EUROPEAN CENTRAL BANK

GUIDELINE OF THE EUROPEAN CENTRAL BANK

of 16 November 2001

amending Guideline ECB/2000/1 on the management of the foreign reserve assets of the European Central Bank by the national central banks and the legal documentation for operations involving the foreign reserve assets of the European Central Bank

(ECB/2001/12)

(2001/833/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty establishing the European Community and in particular to the third indent of Article 105(2) thereof and to the third indent of Article 3.1 and Article 12.1, Article 14.3 and Article 30.6 of the Statute of the European System of Central Banks and of the European Central Bank (hereinafter referred to as the 'Statute'),

Whereas:

(1) Pursuant to Guideline ECB/2000/1 of 3 February 2000 on the management of the foreign reserve assets of the European Central Bank by the national central banks and the legal documentation for operations involving the foreign reserve assets of the European Central Bank [1], as amended by Guideline ECB/2001/5 [2], each national central bank of a participating Member State shall carry out operations involving the foreign reserve assets of the European Central Bank (ECB) as an agent of the ECB.

(2) The ECB considers that the Master Agreement for Financial Transactions sponsored by the Banking Federation of the European Union in cooperation with the European Savings Banks Group and the European Association of Cooperative Banks is an appropriate master agreement for all collateralised operations involving the foreign reserve assets of the ECB comprising repurchase agreements, reverse repurchase agreements, buy/sell-back agreements and sell/buy-back agreements with counterparties organised or incorporated under the laws of the jurisdictions of the European Union and Switzerland.

(3) In accordance with Article 12.1 and Article 14.3 of the Statute, ECB guidelines form an integral part of Community law,

[1] OJ L 207, 17.8.2000, p. 24.
[2] OJ L 190, 12.7.2001, p. 26.

HAS ADOPTED THIS GUIDELINE:

Article 1

Footnote 1 of Annex 1 to Guideline ECB/2000/1 shall be replaced as follows:

'The original text of this annex is drafted in the English, French, German, Italian, Portuguese and Spanish languages and is incorporated into master agreements drawn up in the English, French, German, Italian, Portuguese and Spanish languages. The translation of this annex into other languages is for illustrative purposes only and shall not be legally binding.'

Article 2

Annex 3 to Guideline ECB/2000/1 shall be replaced as follows:

'*ANNEX 3*

Standard agreements for collateralised and over-the-counter derivatives operations

1. All collateralised operations involving the foreign reserve assets of the ECB comprising repurchase agreements, reverse repurchase agreements, buy/sell-back agreements and sell/buy-back agreements are to be documented under the following standard agreements, in such form as may be approved or amended by the ECB from time to time: for counterparties organised or incorporated under the laws of the jurisdictions of the European Union or under Swiss law, the FBE Master Agreement for Financial Transactions; for counterparties organised or incorporated under the laws of a jurisdiction outside the European Union, Switzerland or the United States, the "TBMA/ISMA Global Master Repurchase Agreement, 2000 version"; and for counterparties organised or incorporated under US federal or state laws, "The Bond Market Association Master Repurchase Agreement".

2. All over-the-counter derivative operations involving the foreign reserve assets of the ECB are to be documented under the following standard agreements, in such form as may be approved or amended by the ECB from time to time; for counterparties organised or incorporated under French law, the *"Convention-cadre relative aux opérations de marché à terme"*; for counterparties organised or incorporated under German law, the *"Rahmenvertrag für Finanztermingeschäfte"*; for counterparties organised or incorporated under the laws of a jurisdiction outside France, Germany or the United States, the "1992 International Swaps and Derivatives Association Master Agreement" (Multi-currency — cross-border, English law version); and for counterparties organised or incorporated und US federal or state laws, the "1992 International Swaps and Derivatives Association Master Agreement" (Multi-currency — cross-border, New York law version).'

Article 3

Final provisions

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

This Guideline shall enter into force on 23 November 2001.

This Guideline shall be published in the *Official Journal of the European Communities*.

Done at Frankfurt am Main, 16 November 2001.

On behalf of the Governing Council of the ECB

Willem F. DUISENBERG