

## DECISION OF THE EUROPEAN CENTRAL BANK

of 22 April 2004

**laying down the measures necessary for the contribution to the European Central Bank's accumulated equity value, for adjusting the national central banks claims equivalent to the transferred foreign reserve assets, and for related financial issues**

(ECB/2004/8)

(2004/505/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank and in particular Article 30 thereof,

Whereas:

- (1) In view of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union and their respective national central banks (NCBs) becoming part of the European System of Central Banks (ESCB) on 1 May 2004, the weightings assigned to the NCBs of the Member States that have adopted the euro (hereinafter the participating NCBs) in the ECB's capital key (hereinafter the capital key weightings and the capital key respectively) shall be adjusted, as provided for in Decision ECB/2004/5 of 22 April 2004 on the national central banks' percentage shares in the key for subscription to the European Central Bank's capital <sup>(1)</sup>.
- (2) This adjustment also results in the need to adjust the claims which the ECB has credited under Article 30.3 of the Statute to the participating NCBs and which are equivalent to the participating NCBs' contributions of foreign reserve assets to the ECB (hereinafter the claims).
- (3) Those participating NCBs whose claims increase due to the expansion of the capital key on 1 May 2004 should therefore effect a compensatory transfer to the ECB, while the ECB should effect a compensatory transfer to those participating NCBs whose claims decrease due to this expansion.
- (4) The limit on the amount of foreign reserve assets that may be transferred to the ECB will be EUR 55 646 692 471,89 from 1 May 2004.
- (5) In accordance with the general principles of fairness, equal treatment and the protection of legitimate expectations underlying the Statute, those participating NCBs whose relative share in the ECB's accumulated equity value

increases due to the abovementioned adjustments should also effect a compensatory transfer to those participating NCBs whose relative share decreases.

- (6) The respective capital key weightings of each participating NCB until 30 April 2004 and from 1 May 2004 should be expressed as a percentage of the ECB's total capital as subscribed to by all participating NCBs for the purpose of calculating the adjustment of the value of each participating NCB's share in the ECB's accumulated equity value,

HAS DECIDED AS FOLLOWS:

*Article 1*

**Definitions**

For the purposes of this Decision:

- (a) the 'accumulated equity value' shall mean the total of the ECB's reserves, revaluation accounts and provisions equivalent to reserves as calculated by the ECB on 30 April 2004, plus or minus the ECB's calculated accumulated net profit or loss, as the case may be, from 1 January 2004 until 30 April 2004 after including the undistributed ECB's income on euro banknotes accrued for the month of April 2004, but excluding the ECB's income on euro banknotes in the first quarter of 2004 that has already been distributed to the NCBs. The ECB's reserves and those provisions equivalent to reserves shall include, without limitation to the generality of the 'accumulated equity value', the general reserve fund and the provisions equivalent to reserves for valuation losses with respect to foreign exchange rates and market prices;
- (b) the 'transfer date' shall mean 19 May 2004;
- (c) the 'ECB's income on euro banknotes' shall have the same meaning as the term 'ECB's income on euro banknotes in circulation' as defined in Article 1(d) of Decision ECB/2002/9 of 21 November 2002 on the distribution of the income of the European Central Bank on euro banknotes in circulation to the national central banks of the participating Member States <sup>(2)</sup>.

<sup>(1)</sup> See page 5 of this Official Journal.

<sup>(2)</sup> OJ L 323, 28.11.2002, p. 49.

*Article 2***Contribution to the ECB's reserves and provisions**

1. If a participating NCB's share in the accumulated equity value increases due to the increase in its capital key weighting on 1 May 2004, such an NCB shall transfer the amount determined pursuant to paragraph 3 to the ECB on the transfer date.
2. If a participating NCB's share in the accumulated equity value decreases due to the decrease in its capital key weighting on 1 May 2004, such an NCB shall receive the amount determined pursuant to paragraph 3 from the ECB on the transfer date.
3. The ECB shall, on or before 14 May 2004, calculate and confirm to each participating NCB either the amount to be transferred by that NCB to the ECB where paragraph 1 applies, or the amount which that NCB shall receive from the ECB where paragraph 2 applies. Subject to rounding, each amount to be transferred or received shall be calculated by multiplying the accumulated equity value by the absolute difference between each participating NCB's capital key weighting on 30 April 2004 and its capital key weighting from 1 May 2004 and dividing the result by 100.
4. Each amount described in paragraph 3 shall be due in euro on 1 May 2004 but shall be effectively transferred on the transfer date.
5. On the transfer date, a participating NCB or the ECB having to transfer an amount under paragraph 1 or paragraph 2 shall also separately transfer any interest accruing over the period from 1 May 2004 until the transfer date on each of the respective amounts due from such participating NCB and the ECB. The transferors and recipients of this interest shall be the same as the transferors and recipients of the amounts on which the interest accrues.
6. If the accumulated equity value is less than zero, the amounts that have to be transferred or received under paragraph 3 and paragraph 5 shall be settled in the opposite directions to those specified in paragraph 3 and paragraph 5.

