknotes; therefore, frontloading to these institutions, and their subsequent sub-frontloading to other credit institutions outside the euro area, should be allowed under certain conditions.

(5) In order to comply with Article 10 of Regulation (EC) No 974/98, frontloading, and subsequent sub-frontloading, should not result in anticipated circulation of euro banknotes amongst the general public; thus the conditions for frontloading to central banks outside the euro area and non-euro area credit institutions specialising in the wholesale distribution of banknotes to other credit institutions must contain restrictions in order to avoid euro banknotes being put into circulation before 1 January 2002.

(6) Frontloading to central banks outside the euro area and non-euro area credit institutions specialising in the wholesale distribution of banknotes to other credit institutions entails financial risk for the frontloading national central banks (NCBs); consequently, both central banks and specialised credit institutions must provide the relevant frontloading NCB with collateral, which shall be denominated in euro unless otherwise agreed.

(7) Central banks outside the euro area and non-euro area credit institutions specialising in the wholesale distribution of banknotes to other credit institutions are not counterparties to Eurosystem operations and therefore must settle the payment for the frontloaded amounts on the first business day of 2002.

⁽¹⁾ OJ L 139, 11.5.1998, p. 1.

⁽²⁾ OJ L 55, 24.2.2001, p. 80.

- (8) The conditions laid down in this Guideline regarding frontloading and subsequent sub-frontloading must be incorporated in NCBs' legal documentation concluded with the recipient central banks outside the euro-area and non-euro area specialised credit institutions; the European Central Bank (ECB) should be informed *ex ante* about requests for frontloading for coordination purposes.
- (9) It is acknowledged that while the primary competence for establishing the regime for the issue of euro coins lies with the participating Member States, NCBs play an essential role in the distribution of euro coins; it is recommended therefore that NCBs apply the provisions of this Guideline to euro coins; this application is of a supplementary nature and shall take place within the framework set up by the competent national authorities; it is worth mentioning in this respect that Regulation (EC) No 974/98 and in particular Article 11 of it shall in any case apply.
- (10) In accordance with Article 12.1 and Article 14.3 of the Statute of the European System of Central Banks and of the European Central Bank, ECB guidelines form an integral part of Community law,

HAS ADOPTED THIS GUIDELINE:

Article 1

Definitions

For the purposes of this Guideline:

- 'credit institutions' shall mean the institutions as defined in Article 1(1) 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 ⁽¹⁾, as amended by Directive 2000/28/EC ⁽²⁾,
- 'non-euro area specialised credit institutions' shall mean credit institutions which (i) have neither their registered nor their head office inside the euro area; and (ii) specialise in the wholesale distribution of banknotes to other credit institutions,
- 'national central bank' shall mean the NCB of a euro area Member State,
- 'euro area' shall mean the territory of the participating Member States,
- 'central banks outside the euro area' shall mean central banks and monetary authorities of non-participating Member States, as well as of third countries,
- 'frontloading' shall mean the physical delivery of euro banknotes from NCBs to central banks outside the euro area, as well as to non-euro area specialised credit institutions between 1 and 31 December 2001,
- 'sub-frontloading' shall mean the delivery of frontloaded euro banknotes by central banks outside the euro area or by non-euro area specialised credit institutions to credit institutions between 1 and 31 December 2001.

Article 2

Frontloading to central banks outside the euro area

NCBs shall be entitled to frontload euro banknotes to central banks outside the euro area provided that NCBs' contractual arrangements with them contain the following conditions:

- (a) central banks outside the euro area may only be frontloaded from 1 December 2001;
- (b) central banks outside the euro area shall not put the frontloaded euro banknotes into circulation before 00.00 local time on 1 January 2002;
- (c) central banks outside the euro area shall store the frontloaded euro banknotes which remain the property of the relevant frontloading NCB safely in order to avoid theft, robbery or damage and they shall cover, at least, such risks by subscribing to appropriate insurance policies or by any other appropriate means;
- (d) central banks outside the euro area shall settle the payment for the frontloaded euro banknotes on 2 January 2002;
- (e) central banks outside the euro area shall provide NCBs with adequate collateral from the time of frontloading and for the amounts of frontloaded euro banknotes. Such collateral shall be provided through repurchase or pledge arrangements. It shall be denominated in euro unless otherwise agreed. Cash in the form of a deposit or in another form deemed appropriate by the NCBs can also be provided as eligible collateral. Sufficient collateral shall be maintained until the payment by the central banks outside the euro area to the relevant NCB has been fully and properly settled;
- (f) central banks outside the euro area may only sub-frontload euro banknotes to credit institutions having their head or registered office in their jurisdictions. This sub-frontloading shall take place under the following conditions:
 - sub-frontloading shall only be possible from 1 December 2001,

⁽¹⁾ OJ L 126, 26.5.2000, p. 1.

⁽²⁾ OJ L 275, 27.10.2000, p. 37.

