EUROPEAN CENTRAL BANK

EUROSYSTEM

OPINION OF THE EUROPEAN CENTRAL BANK

of 10 May 2012

on the protection against counterfeiting and the quality of cash circulation

(CON/2012/34)

Introduction and legal basis

On 30 March 2012, the European Central Bank (ECB) received a request from the German Ministry of Finance for an opinion on a draft regulation on the delegation of power to the Deutsche Bundesbank to adopt regulations pursuant to Section 36a of the Law on the Deutsche Bundesbank (hereinafter the 'draft regulation').

The ECB's competence to deliver an opinion is based on Article 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 legislation concerns currency matters, means of payment and the Deutsche Bundesbank. 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 regulation

1.1 The draft regulation is based on Section 36a of the Law on the Deutsche Bundesbank, which became part of that Law in 2011[2]. This provision authorises the Ministry of Finance to issue more detailed provisions on submission duties, including the option to notify the Deutsche Bundesbank about transactions with banknote handling systems. It also provides the option of delegating the adoption of such provisions to the Deutsche Bundesbank's Executive Board. The draft regulation aims to enable the Deutsche Bundesbank's Executive Board to adopt implementing legislation on reporting duties on operators of banknote processing systems towards the Deutsche Bundesbank. The Deutsche Bundesbank will have to seek the agreement of the Ministry of Finance before such implementing legislation can be adopted.

1.2 The explanatory memorandum to the draft regulation provides that the delegation will be granted on the basis of the Deutsche Bundesbank's expertise in this field. The implementing legislation to be enacted will contain detailed practical issues regarding on-site inspections of banknote

1 OJ L 189, 3.7.1998, p. 42.

2 See Opinion CON/2011/92.

processing systems and details on the reporting duties of the operators of such systems. In addition, it will contain templates for reporting.

2. General observations

The ECB welcomes the draft regulation under which the German Federal Government exercises its discretion to delegate its power to regulate the scope and manner of the reporting duties of banknote processing entities. The ECB expects to be consulted on any draft regulation by the Deutsche Bundesbank on the basis of this delegation.

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

Done at Frankfurt am Main, 10 May 2012.

[signed]

The President of the ECB

Mario DRAGHI