*Article 3***Adjustment of the claims equivalent to the transferred foreign reserve assets**

1. The participating NCBs' claims shall be adjusted on 1 May 2004 in accordance with their adjusted capital key weightings. The value of the participating NCBs' claims from 1 May 2004 is shown in the third column of the table in the Annex to this Decision.

2. Each participating NCB shall, by virtue of this provision and without any further formality or act being required, be considered to have either transferred or received on 1 May 2004 the absolute value of the claim (in euro) shown next to its name in the fourth column of the table in the Annex to this Decision, whereby '-' shall refer to a claim that the NCB shall transfer to the ECB and '+' to a claim that the ECB shall transfer to the NCB.

3. On 3 May 2004, each participating NCB shall either transfer or receive the absolute value of the amount (in euro) shown next to its name in the fourth column of the table in the Annex to this Decision, whereby '+' shall refer to an amount that the NCB shall transfer to the ECB and '-' to an amount that the ECB shall transfer to the NCB.

4. On 3 May 2004, the ECB and the participating NCBs that are under an obligation to transfer amounts under paragraph 3 shall also separately transfer any interest accruing over the period from 1 May 2004 until 3 May 2004 on the respective amounts due from the ECB and such NCBs. The transferors and recipients of this interest shall be the same as the transferors and recipients of the amounts on which the interest accrues.

*Article 4***Related financial issues**

1. In derogation from the third subparagraph of Article 2(1) of Decision ECB/2001/16 of 6 December 2001 on the allocation of monetary income of the national central banks of participating Member States from the financial year 2002<sup>(1)</sup>, the intra-Eurosystem balances on euro banknotes in circulation shall, for the period from 1 May 2004 until 31 May 2004, be calculated on the basis of the expanded capital key applicable from 1 May 2004 applied to balances on the total euro banknotes in circulation on 30 April 2004. The average rate of return, as described in Article 3(3) Decision ECB/2001/16, shall be calculated separately for the period from 1 January 2004 until 30 April 2004 and for the period from 1 May 2004 until 31 December 2004. For the period from 1 May 2004 until 31 December 2004, the compensatory amounts and the accounting entries to balance those amounts, as described in Article 4(3) of Decision ECB/2001/16, shall be recorded in the books of each NCB with a value date of 1 May 2004. In derogation from the third sentence of Article 5(1) of Decision ECB/2001/16, the ECB shall inform the NCBs of the amounts of cumulative monetary income relating to the period from 1 January 2004 to 30 April 2004 on a four-monthly basis and relating to the period from 1 May 2004 to 30 June 2004 on a two-monthly basis.

2. In relation to the period from 1 January 2004 until 30 April 2004, the NCBs' pooled monetary income, the remuneration on the NCBs' claims equivalent to the foreign reserve assets transferred to the ECB and the remuneration on the intra-Eurosystem balances on euro banknotes in circulation shall be allocated and distributed in accordance with the capital key weightings applicable on 30 April 2004. The ECB's income on euro banknotes for the first quarter of 2004 shall be allocated in accordance with

<sup>(1)</sup> OJ L 337, 20.12.2001, p. 55. Decision as amended by Decision ECB/2003/22 (OJ L 9, 15.1.2004, p. 39).

the capital key weightings applicable on 30 April 2004, and for the second quarter of 2004 in accordance with the capital key weightings applicable from 1 May 2004.

3. The ECB's net profit or loss, as the case may be, for the financial year 2004 shall be allocated on the basis of the capital key weightings applicable from 1 May 2004.

