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**REPORT OF THE EXPERT GROUP ON
BANKING CHARGES FOR CONVERSION TO THE EURO**

Report from the Expert Group to the European Commission
(The Secretariat of the Group was provided by DG XV Internal Market and Financial Services)

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Report of expert group on banking charges for conversion to the euro

The report of an expert group on banking charges for conversion to the euro has been made publicly available on 28 November 1997. To encourage "good practice" relating to conversion without charge, the Group considers that the European Commission should recommend a "standard of good practice for banks on conversion without charge". The standard would be advisory rather than binding. The Group was set up by the European Commission following the May 1997 Round Table on the euro. Its terms of reference were to consider whether banks are entitled to charge for conversion to the euro, whether they intend to do so, whether any new rules are necessary at EU level and how to ensure the transparency of any conversion charges. The Group consisted of experts drawn from banking, payment systems, enterprises and consumer organisations and was assisted in its work by officials from the Commission and the European Monetary Institute (EMI). The report, which has been agreed by all members of the Group, is being submitted to the Commission which will announce its position in the first months of 1998.

Further information is available on the [Euro Website](#)

Date: 28 November 1997

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20 November 1997

Note: The information contained in this report is the best available to the expert group on 20 November 1997. Neither the members of the expert group, nor the Commission and its staff, nor the EMI and its staff, can be held responsible for any errors or inaccuracies.

REPORT OF THE EXPERT GROUP ON BANKING CHARGES FOR CONVERSION TO THE EURO

Introduction

1. This is the report to the European Commission of an expert group whose terms of reference are to consider whether banks¹ are entitled to charge for conversion to the euro, whether they intend to do so, whether any new rules are necessary at EU level and how to ensure the transparency of any conversion charges². The Group was set up by the Commission following the Round Table on 15 May 1997 on practical aspects of the introduction of the euro, in parallel with a number of other groups. The Group has met six times in Brussels (between 10 September and 20 November 1997), and received written and oral contributions from a wide range of market associations and institutions. In its work, the Group has been assisted by officials from the Commission and the European Monetary Institute. While each individual member of the Group does not necessarily subscribe to every sentence in the report, the report as a whole has been agreed by all the members of the Group. Members of the Group have served in a personal capacity, not as representatives of their respective organisations.

2. The Group has considered its terms of reference across the EU as a whole, while recognising the importance of subsidiarity. Its report is relevant to all those involved in the changeover process. But the report is primarily concerned with banks, for which the conversion to the euro will be an integral part of their main professional activity.³ The focus of the report is on the conversion process itself rather than on the banking and related services that banks provide or on the instruments that are used to provide them (eg transfers, cheques and cards). The Group has not considered the redenomination of securities.

3. The report is divided into seven main parts: What is conversion? Are banks allowed to charge for conversion? Do banks intend to charge for conversion? How can the costs of cash conversion be reduced? Do conversion charges require new rules at EU level? How can transparency be achieved? And what can be done to provide more information? The Group's conclusions and recommendations then follow. There are three accompanying annexes. The full terms of reference of the Group, its membership, a list of the written and oral contributions received from market associations and institutions, and a glossary of technical terms, are included at the end of the report.

¹ Banks are defined here to include commercial banks, savings banks, cooperative banks and other institutions which carry out related activities, including bureaux de change and post offices.

² In English, the appropriate word is "charge". In German; it is "Entgelt" or "Preis".

³ It is sufficient for the purposes of the report to note that the costs for the banks relating to the introduction of the euro will be significant. The Group has not attempted to quantify the costs or any benefits.

What is conversion?

4. Conversion relates to the process of changing the national currencies of participating Member States into the euro. The Group's report is concerned with the conversion of scriptural (or "book") money, in the form of both accounts and payments, during and at the end of the transitional period, the exchange of euro area national banknotes during the transitional period, and the exchange of national banknotes and coin for euro banknotes and coin during the final period. The report does not deal with charges for bank services. (For example, most cross-border payments within the euro area are likely to continue to cost more than domestic payments until differences between cross-border and domestic payment systems disappear.⁴) The report is solely concerned with "additional" charges levied on users by banks for conversion over and above any charges for the services themselves.

Are banks allowed to charge for conversion?

5. The Group's understanding of the legal position on whether banks can charge for conversion, and if so in what circumstances, is set out below. This is based on the input of the Commission services associated with the Group and is fully set out in Annex A. The position can be summarised as follows:

- *General:* The euro Regulations (under Article 235 and Article 1091(4) of the Treaty) do not explicitly address the question of conversion charges. They do not explicitly authorise conversion charges, and they do not explicitly prohibit them.
- *Book money in the form of payments during the transitional period:* The 1091(4) Regulation imposes an obligation on banks (and other providers of accounts) to convert *incoming* payments in the national currency unit during the transitional period into the euro unit, if this is the denomination of the customer's account, and vice versa. While this obligation does not amount to a prohibition at EU level on charging as such, there are legal principles in EU and national consumer laws which in some Member States (eg Germany) prohibit charging where there are obligations of this kind. There is in principle no legal reason why the conversion of *outgoing* payments should not be charged for. But in practice charging may cause difficulties for the parties⁵.
- *Book money in the form of accounts during the transitional period:* There appear to be no legal restrictions on charging on a "one-off" basis for the conversion of accounts during the transitional period.⁶

⁴ Although exchange rate risk will be removed by EMU, differences between payment systems will remain.

⁵ For example, in order to avoid rounding problems on the conversion of outgoing payments, banks' conversion facilities should be used instead of customers making their own conversions.

⁶ Consumer representatives consider that banks cannot charge for the conversion of accounts during the transitional period, on the grounds that the obligation to convert free of charge at the end of the transitional period also applies to a voluntary conversion at an earlier date.

- *Book money in the form of accounts and payments at the end of the transitional period:* Under the 1091(4) Regulation, the conversion of accounts and payments from the national currency unit to the euro unit occurs at the end of the transitional period by law. Charging for this conversion will not be legally admissible. Under general principles of banking law, a bank needs to be equipped to operate in the currency of the Member State in which it is established.
- *Euro area national banknotes during the transitional period:* Article 52 of the ESCB Statute imposes an obligation on national central banks in the euro area to exchange other euro area national banknotes for their own national banknotes during the transitional period at par. A large majority of national central banks in the euro area do not intend to charge for this, whether they are dealing with the banks or the public. There are no legal restrictions which prevent banks from charging for the exchange of national banknotes within the euro area during the transitional period.
- *Euro banknotes and coin during the final period:* National central banks in the euro area will exchange their national banknotes for euro banknotes at par during the final period.⁷ A large majority of the national central banks intend to carry out the wholesale exchange free of charge. In the case of the commercial banks, custom and practice for the exchange of legal tender is not necessarily a guide for the cash changeover during the final period, given the unprecedented scale of the undertaking. But customers with bank accounts will have the right to pay their national banknotes into their bank accounts and draw euro banknotes from their bank accounts in normal volumes and frequency without a conversion charge.
- *Euro area national banknotes after they cease to be legal tender:* After euro area national banknotes cease to be legal tender, national central banks in the euro area will continue to redeem their own national banknotes at par for a long or even unlimited period.⁸
- *Transparency:* Under the euro Regulations, there is an obligation on those making conversions to use the conversion rate, and not any other rate. The implication is that, if there are any charges for conversion, they should be separately identified, and not hidden in a “spread”. In addition, there are some relevant existing rules on transparency at both EU and national level.
- *Contract:* While in principle banks have a right to charge a reasonable sum for their services in cases in which charges are not forbidden, this right is limited in most Member States by consumer legislation or codes of conduct which have the effect that no charges can be levied by banks on their customers unless they have explicitly been agreed sufficiently in advance.

⁷ There is a question whether Article 52 formally applies during the final period.

