

**GUIDELINES FOR EXAMINATION IN THE
OFFICE FOR HARMONIZATION IN THE
INTERNAL MARKET (TRADE MARKS AND
DESIGNS) ON COMMUNITY TRADE MARKS**

PART E

REGISTER OPERATIONS

SECTION 4

RENEWAL

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1 Fraud Warning

1.1 Private companies sending misleading invoices

The Office is aware that users in Europe are receiving an increasing amount of unsolicited mail from companies requesting payment for trade mark and design services such as renewal.

A list of letters from firms or registers, which users have complained are misleading, is published on the Office website. Please note that these services are not connected with any official trade mark or design registration services provided by IP Offices or other public bodies within the European Union such as OHIM.

If you receive a letter or invoice please check carefully what is being offered to you, and its source. Please note that the **OHIM never sends invoices to users or letters requesting direct payment for services-** [\(see the Guidelines, Part A, General Rules, Section 3, Payment of fees, cost and charges\)](#).

1.2 Renewal by unauthorised third persons

The Office is also aware that fraudsters have targeted the e-Renewal module applying for renewal without the consent of the proprietor and thus blocking renewal via the module for persons legitimately authorised to do so. This technical block is designed to prevent a renewal being paid for twice. If, upon filing a request for e-Renewal you discover that the mark is 'blocked', as renewal has already been requested for the mark, please contact the Office.

1.3 Contact

If you have any doubt or detect any new case, please check with your legal advisors or contact us at +34 96 513 9100 or by e-mail at information@oami.europa.eu.

2 Terms of Registration

Article 46 CTMR Articles 26, 27 CTMR Rule 9 CTMIR

The term of registration of a Community trade mark (CTM) is ten years from the filing date of the application. For example, a CTM with a filing date of 16 April 2006 will expire on 16 April 2016.

The filing date of the application is determined according to Articles 26, 27 CTMR and Rule 9 CTMIR.

Registration may be renewed indefinitely for further periods of 10 years.

3 Notification of Expiry of Registration

Article 47(2) CTMR
Rule 29 CTMIR
Communication No 5/05 of the President of the Office of 27 July 2005

At least six months before the expiry of the registration, the Office will inform:

- the registered proprietor of the Community trade mark and
- any person having a registered right in respect of the Community trade mark

that the registration is approaching expiry. Persons having a registered right include the holders of a registered licence, the proprietors of a registered right *in rem*, the creditors of a registered levy of execution or the authority competent to act on behalf of the proprietor in insolvency procedures.

Failure to give such information does not affect the expiry of the registration and does not involve the responsibility of the Office.

4 Renewal of a CTM Application

In the exceptional circumstance where an application has not yet matured to registration because of pending proceedings, the Office will not send the notice referred to in Article 47(2) CTMR. The applicant is not obliged to renew its application during proceedings that last for more than 10 years and where the outcome of registration is uncertain. Only once the trade mark is registered will the Office invite the owner to renew the CTM and pay the renewal fee (retroactively). The owner will then have two months to pay the renewal fee (including any additional class fees). If the renewal fee is not paid within this first time limit, the owner will be given a second time limit of two additional months (a total of four months from the date of the first letter) in which to pay the renewal fee. During this further time limit of two months, the surcharge for the renewal fee of 25% pursuant to Article 2(16) CTMFR does not apply. If the renewal fee is not paid within the additional time limit given, the Office will issue a notice that the registration has expired.

5 Fees and Other Formal Requirements for the Request for Renewal

Rules 79, 80, 82 CTMIR
Communication No 8/05 of the President of the Office of 21 December 2005 concerning the renewal of Community trade marks

The general rules concerning communications to the Office apply, which means that the request may be submitted as follows:

- by electronic means available on the OHIM Website (e-renewal). There is a reduction of 10% of the renewal basic fee in case of e-renewal. Entering the name and surname in the appropriate place on the electronic form is deemed to be a signature. In addition to the fee reduction, using e-renewal offers additional

advantages such as the receipt of immediate electronic confirmation of the renewal request automatically or the use of the renewal manager feature to complete the form quickly for as many CTMs as needed.

- by transmitting a signed original form by fax ~~or by~~, mail, or any other means. A standard form is available on the OHIM website. Forms have to be signed but annexes need not be.

