EUROPEAN CENTRAL BANK

EUROSYSTEM

**OPINION OF THE EUROPEAN CENTRAL BANK**

**of 15 September 2009**

**on payment services**

**(CON/2009/72)**

**Introduction and legal basis**

On 26 August 2009 the European Central Bank (ECB) received a request from the Romanian Ministry of Finance for an opinion on a draft emergency ordinance on payment services (hereinafter the 'draft emergency ordinance').

The ECB's competence to deliver an opinion is based on Article 105(4) of the Treaty establishing the European Community and the third and fifth 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 emergency ordinance relates to Banca Națională a României (BNR) and to payment systems. 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 emergency ordinance

The main purpose of the draft emergency ordinance is to transpose into Romanian legislation Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC[2].

The draft emergency ordinance establishes the requirements for the provision of payment services in Romania and regulates the prudential supervision of payment institutions, as well as the rights and obligations of users and providers of payment services in the context of the professional provision of payment services.

## 2. General observations

2.1 The ECB welcomes the draft emergency ordinance which will comprehensively regulate payment transactions in Romania in accordance with Directive 2007/64/EC. While acknowledging the importance of Directive 2007/64/EC for the realisation of the Single European Payments Area, in this opinion the ECB does not make a comprehensive assessment of the provisions of the draft

1 OJ L 189, 3.7.1998, p. 42.

2 OJ L 319, 5.12.2007, p. 1.

emergency ordinance implementing Directive 2007/64/EC. Instead, this opinion only focuses on the provisions that go beyond such implementation and that relate to payment systems and BNR.

2.2 The draft emergency ordinance only transposes Articles 1 to 4, 6, 7, 9 to 27, 29 to 88 and 93 of Directive 2007/64/EC. The ECB understands that the technical details concerning the licensing and supervision of payment institutions will be established separately by BNR (see Article 186(1) of the draft emergency ordinance).

2.3 The draft emergency ordinance extends BNR's competence by giving it new tasks concerning the licensing and supervision of payment institutions (see, in particular, Sections 1, 2 and 9 in Title II of the draft emergency ordinance). The ECB welcomes this widening of BNR's competence in so far as, in accordance with the principle of central bank independence, BNR can independently avail itself of sufficient financial and personnel resources, both in terms of quantity and quality, to carry out tasks related to the European System of Central Banks as well as its own tasks, including its new tasks based on the draft emergency ordinance[3].

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

Done at Frankfurt am Main, 15 September 2009.

[signed]

*The President of the ECB*

Jean-Claude TRICHET

3 See the ECB Convergence Report, May 2008, p. 20. See also Opinion CON/2009/27. All ECB opinions are published on the ECB website at www.ecb.europa.eu.