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EUROPEAN CENTRAL BANK

EUROSYSTEM

OPINION OF THE EUROPEAN CENTRAL BANK

of 15 January 2007

at the request of the Cypriot Ministry of Finance
on a draft law regulating the adoption of the euro and the currency changeover

(CON/2007/1)

Introduction and legal basis

On 27 November 2006 the European Central Bank (ECB) received a request from the Cypriot Ministry of Finance for an opinion on a draft law regulating matters relating to the adoption of the euro and the smooth changeover from the Cyprus pound to the euro (hereinafter the 'draft law').

The ECB's competence to deliver an opinion is based on Article 105(4) of the Treaty establishing the European Community and on the first and second 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 law relates to currency matters and means of payment. 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 law and general observations

1.1 The aim of the draft law is to comprehensively adapt Cypriot law with a view to implementing the national changeover plan for replacing the Cyprus pound with the euro and facilitating the smooth changeover to the euro (Section 3 of the draft law). The draft law contains provisions relating to a wide range of topics concerning the changeover, including the establishment and duration of a dual circulation period (Section 4), conversion and rounding rules (Section 5), the dual display of prices (Section 7), references to national interbank reference rates (Section 8), monetary references in legal instruments (Section 9), the withdrawal of legal tender banknotes and coins (Section 10), the redenomination of public and corporate debt (Sections 15 and 16) and the redenomination of share capital (Sections 18 and19). The draft law also empowers the Council of Ministers and the Minister of Finance to adopt certain legal instruments for the purpose of regulating in more detail issues relevant to the application of the provisions of the draft law (Sections 21 and 22).

1 OJ L 189, 3.7.1998, p. 42.

1.2 The ECB welcomes the Cypriot Government's initiative to prepare for adoption and implementation of the measures necessary and appropriate for the introduction of the euro, which are to apply after the conditions for its introduction have been fulfilled.

1.3 The following comments on the draft law are made based on Council Regulation (EC) No 1103/97 of 17 June 1997 on certain provisions relating to the introduction of the euro[2], Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro[3] and Council Regulation (EC) No 2866/98 of 31 December 1998 on the conversion rates between the euro and the currencies of the Member States adopting the euro[4].

2. Technical comments

2.1 Section 5(1) of the draft law provides that all monetary amounts, denominated in Cyprus pounds and to be paid or accounted for in euro, or denominated in euro and to be paid or accounted for in Cyprus pounds during the dual circulation period, must be converted and rounded in accordance with the provisions or Articles 4 and 5 of Regulation (EC) No 1103/97. The ECB appreciates the usefulness of this provision as a public information and legal certainty measure. However, in general, repetitions in national legal acts of directly applicable provisions of Community law and preferably also specific references to such provisions should be avoided. The consulting authority may wish to consider whether a more general reference to the relevant Community legal act would serve the legitimate purposes of Section 5(1) of the draft law. Similarly, Sections 15(1), 16(1) and 18(1) of the draft law repeat the contents of Article 14 of Regulation (EC) No 974/98, while Section 15(3) thereof repeats part of Article 5 of Regulation (EC) No 1103/97.

2.2 Section 5(2) of the draft law lays down the rounding rules applicable to monetary amounts arising from intermediate computations which are not to be paid or accounted for. The ECB's understanding of this provision is that it provides for conversions from Cyprus pounds to euro, but not vice versa. In the interests of clarity and legal certainty, it is suggested that the consulting authority should provide for conversions from euro to Cyprus pounds during the dual circulation period.

2.3 Section 6(1) of the draft law provides that, where any provision of national law has been adopted for the purpose of transposing a Community legal act, and that Community legal act refers to an amount denominated in euro which the national provision has denominated in Cyprus pounds, the original reference in euro in the Community legal act in question must be reintroduced as from the euro adoption date, 'by deleting the amount denominated in pounds and replacing it by the amount

2 OJ L 162, 19.6.1997, p. 1. Regulation as amended by Council Regulation (EC) No 2595/2000 (OJ L 300, 29.11.2000, p. 1).

3 OJ L 139, 11.5.1998, p. 1. Regulation as last amended by Council Regulation (EC) No 1647/2006 (OJ L 309, 9.11.2006, p. 2).

4 OJ L 359, 31.12.1998, p. 1. Regulation as last amended by Council Regulation (EC) No 1086/2006 (OJ L 195, 15.7.2006, p. 1).

denominated in euro' in the Community legal act. Moreover, Section 6(2) of the draft law provides that, where any national provision adopted for the purpose of transposing the *acquis communautaire* refers to an amount denominated both in pounds and in euro, the reference to pounds must be deleted as from the euro adoption date. It is unclear whether the aim of these provisions is to ensure that any monetary amounts that are denominated in Cyprus pounds in national legislation which implements Community legal acts should automatically be understood to refer to the amounts in euro specified in the Community legislation or whether further formal amendments of national law provisions are required. As the wording of these provisions could also be interpreted as requiring that the affected national law provisions should be further *formally* amended, the ECB recommends that their wording should be clarified.

