EUROPEAN CENTRAL BANK

EUROSYSTEM

OPINION OF THE EUROPEAN CENTRAL BANK

of 7 February 2014

on transmission of data necessary to define monetary policy

(CON/2014/11)

Introduction and legal basis

On 13 January 2014, the European Central Bank (ECB) received a request from the Polish Minister for Finance for an opinion on a draft ordinance of the Finance Minister on the procedures, scope and time frame for the transmission to Narodowy Bank Polski of data necessary to define monetary policy and to make periodical assessments of the monetary situation of the State (hereinafter the 'draft ordinance').

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, fourth and sixth indents of Article 2(1) and Article 2(2) 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 (NBP), compilation and distribution of monetary, financial, banking, payment systems and balance of payments statistics, and rules applicable to financial institutions insofar as they materially influence the stability of financial institutions and markets and instruments of monetary policy. 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 ordinance is a recast of the Ordinance of the Finance Minister of 16 December 2009 on the procedures, scope and time frame for the transmission to Narodowy Bank Polski of data necessary to define monetary policy and to make periodical assessments of the monetary situation of the State[2] (hereinafter the 'recast ordinance').

1.2 The draft ordinance implements Article 23(2c) of the Law on Narodowy Bank Polski[3], which authorises the Finance Minister to impose obligations to report data used, *inter alia*, for monetary policy purposes and for monetary statistics purposes, on non-banking entities which are deemed significant enough on the basis of their position and share in the financial market. Pursuant to the recast ordinance, such reporting obligations are currently imposed on investment funds. The draft ordinance: (a) recasts the provisions relating to the reporting obligations of investment funds;

1 OJ L 189, 3.7.1998, p. 42.

2 Published in *Dziennik Ustaw* (Dz. U.) of 2009 No 221, item 1740.

3 Dz. U. of 2013, item 908.

(b) extends reporting obligations to cover credit unions also, *inter alia*, in view of the fact that credit unions are now subject to NBP's minimum reserve requirements[4]; and (c) sets out the procedures for the reporting of minimum reserve-related data by individual credit unions to the National Credit Union, and of aggregated data by the National Credit Union to NBP. This data will then be used by NBP to verify the National Credit Union's calculation of the required minimum reserve on a consolidated basis[5].

2. The appropriate time to consult the ECB

The ECB has underlined in several opinions that 'even in cases of extreme urgency national authorities are not relieved of their duty to consult the ECB and to allow sufficient time to take the ECB's views into account, as laid down in Articles 127(4) and 282(5) of the Treaty'. The request for an opinion on the draft ordinance was received by the ECB very shortly before the entry into force of the provisions that trigger the above-mentioned credit unions' reporting obligations and the planned entry into force of the draft ordinance. The ECB would appreciate it if the consulting authority would consult the ECB in the future on an earlier stage in order to allow sufficient time for its views to be taken into account in accordance with Council Decision 98/415/EC.

3. Specific observations

3.1 In its opinions relating to the Law of 5 November 2009 on credit unions, the ECB advocated including credit unions in NBP's minimum reserves regime[6]. The ECB welcomes the fact that such inclusion has now entered into force, and that the related reporting obligations[7] are imposed on credit unions under the draft ordinance. Whereas, until now, credit unions' reporting obligations for monetary statistics purposes were provided for by means of contractual measures, the ECB welcomes the fact that reporting obligations have been clarified by replacing contractual measures with regulatory arrangements[8].

3.2 The ECB understands that, unlike reporting obligations of banks that are defined in an instrument of NBP[9], reporting obligations of non-bank financial institutions, due to limitations imposed on

4 See Article 12(2) and Articles 38-41 of the Law on Narodowy Bank Polski as amended, with effect from 27 January 2014, by Articles 83 and 93 of the Law of 5 November 2009 on credit unions (Dz. U. of 2012, item. 855).

5 Pursuant to Article 38(5) of the Law on Narodowy Bank Polski, credit unions hold minimum reserves with the National Credit Union, a central association to which all credit unions are affiliated, and the National Credit Union holds its own reserves and credit unions' consolidated minimum reserves on a central account maintained for it by NBP.

6 See paragraphs 2.1 to 2.5 of Opinion CON/2009/60 and paragraph 2.1 of Opinion CON/2013/5. All ECB opinions are published on the ECB's website at www.ecb.europa.eu.

7 See reporting templates PD001 to PD003 in Annex 2 to the draft ordinance.

8 See reporting templates PD004 to PD006 in Annex 2 to the draft ordinance.

9 See resolution of the NBP Management Board No 53/2011 of 22 September 2011 on the procedure and specific principles of transmission by banks to Narodowy Bank Polski of data necessary to define monetary policy and to make periodical assessments of the monetary situation of the State, financial situation of banks and risks within the banking sector (published in *Dziennik Urzędowy NBP* of 2011 No 14, item 15).

NBP's legislative powers[10], are defined by a ministerial ordinance. The ECB welcomes the declaration of the Polish authorities that the draft ordinance aims at achieving consistency between these two reporting regimes, as well as their alignment with the evolution of the ESCB's reporting framework, in view of the future participation of NBP in the Eurosystem[11].

3.3 The ECB notes in this context that the ESCB's reporting framework for non-bank entities is currently evolving. This includes, with effect from 1 January 2015: (a) replacing the reporting obligations currently imposed on investment funds under Regulation ECB/2007/8 of 27 July 2007 concerning statistics on the assets and liabilities of investment funds[12] by the newly adopted Regulation ECB/2013/38 of 18 October 2013 concerning statistics on the assets and liabilities of investment funds[13]; and (b) replacing the reporting obligations currently imposed on securitisation vehicles under Regulation ECB/2008/30 of 19 December 2008 concerning statistics on the assets and liabilities of financial vehicle corporations engaged in securitisation transactions[14] by Regulation ECB/2013/40 of 18 October 2013 concerning statistics on the assets and liabilities of financial vehicle corporations engaged in securitisation transactions[15]. The ECB invites the Polish authorities to adequately consider the implications of these changes for the draft ordinance.

3.4 The ECB notes that, as part of another legislative initiative[16], the above mentioned Article 23(2c) of the Law on Narodowy Bank Polski, on the basis of which the draft ordinance will be issued, may be amended by adding 'analysis aimed at mitigating systemic risk' to the list of purposes for which information provided by investment funds and credit unions may be used by NBP. This additional macro-prudential purpose may have to be reflected in the scope of reporting requirements set out in the annexes to the draft ordinance.

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

Done at Frankfurt am Main, 7 February 2014.

[signed]

The President of the ECB

Mario DRAGHI

10 See Article 23(4) of the Law on Narodowy Bank Polski, the wording of which results from paragraph 3 of judgement of the Constitutional Tribunal in case K 25/99 (Dz. U. of 2000 No 53, item 648).

11 See pages 1 and 4 of the explanatory memorandum to the recast ordinance. See also paragraphs 2 and 3 of Opinion CON/2008/53.

12 OJ L 211, 11.8.2007, p. 8.

13 OJ L 297, 7.11.2013, p. 73.

14 OJ L 15, 20.1.2009, p. 1.

15 OJ L 297, 7.11.2013, p. 107.

16 See Article 57(2) of the draft law on macro-prudential oversight of the national financial system.