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EUROPEAN CENTRAL BANK

OPINION OF THE EUROPEAN CENTRAL BANK

of 21 October 2005

at the request of the German Federal Ministry of Economics and Labour on a draft regulation amending the Foreign Trade and Payments Regulation

(CON/2005/37)

1. On 22 September 2005 the European Central Bank (ECB) received a request from the German Federal Ministry of Economics and Labour for an opinion on a draft regulation amending the Foreign Trade and Payments Regulation[1] (hereinafter the 'draft regulation').

2. The ECB's competence to deliver an opinion is based on the fourth indent 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 provisions[2], as it contains provisions concerning the collection, compilation and distribution of financial and balance of payments statistics. 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.

3. The contents of the draft regulation

   The draft regulation covers reporting obligations for payment transactions. Since the EU standard transfer order does not contain a statistical reporting field, the draft regulation provides that statistical data for payments between EUR 12 500 and EUR 50 000 from 1 January 2006 will be collected using different forms from those currently used[3].

4. Another aspect of the draft regulation is that, for the purposes of statistical reporting, the Austrian areas of Jungholz and Mittelberg will no longer be treated as German economic areas, but rather as Austrian economic areas. This reflects the fact that when Austria acceded to the European Union in 1995 and to economic and monetary union in 1999, the Austrian areas of Jungholz and Mittelberg lost a major share of their former special status as part of the German customs area. For EU statistical purposes, they are treated as part of Austria, in particular for the purposes of EU foreign trade statistics and the system of accounts, as well as in the ECB's monetary and balance of payments statistics.

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1 *Entwurf einer Zweiundsiebzigsten Verordnung zur Änderung der Außenwirtschaftsverordnung* (draft 72nd regulation amending the Foreign Trade and Payments Regulation).

2 OJ L 189, 3.7.1998, p. 42.

3 The treatment of cross-border payments between EUR 12 500 and EUR 50 000 will change at EU level on 1 January 2006, pursuant to Article 3(3) of Regulation (EC) No 2560/2001 of the European Parliament and of the Council of 19 December 2001 on cross-border payments in euro (OJ L 344, 28.12.2001, p. 13).

5. The draft regulation also provides for some streamlining of reporting, such as dispensing with the requirement to submit duplicates. Originally, for each financial transaction reporting agents were required to provide data about both the securities/financial derivatives leg and the payment leg. The draft regulation specifies that although in certain cases the payment leg will no longer be reported, the securities/financial derivatives leg still needs to be reported.

6. As regards foreign direct investment, the draft regulation contains a requirement to provide, at the time of first submission of data, a reason why reporting is required. This brings the reporting of foreign direct investment into line with the data requirements of the relevant international organisations, (the Organisation for Economic Co-operation and Development (OECD) and the International Monetary Fund (IMF)), in particular the OECD Benchmark Definition of Foreign Direct Investment[4].

7. Assessment of the draft regulation

   The ECB welcomes the draft regulation as it brings German reporting requirements into line with international statistical standards. This will further enhance the international comparability of German statistics and may reduce asymmetries between the statistics of one Member State and another in relation to the same cross-border transaction, with a concomitantly positive effect on the quality of euro area statistics. The ECB also sees the draft regulation as an important step towards streamlining the German system of collecting data on cross-border transactions.

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

Done at Frankfurt am Main, 21 October 2005.

[signed]

The President of the ECB

Jean-Claude TRICHET

4 Third edition, 1996; available on the OECD's website (www.oecd.org).