EUROPEAN CENTRAL BANK

EUROSYSTEM

OPINION OF THE EUROPEAN CENTRAL BANK

of 12 July 2013

on stabilisation measures

(CON/2013/50)

Introduction and legal basis

On 19 June 2013, the European Central Bank (ECB) received a request from Banca Națională a României (BNR) for an opinion on a draft government emergency ordinance (hereinafter the 'draft emergency ordinance') supplementing Government Emergency Ordinance No 99/2006 on credit institutions and capital adequacy (GEO No 99/2006)[1].

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 and sixth 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[2], as the draft emergency ordinance relates to BNR and to rules applicable to the financial institutions insofar as they materially influence the stability of financial institutions and markets. 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 draft emergency ordinance extends the scope of BNR's competence to adopt stabilisation measures[3] to cases where there is a threat to financial stability from the perspective of depositor protection and/or public confidence in the banking sector.

2. General observations

The ECB welcomes the enlargement of BNR's competence to adopt stabilisation measures on the additional grounds set out in the draft emergency ordinance[4]. Depositor protection is a legitimate aim for the resolution of distressed credit institutions which meet the conditions for resolution and it is in line with

1 Published in *Monitorul Oficial al României*, Part One, No 1027, 27.12.2006.

2 OJ L 189, 3.7.1998, p. 42.

3 See Opinion CON/2011/86. All ECB opinions are published on the ECB's website at www.ecb.europa.eu.

4 See Article 240^{23}(1) of GEO No 99/2006 as amended by the draft emergency ordinance.

the Financial Stability Board's (FSB) Key Attributes of Effective Resolution Regimes for Financial Institutions[5].

3. Specific observations

3.1 In view of the above observations, in Section 2[1] (stabilisation measures)[6] of GEO No 99/2006 it would be appropriate to make a clearer distinction between the objectives behind stabilisation measures, such as financial stability from the perspective of safeguarding market confidence and depositor protection, and the conditions that need to be met before such measures are taken against a distressed credit institution.

3.2 In this regard, BNR is invited to follow the European Commission's proposal for a directive establishing a framework for the recovery and resolution of credit institutions and investment firms[7], which is currently going through the adoption process in the Council and the European Parliament, and to align the regime for stabilisation measures with that proposal.

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

Done at Frankfurt am Main, 12 July 2013.

[signed]

The President of the ECB

Mario DRAGHI

5 FSB Key attributes for effective resolution regimes for financial institutions, October 2011, available on the FSB's website at www.financialstabilityboard.org. See objective (ii) in the Preamble on page 3 of that document.

6 In particular Article 240[23], as amended by the draft emergency ordinance.

7 Proposal for a Directive of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directives 77/91/EEC and 82/891/EC, Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC and 2011/35/EC and Regulation (EU) No 1093/2010 (COM (2012) 280 final). This text is now to go into the trialogue stage of the adoption process.