5.1 Persons who may submit a request for renewal

Articles 17(~~6~~), (~~7~~), 47(1) CTMR
~~Rule 30(1)(a), (b) and (c) CTMIR~~
Communication No 8/05 of the President of the Office of 21 December 2005 concerning the renewal of CTMs

The request for renewal may be submitted by:

- the registered proprietor of the Community trade mark;
- where the CTM registration has been transferred, the successor in title as from the point in time a request for registration of the transfer has been received by the Office;
- any person expressly authorised by the proprietor of the Community trade mark to do so. Such a person may, for instance, be a registered licensee, a non-registered licensee or any other person who has obtained the authorisation of the CTM proprietor to renew the mark.

An authorisation will have to exist in its favour; however, it does not need to be filed with the Office unless the Office requests it (see paragraph 6.1.2.2 below). For example, if the Office receives fees from two different sources, neither of which is the owner or its representative on file, the owner will be contacted in order to know which person is authorised to file the renewal request. Where no reply is received from the owner, the Office will validate the payment that reached the Office first. (judgment of 12/05/2009, T-410/07 'JURADO', paras 33-35 and decision of 13/01/2008, R 0989/2007-4 'Elite glass-seal', paras 17-18)

~~(See Judgment of 12/05/2009, T-410/07 'JURADO'.)~~

Representation pursuant to Article 92(2) CTMR is not mandatory for renewal.

5.2 Content of the request for renewal

Article 47(1) CTMR
Rule ~~1(1)(b) and~~ 30(1) and (3) CTMIR

The request for renewal must contain the following: name and address of the person requesting the renewal and the registration number of the renewed CTM. The extent of the renewal is deemed total by default.

Payment alone can constitute a valid request for renewal providing such payment reaches the Office ~~by bank transfer~~, and contains the name of the payor, the registration number of the CTM and the indication 'renew'. In such circumstances no further formalities need be complied with (see *The Guidelines Concerning Proceedings Before The Office for Harmonization In The Internal Market (Trade Marks And Designs) Part A, General Rules, Section 3, Payment of Fees, Costs and Charges*).

5.2.1 Name and address and other particulars of the person submitting a request for renewal

5.2.1.1 Request filed by the proprietor of the Community trade mark

Where the request is filed by the CTM proprietor, its name ~~and address~~ must be indicated ~~in accordance with Rule 1(1)(b) CTMIR~~.

If the Office has attributed an ID number to the proprietor, ~~the indication of~~ this number ~~should be indicated together with the name~~.

5.2.1.2 Request filed by a person authorised to do so by the proprietor

Rules 1(1)(b), ~~30(1)(b) CTMIR~~

Where the request for renewal is filed by a person authorised by the proprietor to do so, the name and address of the authorised person must be indicated.

The name and address or ID number and name (see preceding subparagraph) of the authorised person must be given in accordance with Rule 1(1)(b) CTMIR.

5.2.2 Registration number of the Community trade mark

Rule 30(1)(~~b~~) CTMIR

The registration number of the Community trade mark must be indicated.

5.2.3 Indication as to the extent of the renewal

Rule 30(1)(c) CTMIR

Where renewal is total, i.e. it is requested for all the goods and services for which the mark is registered, an indication to that effect is required; if nothing is indicated, the renewal is deemed to be total by default.

Where renewal is requested for only some of the goods or services for which the mark is registered:

- an indication of those classes or those goods and services for which renewal is requested in a clear and unequivocal way. E-renewal only allows for deleting whole classes and not only part of the class.

Or, alternatively,

- an indication of those classes or those goods and services for which renewal is not requested in a clear and unequivocal way (this is only possible when filed on the paper form).

5.3 Languages

Rule 95(b) CTMIR

The request for renewal may be filed in any of the five languages of the Office. This language becomes the language of the renewal proceedings. However, when the request for renewal is filed by using the form provided by the Office pursuant to Rule 83, such a form may be used in any of the official languages of the Community, provided that the form is completed in one of the languages of the Office, as far as textual elements are concerned. This concerns, in particular, the list of goods and services in the event of a partial renewal.

5.4 Time limit

Article 46, 47(3) CTMR
Rule 72(1) CTMIR

5.4.1 Six months period for renewal before expiry (basic period)

The request for renewal and the renewal fee must be submitted within a period of six months ending on the last day of the month in which protection ends.