⁸ Coins will be redeemed by the issuing authority, generally for a short period, in line with national practice.

Do banks intend to charge for conversion?

6. Subject to the legal position, the most important influence on whether banks charge for conversion will be competitive pressure. As a result, charging policy may vary between banks in different Member States and between different banks. In some Member States, banks have already taken a number of decisions in the context of a national changeover plan. In others, no decisions have yet been taken, but the outcome is reasonably clear. In others, the position is not yet clear, particularly in Member States which have decided initially to opt 'out'. The Group's understanding of the current position in each Member State is set out in detail in Annex B. The overall position in those Member States where it is already reasonably clear can be summarised as follows:

- *Book money:* Banks do not in general intend to charge for the conversion of incoming or outgoing payments, or for the conversion of accounts denominated in national currency units into accounts denominated in euro units, either during the transitional period or at the end of it.⁹ Accounts in euro units are expected to be maintained on the same basis of charging as accounts in national currency units.
- *Euro area national banknotes:* Most banks do intend to charge their customers for the exchange of euro area national banknotes during the transitional period, though charges should be less than at present because the exchange rate risk will have been removed. Charges¹⁰ would cover handling, storage, insurance and processing costs, the opportunity cost of holding stocks of banknotes and the risk of accepting counterfeit banknotes.
- *Euro banknotes and coin:* The position for the exchange of national banknotes and coin into euro banknotes and coin in the final period is less clear, as it is still some time away. But some banks have already decided not to charge their customers for the exchange of sensible (ie "household") amounts during the final period.¹¹ These banks reserve the right to charge non-customers, and for unusual amounts and frequency. Others do expect to charge customers, particularly if they do not receive adequate help from the authorities. Most expect to charge retailers, as they do at the moment for large amounts, though the amounts exchanged during the final changeover will be of unprecedented size, and the charging basis remains to be negotiated.

⁹ In some cases, they may charge for conversion of accounts from the euro to national currency unit.

¹⁰ In some cases, charges are included in "spreads" at present.

¹¹ The term "household amounts" includes volumes and frequency, and needs to be defined clearly by banks in each Member State, taking account of national conditions.

Are banks expected to charge for conversion?

<i>Member State</i>	<i>Book money*</i>	<i>National banknotes in the transitional period</i>	<i>Euro banknotes and coin in the final period</i>
Austria	No	Yes	No for customers#
Belgium	No	Yes	Under discussion
Finland	No	Yes	No for customers#
France	No	Yes	Not yet known
Germany	No	Yes	No for customers#
Ireland	No	Yes	Under discussion
Italy	Possibly	Yes	Probably
Netherlands	No	Yes	Under discussion
Portugal	No	Yes	No for customers#
Spain	No	Yes	No for customers#

*Note: This table gives information for those banks in those Member States for which it is available. The table should be read in conjunction with Annex B. * See footnote 9. # Generally except for unusual amounts and frequency.*

How can the costs of cash conversion be reduced?

7. The willingness of banks not to make any charge for the exchange of national banknotes and coin for euro banknotes and coin during the *final* period is likely to be influenced by the extent to which national central banks and governments in participating Member States provide logistical or financial support, in particular with the predicted massive increase in handling and transportation, especially of coins. Assuming a five-week cash changeover, the number of banknotes flowing through banks during the final period is expected to be two to three times the current daily average¹², and the number of coins is expected to be around seven times the current daily average, since most coins are recycled within the retail sector at the moment.¹³ Customers may be able to economise on the need for cash by using payment cards, and consumer representatives wish to encourage this. But as transactions by payment card still represent only around 12% of cashless consumer transactions, and 4% of all consumer transactions¹⁴, payment cards will not eliminate the need for cash in the foreseeable future.

8. National central banks in the euro area will take whatever practical steps they can to reduce the costs of the cash changeover, both of euro area national banknotes during the *transitional* period and of national banknotes and coin into euro banknotes and coin during the *final* period. The precise measures taken will need to vary between different Member States to take account of national considerations:

¹² According to a model of the UK cash cycle produced by APACS.

¹³ Across the EU as a whole, around 10% of coins flow back to national central banks each year, while the remaining 90% are recycled.

¹⁴ Source: EMI

- Banks in some Member States (eg Spain) receive a very substantial net inflow of foreign banknotes as a result of tourism. This will affect bank charges for the exchange of national banknotes during the transitional period. During the final period, banks in other Member States face the prospect of having to exchange a large inflow of their own national and foreign banknotes held abroad (eg in Austria and Germany from Eastern Europe, and in Finland from Russia).
- Throughout the euro area during the transitional period, under Article 52 of the ESCB Statute, national central banks will exchange other euro area banknotes into their own national banknotes at par. In some cases (eg the Banque Nationale de Belgique) they intend to exchange banknotes without charge in one direction only, and in others (eg the Banque de France) in both directions.¹⁵
- While a large majority of national central banks in the euro area will pay for the repatriation of banknotes to the issuing national central bank, the costs borne by the private sector may vary. This is because some national central banks (eg the Banque de France and the Deutsche Bundesbank) have an extensive branch network across the country, while others (eg the Central Bank of Ireland and the Bank of Finland) do not.
- In Belgium, France and Germany, banknotes are returned to the national central banks three to four times a year on average. By contrast, in Italy, banknotes are returned to the Banca d'Italia only once every 18 months.
- The balance between banknotes and coin varies between Member States. For example, as there are relatively few coins in Italy, more euro coins will need to be transported and distributed there than are withdrawn. In Ireland, up to 70% of low denomination coins are never returned to the Central Bank of Ireland.

9. While the precise measures taken by each national central bank will need to vary from one Member State to another to take account of national considerations, there are a number of possible ways of reducing the extra costs for banks and retailers arising from the cash changeover in the *final* period:

- The final period should be kept as short as possible. To help achieve this, from E day onwards banks should *only* dispense euro banknotes - both via ATMs and over the counter. Retailers should give change *only* in euro.
- Flexible cooperation between national central banks, commercial banks and retailers in each participating Member State should reduce costs. A hot line could be used to avoid coin shortages among retailers. An education campaign could be conducted to encourage the return of coins (and possibly also small denomination notes in

¹⁵ "One direction" means that the BNB will give BEF in exchange for FF. "Both directions" means that the Bdf will give FF in exchange for BEF and BEF in exchange for FF.

Member States where there are relatively few coins, such as Italy) in advance of E day.

- In each participating Member State, the national central bank, commercial banks and retailers should estimate transportation, security and insurance costs. “Starter kits”, containing a standard mix of banknotes and coin, should be prepared by the national central bank, in conjunction with the national mint, for retailers. Advance loading of ATMs with at least one denomination of the euro banknotes should be considered by banks.
- Where appropriate, the governments of participating Member States should provide logistical support (eg from the army) for banks and retailers in the distribution and storage of the new euro banknotes and coin, and in the withdrawal of national banknotes and coin. Where private security carriers are used rather than the army, then the sharing of costs between the banks and the authorities should be considered.
- Euro banknotes and coin should be considered purely as “pieces of paper and metal” until the date on which they are put into circulation by the banks (ie on or after E day), when they should be given value on a “step by step” basis, in an incremental way, rather than on a “one-off” basis. One option would be for the national central bank to debit a particular commercial bank’s account for the euro banknotes by the appropriate amount only when its national banknotes are returned to the national central bank by that commercial bank.
- Consideration should be given to the possibility of empowering banks to invalidate old banknotes on the spot, so as to reduce costs (eg costs arising from safety measures, transportation and insurance), while taking into account central bank reservations about this idea.
- Where national central banks charge commercial banks when the latter withdraw or deposit banknotes and coins (as is the case in Sweden and Finland, and to a lesser extent in Belgium), they should consider removing these charges for the duration of the final period.

