EUROPEAN CENTRAL BANK

EUROSYSTEM

OPINION OF THE EUROPEAN CENTRAL BANK

of 24 July 2013

on the macro-prudential oversight of the national financial system

(CON/2013/54)

Introduction and legal basis

On 17 June 2013 the European Central Bank (ECB) received a request from the Minister of Finance of the Republic of Cyprus for an opinion on a proposed amendment to the Central Bank of Cyprus Laws of 2002 to 2007[1] (hereinafter the 'draft law').

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 law relates to the Central Bank of Cyprus (CBC) and rules applicable to 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 law

1.1 The draft law aims to implement Recommendation ESRB/2011/3 of the European Systemic Risk Board of 22nd December 2011 on the macro-prudential mandate of national authorities[3] (hereinafter the 'ESRB Recommendation'). The proposed amendments to sections 2 and 6, as well as proposed new section 47A of the Central Bank of Cyprus Laws of 2002 to 2007 provide for the following:

1.2 The draft law assigns the task of macro-prudential oversight of the financial system to the CBC. The ultimate objective of macro-prudential oversight of the financial system is to safeguard the stability of the financial system as a whole, *inter alia*, by strengthening the resilience of the financial system and decreasing the build-up of systemic risks, thereby ensuring a sustainable contribution of the financial sector to economic growth. This task will be achieved by: (a) identifying, monitoring and assessing risks to financial stability; and (b) implementing policies to prevent or mitigate those risks.

1 Law 138(I)/2002.

2 OJ L 189, 3.7.1998, p. 42.

3 OJ C 41, 14.2.2013, p.1.

1.3 In accordance with section 47A(6) of the draft law, the CBC develops and applies instruments for the performance of its task of macro-prudential oversight of the financial system either on its own initiative, or in order to implement recommendations of the European Systemic Risk Board (ESRB) or decisions of the ECB or other competent Union authorities. The CBC may issue special or general directives or guidelines to financial institutions, subject to ECB guidelines and instructions and the regulations in force within the framework of the ESCB.

1.4 The draft law further provides that the CBC may cooperate and exchange data and information with competent authorities in Cyprus, in other Member States and also in third countries, as well as with competent Union authorities, including the ECB and the European System of Central Banks (ESCB).

2. General observations

2.1 The ECB supports the effective design of macro-prudential policy frameworks within the Member States, in line with the guiding principles expressed in the ESRB Recommendation. Moreover, the ECB and national central banks should play a leading role in macro-prudential oversight, given their expertise and existing responsibilities in the area of financial stability[4].

2.2 In light of the above, the ECB welcomes the arrangement under which the CBC is the national authority responsible for the conduct of macro-prudential oversight, acting in cooperation with other competent authorities whose actions have a material impact on financial stability; in this context, the consulting authority is invited to revise subsection (3) of proposed Section 47A so as to ensure that the CBC shall cooperate with such competent authorities in accordance with the ESRB Recommendation.

2.3 At the same time, performance by the CBC of macro-prudential tasks should not affect: (a) the CBC's institutional, functional and financial independence; or (b) the performance by the ESCB of its tasks under the Treaty and the Statute of the European System of Central Banks and of the European Central Bank[5]. Section 6(2)(e) of the Central Bank of Cyprus Laws of 2002 to 2007 currently in force provides that one of the main tasks of the CBC is 'ensuring the stability of the financial system'. The draft law replaces this task with 'the macro-prudential oversight of the financial system'. The consulting authority is invited to ensure consistency with Article 127(5) of the Treaty by supplementing the proposed amendment to the aforementioned Section 6(2)(e) by making reference also to the CBC's objective as an integral part of the Eurosystem of contributing to the stability of the financial system.

2.4 The consulting authority is invited to revise subsection (5) of proposed Section 47A so as to ensure that the CBC shall cooperate and exchange data and information with the ECB and the ESRB and,

4 See, for example, paragraph 2.1 of Opinion CON/2013/45 and paragraph 2.1 of Opinion CON/2013/30. All ECB opinions are published on the ECB's website at www.ecb.europa.eu.

5 See paragraph 2.2 of Opinion CON/2013/45 and paragraph 2.3 of Opinion CON/2013/30.

where needed, with the macro-prudential authorities of other Member States, in accordance with the ESRB Recommendation.

2.5 The consulting authority is also invited to ensure consistency of the proposed rules concerning exercise of macro-prudential tasks by the CBC with the national transposition of: (a) Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012[6], and (b) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC[7].

2.6 This opinion is without prejudice to the conclusions of the follow-up assessment of the above-mentioned ESRB Recommendation, which the ESRB will prepare in accordance with Article 17 of Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European System Risk Board[8].

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

Done at Frankfurt am Main, 24 July 2013.

[signed]

The President of the ECB

Mario DRAGHI

6 OJ L 176, 27.6.2013, p. 1.

7 OJ L 176, 27.6.2013, p. 338.

8 OJ L 331, 15.12.2010, p. 1.