For example, where the Community trade mark has a filing date of 1 April 2006, the last day of the month in which protection ends will be 30 April 2016. Therefore, a request for renewal must be introduced and the renewal fee paid as from 1 November 2015 until 30 April 2016 or, where this is a Saturday, Sunday or other day on which the Office is closed, or does not receive ordinary mail within the meaning of Rule 72(1) CTMIR, the first following working day on which the Office is open to the public and receives ordinary mail.

5.4.2 Six months grace period following expiry (grace period)

Where the Community trade mark is not renewed within the basic period, the request may still be submitted and the renewal fee may still be paid, upon payment of an additional fee (see paragraph 5.5 below), within a further period of six months following the last day of the month in which protection ends.

For example, where the Community trade mark has a filing date of 1 April 2006, the last day of the month in which protection ends will be 30 April 2016. Therefore, the grace period during which a request for renewal may still be introduced upon payment of the renewal fee plus the additional fee is counted from the day after 30 April 2016, namely from 1 May 2016, and ends on 31 October 2016 or, if 31 October 2016 is a

Saturday, Sunday or other day on which the Office is closed, or does not receive ordinary mail within the meaning of Rule 72(1) CTMIR, the first following working day on which the Office is open to the public and receives ordinary mail. This also applies if in the above example 30 April 2016 was a Saturday or Sunday; the rule that a time limit to be observed vis-à-vis the Office is extended until the next working day applies only once and to the end of the basic period, and not to the starting date of the grace period.

5.5 Fees

5.5.1 Fees payable

Article 47(3) CTMR Rules 30(2)(a) and (b) CTMIR Article 2 CTMFR

The fees payable for the renewal of a Community trade mark consist of a basic fee and class fees for each class of goods and services exceeding three of the classes contained in the CTM in respect of which renewal is applied for.

The basic fee is

- in respect of an individual mark: EUR 1500 / EUR 1350 in case of e-renewal and
- in respect of a collective mark: EUR 3000

The class fee for each additional class exceeding three is:

- in respect of an individual mark: EUR 400
- in respect of a collective mark: EUR 800

5.5.2 Time limit for payment

The fee must be paid within a period of six months ending on the last day of the month in which protection ends (for calculation of the period, see the example given in paragraph 5.4.1 above).

Article 47(3) CTMR Rule 30(2)(c) and (4) CTMIR Articles 2(16) and 8(3) CTMFR
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The fee may be paid within a further period of six months following the last day of the month in which protection ends (see paragraph 5.4.2 above), provided that an additional fee is paid, which amounts to 25% of the total renewal fee, including any class fees, but which is subject to a maximum of EUR 1500.

[Renewal will be effected only if payment of all fees \(renewal fees and additional fees for late payment, where applicable\) reaches the Office within the grace period \(see paragraph 5.4.2 above\).](#)

Fees which are paid before the start of the first six-month period will not, in principle, be taken into consideration and will be refunded.

Rule 72(1) CTMIR

Where the CTM proprietor has a current account at the Office, the renewal fee will only be debited once a request for renewal is filed and the renewal fee (including any class fees) will be debited on the last day of the time limit of six months provided for in Article 47(3) CTMR, i.e. on the last day of the month in which protection ends, unless other instructions are given.

Article 7(1)(d) of Decision No EX-96-1 of the President of the Office of 11 January 1996 concerning the conditions for opening current accounts at the Office, as amended by Decision No EX-03-1 of 20 January 2003 and by Decision No EX-06-1 of 12 January 2006

In the event of the belated filing of a request for renewal (see paragraph 5.4.2 above), ~~the debiting will take place, unless other instructions are given by the CTM proprietor, with effect on the day on which the belated request was filed, and subject to the surcharge and where the CTM proprietor has a current account at the Office, the renewal fee and surcharge will be debited on the last day of the further period of six months provided for in Article 47(3) CTMR, third sentence, i.e. on the last day of the further period of six months following the last day of the month in which protection ends, unless other instructions are given.~~

5.5.3 Payment by third parties

Payment may also be made by the other persons identified in paragraph 5.1 above.

