EUROPEAN CENTRAL BANK

EUROSYSTEM

OPINION OF THE EUROPEAN CENTRAL BANK

of 20 August 2013

on the principles and procedure for exchanging banknotes and coins

(CON/2013/64)

Introduction and legal basis

On 18 July 2013, the European Central Bank (ECB) received a request from the President of Narodowy Bank Polski (NBP) for an opinion on a draft ordinance on detailed principles and procedure concerning the exchange of banknotes and coins that have ceased to be legal tender within the territory of the Republic of Poland as a result of wear and tear or damage (hereinafter the 'draft ordinance').

The ECB's competence to deliver an opinion is based on Articles 127(4) and 282(5) of the Treaty on the Functioning of the European Union and the first, second and third indents of Article 2(1) of Council Decision 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions[1], as the draft ordinance relates to currency matters, means of payment and NBP. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the European Central Bank, the Governing Council has adopted this opinion.

1. Purpose of the draft ordinance

1.1 The draft ordinance recasts the provisions of NBP President's Ordinance No 1/2003 of 15 January 2003 on the detailed principles and procedure for replacing banknotes and coins which have ceased to be legal tender within the territory of the Republic of Poland as a result of wear and tear or damage (hereinafter the 'existing ordinance')[2]. The main aim of the recast is to align the principles for exchanging coins with the principles for sorting coins[3]. This includes aligning the respective definitions used in the two legal acts, to ensure the uniform treatment of coins unfit for circulation.

1.2 In addition to aligning the principles for exchanging coins with the principles for sorting coins, the draft ordinance introduces the following main new elements: (a) rules for exchanging banknotes and coins contaminated with various substances; (b) rules for exchanging banknotes and coins presented for exchange by prosecuting authorities; (c) fees payable for exchanging banknotes and coins accidentally damaged by anti-theft devices.

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1 OJ L 189, 3.7.1998, p. 42.

2 *Dziennik Urzędowy Narodowego Banku Polskiego* (Dz. Urz. NBP) of 17 January 2003 No 1, item 1.

3 As defined in NBP President Ordinance No 19/2007 of 24 October 2007 on the method and procedure for counting, sorting, packaging and labelling packaging units of banknotes and coins, and on conducting activities related to the supply of banknotes and coins to banks (*Dz. Urz. NBP* of 29 October 2007 No 14, item 28).

2. General comments

The ECB has already been consulted and commented on a previous amendment to the existing ordinance, as well as on NBP President's Ordinance No 19/2007. To the extent the draft ordinance repeats the provisions of the existing ordinance, or redrafts these provisions without materially changing their content, the ECB reiterates its comments made in past ECB opinions[4].

3. Specific comments

Fee for exchanging banknotes and coins accidentally damaged by anti-theft devices

Paragraph 9(1) of the draft ordinance provides that the exchange of banknotes and coins that have been accidentally damaged by anti-theft devices will be subject to a fee charged by NBP to the entities or persons presenting the damaged banknotes for exchange[5]. The level of the fee, set at 3% of the nominal value of the damaged banknotes and coins to be exchanged, seems to be substantially higher than the equivalent fee charged by the Eurosystem national central banks[6].

This opinion will be published on the ECB's website.

Done at Frankfurt am Main, 20 August 2013.

[signed]

The Vice-President of the ECB

Vítor CONSTÂNCIO

4 See in particular paragraphs 2.2 and 3.3 of Opinion CON/2008/26 and paragraph 2.1 of Opinion CON/2007/28. All ECB opinions are published on the ECB's website at www.ecb.europa.eu.

5 Paragraph 9(2) of the draft ordinance provides that the fee will not apply if banknotes and coins presented for exchange have been damaged due to actual or attempted robbery and the entity or person presenting them for exchange is the victim of such actual or attempted robbery.

6 Article 4(2) of Decision ECB/2013/10 of 19 April 2013 on the denominations, specifications, reproduction, exchange and withdrawal of euro banknotes (OJ L 118, 30.4.2013, p. 37) provides that the fee for exchanging genuine euro banknotes that have been damaged by anti-theft devices amounts to 10 euro cent per damaged euro banknote.