EUROPEAN CENTRAL BANK

EUROSYSTEM

OPINION OF THE EUROPEAN CENTRAL BANK

of 27 November 2009

on foreign trade reporting requirements

(CON/2009/97)

Introduction and legal basis

On 10 November 2009, the European Central Bank (ECB) received a request from the German Ministry for Economic Affairs and Technology for an opinion on the 89th Regulation amending the Regulation on foreign trade (hereinafter the 'draft regulation').

The ECB's competence to deliver an opinion is based on Article 105(4) of the Treaty establishing the European Community and 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 and distribution of 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.

1. Purpose of the draft regulation

1.1 The draft regulation will adapt the reporting requirements under the Regulation on foreign trade (*Außenwirtschaftsverordnung*, hereinafter the 'AWV') to international standards for the inclusion of assets and liabilities arising from derivatives and to the calculation of direct investment. In addition, it will repeal the reporting of the foreign assets and liabilities of natural persons.

1.2 The Regulation also enables the Bundesbank to fulfil its obligation under 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[2]. The Deutsche Bundesbank is obliged under this Guideline, when providing the ECB with data on the international investment position, to provide information on assets and liabilities with non-euro area residents arising from financial derivatives. The Deutsche Bundesbank is also obliged to inform the International Monetary Fund accordingly. Collecting and reporting this data will in future take place in accordance with the AWV.

1.3 In addition, it implements the Organisation for Economic Cooperation and Development (OECD) Benchmark Definition of Foreign Direct Investment (4th edition). Germany is also obliged as an

1 OJ L 189, 3.7.1998, p. 42.

2 OJ L 354, 30.11.2004, p. 34.

OECD member to collect data on direct investment, including all cross-border capital movements relating to direct investment. For this, it is necessary to record separately cross-border assets for sister companies. Therefore, in the reporting of surveys of stocks for direct investments, individual balance sheet positions are additionally broken down.

1.4 Furthermore, the draft regulation will repeal certain reporting requirements concerning capital and payment movements and amend certain reporting templates.

2. General observation

The ECB generally welcomes this draft regulation which will ensure consistency with the reporting requirements under Guideline ECB/2004/15 that follows the basic principles of the ECB Statistics Quality Framework[3]. The main purpose of euro area balance of payments and international investment position statistics is to support the ECB's monetary policy and other Eurosystem tasks. Moreover, as stated in the Eurosystem's mission statement and the public commitment[4], accountability, transparency and good governance are important values supporting the integrity of the statistical functions defined by Article 5 of the Statute of the European System of Central Banks and the European Central Bank (hereinafter the 'Statute of the ESCB').

3. Frequency of reporting

In accordance with Article 14.3 of the Statute of the ESCB, NCBs must act in accordance with the guidelines of the ECB. The draft regulation envisages that corporations other than monetary financial institutions will report on an annual basis assets and liabilities with non-euro area residents arising from financial derivatives. Nonetheless, quarterly positions on financial derivatives are required under Guideline ECB/2004/15. From the reports of transactions in financial derivatives, it can however be derived that corporations other than monetary financial institutions are not significantly engaged in activities in financial derivatives with non-euro area residents. Moreover, to avoid a disproportionate increase in the reporting burden of German corporations other than monetary financial institutions, an annual report is appropriate. Developments in the activities of corporations other than monetary financial institutions in financial derivatives with non-euro area residents should be regularly monitored; if those activities acquire statistical significance, the corresponding positions should be reported quarterly.

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

Done at Frankfurt am Main, 27 November 2009. [signed]

The President of the ECB

Jean-Claude TRICHET

3 Available on the ECB's website at www.ecb.europa.eu.

4 Available on the ECB's website at www.ecb.europa.eu.