Payment by debiting a current account held by a third party requires an explicit authorisation of the holder of the current account that the account can be debited for the benefit of the particular fee. In such cases the Office will check if there is an authorisation. If there is no authorisation, a letter will be sent to the renewal applicant asking them to submit the authorisation to debit the account held by a third party. In such cases, payment is considered to be effected on the date the Office receives the authorisation.

5.5.4 Fee refund

Rule 30(6), (7) CTMIR

~~Where the fees (renewal~~Renewal fees and, where applicable, ~~the~~ additional fee for late payment) ~~have been paid, but the registration is not renewed (i.e. where the fee has been paid only after the expiry of the grace period, or where the fee paid amounts to less than the basic fee and the fee for late payment/late submission of the request for renewal, or where certain other deficiencies have not been remedied (see paragraph 6.1.2 below)), those fees shall~~ may be refunded under certain circumstances. For full information, please see Part A, Section 3, Payment of fees, costs and charges.

6 Procedure Before the Office

6.1 Examination of formal requirement

The examination of the request for renewal is limited to formalities and relates to the following points:

6.1.1 Observation of time limits

Article 47(3), (4) CTMR Rule 30(2), (3) CTMIR
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6.1.1.1 Payment during the basic period or the grace period

Where the request for renewal is filed and the renewal fee is paid within the basic period, the Office shall record the renewal, provided that the other conditions laid down in the CTMR and CTMIR are fulfilled (see paragraph 6.1.2 below).

Article 47(3) CTMR Rule 30(3) CTMIR Communication No 8/05 of the President of 21 December 2005

Where no request for renewal has been filed, but a payment of the renewal fee reaches the Office which contains the minimum indications (name and address of the person requesting the renewal and the registration number of the renewed CTM), this constitutes a valid request and no further formalities need be complied with.

However, where no request for renewal has been filed but a renewal fee has been paid which does not contain the minimum indications (name and address of the person requesting the renewal and the registration number of the renewed CTM), the Office shall invite the CTM proprietor to submit a request for renewal and pay, where applicable, the additional fee for late submission of the request for renewal. A letter will be sent out as early as reasonably possible after receipt of the fee, so as to enable the filing of the request before the additional fee becomes due.

Where a request has been submitted within the basic period, but the renewal fee has not been paid or has not been paid in full the Office shall invite the person requesting renewal to pay the renewal fee or the remaining part thereof and the additional fee for late payment. In the case of incomplete payment of the fee, the CTM proprietor may, instead of paying the missing amount, restrict its request for renewal to the corresponding number of classes.

If the request for renewal is filed by a person authorised by the proprietor of the CTM, the proprietor of the CTM shall receive a copy of the notification.

6.1.1.2 Payment after the expiry of the grace period

Article 47(3) CTMR, Rules ~~30~~(45), 54 CTMIR

Where a request for renewal has not been submitted or is submitted only after the expiry of the grace period, the Office shall determine that the registration has expired and shall issue a notification on loss of rights to the proprietor and any person recorded in the Register as having rights in the mark.

Where the fees are not paid or are paid only after expiry of the grace period, the Office shall determine that the registration has expired and shall issue a notification on loss of rights to the proprietor and any person recorded in the Register as having rights in the mark.

Where the fee paid amounts to less than the basic fee and the fee for late payment/late submission of the request for renewal, the Office shall determine that the registration has expired and shall issue a notification on loss of rights to the proprietor and any person recorded in the Register as having rights in the mark.

Where the fee paid covers the basic fee and the fee for late payment, but not all class fees, the Office shall renew the registration for only some classes. The determination of which classes of goods and services shall be renewed is made according to the following criteria.

- Where the request for renewal is expressly limited to particular classes, renewal will be done only for those classes.
- Where it is otherwise clear from the request which class or classes are to be covered by the request, that class or those classes shall be renewed.
- The Office may contact the proprietor to ask for the class preferences in the event of partial payment.
- In the absence of other criteria, the Office will take the classes into account in the numerical order of classification, beginning with the class having the lowest number.

Where not all class fees are paid and the Office determines that the registration has expired for some of the classes of goods or services it shall issue, together with the renewal confirmation, a notification on loss of rights in respect of those classes of goods or services to the proprietor and, where appropriate, the person requesting renewal and the person recorded in the Register as having rights in the mark. If the person concerned finds that the finding of the Office is inaccurate, he may, within two months of the notification of the loss of rights, apply for a decision on the matter.

