

REGISTER NUMBER: 63

## NOTIFICATION FOR PRIOR CHECKING

Date of submission: 29 November 2005

Case number: 2005/376

Institution: EUROPEAN CENTRAL BANK

Legal basis: article 27-5 of the regulation CE 45/2001<sup>(1)</sup><sup>(1)</sup> OJ L 8, 12.01.2001INFORMATION TO BE GIVEN<sup>(2)</sup><sup>(2)</sup> Please attach all necessary backup documents

1/ Name and address of the controller

1) Director General Market Operations (Mr. Francesco Papadia)

2) Head of TARGET Division (Mr. Hans-Dieter Becker)

European Central Bank  
Kaiserstrasse 29  
D-60311 Frankfurt am Main

2/ Organisational parts of the institution or body entrusted with the processing of personal data

1) Within Directorate General Market Operations (DG-M): the Front Office Division, the Back Office Division as well as the Own Funds Management Unit and the Foreign Reserves Desk of the Investment Division,

2) Within DG Payment Systems and Market Infrastructure (DG-P): the TARGET Division.

3/ Name of the processing

Recording, storing, accessing and listening to telephone conversations in DG-M and DG-P

4/ Purpose or purposes of the processing

Telephone conversations may only be recorded and listened to in order to,

1) within DG-M:

- clarify the terms of a transaction or of any other communication made to market counterparties on behalf of the ECB; or

- ensure that inside information regarding the European System of Central Banks (ESCB) is safeguarded; or

- identify violations of professional secrecy or the misuse of inside information;

2) within DG-P:

- clarify the terms of a contingency payment in the event of a CoCA (Contingency via Correspondent Accounts) via fax with recorded callback; or

- identify fraudulent actions concerning the processing of the above-mentioned payments.

Within DG-P the recording is limited to a specific handset used for ESCB teleconferences, where it is manually switched on only for bilateral calls confirming CoCA contingency payments received via fax.

5/ Description of the category or categories of data subjects

All staff members with permanent, fixed-term or short-term contracts working in DG-M and DG-P (in the TARGET Management Section of the Target Division) are subject to the obligations laid down in the Administrative Circular 02/2004 "On recording, storing, accessing and listening to Telephone Conversations in DG-M and DG-P and in the ECB Staff Rules (esp. Art. 1.2.8). Therefore all these members of staff are potential data subjects for the relevant data processing operations.

6/ Description of the data or categories of data *(including, if applicable, special categories of data (article 10) and/or origin of data)*

Basic personal data of staff members and content and traffic data related to the recording, storing, accessing and listening of Telephone conversations in DG-M and DG-P. The latter could be categorised as follows:

1) Within DG-M:

a) Data contained in recorded telephone conversations related to transactions or any other communication made to market counterparties on behalf of the ECB;

b) Data contained in the request forms for listening to telephone calls recorded on the ECB trading system.

c) Data contained in the official memoranda concerning listening to recorded telephone conversations pursuant to Administrative Circular 02/2004, which have to be filled in immediately after the listening session.

d) Data contained in the "proof of information" forms filled in by the DG-M staff members.

2) Within DG-P:

a) Data contained in recorded telephone conversations related to "contingency payments" and "contingency via corresponding accounts (CoCA) via fax with recorded callback" as they are defined in Art. 2 of Administrative Circular 02/2004.

b) Data contained in the summaries of the callbacks held in the TARGET Division

in the context of CoCA via fax with recorded callback

pursuant to Administrative Circular 02/2004,

which have to be filled in immediately after each callback.

c) Data contained in the request forms for listening to recorded telephone calls

d) Data contained in the official memoranda

concerning listening to recorded telephone conversations

pursuant to Administrative Circular 02/2004,

which have to be filled in immediately after the listening session.

e) Data contained in the "proof of information" forms filled in by the DG-P staff members

