

GUIDELINES

EUROPEAN CENTRAL BANK

GUIDELINE OF THE EUROPEAN CENTRAL BANK

of 19 June 2008

amending Guideline ECB/2006/9 on certain preparations for the euro cash changeover and on frontloading and sub-frontloading of euro banknotes and coins outside the euro area**(ECB/2008/4)**

(2008/549/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty establishing the European Community, and in particular Article 106(1) thereof,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular Article 16 thereof,

Whereas:

- (1) Guideline ECB/2006/9 of 14 July 2006 on certain preparations for the euro cash changeover and on frontloading and sub-frontloading of euro banknotes and coins outside the euro area ⁽¹⁾ lays down the rules allowing the national central banks (NCBs) of future participating Member States to borrow euro banknotes and coins from the Eurosystem for the purpose of frontloading and sub-frontloading them before the cash changeover and defines the obligations to be fulfilled by eligible counterparties and professional third parties in order for them to be frontloaded and sub-frontloaded respectively.
- (2) Following the introduction of the euro in Slovenia, Cyprus and Malta pursuant to the rules contained in Guideline ECB/2006/9, the need to make various amendments aimed at improving the logistical aspects of the cash changeover in future participating Member States was identified.
- (3) In view of the difficulties likely to be faced by future Eurosystem NCBs in planning the volume and denominations of euro banknotes needed after the cash changeover date, such Eurosystem NCBs must have the possibility, immediately after the cash changeover date, to refine the denominational structure of their stocks of euro banknotes at low cost.
- (4) While only credit institutions and national post offices that have an account with their future Eurosystem NCB are currently entitled to sub-frontload euro banknotes and coins to professional third parties, experience gained so far with cash changeovers pursuant to Guideline ECB/2006/9 has demonstrated the usefulness of involving cash in transit companies in sub-frontloading operations. Credit institutions and national post offices should therefore be allowed to appoint cash-in-transit companies as their agents for the purpose of sub-frontloading euro banknotes and coins.
- (5) To avoid the duplication of reporting obligations relating to the volume and denomination of frontloaded and sub-frontloaded euro banknotes and coins, the reporting procedure applicable to future Eurosystem NCBs and eligible counterparties must be simplified.
- (6) In view of the potentially numerous and frequent audits and inspections to be carried out by the future Eurosystem NCBs at the premises of frontloaded and sub-frontloaded entities to check that the latter do not put euro banknotes and coins into circulation before the cash changeover date, it is necessary to allow the future Eurosystem NCBs to entrust other public authorities with such tasks.

⁽¹⁾ OJ L 207, 28.7.2006, p. 39.

- (7) The contractual arrangements to be entered into between frontloaded and sub-frontloaded entities before any sub-frontloading taking place and the lack of financial incentives available to sub-frontloaded entities have proven, based on experience gained so far with cash changeovers pursuant to Guideline ECB/2006/9, to be detrimental to the success of sub-frontloading in relation to certain categories of retailers, e.g. convenience stores and other small retail outlets. It is therefore necessary to introduce a simplified sub-frontloading procedure to be used when only small amounts of euro banknotes and coins are involved.
- (8) The need to make various other minor amendments to Guideline ECB/2006/9 has also been identified,

HAS ADOPTED THIS GUIDELINE:

Article 1

Guideline ECB/2006/9 is amended as follows:

1. Article 4 is amended as follows:

- (a) the following text is added at the end of paragraph 5:

'However, a bulk transfer of euro banknotes shall not be considered part of the launch requirements if the future Eurosystem NCB holding the excess volume of one or more denominations of euro banknotes of equivalent value and quality as those contained in the bulk transfer, transfers these to the Eurosystem in exchange for such bulk transfer. Under these circumstances, no obligation to make repayment arises and the ECB shall bear the cost of transporting the euro banknotes;'

- (b) paragraph 6(b) is deleted;

- (c) in paragraph 8, the last sentence is replaced by the following:

'The equivalent number and quality of banknotes to be repaid for future series of euro banknotes will be calculated as established by the Governing Council in due time;'

- (d) paragraph 11 is replaced by the following:

'11. A future Eurosystem NCB shall report the following to the ECB and to the delivering Eurosystem NCB(s), taking into account the requirements laid down in a separate legal instrument:

- (a) the final total amount of frontloaded and sub-frontloaded euro banknotes (broken down by denomination); and

- (b) the final total amount of frontloaded and sub-frontloaded euro coins (broken down by denomination).'

2. The following text is added at the end of Article 5:

'Eligible counterparties may appoint cash in transit companies as agents acting on their behalf and at their risk for the purpose of storage and sub-frontloading of euro banknotes and coins to professional third parties on condition that: (i) notwithstanding the appointment of an agent, eligible counterparties comply with all applicable rules and procedures laid down in this Guideline; and (ii) eligible counterparties conclude contractual arrangements with cash in transit companies stipulating that the cash in transit companies shall fulfil the obligations laid down in Article 10(a) and (b) and in Articles 13(1) to 13(3).'

