OPINION OF THE EUROPEAN CENTRAL BANK

of 12 April 2017

on increasing the scope of data contained in the credit register

(CON/2017/13)

Introduction and legal basis

On 3 March 2017, the European Central Bank (ECB) received a request from Latvijas Banka for an opinion on a draft law amending the Law on the credit register (hereinafter the 'draft law').

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 and fourth indents of Article 2(1) of Council Decision 98/415/EC[1], as the draft law relates to Latvijas Banka and to the collection, compilation and distribution of banking and financial statistics. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the European Central Bank, the Governing Council has adopted this opinion.

1. Purpose of the draft law

1.1 The Law on the credit register (hereinafter the 'Law') fulfils the following purposes: (a) to contribute to financial stability in Latvia by providing (i) all participants in the credit register[2] with additional possibilities to assess the creditworthiness of their existing and potential customers, (ii) the Latvian Financial and Capital Market Committee with additional data necessary for the supervision of financial market participants, (iii) Latvijas Banka with additional data necessary for compiling financial statistics, and (iv) the Financial and Capital Market Committee and Latvijas Banka with additional data necessary for macroeconomic analysis; (b) to promote responsible lending to consumers as well as responsible and fair borrowing; (c) to promote the execution of public administration-related tasks; and (d) to contribute to promoting the fulfilment of the tasks of the European System of Central Banks (ESCB)[3]. Latvijas Banka has operated the credit register since 2008 and collects data for various purposes, in line with the objectives of the Law currently in force as enumerated above[4].

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1 Council Decision 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions (OJ L 189, 3.7.1998, p. 42).

2 Pursuant to Article 1(2) of the Law, participants include, inter alia, credit institutions registered in Latvia and branches of foreign credit institutions that have been opened in Latvia, economic operators having close links with such credit institutions or branches thereof, credit unions registered in Latvia, insurance and reinsurance undertakings registered in Latvia and branches of such undertakings that have been opened in Latvia.

3 See Article 2 of the Law.

4 The ECB was consulted on the Law and its amendments and issued Opinions CON/2011/47 and CON/2013/93 thereon. All ECB opinions are available on the ECB's website at www.ecb.europa.eu.

1.2 The draft law has two objectives: (a) to ensure that the requirements set by Regulation (EU) 2016/867 of the European Central Bank (ECB/2016/13)[5] are fulfilled, and (b) to enhance the credit register as a source of information in order to enable its participants to better assess the creditworthiness of their existing and potential customers.

1.3 While much of the data that needs to be reported under Regulation (EU) 2016/867 (ECB/2016/13) is already available through the existing credit register, the draft law extends the geographic scope of data collected from the national to the Union level to ensure full compliance with the Regulation. More specifically, the definitions of 'customer' and 'potential customer' and of 'customer's guarantor' and 'potential customer's guarantor' are broadened to cover liabilities originating in other Member States. Furthermore, granular data will be collected in respect of foreign branches registered in Latvia of credit institutions resident in other reporting Member States. Finally, the range of entities that are treated as customers will no longer exclude credit unions, electronic money institutions, money market funds and legal persons governed by public law, thus aligning the scope with the definition of 'debtor' contained in Regulation (EU) 2016/867 (ECB/2016/13). Credit institutions, however, remain excluded from the definition of customers of the credit registry under the Law and will need to be subjected to reporting requirements contained in Regulation (EU) 2016/867 (ECB/2016/13) through other legal instruments. The draft law explicitly entitles Latvijas Banka to disclose the data contained in the credit register, including granular level data, to the ECB on the basis of requirements laid down in Union law.

1.4 The second objective of the proposed amendments does not relate to Regulation (EU) 2016/867 (ECB/2016/13) but to the enhancement of the credit register as a source of information in order to enable its participants to better assess the creditworthiness of their existing and potential customers. In particular, the draft law makes the following amendments to the Law: (a) the credit register will be supplemented by data from the Treasury of the Republic of Latvia in view of the volume of outstanding transactions carrying credit risk provided by the Treasury; and (b) the definition of financial services carrying credit risk is broadened to include surety services such as the provision of letters of credit, guarantee insurance and guarantee services. In addition, the draft law envisages shortening the retention period in respect of data related to clients and their guarantors as well as general data stored in the credit register from 15 to 10 years.

