OPINION OF THE EUROPEAN CENTRAL BANK

of 20 April 2017

on additional macroprudential tools

(CON/2017/14)

Introduction and legal basis

On 22 February 2017, the European Central Bank (ECB) received a request from the Swedish Ministry of Finance for an opinion on a proposal for draft framework legislation on the delegation of powers from the Swedish Parliament to the Swedish Government and the Swedish Financial Supervisory Authority (Finansinspektionen) to implement additional macroprudential tools (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 sixth indent of Article 2(1) of Council Decision 98/415/EC[1], as the draft law relates to rules applicable to financial institutions insofar as they materially influence the stability of financial institutions and markets. 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 overall purpose of the draft law is to counteract excessive household indebtedness and macroeconomic and financial risks in credit markets in Sweden. In this respect, the draft law complements and enhances the existing macroprudential framework, in respect of which Finansinspektionen is the competent supervisory authority[2]. In particular, the draft law provides that credit institutions operating under the Banking and Finance Business Act (BFA)[3] and creditors operating under the Mortgage Credit Business Act (MCA)[4] shall perform their business in such a manner so as not to contribute to financial imbalances in the credit market.

1.2 In order to be consistent with the provisions in Directive 2014/17/EU of the European Parliament and of the Council[5], which has been implemented in Sweden through the MCA, the draft law provides that creditors acting under the MCA shall impose repayment requirements that are compatible with a sound amortisation culture and that counteract excessive household

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 See Paragraph 1(3) of the Swedish Regulation (2009:93) containing Instructions for Finansinspektionen (Sw. Förordning (2009:93) med instruktion för Finansinspektionen).

3 The Banking and Finance Business Act (Sw. Lag (2004:297) om bank- och finansieringsrörelse).

4 Mortgage Credit Business Act (Sw. Lag (2016:1024) om verksamhet med bostadskrediter).

5 Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010.

indebtedness. This will have the effect of aligning amortisation requirements applicable to creditors operating under the MCA with amortisation requirements applicable to credit institutions operating under the BFA.

1.3 Under the draft law Finansinspektionen will be authorised to implement additional macroprudential tools in order to combat macroeconomic and financial stability risks in Sweden. The granting of authorisation to Finansinspektionen, to allow them to implement additional macroprudential tools, is to be combined with the requirement that Finansinspektionen must obtain the Swedish Government's consent before regulations on macroprudential tools enter into force.[6]

1.4 In addition, the draft law further provides that Finansinspektionen may recognise regulatory requirements in other Member States of the European Union that correspond to the Swedish amortisation requirement or the requirement not to contribute to financial imbalances in the credit market. The recognition of regulatory requirements of other Member States will affect Swedish credit institutions and creditors which operate in those other Member States either through a branch or by offering and providing services from Sweden without establishing a branch. A recognition of such regulatory requirements, which a Swedish credit institution or creditor may be in breach of, will enable Finansinspektionen to impose formal warnings, injunctions or, in severe cases, a revocation of the license of such credit institutions or creditors.

2. General observations

2.1 The ECB understands that household indebtedness has increased remarkably in Sweden over the past years. It is because of this that the ECB welcomes the core objectives of the draft law, namely to counteract excessive household indebtedness and macroeconomic and financial stability risks in credit markets in Sweden and to do so through the BFA and the MCA. The approach helps to reduce regulatory leakage between credit institutions operating under the BFA and creditors operating under the MCA. The ECB also welcomes the granting of authorisation to Finansinspektionen to allow them to implement additional macroprudential tools such as restricting the size of the loan granted in relation to the household's income or earning capacity, the size of the loan in relation to the value of an underlying security, the interest rate fixation period and the size of the loan in foreign currency.[7]

2.2 The ECB welcomes the possibility to recognise regulatory requirements of other Member States as equivalent to the Swedish amortisation requirement and the requirement not to contribute to financial imbalances, in order to counteract excessive household indebtedness and financial imbalances abroad caused by Swedish credit institutions or creditors.

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6 The requirement for competent supervisory authorities to obtain the consent of the government is generally required when proposed regulations can result in essential costs for the State, a municipality or a county due to a generally applicable regulation (Regulation (2014: 570) on the Government's consent to the adoption of certain regulations (Sw. Förordning (2014:570) om regeringens medgivande till beslut om vissa föreskrifter).

7 This is in line with the Governing Council statement on Macroprudential Policies from 15 December 2016, in which the ECB called for the "implementation of legislative frameworks for borrower-based measures". https://www.ecb.europa.eu/press/pr/date/2016/html/pr161215_1.en.html.

2.3 The ECB refrains from making any observations regarding the possible institutional implications for Finansinspektionen's operational independence, as the competent supervisory authority dealing with macroprudential affairs, arising out of the potential requirement that Finansinspektionen must obtain the Swedish Government's consent before any regulations on macroprudential tools enter into force.[8]

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

Done at Frankfurt am Main, 20 April 2017.

[*signed*]

The President of the ECB

Mario DRAGHI

8 See paragraph 2.2 of ECB Opinion CON/2016/18.