<p>7/ Information to be given to data subjects</p> <p>Staff members are informed in specifically organised "induction seminars" about the most important provisions concerning the breach of professional duties laid down in the "Conditions of Employment for staff of the ECB" and the "ECB Staff Rules" or "Conditions of Short-Term Employment" and the "Rules for Short-Term Employment" as well as the Code of Conduct, when they start working at the ECB. The relevant documents are also published on the ECB's intranet site.</p> <p>Moreover all members of staff when they start working in DG-M and DG-P have to sign a "Proof of information form" in duplicate where they acknowledge that they have received and read Administrative Circular 02/2004, according to which their conversations will be recorded subject to the terms specified therein.</p> <p>As regards the recording of telephone conversations in DG-P:</p> <p>According to Art. 4 of Administrative Circular 02/2004, as soon as the ECB as service provider receives a contingency payment via fax from the service user (a Central Bank), two members of staff shall initiate the call back via the ESCB (European System of Central Banks) teleconference system using the dedicated settlement manager's extension.</p> <p>At the beginning of the call the fact that it is being recorded shall be announced;</p> <p>this announcement shall be repeated once the recording begins.</p> <p>Likewise, the end of the recording shall be both announced and recorded.</p> <p>With email of 6 January 2004 the Settlement Managers in the National Central Banks (NCBs) were informed of the procedure to be applied.</p> <p>Furthermore, there was a formal reporting on the implementation to the relevant ESCB Committee (Payment and Settlement Systems Committee –PSSC-) and Administrative Circular 02/2004 was made available to all NCBs.</p> <p>As concerns the listening to telephone conversations in DG-P and DG-M:</p> <p>According to Art. 6 of Administrative Circular 02/2004, only if there are clear suspicions of criminal activity, and/or insider trading in the case of DG-M, the Executive Board may decide not to notify the member of staff concerned and thus not to nominate a member of staff as an independent witness.</p> <p>Data subjects can contact the Controller for any additional information falling under the scope of Art. 11 and 12 of the Regulation.</p>	<p>8/ Procedures to grant rights of data subjects<del>rights of access, to rectify, to block, to erase, to object</del></p> <p>a) As to the right of access (Art. 13):</p> <p>The right of access can be exercised pursuant to the procedure for granting access to recorded conversations and for listening to telephone conversations as described in Art. 5 and 6 of Administrative Circular 02/2004. According to this procedure ECB staff members can ask to access and listen to the recorded conversations.</p> <p>b) As to the exercise of all other rights laid down in Section 5 of the Regulation data subjects shall contact the relevant Controller in order to exercise their rights.</p>
<p>9/ Automated / Manual processing operation</p> <p>Personal data related to recording, storing, accessing and listening to telephone conversations in DG-M and DG-P can undergo both automated and manual processing operations depending on the category they belong to:</p> <p>(a) Manual Processing operations can take place:</p> <p>Upon personal data belonging to the categories 1b) to d) and 2 b) to e) (as described above).</p> <p>(b) Automated processing operations can take place:</p> <p>Upon personal data belonging to the categories 1a) and 2a) (as described above).</p>	<p>10/ Storage media of data</p> <p>According to Art. 4 of Administrative Circular 02/2004, telephone conversations shall be recorded using tapes or any other appropriate medium.</p>
<p>11/ Legal basis and lawfulness of the processing operation</p> <p>Conditions of Employment for staff of the ECB/ Conditions of Short-Term Employment/ ECB Staff Rules/ Rules for Short-term Employment/ Statute of the European System of Central Banks and of the European Central Bank/ Code of Conduct of the European Central Bank/Administrative Circular 02/2004 on recording, storing, accessing and listening to telephone conversations in DG-M and DG-P.</p>	<p>12/ The recipients or categories of recipient to whom the data might be disclosed</p> <p>The only recipients of data related to recording, storing, accessing and listening to telephone conversations in DG-M and DG-P can be:</p> <p>1) Conversations recorded within DG-M:</p> <p>The following persons may listen to and authorise third persons to listen to the recorded conversations:</p> <p>a) the members of staff whose conversation is recorded;</p> <p>b) any member of the Executive Board;</p> <p>The following persons may listen to the recorded conversations:</p> <p>a) the Deputy Director General within his/her own reporting line;</p> <p>b) the Heads of the Front Office Division, Back Office Division and Investment Division regarding conversations recorded within their own divisions;</p> <p>c) the Director General of Legal Services and any Head of Division within the field of competence of DG-L;</p> <p>d) the Director of Internal Audit and any Head of Division within the field of competence of D-IA.</p> <p>2) Conversations recorded within DG-P</p> <p>The following persons may listen to and authorise third persons to listen to the recorded conversations:</p> <p>a) the two members of staff whose conversation is recorded; in this case the two members of staff may only jointly authorise third persons;</p> <p>b) any member of the Executive Board;</p> <p>c) the Director General of Payment Systems and Market Infrastructure;</p> <p>d) the Deputy Director General of Payment Systems and Market Infrastructure.</p> <p>The following persons may listen to the recorded conversations:</p> <p>a) the Director General of Legal Services (DG-L) and any Head of Division within DG-L within the field of competence of DG-L ;</p> <p>b) the Director of Internal Audit (D-IA) and any Head of Division within the field of competence of D-IA.</p>

