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EUROPEAN CENTRAL BANK

EUROSYSTEM

OPINION OF THE EUROPEAN CENTRAL BANK

of 9 January 2008

at the request of the German Ministry of Finance
on a draft law consolidating federal law within the field of competence of the Ministry of Finance and amending the Law on coins

(CON/2008/3)

Introduction and legal basis

On 27 November 2007 the European Central Bank (ECB) received a request from the German Federal Ministry of Finance (hereinafter the 'Ministry of Finance') for an opinion on a draft law consolidating federal law within the field of competence of the Ministry of Finance and amending the Law on coins (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 the second indent of Article 2(1) of Council Decision 98/415/EC of 29 June 1998 on the consultation of the ECB by national authorities regarding draft legislative provisions[1], as the draft regulation relates to means of payment. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the ECB, the Governing Council has adopted this opinion.

1. Purpose of the draft law

The draft law repeals a number of obsolete federal laws and amends the Law on coins. The amendments to the Law on coins empowers the Ministry of Finance to adopt regulations implementing Commission Recommendation 2005/504/EC of 27 May 2005 concerning authentication of euro coins and handling of euro coins unfit for circulation[2]. § 9a(1) of the draft law provides that the Ministry of Finance may, with the consent of the Deutsche Bundesbank, adopt a regulation concerning fee structures for the replacement of euro coins which are unfit for circulation, and that such fee structures should be in line with Recommendation 2005/504/EC § 9a(2) of the draft law also empowers the Ministry of Finance, with the consent of the Deutsche Bundesbank, to adopt a regulation dealing with the sorting, packaging and labelling of euro coins which are unfit for circulation.

1 OJ L 189, 3.7.1998, p. 42.

2 OJ L 184, 15.7.2005, p. 60.

2. General observations

2.1 The ECB welcomes the draft law which will align German legislation with the harmonised rules of Recommendation 2005/504/EC. The draft law is therefore a further step towards achieving common standards for the treatment by national central banks in the euro area of euro coins which are unfit for circulation. The ECB also welcomes that § 9a of the draft law requires the consent of the Deutsche Bundesbank for the adoption of the implementing regulations, since the Deutsche Bundesbank is responsible for replacing, sorting and packaging euro coins which are unfit for circulation.

2.2 The ECB notes that § 9a(2) of the draft law does not explicitly provide that the implementing regulation concerning the sorting, packaging and labelling of euro coins which are unfit for circulation should accord with Recommendation 2005/504/EC. In contrast, § 9a(1) of the draft law expressly requires this of the implementing regulation on fee structures. The ECB therefore recommends the inclusion of a reference to Recommendation 2005/504/EC in § 9a(2) of the draft law if it is also intended for the implementing regulation on sorting, packaging and labelling to comply with Recommendation 2005/504/EC.

2.3 The ECB notes that the draft law deletes the reference to the Federal cash offices ('Bundeskassen') in § 3(1) and in the first sentence of § 8 of the Law on coins, which reflects the fact that the Federal cash offices no longer handle cash.

2.4 The draft law contains further technical amendments on which the ECB has no comments.

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

Done at Frankfurt am Main, 9 January 2008.

[signed]

The President of the ECB

Jean-Claude TRICHET