EUROPEAN CENTRAL BANK

# OPINION OF THE EUROPEAN CENTRAL BANK

**of 19 September 2001**

**at the request of the Netherlands Ministry of Finance on an amendment of the current Decision dated 27 July 1998 on the establishment of rules concerning the exchange, withdrawal and cancelling of banknotes by De Nederlandsche Bank and the information thereon to be provided to the general public**

**CON/2001/26**

1. On 10 August 2001 the European Central Bank (ECB) received a request from the Netherlands Ministry of Finance for an opinion on a draft Decision amending the Decision of 27 July 1998 on the establishment of rules concerning the exchange, withdrawal and cancelling of banknotes by De Nederlandsche Bank and the information thereon to be provided to the general public (hereinafter the "draft Decision").

2. The ECB's competence to deliver an opinion is based on Article 105(4) of the Treaty establishing the European Community, Article 4 of the Statute of the European System of Central Banks and of the European Central Bank and Article 2(1), first, second and third indents, 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].

3. Article 1A of the draft Decision amends Article 1 of the existing Decision and it clarifies that withdrawn banknotes denominated in guilders can be exchanged during office hours at De Nederlandsche Bank's branches. The new wording set out in Article 1A of the draft Decision is marginally more restrictive in that De Nederlandsche Bank's offices might, in addition to the list of public holidays contained in Article 1 of the existing Decision, also be closed on Liberation Day and on days falling between a public holiday and a weekend. However, as this concerns only a small restriction of the general public's rights to exchange guilder banknotes at De Nederlandsche Bank's branches, the ECB does not raise any objections to Article 1A of the draft Decision.

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[1] OJ L 189, 3.7.1998, p. 42.

4. Article 1 B of the draft Decision deletes Article 2(1) of the current Decision, which holds that De Nederlandsche Bank shall decide the denominations and the form of guilder banknotes. The deletion of this Article is appropriate in view of the withdrawal of banknotes denominated in guilders as from 1 January 2002.

5. Finally, Article 1C of the draft Decision deletes Article 4(5) of the current Decision. This Article deals with the inclusion in De Nederlandsche Bank's profit and loss account of the profit accruing from guilder banknotes that have been withdrawn from circulation and which, 10 years after their withdrawal, still have not been submitted for exchange. The Explanatory Memorandum accompanying the draft Decision notes that this is a private law matter, which will be incorporated in a separate agreement between De Nederlandsche Bank and the Ministry of Finance.

6. This separate agreement has not yet been finalised, but the Explanatory Memorandum envisages the following scenario: in 2003 65% of the withdrawn guilder banknotes that are reasonably estimated on 1 January 2003 not to be submitted for exchange in that year, will be included in De Nederlandsche Bank's profit and loss account for 2002. In 2008 90% of the withdrawn guilder banknotes that are reasonably estimated on 1 January 2008 not to be submitted for exchange in 2008, will be included in De Nederlandsche Bank's profit and loss account for 2007 after deduction of the amount which has been included in the profit and loss account for 2002. Finally, in 2013 the remainder of the withdrawn guilder banknotes that have not by then been submitted for exchange will be included in De Nederlandsche Bank's profit and loss account for 2012 after deduction of the amounts which have been included in the De Nederlandsche Bank's profit and loss accounts for 2002, respectively for 2007. The ECB has no objections as such to Article 1C of the draft Decision. The ECB understands that the draft agreement will merely incorporate the aforementioned rules without affecting more general financial matters.

7. In accordance with Article 17.5, first sentence, of the Rules of Procedure of the European Central Bank,[2] this ECB opinion has been adopted by the Governing Council of the ECB.

8. The ECB confirms that it has no objection to the competent national authorities making this opinion publicly available at their discretion.

Done at Frankfurt am Main on 19 September 2001.

The President of the ECB

[signed]

Willem F. DUISENBERG

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[2] OJ L 125, 19.5.1999, p 34