13/ retention policy of (categories of) personal data  
Tapes of telephone conversations in DG-M and DG-P must be stored for a minimum of three months. Tapes concerning any transaction that is subject to dispute must be retained until the dispute has been resolved

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a) In DG-M once the hard disk is filled to a certain level, the recorded calls are automatically archived on a digital tape, which will subsequently – once full – be stored as an archived tape for at least three months before it is re-used.

b) In DG-P data is recorded on tapes, which are consecutively stored for three months in the safe. Whenever a new tape is put into the safe, it is checked whether there are tapes which are older than 3 months. These tapes are then taken out and the recorded conversations are erased.

(c) The retention period for paper documents like the protocol listing the participants to the teleconference and some key details of the payments confirmed is according to the TARGET Manual of Procedures six years (in line with the legal archiving requirements). To all data belonging to the categories 1b) to d) and 2 b) to e) (as described above) the same retention period of six years applies.

13 a/ time limits for blocking and erasure of the different categories of data (on justified legitimate request from the data subject)
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(Please, specify the time limits for every category, if applicable)

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There is no special period foreseen for blocking and erasing the data

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14/ Historical, statistical or scientific purposes  
If you store data for longer periods than mentioned above, please specify, if applicable, why the data must be kept under a form which permits identification,

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There are no specific rules or procedures in place concerning longer storage periods for historical, statistical or scientific purposes.

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15/ Proposed transfers of data to third countries or international organisations
There are no proposed transfers of data to third countries or international organisations.

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16/ The processing operation presents specific risk which justifies prior checking (please describe):

AS FORESEEN IN:

**X Article 27.2.(a)**  
Processing of data relating to health and to suspected offences, offences, criminal convictions or security measures,

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Article 27.2.(b)  
Processing operations intended to evaluate personal aspects relating to the data subject,

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Article 27.2.(c)

Processing operations allowing linkages not provided for pursuant to national or Community legislation between data processed for different purposes,

Article 27.2.(d)

Processing operations for the purpose of excluding individuals from a right, benefit or contract,

Other (general concept in Article 27.1)

17/ Comments

a) It is to be noted that Directorate General Operations (DG-O) and Directorate General Payment Systems (DG-P), as they are mentioned in Administrative Circular 2/2004, have been renamed respectively into Directorate General Market Operations (DG-M) and Directorate General Payment Systems Market Infrastructure (DG-P).

a) it is to be noted that Directorate General Operations (DG-O) and Directorate General Payment Systems (DG-P), as they are mentioned in Administrative Circular 2/2004, have been renamed respectively into Directorate General Market Operations (DG-M) and Directorate General Payment Systems and Market Infrastructure (DG-P).

b) It is to be noted that the mutual recording of phone conversations related to transactions is representing a common practice in all financial institutions.

c) Administrative Circular 2/2004 needs to be updated, as meanwhile also the Foreign Reserves Desk (within the Investment Division) uses telephones with recording facility.

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PLACE AND DATE: Frankfurt am Main, 24 November 2005

DATA PROTECTION OFFICER: Wolfgang Sommerfeld [signed]

INSTITUTION OR BODY:European Central Bank
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