

**DECISION (EU) 2022/2063 OF THE EUROPEAN CENTRAL BANK****of 13 October 2022****amending Decision (EU) 2020/637 on accreditation procedures for manufacturers of euro secure items and euro items****(ECB/2022/35)**

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 <sup>(1)</sup> and in particular Article 2 thereof,

Whereas:

- (1) In order to ensure an efficient and practical implementation of the ethical requirements related to the accreditation of manufacturers pursuant to Decision (EU) 2020/637 of the European Central Bank (ECB/2020/24) <sup>(2)</sup>, that Decision should be updated.
- (2) The Decision should be updated to clarify that independent auditors should focus on certifying the implementation and operation of a corporate compliance programme and should further clarify the scope of the definition of ‘independent auditor’ to include a national central bank’s internal audit function where appropriate.
- (3) It is also necessary to specify that a conviction by final judgement should be subject to a defined and harmonised cut-off period that makes reference to when the unethical conduct occurred.
- (4) The scope of the corporate compliance programme should also be clarified so that at least one standard of compliance is effectively implemented.
- (5) Compliance with the ethical standards established in Decision (EU) 2020/637 (ECB/2020/24) should be subject to a self-declaration by the accredited manufacturer in order to ensure that such compliance is clearly demonstrated and recorded. In order to allow sufficient time for manufacturers to prepare, it is necessary to lay down the date by which the first self-declaration confirming such compliance should be submitted.
- (6) In order to ensure legal certainty, the proposed amendments should apply from the date specified in Article 24(3) of Decision (EU) 2020/637, namely 16 November 2022.
- (7) Therefore, Decision (EU) 2020/637 of the European Central Bank (ECB/2020/24) should be amended accordingly,

HAS ADOPTED THIS DECISION:

*Article 1*

**Amendments**

Decision (EU) 2020/637 (ECB/2020/24) is amended as follows:

- (1) Article 1 is amended as follows:
  - (a) point (15) is deleted;

<sup>(1)</sup> OJ L 318, 27.11.1998, p. 4.

<sup>(2)</sup> 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) (OJ L 149, 12.5.2020, p. 12).

(b) point (16) is deleted;

(c) point (22) is replaced by the following:

‘(22) “controlling entity” means 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 (\*), that may represent, take decisions on behalf of, or exercise control over the manufacturer; for a manufacturer which is legally and organisationally part of an NCB, the controlling entity is the NCB decision-making body.

(\*) Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime (OJ L 300, 11.11.2008, p. 42).’;

(d) point (23) is deleted;

(e) point (24) is deleted;

(f) point (25) is deleted;

(g) point (26) is deleted;

(h) point (27) is deleted;

(i) point (28) is deleted;

(j) point (31) is replaced by the following:

‘(31) “independent auditor” means a recognised entity competent to assess and declare that a manufacturer’s corporate compliance programme complies with the principles, rules and procedures on the ethical conduct of business, including the relevant internal department of an NCB for a manufacturer which is legally and organisationally part of that NCB, or which is a separate legal person in cases where the NCB exercises similar control over that legal person to that which it exercises over its own departments.’;

(2) in Article 3(1), the following point (e) is added:

‘(e) the following solvency requirements:

(i) the manufacturer is not the subject of bankruptcy, insolvency or winding-up proceedings;

(ii) the assets of the manufacturer are not the subject of administration by a liquidator or by the court;

(iii) the manufacturer does not have an arrangement with creditors;

(iv) the business activities of the manufacturer are not suspended;

(v) the manufacturer is not the subject of any procedure or circumstance similar to those referred to in points (i) to (iv) which apply under applicable national laws and regulations.’;

(3) Article 4 is replaced by the following:

‘Article 4

### **Ethical requirements**

1. An accredited manufacturer or any of its controlling entities shall comply with all of the following ethical requirements:

(a) that accredited manufacturer or any of its controlling entities has not been the subject of a conviction by final judgment for any of the following conduct, where such conduct took place after 15 November 2017 and that accredited manufacturer is accredited before 16 November 2022, or where such conduct took place at the earliest five years prior to the date of the request for accreditation pursuant to Article 5 of this Decision:

- (i) participation in a criminal organisation, including the types of conduct as set out in Article 2 of Framework Decision 2008/841/JHA;
  - (ii) active and passive corruption as defined in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union <sup>(1)</sup>\* and Article 2(1) of Council Framework Decision 2003/568/JHA <sup>(2)</sup>\* on combatting corruption in the private sector;
  - (iii) fraud within the meaning of Article 1 of the Convention on the protection of the European Communities' financial interests <sup>(3)</sup>\*;
  - (iv) terrorist offences, including any of the offences referred to in Articles 3 to 12 of Directive (EU) 2017/541 of the European Parliament and of the Council <sup>(4)</sup>\*;
  - (v) money laundering, as defined in Article 1(3) and (4) of Directive (EU) 2015/849 of the European Parliament and of the Council <sup>(5)</sup>\*;
  - (vi) trafficking in human beings, including any of the intentional acts referred to in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council <sup>(6)</sup>\*, and the related incitement, aiding, abetting and attempting as provided for in Article 3 of that Directive;
  - (vii) any other illegal activity detrimental to the financial interests of the Union, the ECB or the NCBs;
- (b) that accredited manufacturer or any of its controlling entities has not engaged in any of the following conduct that took place after 15 November 2017 where accredited before 16 November 2022, or took place at the earliest five years prior to the date of the request for accreditation pursuant to Article 5 of this Decision:
- (i) breach of obligations relating to the payment of taxes and/or social security contributions where this has been established by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of the country in which the accredited manufacturer is established or with those of a Member State where the euro secure item activity or euro item activity is performed;
  - (ii) grave professional misconduct, including serious cases of non-compliance with professional duties, where this has been determined by the competent authorities;
  - (iii) entering into agreements that aim at distorting competition within the relevant market, where this has been determined by the competent authorities;
  - (iv) any other activity that is likely to affect the integrity of euro banknotes as a means of effective payment.