10. It has not been within the Group’s terms of reference to investigate these options in detail or to cost them. But the Group notes that they are being considered by the EMI and its shareholders, the national central banks, who are responsible for the issue and withdrawal of banknotes and coin in all Member States (except in the UK in the case of coin), and that the EMI will take full account of the need for subsidiarity.

Do conversion charges require new rules at EU level?

11. Although in many cases banks do not intend to charge for conversion where they are entitled to do so, consumer representatives believe that consumers need to be sure that this will be the case. In their view, charging for conversion to the euro is not just a legal and practical issue, but an emotional one. If consumers, enterprises and investors in financial markets are charged for conversion, this will reduce the incentive to convert early and could make the euro unpopular. At one level, conversion represents only one element in a bank's relationship with its customers. But at another level, it merits special attention, because of the unprecedented nature and scale of the undertaking, and its importance to the public.

12. In order to bridge this confidence gap, the Group considers that the first step should be for the Commission to set for banks a standard of "good practice" for conversion without charge. The standard should include:

- the conversion without charge of accounts from the national denomination to the euro denomination during and at the end of the transitional period;
- the conversion without charge of payments from the national denomination to the euro denomination and vice versa during and at the end of the transitional period;
- the exchange without charge to customers (ie account holders) of "household amounts" of banknotes and coin from the national denomination to the euro denomination during the final period;
- quantification by banks in a transparent manner of "household amounts" by volume and frequency.

The standard of "good practice" would not include conversion of accounts from the euro denomination to the national denomination, as this is not necessary for the introduction of the euro. Nor would it include the exchange of euro area national banknotes without charge, as this is not directly connected to the introduction of the euro as legal tender.

13. The second step is how to implement the standard of "good practice". The Group has considered four different approaches. One approach would be new *legislation* at EU level designed to prevent banks from charging for conversion.

- Consumer representatives wish to keep open the possibility of new EU legislation, on the grounds that there is still uncertainty about what the interpretation by the courts of the existing regulations will be, and that, if most banks do not intend to charge, then they should be prepared to accept new legislation so that consumers know exactly what to expect.

- Banks are opposed to new EU legislation on the grounds that whether they charge or not is a competitive issue, that circumstances vary between different Member States, that banks should be allowed to design their own market strategies, and that freedom to charge in exceptional cases will have the advantage of encouraging sensible consumer behaviour and prevent misuse of the system.
- Commission services consider that, if new EU legislation is not deemed “necessary” for the introduction of the single currency, there is no legal base under the Treaty article relating to the introduction of the single currency (Article 109l(4)). Other Treaty articles (eg Article 129) may be available, but legislation under them takes longer to adopt and implement, so the time pressure would be great. In any event, Member States can still introduce national legislation, subject to Article 8(5) of the 109l(4) Regulation.

14. A second approach would be a new *code of conduct* on charging for conversion. This would set out the standard of “good practice” in paragraph 12 for banks to meet across the EU without legislation. But market associations cannot bind their member banks, and it is important to note that any guidance they give is subject to EU competition law (see Annex C). Banks in some Member States would also be opposed to a code of conduct on conversion charges on the grounds that it would be intended to limit their freedom to compete. In Austria, where banks have agreed not to charge their customers for conversion, it is possible that legislation will be introduced rather than a code of conduct. For their part, consumer groups are concerned that codes of conduct have in the past been ignored in some Member States.

15. A third approach would be for the Commission either to *recommend* the use of the standard of “good practice” in paragraph 12 or simply to *publish* it for information by way of a Communication. A Recommendation is advisory rather than binding, and leaves scope for subsidiarity in interpretation, allowing for differences in conditions between Member States. Consumer representatives are not sure that a Recommendation would be sufficient for the standard of “good practice” to be widely achieved. Banks are confident that even a Communication would be sufficient. Although national changeover plans are another way of complying with the standard of “good practice”, and the Austrian and Belgian changeover plans cover the question of charging, this is unlikely to be practicable in all Member States. In some Member States, banks have different views on charging, and to the extent that banks are legally allowed to charge, competition will determine the outcome. Any agreed position on charging among banks is subject to EU competition law (see Annex C).

16. A fourth approach, which would be complementary to the third one, would be to introduce a scheme for a *conversion symbol* (or “icon”¹⁶) which individual banks¹⁷ could display if they comply with the standard of “good practice” in paragraph 12.

¹⁶ The design of the “icon” should include the euro symbol. There might be a design competition in any Member State adopting the scheme.

¹⁷ In the case of cooperative banks, the award might be given to the head office.

The symbol would give a marketing advantage similar to a quality label to the banks which make use of it, and help guide consumers to banks which do not intend to charge. In this way, the use of the symbol should help to spread “good practice” across the euro area for conversion free of charge. The scheme would be voluntary, and the procedure for the award of the symbol would need to be simple and quick. It could best be implemented at national level, using existing procedures as far as possible for handling complaints, which could lead to the withdrawal of the symbol. The main arguments against organising the scheme at EU level are the difficulty in administering it centrally, and the possible need to protect the symbol through EU legislation or as a trademark.¹⁸

17. The Group does not consider that at present conversion charges need to be regulated through new EU legislation or a new code of conduct. Banks are opposed to new EU legislation. But consumer representatives wish to keep open the possibility of new EU legislation, so long as uncertainty remains about whether banks intend to charge. The Group notes that in some Member States national changeover plans have a role to play. To encourage banks to convert without charge, the Group considers that the Commission should promote the standard of “good practice” set out in paragraph 12, which would be advisory rather than binding. Where banks comply with the standard of “good practice”, the Group considers that they should publicise this to reassure consumers. One way of doing so is by displaying a “conversion symbol”. The decision about whether and when to adopt a “conversion symbol” and how it can best be implemented can best be taken at national level, involving the authorities, national banking associations and consumer groups as appropriate.¹⁹ The Group considers that a scheme for a “conversion symbol” at EU level would only work if it did not require a legal base and could be implemented in a simple and decentralised way.

How can transparency be achieved?

18. Where banks do charge customers for conversion, it is important that any charges are transparent. There are already rules governing transparency at EU and national level. The question is whether additional steps are needed to achieve transparency in the case of conversion charges. Banks argue that it is in their commercial interests for charges to be transparent. Consumer representatives are concerned that this has not always been the case for charges in the past. There is also a concern that banks will increase their charges on other customer services in the run-up to EMU to help compensate for the provision of conversion without charge, if competitive pressures allow, and that even where charges do not increase, they will appear to do so, as charges that have hitherto been hidden (eg in dealing “spreads”) become explicit (eg in handling fees). This suggests that steps to promote the transparency of conversion charges need to be taken as soon as possible.

¹⁸ The “blue flag” scheme for clean beaches is run by the European Foundation for Environmental Education and registered as a trademark in the participating Member States.

¹⁹ If all the banks in a particular Member State meet the standard, there is not likely to be any need for the scheme. But if that is not the case, a “conversion symbol” would help to draw consumers’ attention to those banks which meet the standard.

19. The Group considers that the best approach to the problem would be for the Commission to include the transparency of any conversion charges in its standard of "good practice". In those cases in which banks do charge for conversion, the transparency of conversion charges would cover:

- *access*, so as to ensure that customers can find out easily whether there is a charge and what it will be (eg in bank branches and through bank and cardholder statements, and in some cases through phone lines); and
- *clarity*, so as to demonstrate in simple language that the conversion rate has been used correctly and without a "spread", and that any handling fee is separately identified, without "hidden extras" in the small print.

20. Banks should implement the standard of "good practice" on transparency by 1 January 1999 at the latest, and earlier if technically feasible. Early implementation is the only way of reducing the risk that consumers associate "new" charges with the introduction of the euro, when in practice they are "old" charges which have previously been included in the "spread" and have now been made explicit. If the standard of "good practice" on transparency was implemented in advance of 1 January 1999, this would mean identifying the "bid-offer" rate as well as any handling fee.

