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EUROPEAN CENTRAL BANK

EUROSYSTEM

**OPINION OF THE EUROPEAN CENTRAL BANK**

**of 9 December 2010**

**on the increase of Banque de France's capital and statutory reserve**

**(CON/2010/88)**

**Introduction and legal basis**

On 11 November 2010, the European Central Bank (ECB) received a request from the French Ministry for Economic Affairs, Industry and Employment for an opinion on a draft decree on Banque de France budgetary and financial provisions (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 third 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 law relates to the Banque de France. 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 The draft decree provides for an increase of Banque de France's capital from around EUR 457 million[2] to EUR 1 billion, and for an increase of the ceiling of the statutory reserve, which is equal to the amount of Banque de France's capital[3], to double that amount, i.e. EUR 2 billion.

1.2 In addition, the draft decree specifies that the capital increase will be made by incorporating into the capital, (a) funds taken from the statutory reserve up to an amount equal to the current amount of Banque de France's capital; and (b) funds taken from the unallocated reserve fund.

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1 OJ L 189, 3.7.1998, p. 42.

2 Article R.144-10 of the French Monetary and Financial Code currently provides that the Banque de France's capital shall be EUR 457 347 051.71.

3 Article R.144-4, paragraph 2, of the French Monetary and Financial Code currently provides that a deduction of 5% of the net result for the financial year shall be allocated to a specific reserve that will no longer be funded when it reaches an amount equal to the Banque de France's capital. The ECB understands that the specific reserve referred to in this provision corresponds to the statutory reserve in the annual accounts of Banque de France as published in Banque de France's annual report.

## 2. General observations

2.1 The ECB welcomes the proposed increase of Banque de France's capital and statutory reserve and understands that this decision has been made in close cooperation with Banque de France. The ECB considers it important from the perspective of central bank independence that such decisions are initiated and taken in close cooperation with the relevant national central bank (NCB) which is best placed to assess its required level of reserve capital[4]. The principle of financial independence requires an NCB to have sufficient means not only to perform its ESCB or Eurosystem-related tasks but also its national tasks (e.g. financing its administration and own operations). Financial independence also implies that an NCB should always be sufficiently capitalised[5]. In particular, the ECB is of the view that the higher the level of capital, reserves and provisions against financial risks is, the higher the safeguards against future losses are[6]. As mentioned in the ECB's Convergence Report 2010[7], any situation should be avoided whereby for a prolonged period of time an NCB's net equity is below the level of its statutory capital or is even negative, including where losses beyond the level of capital and the reserves are carried over. Any such situation may negatively impact on the NCB's ability to perform not only its ESCB or Eurosystem-related tasks but also its national tasks. Moreover, such a situation may affect the credibility of the Eurosystem's monetary policy. Therefore, the event of an NCB's net equity becoming less than its statutory capital or even negative would require that the respective Member State provides the NCB with an appropriate amount of capital at least up to the level of the statutory capital within a reasonable period of time so as to comply with the principle of financial independence.

2.2 The ECB understands that the existing statutory reserve will be fully incorporated into the capital in order to finance its increase. As provided for by the draft decree[8], such reserve will in subsequent years be gradually built up again up to a higher amount, equal to double the new capital amount, i.e. EUR 2 billion. The ECB welcomes the increase of the ceiling of the statutory reserve. This should contribute to ensuring that the financial protection deemed necessary to safeguard the real value of an NCB's capital and assets is strengthened before remaining profits may be distributed to the State budget, in accordance with the requirements resulting from the principle of financial independence[9]. The ECB notes that the draft decree does not propose modifying the level of the deduction of the net result for the financial year to be allocated to the regulatory reserve, which is set to 5% of the net result. In order to safeguard the real value of its capital and assets, it is essential that Banque de France rebuilds its reserves in a period of time it considers appropriate and that Banque de France independently builds up any financial provisions deemed necessary.

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4 See the ECB's Convergence Report 2010, p. 23.

5 See the ECB's Convergence Report 2010, p. 21.

6 See also, in this regard, Opinion CON/2008/34, paragraph 4.2, available on the ECB's website at www.ecb.europa.eu.

7 See the ECB's Convergence Report 2010, pp. 21-22.

8 Pursuant to Article R.144-4, paragraph 2, of the French Monetary and Financial Code, as modified by the draft decree, a deduction of 5% of the net result for the financial year shall be allocated to a specific reserve that will no longer be funded when it reaches an amount equal to the double of Banque de France's capital.

9 See the ECB's Convergence Report 2010, p. 23.

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

Done at Frankfurt am Main, 9 December 2010.

[signed]

*The President of the ECB*

Jean-Claude TRICHET