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GUIDELINE OF THE EUROPEAN CENTRAL BANK

of 20 March 2003

on the enforcement of measures to counter non-compliant reproductions of euro banknotes and on the exchange and withdrawal of euro banknotes

(ECB/2003/5)

(2003/206/EC)

(OJ L 78, 25.3.2003, p. 20)

Amended by:

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►**M2**	Guideline (EU) 2020/2091 of the European Central Bank of 4 December 2020	L 423	65	15.12.2020

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(2003/206/EC)

▼M2

Article 1

Definitions

For the purposes of this Guideline:

1. a ‘non-compliant reproduction’ means any reproduction referred to in Article 2(1) of Decision ECB/2013/10 of the European Central Bank ([1]) that:

   (a) does not comply with the criteria set out in Article 2(3) of Decision ECB/2013/10 and is not exempted by the ECB or the relevant NCB under Article 2(5) of Decision ECB/2013/10; or

   (b) infringes the ECB’s copyright on euro banknotes for instance by adversely affecting the standing of euro banknotes;

2. a ‘non-compliant activity’ means the production, possession, transportation, dissemination, selling, promotion, import into the Union and use or attempted use for transactions of non-compliant reproductions.

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Article 2

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Enforcement of measures to counter non-compliant activities

1. Where an NCB becomes aware of a non-compliant activity engaged in its national territory, it shall, by means of a standardised communication provided by the ECB, order the non-compliant party to stop engaging in one or more of the relevant non-compliant activities, and shall, where deemed appropriate, order the party in possession of the non-compliant reproduction to hand over the non-compliant reproduction.

1a. Where an NCB becomes aware of the engagement in a non-compliant activity, whether direct or indirect, including through electronic form on websites with the relevant national url domains, by wire or wireless means, or by any other means that allow members of the public to access the non-compliant reproduction from a place and at a time individually chosen by them, it shall notify the ECB without delay. The NCB shall also, using a standardised template provided by the ECB, order the non-compliant party to stop engaging in the non-compliant activity. The ECB shall then take all possible steps to remove the non-compliant reproduction from the electronic location.

([1]) 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).

▼M2

1b. The ECB may also order the non-compliant party to stop engaging in one or more of the relevant non-compliant activities in the territory of more than one Member State and outside the Union. Where deemed appropriate, the ECB shall order the party in possession of the non-compliant reproduction to hand over the non-compliant reproduction.

1c. Prior to taking any of the measures referred to in this Article, an NCB shall inform the ECB and the ECB shall coordinate the measures to be taken so that the NCB or the ECB, as applicable, is acting within its required competence when taking any measures.

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2. Where the non-compliant party does not comply with an order issued under paragraph 1, the relevant NCB shall inform the ECB without delay.

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3. A subsequent decision to initiate an infringement procedure on the basis of Article 3(1) of Council Regulation (EC) No 2532/98 ([1]) which may result in sanctions being imposed in accordance with that Regulation shall be taken by either the Executive Board of the ECB or the relevant NCB. Prior to taking such decision, the ECB and the relevant NCB shall consult each other and the NCB shall inform the ECB whether a separate infringement procedure has been, or alternatively can be, initiated under national criminal law, and moreover, whether there is any other appropriate legal basis for action against the non-compliant activity, such as copyright law. Where an infringement procedure has already been initiated, or alternatively is to be initiated under national criminal law, or there is any other appropriate legal basis for action against the non-compliant activity, no infringement procedure under Regulation (EC) No 2532/98 shall be initiated.

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4. Where the ECB decides that an infringement procedure under Regulation (EC) No 2532/98 shall be initiated, it may require the NCBs to conduct legal proceedings. In this case, the ECB shall instruct the relevant NCBs and grant them any necessary powers of attorney. All legal costs shall be borne by the ECB. To the extent deemed appropriate and possible, the ECB or the NCB, as the case may be, shall ensure that the non-compliant reproductions are withdrawn.

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5. The ECB shall take the steps described in this Article acting on its own if:

(a) the origin of the non-compliant activity cannot reasonably be established; or

(b) the non-compliant activity has been or will be engaged in within the territories of several participating Member States; or

(c) the non-compliant activity has been or will be engaged in outside the territories of the participating Member States.

([1]) Council Regulation (EC) No 2532/98 of 23 November 1998 concerning the powers of the European Central Bank to impose sanctions (OJ L 318, 27.11.1998, p. 4).

▼M2

Article 3

Requests for an exemption for reproductions

1. All requests for an exemption in accordance with Article 2(5) of Decision ECB/2013/10 shall be dealt with:

(a) by the respective NCB, on the ECB's behalf, if the reproductions have only been or will only be produced in the territory of its Member State; or

(b) by the ECB in all other cases described in Article 2(5) of Decision ECB/2013/10.

2. If an NCB receives a request for an exemption of a novel kind, the NCB shall inform the ECB of the request and its intention either to grant or to deny an exemption. Should the ECB's and the NCB's views in this respect differ from each other, the Executive Board shall decide. In reaching its decision, the Executive Board shall take into account the views of the Banknote Committee and the Legal Committee, in particular any views expressed concerning the individual situation of the Member State in question subject to views expressed on the implications of the decision for the entire euro area. The ECB shall collect the data on the requests received by it (whether or not addressed to it) and the responses to those requests and inform the NCBs thereof. The ECB may also publish the consolidated data from time to time.

▼M1

Article 4

Exchange of damaged euro banknotes

1. The NCBs shall duly implement Decision ECB/2013/10 ([1]).

2. When implementing Decision ECB/2013/10, and subject to any legal constraints, NCBs may destroy any damaged euro banknotes or any parts thereof, unless there are legal grounds for them to be preserved or returned to the applicant.

3. The NCBs shall appoint a single organ or body to take decisions on the exchange of damaged euro banknotes for the cases provided for in Article 3(1)(b) of Decision ECB/2013/10, and shall inform the ECB accordingly.

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Article 5

Withdrawal of euro banknotes

The NCBs shall announce any decision of the Governing Council to withdraw an euro banknote type or series in the national media at their own expense in accordance with any instructions that may be issued by the Executive Board.

([1]) OJ L 118, 30.4.2013, p. 37.

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Article 6

Amendments to Guideline ECB/1999/3

Articles 1, 2 and 4 of Guideline ECB/1999/3 are hereby repealed. References to the repealed Articles shall be construed respectively as references to Articles 2, 4 and 5 of this Guideline.

Article 7

Final provisions

1. This Guideline is addressed to the national central banks of participating Member States.

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