



EUROPEAN CENTRAL BANK

OPINION OF THE EUROPEAN CENTRAL BANK

at the request of the Finnish Ministry of Finance under Articles 109l (2) and 109f (6) of the Treaty establishing the European Community and Article 5.3 of the Statute of the European Monetary Institute on a draft legislative proposal concerning the clearing and settlement of securities transactions

CON/98/49

1. On 29 September 1998 the European Central Bank (ECB) received a request from the Finnish Ministry of Finance for an ECB Opinion on a draft legislative proposal concerning the clearing and settlement of securities transactions (hereinafter referred to as the “legislative proposal”). In the legislative proposal, it is suggested that Finnish law (the Act on the Book-Entry System (826/1991) (*lagen av den 17 maj 1991 om värdeandelssystemet*) and certain related legislation) should be amended in order:
 - to facilitate the establishment of international links with the Finnish central securities depository (CSD) for the cross-border transfer and administration of foreign securities within the Finnish book-entry system;
 - to introduce rules regarding the redenomination into euro of bonds issued in Finnish markka;
 - to improve the possibility for the Finnish Financial Supervisory Authority to obtain information concerning book entries in respect of securities held through nominee registration (which are registered in a specific book-entry account (hereinafter referred to as the “custodial account”), whereby the nominee is administering the securities on behalf of another party);

- to provide for the possibility for Suomen Pankki and foreign central banks to hold custodial accounts, which would accommodate needs in relation to the collateral requirements of the European System of Central Banks (ESCB) for Stage Three of EMU; and
 - to add legislative provisions to, inter alia, the Securities Market Act (495/1989) (*värdepappersmarknadslagen av den 26 maj 1989*) regarding the introduction of the euro in relation to the public trading of securities and clearing activities.
2. In accordance with Article 1091 (2) of the Treaty establishing the European Community (hereinafter referred to as the “Treaty”), the ECB has taken over the advisory functions of the European Monetary Institute (EMI), which went into liquidation upon the establishment of the ECB on 1 June 1998. The ECB’s competence to deliver an opinion is based on Article 1.1, fourth and fifth indents, of the Council Decision (93/717/EC) of 22 November 1993 on the consultation of the EMI by the authorities of the Member States on draft legislative provisions, as the legislative proposal contains provisions concerning both clearing systems, in particular for those cross-border transactions, and the stability of financial markets and institutions. In accordance with Article 17.5, first sentence, of the Rules of Procedure of the ECB, this ECB Opinion has been adopted by the Governing Council of the ECB.
 3. The ECB notes that the objective of the legislative proposal is to facilitate the introduction of the euro and to promote the international links of the Finnish securities market. The legislative proposal is also intended to improve the practical conditions for State borrowing within the euro area and, from an investment perspective, the proposed amendments would represent an adaptation of the Finnish clearing and settlement arrangements to the European markets.
 4. The ECB welcomes the legislative proposal and notes in particular the amendments suggested in order to facilitate the establishment of links between the Finnish CSD and other European and international CSDs for the cross-border transfer and administration of foreign securities. This will enhance the integration of the Finnish and European securities markets. The ECB also notes and welcomes the proposal to strengthen the risk control measures which have to be applied by the Finnish CSD, which is aimed at reducing the risks associated with cross-border securities transfers.
 5. The ECB also welcomes the new provisions concerning the holding of securities by, inter alia, Suomen Pankki and other national central banks (NCBs) in custodial accounts in the Finnish book-entry system.

6. The proposed amendments to Section 26b of the Act on the Book-Entry System will allow the Finnish CSD to establish the links and necessary arrangements with other CSDs envisaged as part of the future securities settlement infrastructure in support of, inter alia, euro area-wide financial markets and the single monetary policy of the euro area. The ECB understands that the scope of application of the amended Section 26b of the Act on the Book-Entry System will also extend to links with international central securities depositories (ICSDs), the NCBs and the ECB (cf. Section 16 of the Act on the Book-Entry System, on international relations). Such a wide scope of application and the flexibility afforded under the new legal provisions should prove useful when the Finnish CSD implements the new regime in relation to corresponding entities in other countries. In this connection, it is noted that the explanation in relation to the legislative proposal recalls the standards set out in the report published by the EMI in January 1998 entitled “Standards for the use of Securities Settlement Systems in ESCB credit operations”. These standards, and the further reports on the topic produced by the ECB, are indeed important for the future activities of CSDs and ICSDs as such activities relate to the credit operations of the ESCB.
7. As noted in the explanatory part of the legislative proposal, it is not expected, however, that it will be possible for the work under the auspices of the European Central Securities Depositories Association (ECSDA), which is aimed at establishing all the envisaged links, to be fully concluded by the start of Stage Three. The correspondent central banking model (CCBM) developed by the ESCB, and referred to in connection with the legislative proposal, will therefore provide an important arrangement in respect of the collateral requirements in relation to ESCB operations. The CCBM has been established on the basis of NCBs holding collateral on behalf of other members of the ESCB and, in this context, the ECB welcomes the proposed amendment to Section 5a of the Act on Book-Entry Accounts (827/1991) (*lagen av den 17 maj 1991 om värdeandelskonton*), which will prove useful, inter alia, in relation to Suomen Pankki’s participation in the CCBM and the utilisation of Finnish securities as collateral for ESCB operations.
8. Finally, the ECB notes the proposed provisions concerning the introduction of the euro and the redenomination of bonds, whereby the Finnish legislative proposal is intended to apply to issues which are not already covered by the two euro regulations directly applicable in Finland. The ECB has also taken note of the provisions for the practical implementation measures in relation to the redenomination of debt, particularly redenominations within the Finnish book-entry system, and the scope provided by the legislative proposal for the application of the “bottom-up” approach. The analysis provided in the explanatory part of the legislative proposal

concludes that the suggested amendments will conform with Article 8.4 of the EU Council Regulation (EC) No. 974/98 on the introduction of the euro, and the ECB does not wish to express any contrary opinion in this respect.

9. The ECB confirms that it has no objection to this ECB Opinion being made public by the competent national authorities at their discretion.

Done at Frankfurt am Main on 2 November 1998.

The President of the ECB

[signed]

Willem F. Duisenberg