EUROPEAN CENTRAL BANK

GUIDELINE OF THE EUROPEAN CENTRAL BANK

of 23 October 2003

for participating Member States' transactions with their foreign exchange working balances pursuant to Article 31.3 of the Statute of the European System of Central Banks and of the European Central Bank

(ECB/2003/12)

(2003/775/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank and in particular to Articles 31.2, 31.3 and 43.1 thereof,

Whereas:

(1) The transactions of participating Member States with their foreign exchange working balances shall, above a certain limit to be established within the framework of Article 31.3 of the Statute, be subject to approval by the European Central Bank (ECB) in order to ensure consistency with the exchange rate and monetary policies of the Community.

(2) Pursuant to Article 31.3 of the Statute, the Governing Council shall issue Guidelines with a view to facilitating such operations.

(3) Transactions carried out by the national central banks as agents on behalf of participating Member States and not recorded in the national central banks' financial accounts are covered by this Guideline whereas transactions by the national central banks in their own name and at their own risk are covered by the Guideline on the national central banks' operations pursuant to Article 31.3 of the Statute,

HAS ADOPTED THIS GUIDELINE:

Article 1

Definitions

For the purposes of this Guideline:

— 'participating Member States' shall mean all Member States which have adopted the single currency in accordance with the Treaty establishing the European Community,

— 'national central banks' shall mean the national central banks of participating Member States,

— 'transactions' shall mean all transactions listed in the second and third indents of Article 23 of the Statute, carried out in the market and involving exchange of non-euro assets for euro or for any other non-euro assets by participating Member States, including without limitation transactions carried out by the national central banks on behalf of participating Member States and not recorded in the national central banks' financial accounts,

— 'foreign exchange working balances' shall mean holdings of assets denominated in any unit of account or currency other than the euro that are maintained by participating Member States' public authorities directly or through their agents,

— 'non-euro assets' include securities and all other assets in the currency of any country outside the euro area or units of account in whatever form held,

— 'off-market' shall mean foreign exchange operations where neither contractual party is a participant in the interbank market for foreign exchange. This interbank market consists exclusively of commercial financial institutions. Central banks, international organisations, commercial non-financial organisations, participating Member States and the European Commission are deemed not to be part of the interbank market.

Article 2

Scope of application

This Guideline shall apply to the modalities of transactions carried out by all public authorities of participating Member States with their foreign exchange working balances. The procedures established for *ex ante* and *ex post* reporting by central governments differ from those established for other public authorities.

Article 3

Thresholds for prior notification

1. The thresholds at or below which participating Member States' public authorities may conduct transactions on any given trade day with their foreign exchange working balances without prior notification being given to the ECB, and above which various types of transactions on any given trade day with their foreign exchange working balances may not be conducted without prior notification to the ECB, are set out in Annex I.

2. The following foreign exchange transactions shall not be subject to the prior notification procedure:

— any transactions involving, on both sides, foreign exchange assets denominated in the same currency (for example substitution of a United States dollar Treasury note for a United States dollar Treasury bill),

— foreign exchange swaps,

— any transactions carried out with the national central banks.

Article 4

Organisational issues

1. Participating Member States shall put appropriate arrangements in place in order to ensure that transactions with foreign exchange working balances conducted by all participating Member States' public authorities, including those transactions carried out through the national central banks acting as agents on behalf of participating Member States, which are above the threshold levels set out in Annex I, are communicated to the ECB in accordance with the procedures set out in this Guideline.

2. Participating Member States' central governments shall provide the ECB on a monthly basis with estimates of all forthcoming transactions with foreign exchange working balances to be carried out by participating Member States' central governments, including those transactions carried out through the national central banks acting as agents on behalf of participating Member States. The standard format to be used for reporting such estimates is set out in Annex II.

3. All other public authorities shall provide the ECB with estimates of all forthcoming transactions, including those transactions carried out through the national central banks acting as agents on behalf of participating Member States, with foreign exchange working balances above the threshold levels established by the ECB, as set out in Annex III.

4. Responsibility for the reporting requirements set out in Articles 4 and 6 lies with the participating Member States, which shall collect all relevant data and provide such data to the ECB through their respective national central banks.

Article 5

Prior notification procedure and the ECB's approval of the way in which transactions are conducted

1. Participating Member States' public authorities, including the national central banks acting as agents on behalf of Member States, shall notify the ECB as far in advance as possible of all transactions with their foreign exchange working balances above the threshold levels set out in Article 3. The ECB shall receive such notifications no later than 11.30 ECB time on the trade date. The standard format to be used for any such notification is set out in Annex IV and shall be supplied to the ECB through the participating Member States' respective national central banks.