2. An accredited manufacturer shall establish and maintain a fully implemented and operational corporate compliance programme to manage all the activities conducted on its accredited manufacturing site. That corporate compliance programme shall also apply to external activities conducted outside of its accredited manufacturing site where those activities are similar to the euro activities or euro secure activities for which the ECB has granted accreditation.

3. The corporate compliance programme referred to in paragraph 2 shall include and implement, as a minimum, the principles, rules and procedures set out in one of the following:

- (a) Article 10 of the International Chamber of Commerce Rules on Combating Corruption <sup>(7)\*</sup>;
- (b) the Banknote Ethics Initiative <sup>(8)\*</sup>;
- (c) the ISO 37001 standard;
- (d) any other equivalent programme.

<sup>(1)\*</sup> OJ C 195, 25.6.1997, p. 2.

<sup>(2)\*</sup> Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector (OJ L 192, 31.7.2003, p. 54).

<sup>(3)\*</sup> Convention on the protection of the European Communities' financial interests (OJ C 316, 27.11.1995, p. 48).

<sup>(4)\*</sup> Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88, 31.3.2017, p. 6).

<sup>(5)\*</sup> Directive (EU) 2015/849 of the European Parliament and of the European Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

<sup>(6)\*</sup> Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (OJ L 101, 15.4.2011, p. 1).

<sup>(7)\*</sup> Available on the International Chamber of Commerce's website at [www.iccwbo.org](http://www.iccwbo.org)

<sup>(8)\*</sup> Available on the Banknote Ethics Initiative's website at [www.bnei.com](http://www.bnei.com);

(4) in Article 5, paragraph 2 is amended as follows:

(a) point (f) is replaced by the following:

'(f) a completed self-declaration form, the template of which is available on the ECB banknotes extranet, signed by the manufacturer's legal representatives, confirming that the manufacturer complies with all the requirements set out in Articles 3(1)(b), (d) and (e) of this Decision;';

(b) point (g) is replaced by the following:

'(g) a written declaration issued and signed by an independent auditor or certification confirming the implementation and operation of a corporate compliance programme as referred to in Article 4(2) and (3);';

(5) Article 6 is amended as follows:

(a) paragraph 2 is replaced by the following:

'2. The ECB shall assess a manufacturer's compliance with the requirements set out in Article 3(1)(b) to (e) and Article 3(3) against the documentation provided in accordance with Article 5 of this Decision.;

(b) the first sentence of paragraph 4 is amended as follows:

'4. If a manufacturer meets the requirements set out in Article 3(1)(b) to (e), or pursuant to Article 3(4) has been granted an exemption from the requirements set out in Article 3(1)(c), the ECB shall provide the manufacturer with documentation containing the accreditation requirements referred to in Article 3(1)(a).;

(6) Article 9 is amended as follows:

(a) paragraph 1, point (3) is replaced by the following:

'(3) immediately inform the ECB in writing in case of revocation of any certification relating to the accreditation requirements referred to in Article 3(1)(d) or, where relevant, in Article 4(2) and (3);'

(b) paragraph 1, point (4) is replaced by the following:

'(4) provide on an annual basis, and within two months of the end of the calendar year, all of the following:

- (a) a completed self-declaration form, the template of which is available on the ECB banknotes extranet, signed by the manufacturer's legal representative, confirming that the accredited manufacturer and its controlling entities have complied with the requirements set out in Article 4(1)(a) and (b);
- (b) a written declaration issued and signed by an independent auditor or a certification confirming the implementation and operation for the full calendar year of a corporate compliance programme as referred to in Article 4(2) and (3).

Accredited manufacturers shall submit the first self-declaration form as required pursuant to point (a), and the first written declaration issued and signed by an independent auditor, or certification, as required pursuant to point (b), by end February 2024, in both cases covering the full 2023 calendar year.;

(c) paragraph 1, point (9) is replaced by the following:

'(9) immediately inform the ECB in writing where any of the following apply:

- (a) the accredited manufacturer or any of its controlling entities fails to comply with the conditions listed in Article 4(1)(b);
- (b) the accredited manufacturer or any of its controlling entities has evidence that it is subject to administrative or penal investigations concerning any of the conduct listed in Article 4(1)(a) or non-compliance with any of the requirements listed in Article 4(1)(b);
- (c) the accredited manufacturer or any of its controlling entities has been the subject of a conviction by final judgment for any of the activities listed in Article 4(1)(a);'

#### *Article 2*

#### **Final provisions**

1. This decision shall take effect on the day of its notification to the addressees.
2. It shall apply from 16 November 2022.

#### *Article 3*

#### **Addressees**

This Decision is addressed to manufacturers and accredited manufacturers of euro secure items and euro items.

Done at Frankfurt am Main, 13 October 2022.

*For the Governing Council of the ECB*  
*The President of the ECB*  
Christine LAGARDE

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