3. In Article 9, the following text is added at the end of paragraph 2:

'The future Eurosystem NCB shall report the information received from an eligible counterparty to the ECB, taking into account the requirements laid down in a separate legal instrument.'

4. Article 10 is amended as follows:

- (a) point (b) is replaced by the following:

'(b) The eligible counterparty shall agree with the professional third party to be sub-frontloaded that the latter will allow the future Eurosystem NCB or any other competent public authority in accordance with Article 13(3), to carry out audits and inspections at the sub-frontloaded professional third party's premises in order to verify the presence of the sub-frontloaded euro banknotes and coins;'

- (b) point (c) is replaced by the following:

'(c) The eligible counterparty shall pay to the future Eurosystem NCB contractual penalties in an amount proportional to any damage suffered, however no less than 10 % of the sub-frontloaded amount, if: (i) the future Eurosystem NCB or any other competent public authority is not given access to carry out the audit and inspections referred to in point (b); or (ii) if the sub-frontloaded euro banknotes and coins are not stored on the premises of the sub-frontloaded professional third party as set out in this Article. A future Eurosystem NCB shall not impose such contractual penalties: (i) if its future participating Member State has established a regulatory framework providing for an equivalent level of protection; or (ii) to the extent that a sub-frontloaded professional third party has already paid penalties pursuant to Article 16(2)(f).'

5. Article 13 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. A future Eurosystem NCB shall prohibit eligible counterparties (including their appointed agents) from disposing of the euro banknotes and coins delivered to them before 00:00 (local time) on the cash changeover date, unless otherwise provided for by this Guideline. In particular, the future Eurosystem NCB shall require that eligible counterparties, including their appointed agents, store the frontloaded euro banknotes and coins in their vaults or in the vaults of their appointed agents, if any, separately from any other euro banknotes and coins, other currency and other property, and safely in order to avoid destruction, theft, robbery or any other cause of early circulation.'

(b) paragraph 3 is replaced by the following:

'3. In order to verify the presence of the frontloaded euro banknotes and coins and the arrangements under which the eligible counterparties carry out sub-frontloading, eligible counterparties, including their appointed agents, shall grant their future Eurosystem NCB the right to audit and inspect their premises. The future Eurosystem NCB may entrust another competent public authority with the audit and inspection of such premises, in which case the ECB shall be informed.'

6. Article 16 is amended as follows:

(a) paragraph 2(b) is deleted;

(b) paragraph 2(d) is replaced by the following:

'(d) the professional third party shall grant its future Eurosystem NCB or any other competent authority in accordance with Article 13(3) the right to audit and inspect its premises to verify the presence of sub-frontloaded euro banknotes and coins.'

(c) the following paragraph 3 is added:

'3. By derogation from the sub-frontloading procedure described in paragraph 2, the following simplified sub-frontloading procedure shall apply, amongst professional third parties, to retailers under the following conditions:

(a) the retailer is a micro enterprise as defined in Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (*), i.e. it employs fewer than 10 persons and has an annual turnover and/or annual balance sheet total that does not exceed EUR 2 million;

(b) the face value of the euro banknotes and coins sub-frontloaded to a retailer do not exceed EUR 10 000 in total;

(c) the retailer shall sign a standard form prepared by the future Eurosystem NCB in which it agrees not to dispose of the sub-frontloaded euro banknotes and coins before 00:00 (local time) on the cash changeover date. No other contractual arrangements shall be necessary; and

(d) the retailer shall store sub-frontloaded euro banknotes and coins as required under Article 10(a), and paragraph 2(d) shall apply accordingly.

(*) OJ L 124, 20.5.2003, p. 36.;

(d) the following paragraph 4 is added:

'4. Under the conditions mentioned in paragraph 3, simplified sub-frontloading may only occur five calendar days before the cash changeover date. The value in the legacy currency corresponding to the face value of the euro banknotes and coins sub-frontloaded by an eligible counterparty to a retailer under the simplified sub-frontloading procedure shall be blocked on the retailer's account with the eligible counterparty, and debited on the cash changeover date.'

7. Article 18 is replaced by the following:

'Future Eurosystem NCBs shall forward to the ECB copies of any legal instruments and measures adopted in their Member State in relation to this Guideline at the latest one month before commencement of the frontloading/sub-frontloading period, however not before any decision on abrogation of the derogation has been taken in relation to such Member State.'

Article 2

This Guideline shall enter into force on the day following its publication in the *Official Journal of the European Union*.

Article 3

This Guideline is addressed to the NCBs of participating Member States.

Done at Frankfurt am Main, 19 June 2008.

For the Governing Council of the ECB
The President of the ECB
Jean-Claude TRICHET
