EUROPEAN CENTRAL BANK

OPINION OF THE EUROPEAN CENTRAL BANK

of 15 September 2005

at the request of Lietuvos bankas
on draft general provisions on payment instruments statistical reporting requirements

(CON/2005/32)

Introduction

1. On 5 August 2005 the European Central Bank (ECB) received a request from Lietuvos bankas for an opinion on *Mokėjimo priemonių statistinės atskaitomybės reikalavimų bendrųjų nuostatų projektas* (draft general provisions on payment instruments statistical reporting requirements) (hereinafter the 'draft rules').

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 rules relate to the collection, compilation and distribution of banking and payment systems 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. Under the draft rules, banks, foreign bank branches and *Lietuvos paštas* (the Lithuanian Post Office) will be required to report data on payment instruments to Lietuvos bankas. The annex to the draft rules contains the new Payment Instruments Statement Form 0607 (hereinafter 'Form 0607') to be used by reporting agents. In general terms, the data to be reported concern reporting agents' offices, deposit accounts, payment transactions, bank cards and terminals. The draft rules also provide that data on Lithuanian credit unions will be evaluated on the basis of an annual survey conducted by Lietuvos bankas.

4. The draft rules are based on Article 8(1)(9) and Article 54 of the Lietuvos bankas Act, which empower Lietuvos bankas to collect monetary, banking and balance of payments statistics, Lithuanian financial and related statistical data, and oblige state institutions and other legal entities to submit to Lietuvos bankas all information required for the performance of its functions.

1 OJ L 189, 3.7.1998, p. 42.

The ECB understands that the draft rules will replace the existing Form 0607, which only applies to banks and was adopted by the Board of Lietuvos bankas in November 2000[2].

5. Article 5.2 of the Statute of the European System of Central Banks and of the European Central Bank provides that the national central banks (NCBs) carry out, to the extent possible, the tasks described in Article 5.1 of the Statute, i.e. the collection of the statistical information necessary in order to undertake the tasks of the European System of Central Banks (ESCB). Moreover, Article 4 of Council Regulation (EC) No 2533/98 of 23 November 1998 concerning the collection of statistical information by the ECB[3] requires that 'Member States shall organise themselves in the field of statistics and shall fully cooperate with the ESCB in order to ensure the fulfilment of the obligations arising out of Article 5 of the Statute'. Whilst the ECB's statistical reporting requirements are not identical for participating and non-participating Member States, Article 5 of the Statute applies to both. This implies an obligation to 'design and implement at the national level all the measures that Member States consider appropriate in order to carry out the collection of the statistical information needed to fulfil the ECB's statistical reporting requirements and the timely preparations in the field of statistics in order for them to become participating Member States'[4].

General comments and assumptions

6. The draft rules appear to be generally consistent with the current reporting requirements in relation to payment systems statistics to be published in the ECB's 'Blue Book'[5], and would help to ensure completeness and high quality of data submitted by Lithuania. Consequently, the ECB welcomes the draft rules.

   At the same time, the ECB notes that the collection of statistical information for the Blue Book is based on specifications agreed at the technical level by the ECB and the euro area NCBs. Such specifications are currently being revised so that they can be included in a binding legal act. Therefore, changes in the requirements cannot be ruled out at this stage. The ECB's comments in this opinion are meant to serve as a guide, enabling Lietuvos bankas to shape its statistical reporting requirements in line with those of the Eurosystem in preparation for the introduction of the euro in Lithuania.

7. The ECB understands that other data required for the Blue Book may be collected on the basis of different statistical reporting requirements and/or from different reporting agents, and that as a result such additional requirements have not been included in the draft rules.

   In particular the ECB's comments are based on the following underlying assumptions. First, data required for the Blue Book (Tables 2 to 4 and, in part, Table 5) with respect to balance sheet items

2 Pursuant to Lietuvos bankas Board Resolution No 158 of 30 November 2000, as amended by Board Resolution No 158 of 28 November 2002.

