EUROPEAN CENTRAL BANK

EUROSYSTEM

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OPINION OF THE EUROPEAN CENTRAL BANK

of 22 September 2020

on ensuring a minimum level of cash services in Hungary

(CON/2020/21)

Introduction and legal basis

On 2 September 2020, the European Central Bank (ECB) received a request from the Magyar Nemzeti Bank (MNB) for an opinion on two draft decrees: one amending the MNB decree on the processing and distribution of banknotes and on technical tasks relating to the protection of banknotes against counterfeiting[1] (hereinafter the 'draft banknote decree'); and the other amending the MNB decree on the processing and distribution of coins and on technical tasks relating to the protection of coins against counterfeiting[2] (hereinafter the 'draft coin decree', together referred to as the 'draft decrees').

The ECB's competence to deliver an opinion is based on Articles 127(4) and 282(5) of the Treaty on the Functioning of the European Union and the second indent of Article 2(1) of Council Decision 98/415/EC[3], as the draft decrees relate to 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 decrees

1.1 As noted in the explanatory memorandum accompanying the draft decrees, the objective of the draft decrees is to provide a minimum level of availability in respect of cash services for customers of credit institutions and the postal service in Hungary. Thus, the overall purpose of the draft decrees is to ensure that a minimum level of cash services is accessible to the public throughout Hungary.

1.2 According to the Law on the Magyar Nemzeti Bank[4], the issuance of forint banknotes and coins is within the sole competence of the MNB.[5] The Law on the Magyar Nemzeti Bank provides that forint banknotes and coins issued by the MNB are legal tender in Hungary.[6] Hungarian law does not require payees to accept cash as payment. Parties to a transaction may freely define the method of payment in their relationship, and they may agree on the use of electronic payments. The MNB does not have the power to limit the contractual freedom of the parties.

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1 MNB Decree No. 19/2019 (V.13.).

2 MNB Decree No. 20/2019 (V.13.).

3 Council Decision 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions (OJ L 189, 3.7.1998, p. 42).

4 Law CXXXIX of 2013 on the Magyar Nemzeti Bank.

5 Article 4(2) of the Law on the Magyar Nemzeti Bank.

6 Article 4(2) of the Law on the Magyar Nemzeti Bank.

1.3 The Law on the Magyar Nemzeti Bank authorises the MNB to regulate cash distribution, including the denomination exchange of banknotes and coins and the exchange of banknotes and coins which have been withdrawn from circulation, are difficult to recognise, or damaged banknotes and coins for the equivalent in cash. The MNB fulfils its mandate by issuing decrees.[7] Based on this legislative mandate, the MNB intends to amend the MNB Decrees No. 19/2019 and No. 20/2019 (V.13.) regulating the processing and distribution of banknotes and coins respectively and on technical tasks relating to the protection of banknotes and coins against counterfeiting (hereinafter referred to jointly as the 'cash decrees').

1.4 The draft decrees apply to credit institutions with consumer customers and the postal service.

1.5 As a new obligation, the draft decrees require credit institutions with consumer customers and the postal service to carry out the denomination exchange of forint banknotes and coins and exchange forint banknotes and coins which have been withdrawn from circulation, are difficult to recognise or are damaged in all their branches (either permanent or mobile) and post offices. These services must be available to customers irrespective of whether the customer is a consumer or a retail customer. Under the cash decrees, the exchange of forint banknotes and coins covers the following services: (i) the replacement of forint banknotes and coins withdrawn from circulation with other forint banknotes and coins of the same denomination and that are fit for circulation, or their acceptance for payment, including deposits to the customer's own bank account; and (ii) the replacement of forint banknotes and coins that are difficult to recognise, or damaged, with other forint banknotes and coins of the same denomination and that are fit for circulation. The draft decrees specify that the acceptance for payment of banknotes and coins that are difficult to recognise, or damaged, also qualifies as the exchange of banknotes and coins. The draft decrees do not otherwise amend the scope of these services.

