Decision (EU) 2020/637 of the European Central Bank of 27 April 2020 on accreditation procedures for manufacturers of euro secure items and euro items (ECB/2020/24) (recast)

DECISION (EU) 2020/637 OF THE EUROPEAN CENTRAL BANK

of 27 April 2020

on accreditation procedures for manufacturers of euro secure items and euro items (ECB/2020/24)

(recast)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 128(1) thereof,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular Article 12.1, Article 16 and Article 34.3 thereof,

Having regard to Council Regulation (EC) No 2532/98 of 23 November 1998 concerning the powers of the European Central Bank to impose sanctions[(1)] and in particular Article 2 thereof,

Whereas:

(1) Decision ECB/2013/54[(2)] has been substantially amended several times[(3)]. Since further amendments are to be made, Decision ECB/2013/54 should be recast in the interests of clarity.

(2) Following the experience gained by the European Central Bank (ECB) in applying Decision ECB/2013/54, the accreditation system should be simplified by eliminating the provisional accreditation assessment stage and putting in place a single-stage assessment procedure.

(3) The ECB attaches the utmost importance to the ethical conduct of business by accredited manufacturers and their controlling entities, all of which must conduct their business activities according to the highest standards of professional ethics. Accordingly, the ethical conduct of business should be part of the accreditation requirements, in addition to the requirements relating to security, quality, the environment and health and safety.

(4) Security requirements are also part of the accreditation requirements. For reasons of legal certainty and clarity, the inspections and specific national central bank security checks relating to security requirements should be integrated into a separate decision and no longer be part of this Decision.

(5) Requirements relating to the environment and health and safety are also part of the accreditation requirements. For reasons of legal certainty and clarity, the requirement for accredited printing works to conduct and to report to the ECB the outcome of

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analyses on chemical substances and elements of finished euro banknotes should be integrated into a separate decision and should no longer be part of this Decision.

(6) Therefore, Decision ECB/2013/54 needs to be repealed and replaced by this Decision. To ensure a smooth transition from the previous accreditation procedures to those under this Decision, a twelve-month transitional period should be established. As regards the new provisions on the ethical conduct of business, a thirty-month transitional period should be established. This will allow accredited manufacturers to put in place all necessary measures to comply with the relevant accreditation requirements and obligations under this Decision,

HAS ADOPTED THIS DECISION:

SECTION I

GENERAL PROVISIONS

Article 1

Definitions

For the purposes of this Decision:

(1) ‘origination’ means the transformation of the basic design of the euro banknotes into layouts, colour separation, line work and printing plates and the preparation of layouts and prototypes for components proposed in those basic designs;

(2) ‘manufacturer’ means a legal entity that may have the capability to perform a euro secure item activity or a euro item activity, with the exception of legal entities that are only involved in the transport or destruction of euro secure items;

(3) ‘euro secure item activity’ means any of the following: the origination, production, processing, destruction, storage, analysis, internal movement of euro secure items within a manufacturing site or the transport of euro secure items;

(4) ‘euro item activity’ means the production of euro items;

(5) ‘manufacturing site’ means premises that a manufacturer uses or may use for performing a euro secure item activity or a euro item activity;

(6) ‘euro secure item’ means any of the following: (a) a finished euro banknote; (b) a partly printed euro banknote; (c) finished euro banknote paper; (d) partly finished euro banknote paper; (e) a security ink used to produce euro banknotes or euro banknote paper; (f) thread and foil used to produce euro banknote paper; (g) a security pigment; (h) a security sensor; (i) a euro banknote that is being developed to replace euro banknotes in circulation or withdrawn from circulation; (j) any component or related information as separately laid down by the ECB; all of which require security protection because their loss, theft or unauthorised publication could damage the integrity of euro banknotes as a means of payment;

(7) ‘euro item’ means any of the following: (a) a finished euro banknote; (b) a partly printed euro banknote; (c) finished euro banknote paper; (d) partly finished euro

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banknote paper; (e) an ink used to produce euro banknotes or euro banknote paper; (f) thread and foil used to produce euro banknote paper;

(8) 'accreditation' means the permission, granted to a manufacturer by means of an ECB decision, to perform a euro secure item activity or a euro item activity at a specific manufacturing site;

(9) 'accredited manufacturer' means a manufacturer that has obtained accreditation under this Decision;

(10) 'national central bank' (NCB) means the national central bank of a Member State whose currency is the euro;

(11) 'responsible national central bank (NCB)' means an NCB that has placed an order for the production of euro banknotes.

(12) 'accreditation requirement' means any of the requirements relating to security, quality, environment, health and safety, any ethical or any location requirements and any other obligations, either set out in this Decision or in any other related legal instrument, that the ECB requires a manufacturer to comply with in order to perform a euro secure item activity or a euro item activity;

(13) 'ECB confidential information' means all accreditation requirements, any related record, irrespective of its storage medium or any information consisting of proprietary technical and/or business information and that is classified as 'ECB-Confidential';

(14) 'accreditation procedure' means a procedure under which manufacturers' compliance with accreditation requirements, as set out in this Decision, is assessed, that takes place when the manufacturers request accreditation and while they are being accredited, and which may lead to sanctions, including financial penalties, in the event of non-compliance with these requirements;

(15) 'ethical requirement' means any obligation set out in Article 4 of this Decision;

(16) 'location requirement' means any obligation set out in Article 3(1)(c) of this Decision;

(17) 'certification' means a document issued by an independent certification entity accredited by a national accreditation authority, whose certifications are recognised in the Member State where the manufacturer is located;