3 OJ L 318, 27.11.1998, p. 8.

4 Recital 17 to Regulation (EC) No 2533/98.

5 'Payment and securities settlement systems in the European Union'. Third edition published June 2001. Addendum incorporating 2003 figures published August 2005.

and banknotes and coins, would either be collected separately on introduction of the euro in Lithuania pursuant to Regulation (EC) No 2423/2001 of the European Central Bank of 22 November 2001 concerning the consolidated balance sheet of the monetary financial institutions sector (ECB/2001/13)[6], or are already available at Lietuvos bankas. Second, data required for the Blue Book (Tables 9 and 10) with respect to indicators of various cashless payment instruments would be collected separately from the systems themselves, namely large value payments systems and retail payment systems. Third, data required for the production of statistical tables with regard to securities settlement systems would also be collected separately, as they are outside the scope of Form 0607. Finally, the remaining data required for the production of the Blue Book (Tables 5 to 8) would be collected on the basis of Form 0607.

8. It would be appropriate to consider including in the population of reporting agents any other institutions providing payment services in Lithuania. It is noted that a discussion at Community level concerning new legislation in the field of payment systems is currently underway.

Technical observations with respect to the draft rules

9. In the following paragraphs, the ECB comments on: (i) the general provisions of the draft rules and the population of reporting agents (Sections I to IV); (ii) the definitions of statistical reporting indicators (Section V); and (iii) Form 0607 (attached to the draft rules). References to paragraphs and sections are to be understood as references to the relevant paragraphs and sections of the draft rules and sections of Form 0607, unless otherwise indicated.

10. The ECB has not reviewed the time series codes given in Form 0607, as these are considered to be outside the scope of this consultation. Furthermore, details of the key family structure and code lists pertaining to the series keys have not been provided.

General provisions of the draft rules and reporting agents

11. The ECB notes that the statistical reporting frequency proposed in the draft rules is quarterly (Paragraph 3.2), with a timeliness of 25 days after the end of the reporting period (Paragraph 9), and that this exceeds the current requirements in respect of frequency and timeliness in the Blue Book (Tables 6 to 10), which are annual with a timeliness of a few months. In this context, however, an explicit reference to 'calendar quarterly' in the draft rules and/or Form 0607 would provide more clarity.

12. Considering that Lietuvos bankas, resident foreign bank branches and credit unions[7] are included in the list of monetary financial institutions (MFIs) for Lithuania and that all undertakings satisfying the definition of MFIs should be subject to statistical reporting, the ECB would propose to provide in the draft rules that the population of reporting agents (Paragraph 6) consists of all undertakings which satisfy the definition of MFIs, including without limitation Lietuvos bankas, resident banks,

6 OJ L 333, 17.12.2001, p. 1.

7 With regard to credit unions established in Lithuania, reference is made to ECB Opinion CON/2005/8 of 1 April 2005 at the request of Lietuvos bankas on draft rules on minimum reserve requirements for credit institutions.

foreign bank branches and credit unions, and *Lietuvos paštas*. The ECB does not, however, object to evaluating the data relating to credit unions on a basis of annual surveys.

13. The ECB understands that Lietuvos bankas may, in accordance with Article 54^1 of the Lietuvos bankas Act, impose fines and penalty interest on financial institutions for breaches of statistical reporting requirements. Lietuvos bankas would therefore have appropriate powers to impose sanctions on financial institutions, although the ECB notes that there is a risk that *Lietuvos paštas* might fall outside the scope of such sanctions regime.

Definitions of statistical reporting indicators

14. Regarding the definitions of statistical reporting indicators (Section V), the ECB notes that some of these definitions, e.g. 'virtual cards' and 'card imprinters', are not currently provided for in technical agreements between the ECB and the NCBs, whilst certain other definitions, e.g. 'bank cards', 'joint cards', 'cards with a credit function', 'ATMs with a cash deposit function', 'e-money card accepting terminals', 'e-money card loading/unloading terminals', are referred to in these technical agreements albeit in different terms. The ECB understands that the inconsistencies are due to differences between languages and national legal systems.

15. The ECB notes that cashless payments transactions (Paragraph 16) should be reported on the basis of data recorded at the time a transaction is initiated (the sending side), with the exception of cross-border payment transactions received (as provided for in Paragraph 22). The ECB suggests clarifying this issue in Paragraph 16.

