EUROPEAN CENTRAL BANK

EUROSYSTEM

OPINION OF THE EUROPEAN CENTRAL BANK

of 30 April 2013

on macro-prudential policy

(CON/2013/30)

Introduction and legal basis

On 26 March 2013, the European Central Bank (ECB) received a request from the Governor of the Central Bank of Malta (CBM) for an opinion on the draft Central Bank of Malta Directive No 11 on macro-prudential policy (hereinafter the 'draft directive').

The ECB's competence to deliver an opinion is based on Articles 127(4) and 282(5) of the Treaty on the Functioning of the European Union and the third indent of Article 2(1) of Council Decision 98/415/EC of 29 June 1998 on the consultation of the ECB by national authorities regarding draft legislative provisions[1], as the draft directive relates to the CBM. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the ECB, the Governing Council has adopted this opinion.

1. Purpose of the draft CBM Directive

1.1 The Central Bank of Malta Act[2], by virtue of article 5(1) and (3), empowers the CBM to issue directives as may be required to implement the provisions of the Central Bank of Malta Act. The draft directive implements Recommendation ESRB/2011/3 of the European Systemic Risk Board of 22 December 2011 on the macro-prudential mandate of national authorities[3]. More specifically, the draft directive implements Recommendation A1 on the ultimate objective of macro-prudential policy and Recommendation C4 on macro-prudential instruments.

1.2 The draft directive will constitute a legally binding instrument. It is expected to be published by the end of June 2013 and to enter into force shortly thereafter.

2. Specific observations

2.1 The ECB supports the effective design of macro-prudential policy frameworks within the Member States, in line with the guiding principles expressed in Recommendation ESRB/2011/3. Moreover, the ECB considers that the ECB and national central banks should play a leading role in macro-

1 OJ L 189, 3.7.1998, p. 42.

2 Chapter 204 of the Laws of Malta.

3 OJ C 41, 14.2.2012, p. 1.

prudential oversight, given their expertise and existing responsibilities in the area of financial stability[4].

2.2 In the light of the above, the ECB welcomes the arrangement under which the CBM is the national authority responsible for the conduct of macro-prudential policies, acting in cooperation with other authorities whose actions have a material impact on financial stability, in particular, the Malta Financial Services Authority (MFSA). The ECB understands that the relevant arrangements in this respect are implemented through a Memorandum of Understanding[5].

2.3 At the same time, the ECB notes that performance by the CBM of macro-prudential tasks should not affect: (a) the CBM's institutional, functional and financial independence; or (b) the performance by the European System of Central Banks of its tasks under the Treaty and the Statute of the European System of Central Banks and of the European Central Bank[6]. Moreover, the CBM in its capacity as a macro-prudential authority should be expressly mandated to cooperate with the European Systemic Risk Board (ESRB) and, where needed, with the macro-prudential authorities of the other Member States, in particular with regard to the exchange of information[7]. The ECB understands that an express stipulation to this effect is included in the Memorandum of Understanding[8].

2.4 The ECB welcomes that paragraph 6(a) to (c) of the draft directive, grouping the macro-prudential instruments by reference to their intermediate objectives, is aligned with the direction of on-going analytical work by the ESRB.

2.5 This opinion does not prejudice the conclusions of the follow-up assessment of the above mentioned recommendations which the ESRB will issue in accordance with Article 17 of Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board[9].

This opinion will be published on the ECB's website.

Done at Frankfurt am Main, 30 April 2013.

[signed]

The Vice-President of the ECB
Vítor CONSTÂNCIO

4 See paragraph 5.1 of Opinion CON/2012/44 and paragraph 3.1 of Opinion CON/2012/55. All ECB opinions are published on the ECB's website at www.ecb.europa.eu.

5 Memorandum of Understanding of 25 January 2013 between the Central Bank of Malta and the Malta Financial Services Authority on the setting up of a Joint Financial Stability Board (hereinafter the 'Memorandum of Understanding').

6 See paragraph 4 of Opinion CON/2009/88 and paragraph 3.2 of Opinion CON/2012/55.

7 See paragraph 5.3 of Opinion CON/2012/44 and paragraph 4.1 of Opinion CON/2012/55.

8 See paragraphs 9 and 10 of the Memorandum of Understanding.

9 OJ L 331, 15.12.2010, p. 1.