2. Observations

2.1 The ECB welcomes the draft law as it amends the existing national reporting framework in order to fulfil new reporting requirements in the context of Regulation (EU) 2016/867 (ECB/2016/13). Furthermore, in the spirit of Regulation (EU) 2016/867 (ECB/2016/13), the draft law aims to draw on existing reporting arrangements to avoid imposing an undue reporting burden.

2.2 It is understood that Latvijas Banka intends to draw primarily on data available through the existing credit register in order to comply with reporting requirements established under Regulation (EU) 2016/867 (ECB/2016/13). This is fully in line with Regulation (EU) 2016/867 (ECB/2016/13), which

5 Regulation (EU) 2016/867 of the European Central Bank of 18 May 2016 on the collection of granular credit and credit risk data (ECB/2016/13) (OJ L 144, 1.6.2016, p. 44).

envisages that in order to contribute to the Eurosystem's AnaCredit database, national central banks (NCBs) should be allowed to use their own databases, data received from reporting agents and any other sources, including relevant reference databases[6]. It is also understood that other sources for data collection will be used, including the Latvian Company Register or other relevant sources.

2.3 The ECB notes that the draft law explicitly authorises Latvijas Banka to disclose to the ECB all data contained in the credit register, including granular level data, relevant for the purposes of fulfilling the tasks of the ESCB. It is understood that this explicit authorisation is necessary from a national law perspective to ensure that Latvijas Banka has a robust legal basis for disclosing credit register data to the ECB for the purposes of discharging its obligations under Regulation (EU) 2016/867 (ECB/2016/13). Such a basis is required because the Law prohibits disclosure of information contained in the register, unless such disclosure is explicitly provided for. This provision is without prejudice to the requirements of Article 10 of Regulation (EU) 2016/867 (ECB/2016/13), which regulates the use of credit data reported under the Regulation by the ECB and NCBs.

2.4 The ECB welcomes that the draft law strives to ensure that data provided to the credit register will facilitate the meeting of a number of requirements under Regulation (EU) 2016/867 (ECB/2016/13), for example, by covering liabilities originating in other Member States and by broadening the definition of customer to cover credit unions, electronic money institutions, money market funds and legal entities governed by public law. The ECB notes, however, that full compliance with the objectives and requirements of Regulation (EU) 2016/867 (ECB/2016/13) will require further legislative and organisational work as not all the data that needs to be reported under the Regulation will be available from the credit register. In particular, regard should be had to the legal requirements concerning feedback loops, given that it is envisaged that further provisions on the scope and implementation of feedback loops by the NCBs may be laid down in separate legal acts adopted by the ECB or that NCBs may enter into Memoranda of Understanding, based on the applicable legal frameworks, regarding their respective cooperation in the feedback loops[7].

2.5 It follows from the provisions of the Law that Latvijas Banka determines the scope and precise content of data to be entered in the credit register and the timing and procedures for inclusion of such data in the credit register. Latvijas Banka's legislative acts and administrative instruments will need to be amended to reflect the changes introduced by the draft law and to fully comply with the requirements laid down in the annexes to Regulation (EU) 2016/867(ECB/2016/13). For this purpose, the ECB suggests that Latvijas Banka should ensure at each point in time that the data model defined in such implementing legislation corresponds to the data model valid at that point in time under Regulation (EU) 2016/867 (ECB/2016/13), in order for reporting requirements and implementation practices across the Eurosystem to remain sufficiently harmonised.

6 See recital 16 together with Article 8(3) to (5) of Regulation (EU) 2016/867 (ECB/2016/13).

7 See recital 18 of Regulation (EU) 2016/867 (ECB/2016/13).

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

Done at Frankfurt am Main, 12 April 2017.

[signed]

The President of the ECB

Mario DRAGHI