4. If at the end of 2004 the ECB calculates that it is likely to make an overall loss for the financial year 2004, or if its likely net profit is lower than the amount of the ECB's income on euro banknotes earned during the year, the ECB shall retain the ECB's income on euro banknotes for the fourth quarter of 2004. Depending on the size of any estimated loss, the ECB shall also require the reversal of part or all of any interim distributions of the ECB's income on euro banknotes earned in the third, second and first quarters of 2004, in that order, until such loss is covered. In the event that the ECB makes a loss in the financial year 2004 and the ECB's income on euro banknotes earned during the financial year 2004 is insufficient to cover such loss, the ECB shall offset the loss against the following:

- (a) funds released from the ECB's general reserve fund;
- (b) subject to a decision of the Governing Council under Article 33 of the Statute, the NCBs' pooled monetary income from 1 May 2004 until 31 December 2004;
- (c) subject to a decision of the Governing Council under Article 33 of the Statute, the NCBs' pooled monetary income from 1 January 2004 to 30 April 2004.

5. If any part of the distributed ECB's income on euro banknotes for the first quarter of 2004 needs to be repaid pursuant to paragraph 4 and if the NCBs' pooled monetary income from 1 January 2004 until 30 April 2004 needs to be transferred back to the ECB, compensatory payments in addition to the payments described in Article 2 and Article 3 shall be made. Each participating NCB whose capital key weighting increases on 1 May 2004 shall make such a payment to the ECB, and the ECB shall make such a payment to each participating NCB whose capital key weighting decreases on 1 May 2004. The amount of the compensatory payments shall be calculated as follows. The total repayable ECB's income on euro banknotes for the first quarter of 2004 shall be multiplied by the absolute difference between the participating NCB's capital key weighting on 30 April 2004 and its capital key weighting on 31 December 2004 and the result shall be divided by 100. The total retransferable monetary income for the period from 1 January 2004 until 30 April 2004 shall be multiplied by the absolute difference between the participating

NCB's capital key weighting on 30 April 2004 and its capital key weighting on 31 December 2004 and the result shall be divided by 100. Interest shall accrue on the compensatory payments relating to the NCBs' pooled monetary income from 1 January 2005 until the payment date of these payments.

6. The additional compensatory payments relating to the ECB's income on euro banknotes as described in paragraph 5 shall be paid on 4 January 2005. The additional compensatory payments relating to the NCBs' pooled monetary income as described in paragraph 5, as well as the interest accrued thereon, shall be paid on the second working day after the second Governing Council meeting held in March 2005.

#### Article 5

#### General provisions

1. The interest accruing under paragraph 5 of Article 2, paragraph 4 of Article 3 and paragraph 5 of Article 4 shall be calculated on a daily basis, using the actual 360-day method of calculation, at a rate equal to the marginal interest rate used by the ESCB in its most recent main refinancing operation.

2. Each transfer pursuant to paragraphs 1, 2 and 5 of Article 2, paragraphs 3 and 4 of Article 3 and paragraphs 5 and 6 of Article 4 shall take place separately through the Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET).

3. The ECB and the participating NCBs that are under an obligation to effect any of the transfers referred to in paragraph 2 shall, in due course, give the necessary instructions for duly executing such transfers on time.

#### Article 6

#### Final provision

This Decision shall enter into force on 23 April 2004.

Done at Frankfurt am Main, 22 April 2004.

*The President of the ECB*  
Jean-Claude TRICHET

## ANNEX

## Claims equivalent to the foreign reserve assets transferred to the ECB (\*)

(EUR)

Participating NCB	Claim equivalent to the foreign reserve assets transferred to the ECB, on 30 April 2004	Claim equivalent to the foreign reserve assets transferred to the ECB, from 1 May 2004	Amount of transfer
Nationale Bank van België/Banque Nationale de Belgique	1 414 850 000	1 419 101 951,42	+4 251 951,42
Deutsche Bundesbank	11 702 000 000	11 761 707 507,63	+59 707 507,63
Bank of Greece	1 080 700 000	1 055 840 342,96	-24 859 657,04
Banco de España	4 390 050 000	4 326 975 513,23	-63 074 486,77
Banque de France	8 258 750 000	8 275 330 930,88	+16 580 930,88
Central Bank and Financial Services Authority of Ireland	512 700 000	513 006 857,90	+306 857,90
Banca d'Italia	7 286 300 000	7 262 783 714,66	-23 516 285,34
Banque centrale du Luxembourg	85 400 000	87 254 013,80	+1 854 013,80
De Nederlandsche Bank	2 216 150 000	2 223 363 597,71	+7 213 597,71
Oesterreichische Nationalbank	1 150 950 000	1 157 451 203,42	+6 501 203,42
Banco de Portugal	1 006 450 000	982 331 062,21	-24 118 937,79
Suomen Pankki	714 900 000	717 118 925,89	+2 218 925,89
Total:	39 819 200 000	39 782 265 621,70	-36 934 378,30

(\*) Due to rounding, totals may not correspond to the sum of all figures shown.