2. The ECB shall respond to prior notifications provided pursuant to paragraph 1 above as soon as possible, and in any case by no later than 13.00 ECB time on the envisaged trade date. In the event that, by such time, no response has been received from the ECB, the transaction shall be deemed to have been authorised according to the terms and conditions specified by the relevant participating Member State's public authority.

3. In the event that a notification is received by the ECB later than 11.30 ECB time, the consultation procedure described in paragraph 5 will apply.

4. The ECB shall consider prior notifications with a view to facilitating, as far as possible, transactions by participating Member States' public authorities. The ECB shall consider such transactions with a view to ensuring consistency with the monetary and exchange rate policies of the Community, having regard to the transactions' impact on the liquidity of the euro area banking system. In the light of these considerations, the ECB shall decide if a transaction may be performed within the time frame and in the manner envisaged by the participating Member State involved.

5. In exceptional circumstances, in relation to policy considerations, adverse market conditions, or late notification by participating Member States, the ECB may advise that the timing of a transaction, or the manner in which a transaction is to be performed, be modified. In such circumstances, the ECB shall initiate a consultation procedure with the parties involved, namely the national public authority concerned and the national central bank of the relevant participating Member State. The ECB may request that the transaction be performed off-market through the European System of Central Banks (ESCB), in which case the ECB may request that the transaction be performed either with the national central bank concerned or with the ECB. The ECB may also request that the overall amount of any such transaction be divided into two or more transactions. The ECB may also request a combination of partial performance off-market through the ESCB as set out above and partial division of the transaction into two or more transactions, as also set out above.

6. In very exceptional circumstances, the ECB may request that a transaction be delayed, in which case the postponement of such transaction shall be prescribed for as short a period of time as possible which shall not, under any circumstances, either be indefinite or prevent fulfilment of the terms and conditions of maturing obligations.

Article 6

Reporting of working balances

1. In order to ensure that the ECB has an adequate overview of the level of participating Member States' foreign exchange working balances, participating Member States shall report their foreign exchange working balances on a monthly *ex post* basis.

2. The standard format to be used by participating Member States' central governments for *ex post* reporting of foreign exchange working balances to the ECB is set out in Annex V.

3. All other public authorities of the participating Member States shall report their foreign exchange working balances above a threshold level established by the ECB, as set out in Annex VI.

Article 7

Confidentiality

All the information and data exchanged in the context of the procedures set out in this Guideline shall be treated confidentially.

Article 8

Repeal of Guideline ECB/2001/9

Guideline ECB/2001/9 is hereby repealed.

Article 9

Final provisions

1. This Guideline is addressed to the participating Member States.

2. This Guideline shall enter into force on 1 November 2003.

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

Done at Frankfurt am Main, 23 October 2003.

On behalf of the Governing Council of the ECB

The President

Willem F. DUISENBERG

ANNEX I

Thresholds for prior notification to the ECB of Member States' foreign exchange transactions pursuant to Article 3(1)

Types of transaction		Threshold applicable (reference: trade date)
Outright purchase or sales, spot and forward, of foreign exchange assets	Against the euro	— EUR 500 million (gross aggregate transactions)
	Against other foreign exchange assets ('cross-currency transactions')	— EUR 500 million equivalent (gross aggregate transactions per currency pair)

A gross aggregate transaction is defined as the total of purchases and the total of sales of foreign exchange assets on a given trade day.

These thresholds also apply to transactions carried out by the national central banks as agents on behalf of participating Member States and not recorded in the national central banks' financial accounts.

ANNEX II

Standard format for *ex ante* reporting of estimated forthcoming foreign exchange transactions by participating Member States pursuant to Article 4(2) and (3)

Participating Member States' central governments shall provide the ECB with estimates of their forthcoming foreign exchange transactions on a monthly basis. Those estimates shall cover all transactions carried out by central governments. All other public authorities shall report estimates of their forthcoming foreign exchange transactions above the thresholds set out in Annex III. The messages containing participating Member States' estimated forthcoming foreign exchange transactions should include the following data.

Breakdown: by currency pairs.

Frequency: monthly.

Deadline: 18.00 ECB time on the last business day of the preceding month.