21. Under the euro Regulations, the conversion rate which must be used in calculations is the rate between the relevant national denomination (eg DM) and the euro. However, during the transitional period there will also be a demand (eg among travellers) for indicative bilateral rates between different national currency units (eg DM/FF) for information purposes and as an aid to transparency. The Group considers that a set of indicative bilateral rates should be published by the ESCB to help ensure that individual commercial banks or bureaux de change do not themselves show different rates. Under the euro Regulations, bilateral rates may not be used in calculations unless they produce the same result as calculating through the euro.

What can be done to provide more information?

22. With some notable exceptions, there has until now been very little information about charging for conversion. As a result, many consumers (as customers of banks and cardholders), enterprises (including retailers) and investors (in financial assets) are uncertain about the prospect ahead.

- A number of non-bank financial institutions have stated that they need to know whether banks propose to charge for book money, as computer systems (for example in securities houses) would need to be adapted, and the economic basis on which swaps are traded, bonds are redenominated and some financings are structured would be adversely affected, if there were to be conversion charges.

- Personal bank customers will also be keen to know whether their banks propose to charge for the conversion of book money, and for the conversion of banknotes and coin at a later date.

23. More needs to be done to provide information, both at national level, through market associations and between individual banks and their customers. One purpose of this report is to provide a catalyst to help achieve this. But the Group also encourages banks, to the extent that they have not already done so:

- to provide information to both their individual and corporate customers as soon as possible about whether or not they propose to charge, at what rate, and for which parts of the conversion process, so that they can decide how best to manage their financial affairs during the changeover period;²⁰ and
- to have a dialogue with their customers or their customers' representatives (eg consumer groups) about how they propose to present information on their bank statements from 1 January 1999 where they have not already done so.²¹

Conclusions and recommendations

24. The Group has considered its terms of reference across the EU as a whole, while recognising the importance of subsidiarity. The Group's conclusions and recommendations are as follows:

- The Group has set out (in paragraph 5 and in Annex A) its understanding of whether banks are entitled to charge for conversion. The Group has described the position at EU level, which is based on the input of the Commission services associated with the Group. The position in each Member State needs to be interpreted carefully to take account of national law. The Group's conclusions and recommendations are subject to the legal framework.
- The Group has set out (in paragraph 6 and at Annex B) its understanding of whether banks intend to charge for conversion in practice. In some Member States the position is not yet clear, particularly for the cash changeover in the final period.
- Whether banks charge for the cash changeover in the final period will depend in many cases on the logistical support which they are offered by the authorities (ie national central banks and governments). Given the unprecedented scale of the cash changeover, flexible cooperation between all the main parties involved is essential. The Group has set out (in paragraph 9) a number of practical steps for consideration by the authorities to help reduce and, where appropriate, share the costs of the final changeover.

²⁰ For example, should customers use one bank account to pay and receive amounts both in euro units and national currency units, or open a second account?

²¹ Some banks have already held a dialogue with their customers. From a technical point of view it may already be too late to make additional changes to bank statements from 1 January 1999.

- To encourage “good practice” relating to conversion without charge, the Group considers that the Commission should recommend the standard of “good practice” for banks on conversion without charge set out in paragraph 12. The standard would be advisory rather than binding.
- In cases in which banks meet the standard of “good practice”, the Group recommends (in paragraph 17) that they should publicise this so as to reassure consumers. One way of doing so would be by displaying a “conversion symbol” (as explained in paragraph 16). The scheme for a “conversion symbol” should be worked out at national level, if and when it is considered appropriate, rather than at EU level.
- Where banks are entitled to charge for conversion, and decide to do so, the conversion rate must be used. The Group recommends (in paragraph 19) that the use of the conversion rate and any charges should be transparent, and included in the standard for “good practice”. To reduce the risk that consumers attribute existing charges to the introduction of the euro, the Group recommends (in paragraph 20) that the standard should be implemented by banks in advance of 1 January 1999, wherever possible.
- The Group recommends (in paragraph 21) that a set of indicative bilateral rates should be published by the ESCB to ensure that banks do not display different bilateral rates. Under the euro Regulations, bilateral rates may not be used in calculations unless they produce the same result as calculating through the euro.
- The Group recommends that banks should provide information to their individual and corporate customers as soon as possible about whether or not they propose to charge, at what rate and for which parts of the conversion process, so that their customers can decide how best to manage their financial affairs during the changeover period (paragraph 23).
- The Group encourages banks to have a dialogue with their customers or their customers’ representatives (eg consumer groups) about how they propose to present information on their bank statements from 1 January 1999, where they have not already done so (paragraph 23).
- Finally, consumer representatives want to keep open the possibility of new EU legislation if the standard of “good practice” is not widely followed, while banks are opposed to new EU legislation for the reasons explained in the report.

ANNEX A: LEGAL ASPECTS OF CHARGING FOR CONVERSION

Scope

1. This Annex which is based upon the input of the Commission services associated with the expert Group looks at the issues surrounding the question whether banks (and others) are legally entitled to charge for the various conversions between the euro unit and the national currency unit denomination of the euro.
2. The legal issues are considered at both EU and, so far as the information is available, at national level. At EU level the draft euro Regulation under Article 109l(4) EC Treaty and the euro Regulation under Article 235 EC Treaty (adopted on 17 June and in force since 20 June 1997) are the foundation. These Regulations both define the euro and lay down detailed rules on its use during the transitional period, during which the euro is the single currency, but the euro unit exists only in the form of book money.
3. The euro Regulations comprise both core monetary law (eg defining the currency of the participating Member States) and monetary law in the wider sense (eg the provisions of Article 8 of the 109l(4) Regulation, embodying the "no compulsion and no prohibition principle"). They are directly applicable in all Member States, subject in the case of the 109l(4) Regulation to the respective Protocols with regard to the UK and Denmark. Direct applicability is important as it leaves no scope for the kind of uncertainty that could be caused by differences in national implementation of a directive. The euro Regulations do not explicitly address the question of conversion charges. They do not explicitly authorize conversion charges, and they do not explicitly prohibit them.
4. National law is also relevant to some of the questions arising on conversion charges, when it comes to the legal consequences of some of the provisions of the euro regulations. For example, the existence of an express obligation to convert incoming payments from the euro unit to the national currency unit and vice versa is clear (Article 8(3) last sentence) and applies directly in the legal systems of the Member States under the euro regulation. But the question of the consequence of that obligation on the ability of a bank to charge for such a conversion will depend upon national law, given the absence of a developed Community-wide legal doctrine on the subject of charging for the provision of obligatory services.
5. An additional issue within the Group's terms of reference concerns transparency. The issue arises if some forms of conversion charges are to be levied by at least some banks on some conversions. Whether existing transparency rules would ensure that people are clearly and sufficiently informed of any conversion charges, *ex ante* as well as *ex post*, depends in some areas (eg cross-border transfers) upon EU law but also - to a greater extent - upon national law.

What is conversion?

6. The term "conversion" in the context of the single currency derives from the Treaty, where the expression "conversion rate" is used in Article 109l(4), which is the legal basis for the euro Regulation, and which provides for the adoption of the conversion rates at which irrevocably fixed rate the euro shall be substituted for the currencies participating. The problem of conversions during the transitional period arises due to the existence of both the euro unit and its sub-unit as well as the national currency units. The 109l(4) Regulation establishes, in Article 6, the national currency unit as a further denomination of the euro: "The euro shall also be divided into the national currency units according to the conversion rates."

