EUROPEAN CENTRAL BANK

OPINION OF THE EUROPEAN CENTRAL BANK

of 30 November 2005

at the request of Česká národní banka
on a draft provision concerning the submission of statements by banks and foreign bank branches to Česká národní banka

(CON/2005/49)

1. On 30 September 2005, the European Central Bank (ECB) received a request from Česká národní banka (ČNB) for an opinion on a draft ČNB provision concerning the submission of statements by banks and foreign bank branches to Česká národní banka (hereinafter the 'draft provision').

2. The ECB's competence to deliver an opinion is based on the fourth 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 provision relates to the collection of statistical information. 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.

3. Currently, ČNB uses the data from statements submitted pursuant to two existing ČNB provisions[2] on the submission of statements by Czech-resident banks and foreign bank branches (hereinafter 'respondents'), not only for banking supervision but also to compile statistics for monetary policy purposes. The draft provision, which will enter into force on 1 January 2006 (hereinafter the 'effective date') will replace those existing provisions, essentially combining them into a single provision for reasons of efficiency. It does not, however, contain the methodology for compiling the statements currently set out in Provision No 8/2004. Instead, the detailed methodology for compiling the data sets (hereinafter the 'methodology'), which is not the subject of this consultation, will be published and sent to each respondent in electronic format on or after the effective date. The ECB understands, however, that it follows from a separate ČNB provision[3] that the methodology will be legally binding on respondents. Furthermore, although ČNB has not requested the ECB's opinion on the methodology, the ECB understands that it will essentially replicate the requirements currently set out in Provision No 8/2004.

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1 OJ L 189, 3.7.1998, p. 42.

2 ČNB Provision No 7 of 9 December 2004 concerning the submission to Česká národní banka of statements by banks and foreign bank branches and ČNB Provision No 8 of 15 December 2004 establishing the methodology for compiling statements submitted to Česká národní banka by banks and foreign bank branches (hereinafter 'Provision No 8/2004').

3 ČNB Provision No 1 of 17 May 2005 establishing the means of transfer and acceptance of automated data statements to be submitted to Česká národní banka by banks and foreign bank branches, which allows respondents to compile statements for ČNB on the basis of a methodology which will be transmitted to them electronically.

4. It should be recalled that Article 5 of the Statute of the European System of Central Banks and of the European Central Bank and Article 10 of the Treaty establishing the European Community imply that national statistical authorities of Member States that have not yet adopted the euro (hereinafter 'non-participating Member States') are under an obligation to design and implement at national level all the measures that they consider appropriate in order to collect the statistical information needed to fulfil the ECB's statistical reporting requirements. These provisions therefore also imply that non-participating Member States are under an obligation to make timely preparations in the field of statistics in order to adopt the euro. In this context, the ECB notes that it is primarily the task of the national authorities of non-participating Member States to determine which detailed reporting requirements and collection methods are the most efficient and effective at national level and the least burdensome for the respondents concerned.

5. On that basis, the ECB broadly welcomes the draft provision, which appears to be generally consistent with many of the statistical reporting requirements applying to monetary financial institutions (MFIs) that are credit institutions in the Member States that have adopted the euro.

6. The ECB notes that certain important features of data collection contained in Regulation ECB/2001/13 are not contained in the draft provision. First, whereas Regulation ECB/2001/13 contains a definition of sectors other than MFIs[4], the ECB notes that the draft provision[5] only requires respondents to use the list of MFIs and institutions subject to minimum reserves published and updated by the ECB and the list of MFIs in the Czech Republic published and updated by ČNB when reporting data on their claims and liabilities in respect of MFIs, without defining the non-MFI sector. The ECB understands however that it will be possible to define the non-MFI sector by means of a system of code classifications, which will be contained in the methodology (such definition is needed to obtain sectoral data on MFIs' transactions with the non-MFI sector). Furthermore, whereas Regulation ECB/2001/13 requires deposit liabilities and loans to be reported at nominal value for statistical purposes[6], the ECB notes that the draft provision[7] does not expressly lay down such requirement, but refers to such valuation being carried out in accordance with national and international accounting rules unless the methodological description stipulates otherwise. The ECB understands that the requirement for deposit liabilities and loans to be valued at nominal value for statistical purposes will be contained in the methodology and in the annexes thereto. Although ČNB has not consulted the ECB on the methodology itself, the ECB is of the view that if the methodology replicates the essential methodological features currently contained in Provision No 8/2004, then it would be broadly in line with the requirements under Regulation ECB/2001/13.

7. Finally, the ECB notes that the reporting obligations of money market funds (MMFs), although also deemed to be MFIs under Regulation ECB/2001/13, are not covered by the draft provision but

4 Part 3 of Annex I to Regulation ECB/2001/13.

5 Article 7 of the draft provision.

6 See Part 1 of Annex I to Regulation ECB/2001/13.

7 Article 6(5) of the draft provision.

are currently dealt with under a separate legal act of ČNB[8]. The ECB understands that pursuant to the Act No 6/1993 Coll., on Česká národní banka, as amended, ČNB is authorised to regulate the reporting obligations of MMFs and other non-banking financial institutions under a separate regulation.

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

Done at Frankfurt am Main, 30 November 2005.

[signed]

The President of the ECB

Jean-Claude TRICHET

8 ČNB Decree No 307/2004 Coll. on the submission of information and documents to Česká národní banka by entities belonging to the financial institutions sector.