EUROPEAN CENTRAL BANK

OPINION OF THE EUROPEAN CENTRAL BANK

of 11 July 2005

at the request of the Oesterreichische Nationalbank
on a draft regulation on the reporting of cross border services

(CON/2005/23)

1. On 27 April 2005, the European Central Bank (ECB) received a request from the Oesterreichische Nationalbank (OeNB) for an opinion on a draft regulation on the reporting of cross-border services (*Entwurf einer Meldeverordnung ZABIL 1/2005 der Oesterreichische Nationalbank betreffend die statistische Erfassung des grenzüberschreitenden Dienstleistungsverkehrs*) (hereinafter the 'draft regulation').

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 regulation relates to the collection, compilation and distribution of monetary, financial, banking, payment systems and balance of payments statistics. 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. The draft regulation represents the second step in the phased introduction of a new reporting system in Austria for balance of payments and international investment position statistics (hereinafter 'cross-border statistics'), and reflects a general change to a system that relies predominantly on direct reporting by legal entities that conduct cross-border transactions[2].

4. In order to compile the balance of payments current account, the reporting requirements defined in the draft regulation cover the services that reporting agents provide to or receive from non-residents. The collection of data on cross-border services of reporting agents from almost all economic sectors is entrusted to the Bundesanstalt StatistikÖsterreich (Austria's central statistics authority). Only the reports on cross-border services of legal entities in the financial sector ('credit institutions' and 'insurance undertakings') are directly sent to the OeNB.

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1 OJ L 189, 3.7.1998, p. 42.

2 ZABIL Regulation 1/2004 on balance of payments was the first step in this adjustment to the reporting system, giving rise to ECB Opinion CON/2004/24 of 8 July 2004 and ECB Opinion CON/2004/26 of 30 July 2004.

5. The draft regulation includes sector-specific thresholds that determine the level from which reporting on cross-border service transactions becomes mandatory. Reporting agents are in general required to report data on their cross-border services on a quarterly or annual basis.

6. The ECB welcomes the draft regulation, which continues the adjustment of the reporting system in Austria. Whilst reducing the reporting burden falling on the banking sector and financial intermediaries, the draft regulation should ensure the quality of the data contributed to euro area cross-border statistics.

7. The ECB considers that, notwithstanding the changes proposed to the Austrian reporting system in the draft regulation, it is for the OeNB to ensure that the data will continue to be collected and compiled in accordance with Guideline ECB/2004/15 of 16 July 2004 on the statistical reporting requirements of the European Central Bank in the field of balance of payments and international investment position statistics, and the international reserves template[3]. In that light, notwithstanding the proposed changes, the ECB takes note that:

   (i) the definition of sector-specific thresholds for statistically-relevant transactions is comprehensive enough to cover all statistically-relevant cross-border services so as to obtain sufficiently precise data for euro area cross-border statistics; and

   (ii) while data on cross-border services will be collected on a quarterly or annual basis, the OeNB remains responsible for providing the ECB with aggregated data for the euro area monthly balance of payments statistics, which meet the quality standards set out in Guideline ECB/2004/15.

8. Both the draft regulation and Regulation ZABIL 1/2004 (*Meldeverordnung der Oesterreichischen Nationalbank ZABIL 1/2004*) governing the new reporting system in Austria for cross-border statistics, cover almost all items of the current, capital and financial accounts of the balance of payments, and the international investment position. Nonetheless, the ECB considers that it is for the OeNB to ensure that the availability and quality of the data on other cross-border transactions, for example transactions in goods or current transfers in all economic sectors, are in accordance with Guideline ECB/2004/15.

9. The draft regulation provides that the OeNB shall entrust data collection to the Bundesanstalt Statistik Österreich, in this case data on cross-border services. The ECB does not object in principle to the OeNB outsourcing specific data collection activities, provided certain legal requirements are met[4]. In particular, the OeNB must retain full responsibility for all such activities, including the transmission of all relevant data to the ECB. Therefore, the OeNB must also be able to check that the ECB's statistical reporting requirements are being fully met. As far as reporting requirements vis-à-vis the ECB are concerned, any cooperation between the OeNB and any other competent

3 OJ L 354, 30.11.2004, p. 34.

4 See also ECB Opinion CON/2002/21 of 14 August 2002 at the request of the Sveriges Riksbank on a draft legislative proposal to amend the Sveriges Riksbank Act (1988:1385) with regard to the collection of balance-of-payments statistics and the liquidity criterion for securities used in monetary policy operations.

authority in Austria is subject to the requirements laid down in Guideline ECB/2004/15. The ECB invites the OeNB to consult the ECB on any agreement outsourcing data collection activities that the OeNB concludes in this context.

10. Finally, the ECB considers that Article 1(3) of the draft regulation, which provides that the data collected 'may only be used for statistical purposes', should not be understood as denying the OeNB or the ECB access to such data, whether on the grounds of confidentiality or otherwise. In particular, it should not be understood as conflicting with Article 8(2) of Council Regulation (EC) No 2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank[5]. Pursuant to Article 8(2) confidential data collected under the responsibility of the national central banks of the Eurosystem, once transmitted to the ECB, may be used to the extent and in the level of detail necessary to carry out European System of Central Banks tasks.

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

Done at Frankfurt am Main, 11 July 2005.

The President of the ECB

Jean-Claude TRICHET

5 OJ L 318, 27.11.1998, p. 8.