7. In legal terms a conversion, as that term is used here, is for all practical purposes an unknown phenomenon. This is because "conversion" has little in common with similar sounding legal concepts such as "convertibility" or "currency exchange". The national currency unit is no more than a description (albeit transitional) of the currency "euro". A sum of money will have the same legal identity whether, temporarily, it is being expressed in one way or the other. Indeed the nearest legal analogy is the situation of units and sub units of a national currency. Thus 70 pfennig is equal to DM 0.70 and the way in which the book entry is carried out has not been the subject of learned legal expertise but more inspired by the search for technical convenience. The only legal difference - but it is an important one - between conversions from a national currency unit to its sub-unit and conversions between the euro unit and its sub-units, follows from the provisions of Article 8 of the 109l(4) Regulation which enacts the principle of "no compulsion - no prohibition"

Is there an obligation to use euro units?

8. The rule set out in Article 8(1) is that the unit provided for in the contract or other legal instrument shall be used. There is an express or implicit obligation to use the euro unit in the following, non-exhaustive, cases which are exceptions to the "no compulsion" rule:

- where parties have agreed to use the euro unit (eg in a contract or under a company statute) (Article 8(1) and (2));
- where a non-cash payment is received for the credit of an account, the recipient of the payment must credit it to the creditor's account, converting where necessary (Article 8(3) last sentence);
- where a bond issuer redenominates (unless expressly excluded by the contract), the holder has in effect to "use" the euro unit under Article 8(4) first indent;
- where securities markets and payment systems change to the euro unit under Article 8(4) second indent, the rules in Article 8(1) are over-ridden, with resulting use of the euro unit by a range of parties;

- where netting, set-off or similar techniques result in a conversion (under Article 8(6)) a party may have to accept a balance in the euro unit.

9. In principle there are no other circumstances in which legal obligations to “use” the euro unit can be imposed. Moreover any legislative provisions, derogating from the “no compulsion - no prohibition” rule, other than those already in the euro Regulation, can only be taken on the basis of EU legislation within the legal framework for the euro Regulation (Article 8(5)).

Book money

10. The transitional period is characterized at the *EU law* level by an absence of compulsion to use any particular unit of the euro. Terms of contracts remain as they were before the euro. Thus banks do not have to convert customers' accounts into the euro unit, nor offer any payment facilities or products in the euro unit apart from fulfilling "the provisions on payments by crediting an account", referred to in Recital (13) and set out in Article 8(3) of the 1091(4) Regulation.

11. The fact that an obligation exists for certain types of payments under Article 8(3) does not in itself mean that the addressee of the obligation has to act without remuneration. The question can be considered at various levels:

- Is a conversion of a payment the provision of a service at all? Clearly the crediting of payments is a service. The issue is whether recording them in the account of the customer in one or the other denomination of the same currency can be regarded as a separately identifiable service for which the provider could claim fair remuneration (e.g. if no specific fee had been agreed). In this respect it has been pointed out²² that conversion in the sense of the euro unit and the national currency unit components is a completely different operation from that of crediting customers with "converted" foreign currency payments.
- Is it legally compatible with the nature of the operation to make a conversion charge? The argument has been put by consumer groups and others that, given that the euro is the currency of each of the participating Member States, it is no more admissible to charge for conversions between its alternative units than it would be to charge for "conversions" between centimes and francs. This is an argument of principle which would apply to all book money conversions²³. However, it should be recalled that during the transitional period - subject only to the defined exceptions summarized in paragraph 8 above - no-one is obliged to use the unit he chooses not to use. With this in mind it is difficult to see how a *general* obligation to convert free of charge (an operation which certainly involves the “use” of the other unit) can be deduced from a Regulation which imposes only *limited*

²² Financial Law Panel submission to the Group dated 15 September 1997.

²³ Indeed it could also be applied to the exchange of legal tender national banknotes and coin for euro banknotes and coin in the final changeover.

obligations to use the euro unit. On the other hand, charging for a conversion to the holder of an account who may not have asked for, or agreed to, a payment in the other denomination, also raises legal questions.

12. Under *national law* there may be scope for inferring a requirement not to charge for obligatory conversions. Recent decisions of German courts²⁴ have developed a doctrine on “obligatory services” to the point where it is reasonable to suppose that in Germany it could be unlawful to levy conversion charges on those conversions deemed to be obligatory under this jurisprudence. This “obligation principle” would be likely to apply to the conversion of incoming payments during the transitional period. These conversions are all to an extent “obligatory”. It is worth noting that the rulings of German courts on this issue are based on a provision of national law implementing the EU Directive 93/13/EEC on Unfair Terms in Consumer Contracts. Article 3(1) prohibits abusive clauses in contracts which have not been individually negotiated. It can therefore be expected that the courts in other Member States (and ultimately the European Court of Justice on a referral under Article 177) may apply principles which are similar to the “obligation principle” developed by the German courts. The presence of an obligation therefore provides a *prima facie* indication against the legal possibility of charging.

13. Where an obligation to convert does not exist, or does not imply a free of charge conversion, the general principles of banking law, which is based on the law of contract, will generally restrict²⁵ banks from charging unless their charging arrangements have been agreed with their customers. Bearing in mind the need to secure such arrangements before 1999, any banks intending to charge for conversions would need to ensure that a contractual basis for doing so is in place sufficiently in advance.

14. A general principle of banking law is the duty of the banker to carry out the mandate of his customer and to safeguard the customer's interests. This may be relevant in some conversion situations and tends to lead to the conclusion that charging for some payment conversions may be legally impracticable. For example, there are cases in which it will be difficult to identify whether, where and when conversions will occur and how to attribute responsibility for paying any charges associated with them. For example, charging the holder of an account denominated in the national currency unit for a conversion from or to the euro unit where the conversion is made for systems reasons may be unacceptable where the account holder has not asked for or agreed to the conversion. One practical example might be where a creditor issues an invoice in his national currency unit to a debtor who issues

²⁴ Urteil XI ZR 269/96 of 15 July 1997 and XI ZR 279/96 of 15 July 1997.

²⁵ In most jurisdictions banks would be entitled in principle to claim “fair remuneration” for services rendered, even in the absence of a fee having been agreed in advance. But this right would be limited by (a) doubt over whether some conversions are really a “service” and (b) consumer laws and/or codes of conduct relating to transparency in most Member States which require banks to incorporate their fees into contracts, in advance of applying them. It would also be somewhat impracticable for banks to rely on the “fair remuneration” principle, involving as it would negotiation with customers and uncertainty as to the level of the “fair remuneration.”

a payment, also in the national currency unit. But because the payment system used for the transmission of that payment is functioning in the euro, a conversion is required into and out of euro. What would be the legal basis for either of the banks concerned to charge its customer for these conversions, which neither customer asked for?

15. Although the preceding analysis tends to suggest that there are restrictions on charging for *payment conversions* under Article 8(3), the charging of a "conversion fee" for an early *conversion of an account*, in say 1999, raises different issues. Here the charging of a "one-off" fee for the conversion, as such, seems legally open to banks, both under the euro Regulations and under general principles of law. An extra service is being offered and it is one which no bank has to provide until the end of the transitional period. Under normal principles of contract law, the bank can propose this at a price.

16. What is more difficult to reconcile with the legal status of the euro is the idea that conversion costs could be recovered *indirectly* by pricing the banking and payment operations on that account (now converted into euro) higher than identical operations carried out on the national currency denominated account. All pricing of services which discriminates against one of the units of the euro tends to undermine the legal equivalence between the euro unit and the national currency unit and may be incompatible with EU and national laws in the area of consumer protection, unfair competition, trading standards etc. This is as much a policy as a legal issue.

17. The conversion at the end of the transitional period of accounts and of any payments still denominated in the national currency unit occurs by law (Article 14, 109l(4) Regulation). Charging for this conversion will not be legally admissible as operation in the euro unit will be a fundamental requirement for banks to provide the banking services concerned. Under general principles of banking law, a bank needs to be equipped to operate in the currency of the Member State in which it is established.