- the recipient credit institutions shall not further sub-frontload or otherwise dispose of sub-frontloaded banknotes before 00.00 local time on 1 January 2002,
 - the recipient credit institutions shall store the sub-frontloaded euro banknotes safely in order to avoid theft, robbery or damage and they shall cover those risks by subscribing to appropriate insurance policies or by any other appropriate means,
 - central banks outside the euro area shall have the right at any time to audit and inspect the sub-frontloaded euro banknotes and also the fulfilment of the two conditions set forth herein concerning non-disposal and safe storage of the euro banknotes,
 - the recipient credit institutions shall apply appropriate measures against money laundering in connection with sub-frontloaded euro banknotes,
 - the statutory or contractual arrangements of the central banks outside the euro area with the recipient credit institutions shall subject the latter to financial penalties amounting to 10 % of the value of the sub-frontloaded euro banknotes in the event of non-compliance by the latter with one or more of the above obligations. The said statutory or contractual arrangements shall specify the destination of these financial penalties, which shall be paid to the relevant sub-frontloading central bank outside the euro area and shall be forwarded by the latter to the relevant frontloading NCB;
- (g) central banks outside the euro area shall be required to provide frontloading NCBs upon request with information on the identity of their sub-frontloaded customers, as well as the amounts of sub-frontloaded banknotes per individual customer. NCBs shall treat such information as confidential and shall only use it to monitor compliance by central banks outside the euro area with their contractual obligations with the relevant frontloading NCB;
- (h) in any case central banks outside the euro area shall be required to apply appropriate measures against money-laundering in connection with frontloaded euro banknotes.
- Article 3*
- Frontloading to non-euro area specialised credit institutions**
- NCBs shall be entitled to frontload euro banknotes to non-euro area specialised credit institutions provided that the contractual arrangements of the NCBs with them contain the following minimum conditions:
- (a) frontloading to non-euro area specialised credit institutions shall only be possible from 1 December 2001; the said specialised credit institutions shall not put the frontloaded euro banknotes into circulation before 00.00 local time on 1 January 2002;
 - (b) non-euro area specialised credit institutions shall store the frontloaded euro banknotes safely in order to avoid theft, robbery or damage and they shall cover those risks at least, by subscribing to appropriate insurance policies or by any other appropriate means;
 - (c) non-euro area specialised credit institutions shall settle the payment for the frontloaded euro banknotes on 2 January 2002;
 - (d) non-euro area specialised credit institutions shall provide NCBs with adequate collateral from the time of frontloading and for the amounts of frontloaded euro banknotes. Such collateral shall be provided through repurchase or pledge arrangements. It shall be denominated in euro unless otherwise agreed. Cash in the form of a deposit or in another form deemed appropriate by the NCBs can also be provided as eligible collateral. Sufficient collateral shall be maintained until the payment by the relevant non-euro area credit institution to the relevant NCB has been fully and properly settled;
 - (e) non-euro area specialised credit institutions shall be required to provide frontloading NCBs upon request with information on the identity of their sub-frontloaded customers, as well as the amounts of sub-frontloaded banknotes per individual customer. NCBs shall treat such information as confidential and shall only use it to monitor the compliance of non-euro area specialised credit institutions with their contractual obligations with the relevant frontloading NCB. In any case, non-euro area specialised credit institutions shall also be required by the relevant frontloading NCB to apply appropriate measures against money-laundering in connection with frontloaded euro banknotes;
 - (f) non-euro area specialised credit institutions shall be subject to penalties amounting to 10 % of the value of the frontloaded euro banknotes in the event of their non-compliance with one or more of the obligations set forth in this Article as a result of their own non-compliance or of that of the credit institutions that they sub-frontload in accordance with g) following. These penalties will be due to the relevant frontloading NCB;
 - (g) non-euro area specialised credit institutions shall be entitled to sub-frontload euro banknotes to other credit institutions outside the euro area under the following conditions:
 - sub-frontloading shall only be possible from 1 December 2001,

- non euro-area specialised credit institutions shall ensure that the euro banknotes frontloaded to them are not put into circulation by the recipient credit institutions to which they sub-frontload before 00.00 local time on 1 January 2002,
- the recipient credit institutions shall store the sub-frontloaded euro banknotes safely in order to avoid theft, robbery or damage and they shall cover such risks, at least by subscribing to appropriate insurance policies or by any other appropriate means,
- the recipient credit institutions outside the euro area shall be required to apply appropriate measures against money-laundering in connection with sub-frontloaded euro banknotes,
- the contractual arrangements of non-euro area specialised credit institutions with the recipient credit institutions shall subject the latter to financial penalties amounting to 10 % of the value of the sub-frontloaded euro banknotes in the event of the latter's non-compliance with any of the above obligations,
- the relevant frontloading NCB shall have the right to audit and inspect the implementation of sub-frontloading arrangements.

*Article 4***Provision of information to the ECB and recommendation concerning euro coins**

1. NCBs shall inform the ECB of each individual request to frontload euro banknotes presented to them by central banks outside the euro area, or by non-euro area specialised credit institutions, and of their intention in connection with such a request prior to taking any decision on it. NCBs shall subsequently inform the ECB of such a decision when it differs from the information previously given to the ECB.
2. It is recommended that NCBs apply the provisions of this Guideline to euro coins unless otherwise provided for within the framework set up by the competent national authorities.

*Article 5***Final provisions**

1. This Guideline shall enter into force on 1 October 2001.
2. This Guideline is addressed to the NCBs.
3. This Guideline shall be published in the *Official Journal of the European Communities*.

Done at Frankfurt am Main, 13 September 2001.

*On behalf of the Governing Council of the
European Central Bank*

Willem F. DUISENBERG