EUROPEAN CENTRAL BANK

EUROSYSTEM

OPINION OF THE EUROPEAN CENTRAL BANK

of 6 June 2014

on the short-term liquidity requirements of credit institutions

(CON/2014/41)

Introduction and legal basis

On 7 May 2014, the European Central Bank (ECB) received a request from the Magyar Nemzeti Bank (MNB) for an opinion on a draft MNB Decree on the short-term liquidity requirements of credit institutions (hereinafter the 'draft decree').

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 sixth indent of Article 2(1) of Council Decision 98/415/EC[1], as the draft decree relates to 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 decree

1.1 From 1 October 2013, the MNB became the entity not only responsible for macro-prudential policy, but also for the micro-prudential supervision of the entire financial market. As a result of changes in legislative competence brought about by the new Law on the Magyar Nemzeti Bank[2], the Governor of the MNB is now exclusively authorised to, *inter alia*, adopt legislation aimed at reducing systemic liquidity risk. Prior to these changes, the competence was shared between the MNB and the Hungarian Government. In the exercise of its powers, the MNB conducted a review of existing legislation defining the liquidity requirements applicable to credit institutions, an area which is currently regulated by Government Decree No 366/2011[3] (hereinafter the 'Government Decree').

1.2 As a result of the review, the MNB plans to adopt legislation mirroring the content of the Government Decree. In effect, this will result in the current short-term liquidity requirements being maintained, which are applicable to the balance sheet coverage ratio and the deposit coverage ratio of credit institutions.

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1 Council Decision 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions (OJ L 189, 3.7.1998, p. 42).

2 See Law CXXXIX of 2013 on the Magyar Nemzeti Bank.

3 See Government Decree No 366/2011 (XII. 30.) determining the liquidity requirements and regulating the provisions applicable to foreign currency maturity mismatch. The ECB was not consulted on this Government Decree, therefore it did not have the opportunity to issue an opinion as regards its provisions.

1.3 According to the definition provided by the Government Decree, the purpose of the short-term liquidity requirements applicable to credit institutions was to ensure that credit institutions hold a sufficient liquidity buffer to manage any stress scenario. Credit institutions have been required to hold liquidity reserves over a 30-day horizon, covering either 20 per cent of their retail and corporate deposits, i.e. deposit coverage ratio or, alternatively, 10 per cent of their total balance sheet (total liabilities) i.e. balance sheet coverage ratio. Mortgage credit institutions have been required to meet a minimum balance sheet coverage ratio of 5 per cent. Based on the explanatory memorandum attached to the consultation request, the MNB does not intend to change the applicable level of coverage at this point in time.

2 General observations

2.1 The draft decree overlaps with some specific provisions of the Government Decree in terms of the liquidity requirements applicable to credit institutions. As the ECB has previously pointed out[4], the draft decree cannot repeal the Government Decree. Since the regulation of liquidity requirements now falls within the competence of the Governor of the MNB, the ECB would like to once again draw the Hungarian authorities' attention to the need to avoid duplication of relevant legislation by repealing the Government Decree in accordance with the procedural rules applicable to Hungarian legislation.

2.2 According to the explanatory memorandum, the MNB plans to review the provisions of the draft decree following the adoption of detailed requirements relating to a liquidity coverage ratio (LCR) in a delegated act of the Commission under Regulation (EU) No 575/2013 of the European Parliament and of the Council (hereinafter the 'CRR')[5].

3. Specific observations

3.1 National implementation of Directive 2013/36/EU of the European Parliament and of the Council (hereinafter the 'CRD IV')[6] and Part VI of the CRR[7] specifies liquidity requirements in the Member States. The LCR and the Net Stable Funding Ratio (NSFR) have been developed by the Basel Committee on Banking Supervision under the Basel III framework. As indicated above, the CRR mandates the European Commission to adopt a delegated act specifying the LCR[8], the adoption of which is currently pending. Further specifications include the Implementing Technical Standards and Regulatory Technical Standards provided by the European Banking Authority (EBA).

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4 See paragraph 2 of Opinion CON/2014/15. All ECB opinions are published on the ECB's website at www.ecb.europa.eu.

5 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 (OJ L 176, 27.6.2013, p 1).

6 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 (OJ L 176, 27.6.2013, p. 338). See, in particular, recitals 76, 77, 101 and 102, and Articles 51(1)(b), 86 and 105 thereof.

7 See, in particular, Articles 411 to 428.

8 See Article 460 of the CRR.

3.2 The LCR will become binding from 2015 and will be phased in gradually, with full implementation required by January 2018[9]. The NSFR will become binding from 2018. According to the CRR[10], Member States may introduce or maintain national provisions relating to liquidity coverage requirements until binding standards are specified and in full effect at Union level. Hence, at the present time, there is no legal requirement to bring the draft decree in line with the CRD IV or the CRR. It is however suggested, that the MNB assess whether the deposit coverage ratio and the balance sheet coverage ratio specified in the draft decree adequately address national liquidity risks to be covered by the LCR in the future.

3.3 Furthermore, since the CRR provides 'minimum' standards for liquidity coverage during the grandfathering period stipulated in the CRR[11], national rules requiring higher standards to be met, e.g. up to 100 per cent of the LCR, could remain in place until the LCR becomes fully binding in 2018. The benchmark for liquidity coverage by 2015 is 60 per cent of the liquidity coverage requirement and will rise by 10 per cent each year until it reaches 100 per cent in 2018. The deposit coverage ratio and the balance sheet coverage ratio in the draft decree have similarities with the LCR, notably in being 30-day, forward-looking measures. The MNB should ensure that the deposit coverage ratio and the balance sheet coverage ratio are in line with the general principle stipulated by the CRR, according to which it is appropriate to promote a diversified and high-quality liquidity buffer consisting of different asset categories[12]. It should also be ensured that the assets defined by the draft decree as operative liquidity reserves fall under the definition of liquid assets in the CRR[13]. Moreover, the ECB is of the opinion that careful attention should be paid to the use of stress parameters should the draft decree be updated in the future, in view of the delegated act to be adopted by the Commission.

3.4 The CRR already requires banks to report the components of their liquidity positions, as specified in the EBA's Implementing Technical Standards on supervisory reporting. There are also differences in the draft decree and the Implementing Technical Standards with respect to the treatment of transactions between entities belonging to the same group. The ECB recommends further clarity relating to the calculation of the funding position referred to in Article 4 of the draft decree, in particular as regards the issue of whether only contractual cash-flows can be considered or whether the expected behaviour of counterparties can also be taken into account. This would enhance the common understanding among supervisors.

3.5 The ECB sees limited value in maintaining the measures of the draft decree after the LCR has been specified at Union level by the Commission. The ECB welcomes the intention expressed by the MNB to review, and should any collision be detected, repeal the draft decree once the Commission's delegated act has entered into force.

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9 See Article 460 of the CRR.

10 See Article 412(5) of the CRR.

11 See Article 460 of the CRR.

12 See recital 100 of the CRR.

13 See Article 416 of the CRR.

3.6 As regards the foreign funding adequacy ratio, all observations made in Opinion CON/2014/15 still apply.

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

Done at Frankfurt am Main, 6 June 2014.

[signed]

The President of the ECB

Mario DRAGHI