Banknotes and coin

Exchange of euro area national banknotes

18. The legal starting point is Article 52 of the ESCB Statute, which requires the ESCB "to take the necessary measures to ensure that banknotes denominated in currencies with irrevocably fixed exchange rates are exchanged by the national central banks at their respective par values". This provision does not in itself place any obligation on any other party, although it could lead to "measures" affecting others. Article 52 is interpreted by the EMI as not excluding the possibility of a charge for the exchange being levied by the national central banks²⁶ (although most national central banks will not in fact charge – see main report). Thus exchange of banknotes may be made at a national central bank and the national central banks are expected to

²⁶ The legal position should be distinguished from what the national central banks in fact intend to do: see main report, *supra*.

define the way in which the exchange facility will operate by specifying the number of offices of the national central bank where the exchange will be provided and whether this will be offered for one way or two way conversions.

19. For commercial banks, bureaux de change and others, there is no EU or national law preventing banks from charging for this service. From an economic point of view it cannot be denied that it is a “service” and unlike a book money conversion there is a legally different item which is exchanged.

Exchange of euro area national banknotes and coin for euro banknotes and coin

20. Clearly no existing national law or practice is readily applicable to the withdrawal of the entire stock of a country’s banknotes and coin and its replacement, in one operation. The nearest applicable precedent for most Member States is the withdrawal of one particular issue of a national banknote and its replacement. In that case, the situation de facto in the Member States is that banks do not charge for the exchange of notes which are being withdrawn from circulation in exchange for new national banknotes (or a credit of their value to the account).

21. The legal position of the customer varies as between account holding customers of a bank and non- customers. Account holding customers have a right to pay in legal tender banknotes to their account and to withdraw their deposits (eg on demand/at notice etc.) in legal tender. It is difficult to see how a bank could lawfully charge them a “premium” for the euro banknotes or deduct a “discount” on the national ones, whilst they remain legal tender, in normal volumes and frequency. Non-customers have no legal right to insist upon the exchange even of legal tender banknotes for others (eg changing a high denomination note for lower denomination notes, therefore charging would seem in principle (ie in the absence of any new national legislation providing to the contrary) lawful.

22. The withdrawal of national banknotes and coin and their replacement by euro will be an operation of a different order of magnitude to anything that has gone before²⁷. There is no clear legal basis for finding a duty on banks, even in the limited circumstances of a present day banknote withdrawal, to exchange without charge.

Transparency

23. An important proviso to any proposition that charges can be made in certain cases (e.g. for the exchange of national banknotes and coin against other national banknotes and coin) is the requirement of transparency of pricing of the fee for the exchange. Currently banks and bureaux de change in a number of Member States price their exchange fee as an all inclusive “spread” between the “buy” and “sell” rates for the currency. With effect from introduction of the euro the quotation of such spreads would fail to qualify as an accurate use of the conversion rates under the 1091(4) regulation. Such spreads (ie spreads within denominations of the same currency) are

²⁷ With the possible exception of the reunification of Germany.

likely to run counter to consumer laws at EU and/or national level. This proviso applies in any situation where a conversion fee is being demanded: it should be explicit rather than implicit.

Summary of conclusions

(1) *The euro Regulations* do not explicitly address the question of conversion charges. They do not explicitly authorize conversion charges and they do not explicitly prohibit them.

(2) Charging for the obligatory conversion of *incoming payments under Article 8(3)* appears to be unlawful in some Member States. In other Member States the outcome will depend upon the interpretation of the laws implementing Directive 93/13/EEC on Unfair Terms in Consumer Contracts.

(3) There is in principle no legal reason why conversion of *outgoing* payments should not be charged for. But in practice charging may cause difficulties for the parties.

(4) For *accounts in the transitional period*, there seems to be no legal reason why a “one-off” fee for converting an account early should not be charged (before the end of the transitional period).

(5) For *accounts at the end of the transitional period*, it would be legally unjustified to charge for compliance with the banker’s duty owed to customers as part of the maintenance of customer’s accounts.

(6) Charging a higher fee for a service denominated in euro than for the same service denominated in the national currency unit could undermine *the legal equivalence* between the euro and national currency.

(7) *Banknote and coin exchange in the transitional period* can be charged for, provided that the charge is transparently a handling charge.

(8) The position on charging for *the exchange of national banknotes and coin into euro banknotes and coin* currently results in no charges for consumers and no additional charges for business customers over and above the cash handling charges they already pay. It is not yet clear whether the position will change for euro banknotes and coin, given the difference in the scale of the operation, especially for business customers. Precedent is an inadequate guide. While customers with bank accounts will in any case have the right to exchange legal tender by paying their national currency unit notes into their bank account and drawing euro notes from the same account, without additional charges for normal volumes and frequency this does not offer much comfort to business customers in view of the scale of the operation.

(9) No ‘*spreads*’ may be used for the quotation or exchange of euro area banknotes and coin. Any fees will have to be separately identified in a transparent way.

(10) Under general principles of banking law, banks will not be able to make conversion charges which are not foreseen in their *contracts with customers*.

ANNEX B: CONVERSION CHARGES IN EACH MEMBER STATE

Introductory comments

1. The purpose of this Annex and the attached tables is to summarise the information available to the Group on the stated or expected position of commercial banks in relation to banking and conversion charges. Table 1 summarises this information for each Member State, insofar as it is yet known, based upon the views of the members of the Group and on written and oral submissions made to the Group. Table 2 summarises the information available from each of the three main European banking associations, based upon their written position papers on the subject.

Explanatory comments

2. The first column of both tables, entitled “Operations”, lists the main operations relating to accounts, payments (incoming and outgoing) and banknotes and coin, in that order. Mortgage accounts and securities accounts are listed at the end. For each of these operations the tables attempt to summarise the stated or expected position of banks, bearing in mind that many banks have not yet publicly stated their position. To do this a summary description is used, consisting of seven separate descriptions. The key is as follows:

- FOCC: Free Of Conversion Charges - describes those cases where the information available to the Group indicates that banks will not charge for conversion. When applied to conversion of accounts this means free of charge; when applied to conversion of payments it means free of conversion charges; when applied to the exchange and redemption of own national banknotes and coin it means free of charge to customers; and when combined with the description HFD (see below) it means charges for customers above certain volumes and frequencies and charges also for non-customers.
- BNIC: Banks Not Intending to Charge - describes those cases where the information available to the Group indicates that banks are not intending to charge for conversion.
- BUC: Banks Unlikely to Charge - describes those cases where the information available to the Group indicates that banks are unlikely to charge for conversion.
- BMC: Banks Might Charge - describes those cases where the information available to the Group indicates that banks might charge for conversion.

- SCNCU: Same Charges as for the National Currency Unit - relates only to the opening and maintenance of accounts in euro during the transitional period and describes the situation where the information available to the Group indicates that banks will not discriminate between the euro and the national currency unit, for the same services.
- HF: Handling Fee - is used in relation to the exchange of other euro area banknotes during the transitional period and describes the situation where the information available to the Group indicates that banks will charge a handling fee, which will be separately identifiable.
- HFD: Handling Fee Differentiated - is used in relation to the exchange and redemption of own national banknotes and coin during and after the final period, respectively, and describes the situation where the information available to the Group indicates that banks will charge a handling fee, which will be separately identifiable and which will be differentiated by volume and/or frequency and between customers and non-customers.
- UD: Under Discussion - describes those cases where the information available to the Group indicates that the approach of banks is still under discussion.

Table 1

3. Belgium is, so far, the only Member State for which the information in Table 1 is the *stated* position of all banks, with only the exchange and redemption of banknotes and coin in and after the final period remaining under discussion. In Austria, while discussions on the changeover have reached an advanced stage, they are not yet conclusive on the question of charges. With the exception of Belgium, therefore, the situation outlined in the table shows information which is based on the approaches which banks are *expected* to adopt in the various Member States. Variations in approach are partly due to the fact that the banking communities in each Member State are not all at the same stage of examination of the issues and also that there are variations in approach between Member States and between banks within Member States. They take into account costs, competitive market pressures and different national approaches to the changeover. Table 1 contains information for all Member States except Denmark, Greece, Luxembourg and Sweden.