(18) 'management system' means the framework of policies, processes and procedures that a manufacturer establishes to ensure that the manufacturer complies with all accreditation requirements;

(19) 'measure' means an action carried out by a manufacturer to comply with the accreditation requirements;

(20) 'ECB banknotes extranet' means an IT system set up and operated by the ECB to provide information related to the accreditation requirements, which is accessible to accredited manufacturers;

(21) 'destruction' means an action or process to make a euro secure item of no practical use for counterfeiters;

(22) 'controlling entity' means any of a manufacturer's administrative, management or supervisory body or any legal person within the meaning of Article 5(4) of Council Framework Decision 2008/841/JHA[(4)] that may represent, take decisions on behalf of, or exercise control over the manufacturer;

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(23) 'criminal organisation' means a criminal organisation as defined in point (1) of Article 1 of Framework Decision 2008/841/JHA;

(24) 'active and passive corruption' has the same meaning as in Article 2(1) of Council Framework Decision 2003/568/JHA[(5)];

(25) 'fraud' means: (a) the use or presentation of false, incorrect or incomplete statements or documents, which has, as its effect, the misappropriation or wrongful retention of funds, non-disclosure of information in violation of a specific obligation, with the same effect, the misapplication of such funds for purposes other than those for which they were originally granted; (b) in respect of revenue, any intentional act or omission relating to the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the illegal diminution of resources, non-disclosure of information in violation of a specific obligation, with the same effect, misapplication of a legally obtained benefit, with the same effect;

(26) 'terrorist offence' has the same meaning as under Article 3 of Directive (EU) 2017/541 of the European Parliament and of the Council[(6)];

(27) 'money laundering' has the same meaning as under Article 1(3) and (4) of Directive (EU) 2015/849 of the European Parliament and of the Council[(7)];

(28) 'trafficking in human beings' has the same meaning as under Article 2 of Directive 2011/36/EU of the European Parliament and of the Council[(8)];

(29) 'ink production' means the preparation of ink which, by means of mixing and grinding of raw materials and/or base ink, are ready to be used in the printing of euro banknotes. This preparation does not include adding specific components to an ink by printers or euro banknote paper manufacturers, when it makes up less than 12 % in weight of the original ink and when the sole purpose of their addition is either to enable the ink's curing according to a pre-defined formulation, to adapt its rheology or its shade or to improve its drying;

(30) 'legal entity identifier (LEI)' means an alphanumeric reference code in line with the ISO 17442 standard assigned to a legal entity;

(31) 'independent auditor' means either the relevant internal department of an NCB or a recognised entity competent to assess and declare that a manufacturer's corporate compliance programme is in compliance with principles, rules and procedures on the ethical conduct of business, both independent from the accredited manufacturer;

(32) 'inspection' means a procedure that assesses a manufacturer's compliance with the accreditation requirements, taking the form of an on-site or off-site inspection, and ending with a report on the findings of this assessment;

(33) 'on-site inspection' means an inspection conducted by the ECB at a manufacturing site;

(34) 'off-site inspection' means an inspection conducted by the ECB by assessing documentation requested from a manufacturer that takes place away from the relevant manufacturing site;

(35) 'business day' means any day excluding Saturday and Sunday, and any ECB public holiday, as published on the ECB's website;

(36) 'major instance of non-compliance' means either of the following:

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(a) an instance of non-compliance that had or had the potential to have, or has or has the potential to have, an immediate, serious and adverse impact on the accredited manufacturers' fulfilment of the accreditation requirements for a euro item activity or euro secure item activity;

(b) several instances of non-compliance that would not, on their own, be considered as major, but by occurring simultaneously or recurrently to a specific process, result or resulted in a immediate, serious and adverse impact.

Article 2

Accreditation principles

1 A manufacturer shall only perform a euro secure item activity or euro item activity at a manufacturing site for which the ECB has granted it an accreditation in accordance with Article 7.

2 An accredited manufacturer may only produce or supply euro secure items or euro items if authorised to do so by the ECB or for the purpose of meeting an order placed by one of the following:

a another accredited manufacturer that requires the euro secure items or the euro items for its own euro secure item activity or euro item activity;

b a responsible NCB;

c subject to a decision by the Governing Council, a future Eurosystem NCB;

d the ECB.

3 An accredited manufacturer may perform a euro secure item activity or euro item activity at another manufacturing site subject to the ECB's prior assessment of the accredited manufacturer's compliance with all accreditation requirements at the other manufacturing site and the ECB's accreditation of the manufacturer for the requested euro secure item activity or euro item activity at the other manufacturing site.

4 When assessing requests for accreditation of manufacturers or when assessing the compliance of an accredited manufacturer with the accreditation requirements, the ECB shall respect the principles of equal treatment and transparency. In particular, the ECB's assessment shall not lead to any preferential treatment or give a competitive advantage to any manufacturer.

5 The ECB shall inform accredited manufacturers via the ECB banknotes extranet of any updates to the accreditation requirements that concern the euro secure item activity or euro item activity for which they have been granted an accreditation.

6 Accredited manufacturers shall handle ECB confidential information in accordance with the ECB's confidentiality regime, which is available on the ECB banknotes extranet.

7 The ECB may share with the NCBs any relevant information received from accredited manufacturers.

8 Only accredited manufacturers shall be eligible to participate in tenders for euro secure items or euro items.

9 Accredited manufacturers shall not, without the ECB's prior written consent, transfer or assign their accreditation to any of their subsidiaries, an associated company or a third party.