

## II

(Acts whose publication is not obligatory)

## EUROPEAN CENTRAL BANK

### GUIDELINE OF THE EUROPEAN CENTRAL BANK

of 26 September 2002

**on minimum standards for the European Central Bank and national central banks when conducting monetary policy operations, foreign exchange operations with the ECB's foreign reserves and managing the ECB's foreign reserve assets**

(ECB/2002/6)

(2002/777/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty establishing the European Community, and in particular to the first, second and third indents of Article 105(2),

Having regard to Article 12.1 and Article 14.3 of the Statute of the European System of Central Banks and of the European Central Bank, in conjunction with the first, second and third indents of Article 3.1, Article 18.2 and Article 30.6,

Whereas:

(1) In accordance with the first, second and third indents of Article 105(2) of the Treaty, amongst the basic tasks to be carried out by the ESCB are the definition and implementation of the monetary policy of the Community, the conduct of foreign exchange operations consistent with the provisions of Article 111 of the Treaty and the holding and management of the official foreign reserves of the Member States.

(2) The European Central Bank (ECB) considers it necessary for the ECB and each national central bank of a participating Member State (NCB) to apply minimum standards when: (i) conducting monetary policy operations; (ii) conducting foreign exchange operations with the ECB's foreign reserves, and (iii) managing the ECB's foreign reserve assets to the extent that NCBs are acting as an agent for the ECB pursuant to Guideline ECB/2000/1 of 3 February 2000 on the management of the foreign reserve assets of the European Central Bank by the national central banks and the legal documentation for operations involving the foreign reserve assets of the European Central Bank <sup>(1)</sup>, as last amended by Guideline ECB/2001/12 <sup>(2)</sup>.

(3) Article 38.1 of the Statute provides that members of the governing bodies and the staff of the ECB and the NCBs shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy.

(4) The members of the Governing Council of the ECB have agreed on a Memorandum of Understanding on similar matters in the Governing Council meeting of 16 May 2002 <sup>(3)</sup>.

(5) In accordance with Article 12.1 and Article 14.3 of the Statute, ECB guidelines form an integral part of Community law,

HAS ADOPTED THIS GUIDELINE:

*Article 1*

**Minimum standards for the ECB and NCBs when conducting monetary policy operations, foreign exchange operations with the ECB's foreign reserves and managing the ECB's foreign reserve assets**

When conducting activities or operations related to monetary policy operations, foreign exchange operations with the ECB's foreign reserves and when managing the ECB's foreign reserve assets, the ECB and each NCB shall ensure that its internal rules related to such operations or to such management, whether they are codes of conduct, personnel regulations or any other type of internal rules comply with the following minimum standards, in the framework of applicable national laws and labour market practices.

<sup>(1)</sup> OJ L 207, 17.8.2000, p. 24.

<sup>(2)</sup> OJ L 310, 28.11.2001, p. 31.

<sup>(3)</sup> OJ C 123, 24.5.2002, p. 9.

## 1. SCOPE

The internal rules of the ECB and of the NCBs should contain binding provisions ensuring compliance with these minimum standards of all the ECB's and NCBs' activities or operations related to monetary policy, foreign exchange operations with the ECB's foreign reserves and when managing the ECB's foreign reserve assets.

The rules contained herein should be applicable to:

- the members of the Executive Board of the ECB when not exercising their functions as members of the Governing Council,
- the members of the NCBs' decision making bodies, other than those who are members of the Governing Council of the ECB (and their alternates appointed in accordance with Article 4.4 of the Rules of Procedure of the European Central Bank) exercising their functions as members of the Governing Council,
- all ECB's employees involved in activities or operations related to monetary policy operations, foreign exchange operations with the ECB's foreign reserves and the management of the ECB's foreign reserve assets, and
- all NCB employees involved in activities or operations related to monetary policy operations, foreign exchange operations with the ECB's foreign reserves and the management of the ECB's foreign reserve assets

(such members of the Executive Board of the ECB and the NCBs' decision-making bodies are hereinafter collectively referred to as 'decision-making bodies' and such ECB and NCB employees are hereinafter collectively referred to as 'employees').

These minimum standards are not intended to exclude or prejudice the operation of any other more stringent provisions laid down in the ECB's and NCBs' internal rules that apply to employees as well as to the decision making bodies, and these minimum standards shall also be without prejudice to the operation of Article 38.1 of the Statute of the European System of Central Banks and of the European Central Bank.

## 2. MANAGEMENT SUPERVISION OF OPERATIONS WITH MARKET COUNTERPARTIES

Control of the activities of the employees engaged in operations with market counterparties is the responsibility of the respective management. The authorisations and responsibilities according to which market operators and support staff should discharge their duties should be clearly set out in writing.

## 3. AVOIDANCE OF POTENTIAL CONFLICTS OF INTEREST

Decision-making bodies and employees are required to abstain from being a party to any economic or financial transactions that may hinder their independence and impartiality.

Decision-making bodies and employees should avoid any situation liable to give rise to a conflict of interest.

## 4. PROHIBITION OF INSIDER TRADING

The ECB and the NCBs should not allow the decision-making bodies and employees to conduct insider trading, nor to pass

non-public confidential information obtained at the workplace on to third parties. Moreover, decision-making bodies and employees may not use non-public ESCB related knowledge obtained at the workplace whenever they conduct private financial transactions.

Insider trading is defined as the activity of any person who, by virtue of his or her employment, profession or duties, has access to certain information of a precise nature that could be relevant to monetary policy operations, foreign exchange operations with the ECB's foreign reserves and the management of the ECB's foreign reserve assets before it becomes public and takes advantage of that information with full knowledge of the facts by acquiring or disposing of, either for his or her own account or for the account of a third party, either directly or indirectly, assets (including transferable securities) or rights (including rights under derivatives contracts) to which that information is closely related.

The ECB and the NCBs should have appropriate arrangements in place to check that financial transactions entered into by the decision-making bodies and employees conform with this rule. Moreover, these arrangements should be strictly limited to compliance checks regarding those kinds of transactions that could be relevant to monetary policy operations, foreign exchange operations with the ECB's foreign reserves and the management of the ECB's foreign reserve assets. Such compliance checks should only be carried out where there are compelling reasons for doing so.

## 5. ENTERTAINMENT AND GIFTS

Decision-making bodies and employees may not solicit gifts and entertainment from third parties in the course of conducting monetary policy operations, foreign exchange operations with the ECB's foreign reserves and the management of the ECB's foreign reserve assets, nor may decision-making bodies and employees accept gifts and entertainment in excess of a customary or negligible amount, whether financial or non-financial, that may hinder their independence and impartiality.

Employees should be required to inform their management about any attempt by a counterparty to offer them such gifts or entertainment.

*Article 2***Amendments to Guideline ECB/2000/1**

Article 3a of and Annex 4 to Guideline ECB/2000/1 shall be repealed.

*Article 3***Verification**

The NCBs shall forward details of the texts and means by which they intend to comply with this Guideline to the ECB by 15 October 2002 at the latest to the extent they have not yet done so in the context of the implementation of Guideline ECB/2001/5 <sup>(1)</sup>.

<sup>(1)</sup> OJ L 190, 12.7.2001, p. 26.

*Article 4***Final provisions**

1. This Guideline is addressed to the NCBs of the Member States that have adopted the single currency in accordance with the Treaty.
2. This Guideline shall enter into force on 30 November 2002.
3. This Guideline shall be published in the *Official Journal of the European Communities*.

Done at Frankfurt am Main, 26 September 2002.

*On behalf of the Governing Council of the  
ECB*

*The President*

Willem F. DUISENBERG

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