2.4 Section 10(2) of the draft law provides that, for a period of six months from the euro adoption date, banks and cooperative credit societies must accept the deposit of banknotes and coins in Cyprus pounds, subject to no quantitative restrictions (sub-paragraph (a)), and must exchange banknotes and coins in Cyprus pounds for banknotes and coins in euro subject to certain quantitative restrictions (sub-paragraph (b)). The ECB understands that the starting point for the six month period stipulated in Section 10(2) is intended to be the cash changeover date (i.e. the date on which euro banknotes and coins will acquire the status of legal tender in Cyprus), rather than the euro adoption date, notwithstanding that, in the case of Cyprus, the two dates are intended to coincide[5]. The ECB draws the consulting authority's attention to the importance of their actual coincidence as a precondition for the operation of Section 10(2) and would for that reason invite the consulting authority to consider the advisability of adapting the definition of 'euro adoption date', in Section 2 of the draft law, so that this encompasses both the date on which the abrogation of the derogation will enter into force and the date on which euro banknotes and coins will acquire the status of legal tender in the Republic of Cyprus.

2.5 Among other things, Section 14 of the draft law provides that 'cheques denominated in pounds and dated no later than six months after the euro adoption date shall be presumed to have been drawn before the euro adoption date and shall be valid as cheques payable in the equivalent in euro for six (6) months from the euro adoption date'. While appreciating the practical difficulties inherent in a requirement for proof to be furnished before a post-dated cheque can be declared valid, the ECB draws the consulting authority's attention to the fact that the provision effectively extends the status of cheques drawn in Cyprus pounds as valid means of payment by five months beyond the one month dual circulation period stipulated in Section 4 of the draft law. Moreover, since the draft law is not consistent with the existence of a phasing-out period, this provision is also not entirely consistent with the national changeover plan, as it currently stands. Finally, while consistency

5 It follows from the Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee, the Committee of the Regions and the European Central Bank, 'Fourth report on the practical preparations for the future enlargement of the euro area' COM(2006) 671 final of 10.11.2006 (< http://ec.europa.eu/economy_finance/publications/euro_related/2006/com2006_671final_en.pdf >) that it is not the intention that the euro should be introduced in Cyprus as a scriptural currency only, for a transitional period prior to the actual cash changeover.

between the changeover plan and national law is a matter for coordination at domestic level, there has to be consistency between the Community law provisions (i.e. amendments to Regulation (EC) No 974/98 establishing the changeover scenario for Cyprus) and national law. Thus, the current provisions appear to be compatible only with the introduction of the euro under the scenario of a 'big-bang' with a phasing-out period.

3. Other observations

3.1 The ECB understands that, in the Cypriot legal system, all legal acts (laws and regulations) enter into force on the date of their publication in the Official Gazette of the Republic, unless they make an explicit reference to another date.[6] While most of the provisions of the draft law explicitly link the start of their proposed legal effects to the euro adoption date, certain other provisions (e.g. Sections 7 and 17) contain no specific provision on their entry into force. These provisions would only make sense (i) if they were to be accompanied by a clear indication of the event on which their entry into force is conditional (the day following the publication of the decision to abrogate the derogation that Cyprus currently enjoys) and (ii) if that date precedes the date of the actual adoption of the euro/cash changeover by sufficient time to enable them to have their proposed legal effects. In the case of Section 7, an additional practical consideration is the definition of the conversion rate to be used for the dual display of prices during the period after the abrogation of the derogation and before the euro adoption date, i.e. prior to the actual entry into force of the irrevocable conversion rate between the euro and the Cyprus pound. The ECB is nevertheless satisfied that Section 7(4) of the draft law adequately addresses this issue.

3.2 The name of the sub-unit of the euro used throughout the text of the draft law is 'σεντ/ς', in Greek characters. While the only possible transliteration into Greek characters of the name of the sub-unit of the single currency is 'σεντ/ς' and while, until the time of the adoption of corrigenda to the Greek language versions of the texts of Regulation (EC) No 1103/97 and Regulation (EC) No 974/98, 'cent/s' was also retained for the Greek language versions of those Regulations, the use of the name 'σεντ/ς', in Greek characters, is not warranted under Community legislation.[7] It follows that the only name for the sub-unit of the single currency that the legislator can legitimately use in Cyprus, other than 'λεπτό/ά', is 'cents' in Latin characters.

6 See Section 7 of the Interpretation Law (Cap.1), as amended by Law 11/1989.

7 The consistent reference in Community legal acts to 'differences in alphabet' suggests that the original intention was not merely to prevent Member States from unilaterally adopting divergent names for the single currency and its sub-unit, but also to oblige them to spell the name of the single currency identically, subject nevertheless to the constraints inherent in the use of different alphabets in different Member States.

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

Done at Frankfurt am Main, 15 January 2007.

[signed]

The President of the ECB

Jean-Claude TRICHET