EUROPEAN CENTRAL BANK

EUROSYSTEM

OPINION OF THE EUROPEAN CENTRAL BANK

of 16 February 2011

on including credit unions in the State Treasury support to financial institutions

(CON/2011/11)

Introduction and legal basis

On 21 January 2011, the European Central Bank (ECB) received a request from the Polish Minister for Finance for an opinion on a draft law amending the Law on the provision of State Treasury support to financial institutions (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 and the third and sixth indents 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 Narodowy Bank Polski and 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 draft law amends the Law of 12 February 2009 on the provision of State Treasury support to financial institutions[2] (hereinafter the 'Law on State support'), on which the ECB was consulted in November 2008[3]. The Law on State support introduced a scheme whereby various support measures were offered to eligible financial institutions[4]. The ECB was subsequently consulted in October 2009[5] and December 2010[6] with a view to extending the deadline by which eligible financial institutions may apply for support.

1 OJ L 189, 3.7.1998, p. 42.

2 Dz. U. of 2009 No 39, Item 308.

3 See Opinion CON/2008/80; all ECB opinions are published on the ECB's website at www.ecb.europa.eu.

4 Six categories of financial institutions established in Poland were eligible for the support scheme: banks, credit unions, investment funds, brokerage houses, insurance companies and pension funds (see Article 2 of the Law on State support).

5 See Opinion CON/2009/82.

6 See Opinion CON/2010/95.

1.2 The draft law extends the list of institutions eligible for support in the form of State guarantees to: (i) credit unions active in Poland (*spółdzielcze kasy oszczędnościowo-kredytowe*, hereinafter the 'SKOK credit unions'); and (ii) the National Savings and Credit Union, a statutory central association of individual credit unions (hereinafter the 'National SKOK'). This extension is proposed because the credit unions: (i) provide services similar to banks, and may be exposed to similar liquidity risks; and (ii) they currently manage significant assets and provide services to a large number of mostly retail customers[7]. The draft law does not change the conditions of support or the criteria by which the eligibility of financial institutions is assessed under the Law on State support.

1.3 Under the current Law on credit unions[8], they operate under their own supervisory framework and are not supervised by the Financial Supervision Commission (FSC), the Polish financial supervisory authority. In 2009 the ECB was consulted on a draft law introducing substantial changes regarding the regulation and supervision of SKOK credit unions, including the imposition on them of the FSC supervision and the obligation to hold minimum reserves[9] with Narodowy Bank Polski. The ECB understands that this law was adopted by the Parliament but did not yet enter into force, pending its review by the Constitutional Court.

2. General observation

2.1 The ECB reiterates its observations in Opinion CON/2009/60, as well as in its previous opinions on the Law on State support. Without precluding the outcome of the constitutional review, the ECB considers it essential for the legal reform of the regulation and supervision of SKOK credit unions to enter into force as soon as possible. Key elements are the imposition of a supervisory regime equivalent to that applying to credit institutions, the obligation to hold minimum reserves and enhanced legal certainty and transparency of credit union operations. These measures should accompany the proposed inclusion of the SKOK credit unions in the list of institutions eligible for support in the form of State guarantees.

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

Done at Frankfurt am Main, 16 February 2011.

[signed]

The President of the ECB

Jean-Claude TRICHET

7 See the explanatory memorandum to the draft law, p. 1.

8 The Law on credit unions of 4 January 1996, Dz. U. of 1996 No 1, Item 2.

9 See Opinion CON/2009/60.