Interpretation: total purchases and total sales in transactions against the euro or in cross-currency transactions. The currency to be purchased should be indicated in the first column/cell and the currency to be sold in the second column/cell. Trade and value dates should be specified for significant transactions.

Valuation: the 14.15 reference rates of the reporting day should be used in determining the amount for the uncertain amount.

Rounding: to the closest euro million equivalent.

The time frame of these messages is one calendar month. The thresholds are day-specific, which means that if the thresholds are expected to be exceeded on one or more days during the coming month, an *ex ante* report must be sent before the last business day preceding this month. The monthly *ex ante* report should cover the daily period(s) during which the thresholds are expected to be exceeded.

ANNEX III

Thresholds for *ex ante* reporting by participating Member States' public authorities other than central government pursuant to Article 4(3)

Participating Member States' public authorities other than central governments shall provide the ECB with monthly estimates of all forthcoming transactions with their foreign exchange working balances above the following threshold levels:

Types of transaction		Threshold applicable (reference: trade date)
Outright purchase or sales, spot and forward, of foreign exchange assets	Against the euro	— EUR 100 million (gross aggregate transactions)
	Against other foreign exchange assets ('cross-currency transactions')	— EUR 500 million equivalent (gross aggregate transactions per currency pair)

A gross aggregate transaction is defined as the total of purchases and the total of sales of foreign exchange assets on a given trade day.

ANNEX IV

Prior notification requests by participating Member States [1] **and the ECB's replies pursuant to Article 5(1)**

Prior notification messages should contain the following information:

— participating Member State notifying transactions,

— public authority responsible for the transaction,

— date and time of the notifications,

— trade date,

— value date,

— size of the transactions (in millions of euro or millions of euro equivalent),

— currencies involved (ISO codes),

— operation category,

— maturing contractual obligation (Y/N).

The ECB's reply to the prior notifications also contains the following data:

— date, time and content of the ECB reply.

Note: Participating Member States are requested to channel their notifications to the ECB via their respective national central bank.

[1] It should be recalled that only transactions conducted by the Member States in the market, i.e. not with their respective national central bank as counterparty, are subject to prior notification. Member States' transactions conducted with their respective national central bank as counterparty are covered by prior approval and reporting procedures applicable to national central banks' operations.

ANNEX V

Standard format for *ex post* reporting to the ECB of foreign exchange working balances held by participating Member States pursuant to Article 6(2)

The participating Member States' central governments are required to report their outstanding foreign currency working balances on a monthly basis. Other public authorities have to report only if the highest of either their monthly average holdings or end-of-month holdings exceeds the threshold set out in Annex VI.

Breakdown: all foreign currency working balances, no breakdown by currency. Monthly average, high of the month, end of the month and low of the month.

Frequency: monthly.

Deadline: 18.00 ECB time on the fifth business day following the reporting period.

Interpretation: participating Member States' total holdings of foreign currencies held outside the ESCB. Forward positions are also to be included in the data (i.e. forward positions should be added to the current holdings and only one figure per item should be reported). In addition, spot transactions which have been contracted but which have not yet been settled should be included in the data (i.e. the data should be compiled on a trade-date basis).

Valuation: the 14.15 reference rates should be used by the national central banks to convert the information received from participating Member States into euro (i.e. if the participating Member States report foreign currencies actually held). Securities should be valued at market prices, but for practical reasons a single reference source for prices is not required. Since the bulk of working balances are likely to be held in the form of deposits, the impact of slightly different market sources used for valuing securities should be very limited.

Rounding: to the closest euro million equivalent.

It should be noted that other public authorities are obliged to report only if the highest of either their monthly average holdings or end-of-month holdings exceeds the reporting threshold. However, if the reporting threshold is triggered, they should use the same data format as central governments (i.e. monthly average, high of the month, end of the month and low of the month).

The *ex post* reporting obligation contained in this Annex includes all foreign exchange transactions carried out by the national central banks as agents on behalf of public authorities of participating Member States.

ANNEX VI

Threshold for *ex post* reporting by participating Member States' public authorities other than central government pursuant to Article 6(3)

Participating Member States' public authorities other than central governments shall report to the ECB their foreign exchange working balances above the following threshold levels:

Types of assets	Threshold applicable (reference: trade date)
Holdings of foreign exchange assets (total of all currencies, in millions of euro equivalent): the figure reported shall be the higher of the following ones: — average of the month, — end of the month.	— EUR 50 million equivalent