



EUROPEAN CENTRAL BANK
EUROSYSTEM

ECB-PUBLIC

Yves Mersch
Member of the Executive Board

[COURTESY TRANSLATION¹]

Mr. Marek Kuchciński
Marshal of the Polish Parliament

6 March 2019

Re.: Request for an ECB opinion regarding a draft Polish legislative proposal amending the Law on supervision of financial markets and certain other laws

Dear Mr. Kuchciński,

Thank you for your request for an ECB opinion regarding the draft legislative proposal amending the Law on supervision of financial markets and certain other laws.

The ECB, after careful consideration of the draft legislative proposal, has decided not to adopt a formal opinion in the present case. This is because the sole purpose of the draft legislative proposal is to ensure proper application in the Polish legal system of Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012. Pursuant to Article 1(2) of Council Decision 98/415/EC², Member States are not required to consult the ECB on draft legislative provisions the exclusive purpose of which is the transposition of Union directives into the law of Member States. The rationale for this exemption is that the ECB will already have been consulted on the proposed Union act pursuant to Article 127(4) of the Treaty on the Functioning of the European Union, and it is therefore unnecessary to extend the ECB's advisory function to draft legislative provisions which purely transpose that Union act. The ECB is of the opinion that this extends by analogy, to draft legislative provisions which have the exclusive purpose of transposing Union regulations into national law, provided that they do not have an impact on matters falling within the ECB's fields of competence which is different from the impact of the regulation itself, on which the ECB will have been

¹ The official ECB letter is addressed in the official language of the concerned Member State.

² 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).

consulted by Union institutions³. In this respect, I would like to draw your attention to the ECB Opinion of 11 March 2016 on (a) a proposal for a regulation laying down common rules on securitisation and creating a European framework for simple, transparent and standardised securitisation and (b) a proposal for a regulation amending Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms (CON/2016/11)⁴.

Against this backdrop, the draft legislative proposal does not merit the issuance of an ECB opinion.

The ECB appreciates that you have sent the draft legislative proposal for consultation to the ECB, and remains confident that the Polish Parliament will continue to consult the ECB on future draft Polish legislative provisions that fall within the ECB's fields of competence under the Treaty and Council Decision 98/415/EC.

Yours sincerely,

[signed]

Cc: Adam Glapiński, Governor, Narodowy Bank Polski

³ See European Central Bank, Guide to consultation of the European Central Bank by national authorities regarding draft legislative provisions (October 2015), available on the ECB's website at: <https://www.ecb.europa.eu/pub/pdf/other/guideconsultationecb2005en.pdf>.

⁴ OJ C 219, 17.6.2016, p. 2, available on the ECB's website at: www.ecb.europa.eu/ecb/legal/pdf/oj_joc_2016_219_r_0003_en_txt_.pdf.