16. Credit transfers (Paragraph 17) are separated in the Blue Book tables and in the ECB's technical documentation into paper-based and non-paper based transfers. The breakdown as envisaged in Paragraph 17 may not, however, cover all possible variations. Consequently, the ECB suggests including a breakdown into paper-based and non-paper based credit transfers in both Paragraph 17 and Form 0607, with the possibility of breaking these categories down further.

17. With regard to Paragraph 21, the ECB notes that the cash transactions mentioned therein are directly linked to clients' accounts with a client service office. However, where cash transactions occur at a client service office for accounts other than clients' accounts, such transactions involve internal or external transfers of funds and should therefore be accounted for as credit transfers. The ECB suggests clarifying this in Paragraph 21.

18. The ECB understands that data on bank cards (Paragraph 23 and items 14 to 22 and 28 to 36 in Form 0607) relate to cards *issued* by resident credit institutions rather than cards *used* in Lithuania. The ECB recommends specifying this in Paragraph 23. In addition, it recommends extending the scope of this definition to include 'schemes' and 'members of schemes' as possible issuers of the cards. The latter comment would also apply to the definition of cards with a credit function (Paragraph 28). Lietuvos bankas could also consider using the more general term 'cards (payment cards)' rather than 'bank cards'.

19. In the definition of ‘joint cards’ (Paragraph 24), the ECB recommends including the function of ‘delayed debit’ as this currently appears to be missing.

20. With regard to ‘virtual cards’ (Paragraph 30), the ECB understands that transactions initiated with such cards are reported for the purposes of the Blue Book in the same category as credit transfers. The ECB invites Lietuvos bankas to clarify this issue in the draft rules.

21. With regard to ‘POS (point of sale) terminals’ (Paragraph 35), the ECB assumes that the cash withdrawals mentioned in this definition refer exclusively to cash advances, i.e. cash withdrawals which cardholders perform in combination with and at the same time as a payment transaction at a commercial or service company. The ECB recommends defining the term ‘cash advances’ in Paragraph 35.

    Also, the ECB assumes that the Blue Book category ‘EFTPOS terminals’ is calculated by taking into account POS terminals and subtracting card imprinters. For the sake of completeness and ease of reference, the ECB suggests defining EFTPOS terminals in Paragraph 35 and also including this item in Form 0607.

22. With regard to ‘e-money card loading terminals’ (Paragraph 39), the ECB recommends amending the term to state ‘e-money card loading/unloading terminals’ to make it clear that such terminals may also provide a facility for unloading monetary value.

Form 0607

23. The ECB notes that Lithuanian litas is indicated as the reporting currency in Form 0607. However, the draft rules do not lay down how transactions executed in another currency are to be recalculated in Lithuanian litas. The ECB recommends clarifying this issue in the draft rules, in particular by referring to the official litas/euro exchange rate and, to the extent available, other reference exchange rates published by Lietuvos bankas or, after the introduction of the euro in Lithuania, by the ECB. The least burdensome method would be to calculate the total amount of transactions per currency for the reporting period by using the average exchange rate over this period.

24. The ECB also has the following specific comments with regard to Form 0607. With respect to cashless payments and ‘over the counter’ cash transactions at client service offices (Section II), the ECB recommends introducing general items entitled ‘paper based’ and ‘non-paper based’ such as are included in the Blue Book.

25. With regard to the number of ATMs and terminals in the country and transactions processed (Section IV), the ECB recommends including the term ‘of which EFTPOS terminals’ (as specified in Table 6 of the Blue Book), as a component breakdown of POS terminals (item 41).

26. The ECB notes that the items '(Number/value of) transactions at terminals in the country by cards issued in the country' and '(Number/value of) transactions at terminals in the country by cards issued outside the country' (as specified in Tables 7 and 8 of the Blue Book), are not listed in Form 0607. Similarly, the item '(Number/value of) transactions at terminals outside the country by cards issued in the country' (as specified in Tables 7 and 8 of the Blue Book), is also not listed in Form 0607.

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

Done at Frankfurt am Main, 15 September 2005.

[signed]

The President of the ECB

Jean-Claude TRICHET