6.1.1.3 Situation where the proprietor holds a current account

The Office will not debit a current account unless there is an express request for renewal. It will debit the account of the person who has acted (CTM proprietor or third person).

Where the request is filed within the basic period, the Office will debit the renewal fees (basic renewal fee plus applicable class fees) without surcharge.

Where the request is filed within the grace period, the Office will debit the renewal fee plus the 25% surcharge (see paragraph 5.5 above).

6.1.1.4 Continuation of proceedings

Article 82(2) CTMR
Communication No°6/05 of the President of the Office of 16/09/2005.

The time limit for requesting renewal is specifically excluded from continuation of proceedings.

6.1.1.5 Restitutio in integrum

Article 81 CTMR
Article 67 CDR

Restitutio in integrum is available for the time limit for requesting renewal. For more information see the Guidelines Part A, General Rules, Section 8, Restitutio in Integrum.

The incorrect functioning of renewal software is normally not a reason to justify restitutio in integrum (see judgment of 13/05/2009, T-136/08 'AURELIA', judgment of 19/09/2012, T-267/11 'Video Research USA', and judgment of 28/06/2012, T-314/10 'COOK'S').

In the case of failure to submit a request for renewal or to pay the renewal fee, the time limit of one year starts on the day on which the protection ends, and not on the date of expiry of the grace period of six months.

6.1.2 Compliance with formal requirements of the Implementing Regulation

6.1.2.1 Renewal requested by authorised person

Communication No 8/05 of the President of the Office, 21 December 2005

Where a renewal request is filed on behalf of the trade mark proprietor there is no need to file an authorisation. However, such an authorisation should exist in favour of the person filing the request should the Office request it.

6.1.2.2 Further requirements

Rule 30(1)(b), (34) CTMIR

Where the request for renewal does not comply with other formal requirements, namely where the name and address of the person requesting renewal has not been

sufficiently indicated, where the registration number has not been indicated, where it has not been properly signed or, if partial renewal was requested but the goods and services to be renewed have not been properly indicated, the Office will invite the person requesting renewal to remedy the deficiencies within a time limit of two months. The time limit applies even if the grace period has already expired.

The Office will consider the request to be made for the renewal for all goods and services unless partial renewal is expressly requested. In the event of a partial renewal, please refer to paragraph 5.2.3.2 above.

If the request for renewal is filed by a person authorised by the proprietor of the CTM, the proprietor of the CTM shall receive a copy of the notification.

Where a request for renewal has been submitted by two different persons claiming to be authorised by the proprietor of the CTM ('authorised person'), the Office will seek clarification on who the authorised person is by contacting the owner directly.

Rule 30(45), Rule 54 CTMIR

Where these deficiencies are not remedied before the expiry of the relevant time limit, the Office will proceed as follows.

- If the deficiency consisted of the failure to indicate the goods and services of the CTM to be renewed, the Office will renew the registration for all the classes for which the fees have been paid, and if the fees paid do not cover all the classes of the CTM registration, the determination of which classes are to be renewed will be made according to the criteria set out under paragraph 6.1.1.2 above. The Office shall issue, together with the renewal confirmation, a notification on loss of rights in respect of those classes of goods or services the Office deems expired, to the proprietor and any person recorded in the Register as having rights in the mark.
- If the deficiency consisted of the Owner's failure to respond to a request for clarification on who the authorised person is, the Office will accept the request for renewal filed by the authorised representative on file. If neither of the requests for renewal has been filed by an authorised representative on file, the Office will accept the renewal request that was first received by the Office.
- In the case of the other deficiencies, it shall determine that the registration has expired and shall issue a notification of loss of rights to the proprietor or, where applicable, the person requesting renewal and any person recorded in the Register as having rights in the mark.

6.2 Items not to be examined

No examination will be carried out on renewal in respect of the registrability of the mark, nor will any examination be carried out as to whether the mark has been put to genuine use.

No examination will be carried out by the Office on renewal as to the correct classification of the mark, nor will a registration be reclassified that has been registered in accordance with an edition of the Nice Classification which is no longer in force at

the point in time of renewal. All of this is without prejudice to the application of Article 50 CTMR.

