



## EUROPEAN CENTRAL BANK

### OPINION OF THE EUROPEAN CENTRAL BANK

**at the request of the French Minister of the Economy, Finance and Industry under Articles 109l (2) and 109f (6) of the Treaty establishing the European Community (hereinafter referred to as the “Treaty”) and Article 5.3 of the Statute of the European Monetary Institute (hereinafter referred to as the “EMI”) on a draft decree on the modernisation of the regulation of negotiable certificates of deposit, commercial paper and medium-term notes (hereinafter referred to as the “Decree”).**

**CON/98/40**

1. On 7 August 1998 the European Central Bank (hereinafter referred to as the “ECB”) received a request from the French Minister of the Economy, Finance and Industry for an opinion on a draft decree on the modernisation of the regulation of negotiable certificates of deposits, commercial paper and medium term notes (collectively referred to as “Titres de créances négociables” or “TCNs”).
2. In accordance with Article 109l (2) of the Treaty, the ECB has taken over the advisory functions of the EMI, which went into liquidation upon the establishment of the ECB on 1 June 1998. The ECB’s competence to deliver an opinion on the Decree is based on Article 1.1, fifth indent, of the Council Decision (93/717/EC) of 22 November 1993 on the consultation of the EMI by the authorities of the Member States on draft legislative provisions, since the Decree contains rules that influence the stability of financial institutions and markets. In accordance with Articles 12.4 and 47.1, second indent, of the Statute of the European System of Central Banks and of the European Central Bank (hereinafter referred to as the “Statute”), this Opinion has been adopted by the Governing Council of the ECB with the contribution of the General Council of the ECB.
3. The ECB notes that the objective of the Decree is to modernise the current regulation of TCNs. Indeed, the Decree aims at adapting the regulatory provisions applicable to TCNs to the regulatory framework established by the law 96-597 of 2 July 1996 on the modernisation of financial activities. The said law harmonises the status of market operators, distinguishes between regulated and over-the-counter markets, and makes provision for the right of

investment services to a European passport. Moreover, this adaptation is taken as an opportunity to modernise further the rules concerning the issuance of, and dealing in, TCNs in order to open this market to the largest extent possible to European intermediaries and investors and to make negotiable debt instruments attractive in the market for certificates of deposit, commercial paper and medium-term notes in euro.

The Decree authorises credit institutions and investment firms incorporated in the European Economic Area and licensed by their respective national authorities to place and deal in TCNs as from 1 January 1999. In particular, credit institutions incorporated in other Member States participating to the euro area will be allowed, as from 1 January 1999, to issue certificates of deposit under the same conditions as French credit institutions. The Decree completes the list of issuers of negotiable debt instruments by including investment firms. In addition, the Decree abrogates all references to categories of institutions repealed by the law on the modernisation of financial activities: “maison de titres”, “agents des marchés interbancaires” and “sociétés de bourse”. The Decree also liberalises somewhat the framework for setting up the remuneration of TCNs and their maturity (the minimum maturity is now set at 1 day instead of 10 days), and requests depository functions to conform to the general regulations in this area. Finally, the Decree contributes to improving the availability of market data by requiring issuers to frequently submit to the Banque de France data both on amounts outstanding and on the early redemption and purchase of own issues.

4. The ECB welcomes the proposal considering that it intends to enhance the French securities markets while maintaining their stability.
5. The ECB confirms that it has no objection to this Opinion being made public by the competent French authorities at their discretion.

Done at Frankfurt am Main on 4 September 1998

The Vice-President of the ECB

[signed]

Christian Noyer