1.6 According to the draft decrees, credit institution branches and post offices without a counter service are released from this obligation where the credit institution or the postal service operates: (i) in respect of banknotes, at least one permanent branch or post office in the same district of the capital city of Budapest or in the same settlement area; (ii) in respect of coins, at least one permanent branch or post office in the same district of Budapest or three permanent branches or post offices in the same county, which carry out the denomination exchange of forint banknotes and coins and exchanges of forint banknotes and coins which have been withdrawn from circulation, are difficult to recognise or are damaged.

1.7 The draft banknote decree maintains an existing provision according to which a credit institution or the postal service operating an automated teller machine must accept deposits through the machine in the context of its obligation to exchange banknotes withdrawn from circulation.

1.8 The draft decrees allow credit institutions and the postal service to make the exchange of forint banknotes and coins subject to prior notification, so they can ensure that cash is available to perform the exchange. In such a case, the branch or post office must perform the exchange within two days of receipt of the customer's request.

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7 Article 23(11) and Article 171(2)b) of the Law on the Magyar Nemzeti Bank.

1.9 The draft coin decree requires credit institution branches and post offices with a counter service to exchange forint coins without quantitative restrictions, while those without a counter service can exchange a maximum of 100 forint coins on a single occasion.

1.10 According to the explanatory memorandum accompanying the draft decrees, the reason for amending the cash decrees is that some credit institutions with a nationwide branch network and with a significant portfolio of consumer clients have reduced cash services in their branches and started to provide them through automatic teller machines and cash-in or cash-recycling machines, i.e. without the need for interaction with bank staff. However, as noted by the MNB, not all cash services can be managed through such machines. By way of example, the handling of damaged banknotes and coins and denomination exchange cannot be carried out in this way.

2. General observations

2.1 The ECB understands that electronic payment instruments are increasingly used as a method of payment in Hungary. The MNB expects that the role of electronic payments will continue to grow, since from 1 January 2021 service providers subject to the use of the online cash register must give their customers the possibility of making electronic payments.[8] Still, the use of cash in payment transactions is dominant in Hungary, and cash payments account for 80% of total payment transactions in the retail sector.[9]

2.2 Although the ECB holds a positive view of further innovation and development in the field of electronic payment instruments, the ECB also considers that ensuring an adequate level of access to legal tender (cash) is essential. As previously noted, it is important that all Member States, including non-euro area Member States, take appropriate measures to ensure that credit institutions and branches operating within their territories provide adequate access to cash services in order to facilitate the continued use of cash.[10]

2.3 Cash has a unique role because certain groups in society are unable to use electronic payment methods and other innovative payment solutions. As such, cash is a crucial payment method for the elderly, immigrants, the disabled, socially vulnerable citizens and anyone with limited access to digital services. There are other legitimate reasons why payers might prefer to use cash. It is the only means of payment that can be used to settle debt immediately and finally without an intermediary, and which is available to those who have no access to bank services. Additionally, cash facilitates the inclusion of the entire population in the economy by allowing financial transactions to be settled in this way. Furthermore, cash could play an important role in the event of a disturbance in the payment system.[11]

2.4 Against this background, the ECB considers that the need for a minimum level of access to cash services, the scope of which is defined primarily on a geographical basis, is well justified. The ECB therefore welcomes the initiative of the MNB to exercise its right to regulate cash payments with the

8 See the Payment Systems Report 2020, Magyar Nemzeti Bank, p. 11.
9 See the Payment Systems Report 2020, Magyar Nemzeti Bank p. 7.
10 See paragraph 2.3 of Opinion CON/2019/41 and paragraph 9.2.3 of Opinion CON/2020/13.
11 See paragraph 2.1 of Opinion CON/2019/41 and 9.2.1 of Opinion CON/2020/13.

objective of ensuring that there is a minimum level of availability of cash for customers of credit institutions and the postal service throughout Hungary.

This opinion will be published on EUR-Lex.

Done at Frankfurt am Main, 22 September 2020.

[signed]

The President of the ECB

Christine LAGARDE