6.3 Alteration

Article 48 CTMR

The Community trade mark shall not be altered in the Register on renewal. Since renewal is considered a simple prolongation of the period of protection of the CTM upon payment of the necessary fees, it may not include changes in relation to the representation of the mark in its latest form, that is, at the expiry of the current period of protection.

Any other changes that do not alter the mark itself (changes of name, of address, etc.) that the owner wishes to have recorded in the Register when the registration is renewed must be communicated separately to the Office according to the applicable procedures (see Guidelines Part E, Register Operations, Section 1, Changes in a Registration). They will be included in the data recorded at renewal only if they are recorded in the CTM Register no later than the date of expiry of the CTM registration.

7 Entries in the Register

Article 47(5) CTMR
Rule 84(3)(k), (5) CTMIR

Where the request for renewal complies with all the requirements, the renewal shall be registered.

The Office shall notify the CTM proprietor of the renewal of the CTM registration and its entry in the Register. The renewal will take effect from the day following the date on which the existing registration expires (see paragraph 8 below).

Where renewal has taken place only in respect of some of the goods and services contained in the registration, the Office shall notify the proprietor and any person recorded in the Register as having rights in the mark of the goods and services for which the registration has been renewed and the entry of the renewal in the Register and of the date from which renewal takes effect (see paragraph 8 below). Simultaneously, the Office shall notify the expiry of the registration for the remaining goods and services and of their cancellation from the Register.

Rules 30(4), (5), (6), 54(2) CTMIR

Where the Office has made a determination pursuant to Rule 30(5) CTMIR that the registration has expired, the Office shall cancel the mark from the Register and notify the proprietor accordingly. The proprietor may apply for a decision on the matter under Rule 54(2) CTMIR within two months.

Rule 84(3)(l), (5) CTMIR

The Office shall inform the proprietor and any person recorded in the Register as having rights in the mark of the expiry of the registration and its cancellation from the Register.

8 Date of Effect of Renewal or Expiry, Conversion

8.1 Date of effect of renewal

Article 47(5) CTMR
Rules 70(3), 30(56) CTMIR

Renewal shall take effect from the day following the date on which the existing registration expires.

For example, where the filing date of the registration is 1 April 2006, the registration will expire on 1 April 2016. Therefore, renewal takes effect from the day following 1 April 2016, namely 2 April 2016. Its new term of registration is ten years from this date, which will end on 1 April 2026. It is immaterial whether any of these days is a Saturday, Sunday or official holiday. Even in cases where the renewal fee is paid within the grace period, the renewal takes effect from the day following the date on which the existing registration expires.

Where the mark has expired and is removed from the Register, the cancellation shall take effect from the day following the date on which the existing registration expired.

For example, where the filing date of the registration is 1 April 2006, the registration will expire on 1 April 2016. Therefore, the removal from the Register takes effect from the day following 1 April 2016, namely 2 April 2016.

8.2 Conversion of lapsed CTMs

Articles 47(3), 112(5) CTMR

Where the owner wants to convert its lapsed CTM into national marks, the request must be filed within three months from the day following the last day of the period within which a request for renewal may be presented pursuant to Article 47(3) CTMR, i.e. six months after the last day of the month in which protection has expired. The time limit of three months for requesting conversion starts automatically without notification (see Guidelines Part E, Register Operations, Section 2, Conversion).

9 Renewal of International Marks Designating the EU

Article 159(1) CTMR
Rule 107 CTMIR

The principle is that any changes relating to the international registration shall be filed directly at WIPO by the holder of the international registration. The Office will not deal with renewal requests or payment of renewal fees.

The procedure for renewal of international marks is managed entirely by the International Bureau. The International Bureau will send notice for renewal, receive the renewal fees and record the renewal in the International Register. The effective date of the renewal is the same for all designations contained in the international registration, irrespective of the date on which such designations were recorded in the International Register. Where the international registration designating the EU is renewed, the Office will be notified by the International Bureau.

If the international registration is not renewed, it can be converted into national marks or into subsequent designations of Member States under the Madrid Protocol. The three month time limit for requesting conversion starts on the day following the last day on which renewal may still be effected before WIPO pursuant to Article 7(4) of the Madrid Protocol (see the Guidelines Part E, Register Operations, Section 2, Conversion).