EUROPEAN CENTRAL BANK

EUROSYSTEM

OPINION OF THE EUROPEAN CENTRAL BANK

of 3 June 2011

on new legislation on the credit register

(CON/2011/47)

Introduction and legal basis

On 6 April 2011, the European Central Bank (ECB) received a request from Latvijas Banka for an opinion on a draft 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 indent of Article 2(1) of Council Decision 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions[1], as the draft law relates to Latvijas Banka. 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

The main purpose of the draft law is to contribute to financial stability by providing credit institutions and other financial institutions with additional possibilities to assess the creditworthiness of their existing and potential customers. The draft law consolidates the regulatory framework of the credit register which is currently contained in the Law on credit institutions[2], the Law on insurance companies and their supervision[3] and the Law on credit unions[4]. In addition, it eliminates inconsistencies and provides additional regulation. The draft law will also provide the national supervisory authority, the Financial and Capital Markets Commission (FCMC), with additional powers to obtain data necessary for the fulfilment of its supervisory tasks and Latvijas Banka with data necessary for financial statistics and macroeconomic analysis. The draft law retains Latvijas Banka's task of maintaining the credit register and providing detailed regulation necessary for the performance of this obligation.

2. General observations

The ECB welcomes the draft law. The consolidation of provisions on the credit register currently contained in other legal acts will enhance transparency and improve legal certainty. The draft law will

1 OJ L 189, 3.7.1998, p. 42.

2 Article 106^1 of the Law on credit institutions.

3 Article 29^3 of the Law on insurance companies and their supervision.

4 Article 27^1 of the Law on credit unions.

serve to enhance individual financial institutions' credit risk management, as well as risk assessment for the financial sector as a whole. The draft law will also be beneficial for the exercise of prudential supervision by the FCMC, as well as Latvijas Banka's task of monitoring financial market developments[5].

3. Specific observations

3.1 The ECB fully welcomes the aim of the draft law to contribute to financial stability (a) by providing the FCMC with additional powers to obtain information required for the supervision of the financial and capital market participants, (b) by allowing Latvijas Banka to use credit register data for statistical purposes, and (c) by enabling both institutions to obtain data for macroeconomic analysis[6].

3.2 The ECB notes that under Article 3 of the draft law, Latvijas Banka will continue to maintain the credit register, own its technical facilities and be in charge of its development and security. As regards the financing of such tasks performed by Latvijas Banka, the ECB refers to the principle of financial independence under which a national central bank must have sufficient means not only to perform its ESCB-related tasks, but also its national tasks, e.g. financing its administration and own operations[7]. The ECB considers that the draft legislation does not raise concerns in this respect, since it authorises Latvijas Banka to charge a fee for the use of the register to cover the costs related to its maintenance[8].

3.3 The ECB welcomes the provisions of the draft law authorising Latvijas Banka to provide data included in the register to Latvian and foreign authorities, subject to legislative provisions on prudential supervision and national statistics[9].

3.4 The ECB understands that Latvijas Banka has retained its powers to provide detailed regulation on the content of data to be included and provided from the register as well as the procedure for submitting and receiving data[10]. Furthermore, the ECB understands that regulation already in force[11] will be amended to reflect the changes introduced by the draft law.

5 This task is set out in Article 41 of the Law on Latvijas Banka.

6 Article 2(1)(b), (c) and (d) of the draft law.

7 See the ECB's Convergence Report, May 2010, p. 21, and in particular Opinion CON/2011/5, paragraph 3.1.

8 Article 30 of the draft law.

9 Article 4(4) of the draft law.

10 Articles 10, 13 and 17 of the draft law.

11 Latvijas Banka's 'Regulation for the Credit register'.

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

Done at Frankfurt am Main, 3 June 2011.

[signed]

The President of the ECB

Jean-Claude TRICHET