Austria

4. There may be a special national law on conversion charges. The information available to the Group indicates that book money conversions will be free of conversion charges. One-way conversion of accounts will be free of charge (subject, in the transitional period to conversion per quarter year), as will incoming payments. Outgoing payments will be charged the same as for the national currency unit. Opening and maintenance of accounts in euro will involve the same charges as for the national currency unit. Exchange of euro area banknotes during the transitional period

will be subject to a handling fee. Exchange of “household” amounts of own banknotes and coin in the final period will be free of charge for customers. Redemption of own banknotes and coin after the final period may be free of charge but is still under discussion. Conversion of mortgage and securities accounts may be free of charge but is still under discussion.

Belgium

5. The information in the table represents the position of all commercial banks. In brief, there will be no extra charges and scriptural conversions will be free of conversion charges. Hence, one-way conversion of accounts will be free of charge, and incoming and outgoing payments will be free of conversion charges; opening and maintenance of accounts in euro will involve the same charges as for the national currency unit; and exchange of banknotes during the transitional period will be subject to a handling fee. Exchange of own banknotes and coin in the final period and redemption after the final period is under discussion. Banks are not intending to charge for conversion of mortgage and securities accounts.

Finland

6. The information available to the Group, which represents the preliminary views of one Finnish bank, indicates that one-way conversion of accounts will be free of charge; they are not intending to charge for incoming and outgoing payments; opening and maintenance of accounts in euro will involve the same charges as for the national currency unit; and exchange of banknotes during the transitional period will be subject to a handling fee. Exchange of own banknotes and coin in the final will be free of charge to customers. Conversion of mortgage and securities accounts will be free of charge.

France

7. The information available to the Group indicates that banks are not intending to charge for one-way conversion of accounts during and at the end of the transitional period nor for the conversion of incoming or outgoing payments during the transitional period; opening and maintenance of accounts in euro will involve the same charges as for the national currency unit; and the exchange of other euro area banknotes during the transitional period will be subject to a handling fee.

Germany

8. The information available to the Group indicates that one-way conversion of accounts will be free of charge; incoming payments will be free of conversion charges and the opening and maintenance of accounts in euro will involve the same charges as for the national currency unit; banks are unlikely to charge for conversion of outgoing payments during the transitional period. Exchange of banknotes during the transitional period will be subject to a handling fee; exchange of own banknotes and coin in the final period will be free of charge to customers, except for unusual volumes and frequency. The redemption of own national banknotes and coin after the final period

will be subject to a handling fee. The conversion of mortgage accounts will be free of charge. Banks are unlikely to charge for conversion of securities accounts.

Ireland

9. The information available to the Group indicates that there will be no charges for conversion of accounts; opening and maintenance of accounts in euro will involve the same charges as for the national currency unit; the conversion of incoming and outgoing payments will be free of conversion charges; the exchange of euro area banknotes during the transitional period and the exchange of own national notes and coin for euro in the final period are under discussion; conversion of mortgage and securities accounts will be free of charge.

Italy

10. The information available to the Group indicates that banks might charge for the conversion of accounts during the transitional period but banks are unlikely to charge for conversion of accounts at the end of the transitional period; conversion of incoming payments during the transitional period will involve the same charges as for the national currency unit, while banks might charge for conversion of outgoing payments; banks will charge a handling fee for the exchange of euro area banknotes during the transitional period; banks are unlikely to charge for the exchange of own banknotes and coin in the final period. Banks might charge for the redemption of own banknotes and coin after the final period; and conversion of mortgage and securities accounts is under discussion.

Netherlands

11. The “National Forum” has not yet discussed the subject of charges for conversion. The information available to the Group indicates that one-way book money conversions will be free of charge; conversion of payments will be free of conversion charges and the opening and maintenance of accounts in euro will involve the same charges as for the national currency unit. The exchange of euro area banknotes during the transitional period will be subject to a handling fee and the exchange of own national banknotes for euro in the final period is under discussion.

Portugal

12. The information available to the Group indicates that banks are not intending to charge for one-way conversion of accounts during or at the end of the transitional period nor for the conversion of incoming and outgoing payments during the transitional period; opening and maintenance of accounts in euro will involve the same charges as for the national currency unit; exchange of banknotes during the transitional period will be subject to a handling fee; banks are not intending to charge for the exchange of own banknotes and coin in the final period; redemption of own banknotes and coin after the final period will be done only at the national central bank; and banks are not intending to charge for conversion of mortgage and securities accounts.

Spain

13. The information available to the Group indicates that banks are not intending to charge for one-way conversion of accounts during or at the end of the transitional period nor for the conversion of incoming and outgoing payments during the transitional period; opening and maintenance of accounts in euro will involve the same charges as for the national currency unit; exchange of banknotes during the transitional period will be subject to a handling fee; the exchange of own banknotes and coin in the final period will be free of charge to customers; redemption of own banknotes and coin after the final period will be subject to a handling fee; and banks are not intending to charge for conversion of mortgage and securities accounts.

United Kingdom

14. The information available to the Group indicates that intense competition in the UK will mean that many types of conversion are expected to be free of charge, even though the UK will not be a participating Member State at the outset; in particular banks are unlikely to charge for the conversion of accounts or for the conversion of incoming payments.

Table 2

15. The information in Table 2 summarises information from each of the three main European banking associations, based upon their written position papers on the subject. The information summarised in the table is indicative and does not commit all member banks in all Member States. In particular, there may still be variations on issues of detail between Member States and between banks within Member States.

MEMBER STATE

	Austria	Belgium	Denmark	Finland	France	Germany	Greece	Ireland	Italy	Lux.	N'lands	Portugal	Spain	Sweden	UK
OPERATIONS															
Conversion of A/Cs from NCU to euro during the TP	FOCC per _ year	FOCC		FOCC	BNIC	FOCC		FOCC	BMC		FOCC		BNIC		FO CC
Conversion of A/Cs from euro to NCU during the TP	BMC	BMC		BMC		BMC			BMC		BMC		BMC		
Opening of new A/Cs in euro during the TP	SCNCU	SCNCU		SCNCU	SCNCU	SCNCU			BMC		SCNCU		SCNCU		
Maintenance of A/Cs in euro during the TP	SCNCU	SCNCU		SCNCU	SCNCU	SCNCU			SCNCU		SCNCU		SCNCU		
Conversion of A/Cs at the end of the TP	FOCC	FOCC		FOCC	BNIC	FOCC		FOCC	BNIC		FOCC		BNIC		FO CC
Conversion of incoming payments during the TP	FOCC	FOCC		BNIC	BNIC	FOCC		FOCC	FOCC		FOCC		BNIC		FO CC
Conversion of outgoing payments during the TP	FOCC	FOCC		BNIC	BNIC	BNIC		FOCC	BMC		FOCC		BNIC		FO CC
Exchange of euro area banknotes during the TP [1]	HF	HF		HF	HF	HF		HF	BMC		UD		HF		
Exchange of own national notes and coin for euro notes and coin in the FP [2] [3]	FOCC	UD		FOCC		FOCC		HFD	BNIC		UD		FOCC		
Redemption of own national notes and coin (for euro notes and coin) after the TP [4]	UD	UD	BMC	HF		HF			BMC				HFD		
Conversion of mortgage A/Cs	UD	BNIC		FOCC		FOCC			UD				BNIC		
Conversion of securities A/Cs	UD	BNIC		FOCC		BNIC			UD				BNIC		

Summary Description Key:

