



EUROPEAN CENTRAL BANK

OPINION OF THE EUROPEAN CENTRAL BANK**of 10 March 2006****at the request of Lietuvos bankas****on a draft law supplementing Article 45 of the Law on the securities market****(CON/2006/16)**

1. On 20 January 2006 the European Central Bank (ECB) received a request from Lietuvos bankas for an opinion on a draft law supplementing Article 45 of the Law on the securities market (hereinafter the 'draft law'). The ECB's competence to deliver an opinion is based on the third and fifth 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 provisions¹, as the draft law relates to Lietuvos bankas and securities settlement systems. 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.
2. The ECB understands that the main objective of the draft law is to provide a possibility for Lietuvos bankas to join the correspondent central banking model (CCBM). The draft law is intended to enter into force on adoption of the euro in Lithuania. In particular, the draft law amends Article 45 of the Law on the securities market by expressly providing for cases where securities held with the Lithuanian Central Securities Depository (LCSD) are pledged or transferred under repurchase agreements to the ECB or the national central banks (NCBs). The draft law also provides that the accounts in which book-entries are made will be opened in the name of Lietuvos bankas and that Lietuvos bankas may give instructions to the LCSD regarding the disposition of securities in these accounts.
3. The CCBM, which has been established and developed by the European System of Central Banks (ESCB), enables NCBs to hold collateral on behalf of other ESCB members. In this context, the ECB welcomes the proposed amendment to Article 45 of the Law on the securities market which will prove useful for securities held with the LCSD as collateral for Eurosystem credit operations.
4. With respect to collateralisation techniques in the draft law, Lietuvos bankas may consider broader wording covering all possible title transfer techniques, as well as outright transfer of securities which may be used in the CCBM framework, and not only pledge and repurchase agreements which are currently mentioned in Article 1(2) of the draft law.

¹ OJ L 189, 3.7.1998, p. 42.

5. The ECB understands that the scope of the draft law is restricted to securities. Lietuvos bankas may consider evaluating whether the Lithuanian legal framework would allow for the handling of other assets eligible as collateral for Eurosystem credit operations, e.g. bank loans.
6. The ECB also understands that the draft law does not intend to regulate the possibility to transfer securities to the ECB and NCBs through direct links between the LCSD and other securities settlement systems. However, the draft law may appear to imply that the use of direct links is not possible. In order to avoid any misinterpretation, the draft law should contain broader wording clarifying that securities may also be transferred by using such links.

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

Done at Frankfurt am Main, 10 March 2006.

[signed]

The President of the ECB

Jean-Claude TRICHET