FOCC = Free of Conversion Charges [5]
 BNIC = Banks Not Intending to Charge
 BMC = Banks Might Charge
 SCNCU = Same Charges as for the National Currency Unit
 HF = Handling Fee
 HFD = Handling Fee Differentiated
 UD = Under Discussion

TP = Transitional Period; FP = Final Period

- 1] Covered by Article 52 of the ECB Statute. A large majority of NCBs will exchange at par without cost, in one direction (e.g. in BE, DM for BFF). A small number of NCBs will exchange under the same terms in both directions
- 2] The exchange of legal tender is based upon practice and custom of NCBs. The extent to which commercial banks might charge for exchanging national notes and coin for euro may depend also on the level of assistance they receive from authorities.
- 3] Exchange of other euro area banknotes is covered by Article 52 of the ECB Statute. Commercial banks are free to charge for exchanging other euro area banknotes for euro.
- 4] Each NCB will redeem, either for a limited or unlimited period, its own banknotes at full face value and without any charge.
- 5] FOCC means free of conversion charges when relating to payments; free of charge when relating to conversion of accounts and exchange and redemption of banknotes and coin; and when combined with HFD means free of charges for customers within certain

OPERATIONS	BANKING ASSOCIATIONS		
	EBF	ESBG	EACB
Conversion of A/Cs from NCU to euro during the TP	FOCC [a]	FOCC [b]	FOCC
Conversion of A/Cs from euro to NCU during the TP			
Opening of new A/Cs in euro during the TP		SCNCU [b]	SCNCU [c]
Maintenance of A/Cs in euro during the TP		SCNCU [b]	SCNCU [c]
Conversion of A/Cs at the <u>end</u> of the TP	FOCC [a]	FOCC [b]	FOCC
Conversion of incoming payments during the TP	FOCC	FOCC	FOCC
Conversion of outgoing payments during the TP			
Exchange of euro area banknotes during the TP [1]			
Exchange of own national notes and coin for euro notes and coin in the FP [2] [3]			
Redemption of own national notes and coin (for euro notes and coin) after the FP [4]			
Conversion of mortgage A/Cs			
Conversion of securities A/Cs			

Summary Description Key:	
FOCC	= Free of Conversion Charges [5]
BUC	= Banks Unlikely to Charge
BNIC	= Banks Not Intending to Charge
BMC	= Banks Might Charge
SCNCU	= Same Charges as for the National Currency Unit
HF	= Handling Fee
HFD	= Handling Fee Differentiated
UD	= Under Discussion

TP = Transitional Period; FP = Final Period

[1] Covered by Article 52 of the ECB Statute. A large majority of NCBs will exchange at par without cost, in one direction (e.g. in BE, DM for BFR). A small number of NCBs will exchange under the same terms in both directions.

[2] The exchange of legal tender is based upon practice and custom of NCBs. The extent to which commercial banks might charge for exchanging national notes and coin for euro may depend also on the level of assistance they receive from authorities.

[3] Exchange of other euro area banknotes is covered by Article 52 of the ECB Statute.

[4] Each NCB will redeem, either for a limited or unlimited period, its own banknotes at full face value and without any charge.

[5] FOCC - free of conversion charges means free of charge when applied to conversion of accounts and exchange and redemption of banknotes and coin; when applied to payments it means free of conversion charges.

EBF = European Banking Federation

ESBG = European Savings Banks Group

EACB = European Association of Co-operative Banks

[a] relates to banks which have publicly stated a position on charges

[b] on the basis of customers choosing the most adequate "personal changeover" scenario, whereby a single change into euro of accounts, bookmoney and payment instruments would not entail special charges

[c] opening an additional account will not be standard practice, but if the services offered with the account are identical then there will be no extra charges

**ANNEX C: STANDARDS OF “GOOD PRACTICE”
AND EU COMPETITION LAW²⁸**

1. The specific standards of “good practice” for conversion without charge and the different options to implement them which have been dealt with in paragraphs 12-17 of the report raise the question of their compatibility with EU competition law. Options one, three and four do not raise competition concerns since they do not as such involve agreements or concerted practices (hereafter “agreements”) between banks.

2. To the extent that banks conclude agreements on conversion charges (option two), the following should be noted:

- Any inter-bank agreements on conversion charges concern directly the relationship between a bank and its client and thus constitute restrictions of competition in violation of Article 85(1) of the EC Treaty.
- An inter-bank agreement on conversion charges may qualify for an exemption under Article 85(3), if it significantly contributes to the promotion - or at least smoothening - of the launching of the euro. This seems to be the case as regards inter-bank agreements aimed at implementing the standard of “good practice” for conversion without charge as spelled out in paragraph 12 of the report. However, if banks agree not to charge a conversion fee as regards operations listed in paragraph 12 of the report, they may have to cover the costs generated by these operations in another way. If they agree on an increase of other customer fees for the purpose of covering conversion costs, such agreements would need to be assessed on their merits from a competition point of view.
- Article 85(3) can be applied formally only to agreements that have been properly notified to the Commission in accordance with the requirements set forth in Council Regulation 17/62. Parties to an agreement have no legal duty to notify agreements.

²⁸

Annex C has been prepared by Directorate-General IV – Competition of the Commission.

TERMS OF REFERENCE

The Group's terms of reference, set by Commission services, are as follows:

1. to examine the approach which financial institutions could take as regards charges for scriptural conversions during the transitional period, exchange of banknotes during the transitional period, conversions associated with the final redenomination to the euro, and the substitution of national notes and coin for the euro;
2. to consider the need for legislation to establish rules and the possibility for voluntary agreements or codes of practice; and
3. to analyse how the transparency of any conversion charges is to be achieved.

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LIST OF WRITTEN AND ORAL SUBMISSIONS RECEIVED

European Banking Federation *
Bureau Européen des Unions de Consommateurs (BEUC) *
Eurocommerce *
Groupement Européen des Banques Coopératives *
Europay International *
VISA International *
European Savings Banks Group *
ABN AMRO Bank *
American Express Services Europe Ltd
Association for Payment Clearing Services (APACS)
GWK Bank N.V.
City of London Joint Working Group on EMU legislation
Comité Européen des Assurances
EUROFINAS
European Mortgage Federation
Financial Law Panel
Morgan Stanley
The Association of Corporate Treasurers
UNICE

* organisations who made oral submissions to the Group.

GLOSSARY OF TERMS

EMU - Economic and Monetary Union.

Euro - The name of the single European currency adopted by the European Council at its meeting in Madrid on 15 and 16 December 1995; it will be used instead of the generic term ECU used in the Treaty to refer to the European Currency Unit.

Euro area - Area encompassing those Member States where the euro will be substituted for the national currency and in which the single monetary policy will be conducted under the responsibility of the decision-making bodies of the European Central Bank.

Member States - Countries which are members of the European Union.

ESCB - European System of Central Banks, consisting of the European Central Bank (ECB) and the national central banks. The ESCB will be responsible for the definition and implementation of the single monetary policy for the euro area.

EMI - European Monetary Institute, the forerunner of the ECB.

National currency unit - National denomination of the euro during the transitional period.

Euro unit - Euro denomination of the euro during the transitional period.

Transitional period - The period between 1 January 1999 and 31 December 2001 during which national currency units will be non-decimal expressions of the euro.

Final period - The period from 1 January 2002 until 30 June 2002 at the latest during which euro banknotes will be introduced in the euro area and national banknotes and coin will be withdrawn.

Changeover period - The period covering both the transitional and final periods.

E day - The date on which euro banknotes and coin are introduced in the euro area (assumed here to be 1 January 2002).

Conversion rate - The irrevocably fixed rate at which the euro will be substituted for a national currency unit.

Conversion charge - The price for undertaking conversion.

Spread - The difference between the buying and the selling rate.

ATM - Automated teller machine.