



OPINION OF THE EUROPEAN CENTRAL BANK

of 30 April 2007

at the request of Latvijas Banka

on draft amendments to the Regulation on the use of Latvijas Banka's monetary policy instruments and the Regulation on Latvijas Banka's securities settlement system

(CON/2007/12)

Introduction and legal basis

On 3 April 2007 the European Central Bank (ECB) received a request from Latvijas Banka for an opinion on draft amendments to the Regulation on the use of Latvijas Banka's monetary policy instruments and draft amendments to the Regulation on Latvijas Banka's securities settlement system (hereinafter collectively the 'draft amendments').

The ECB's competence to deliver an opinion is based on Article 105(4) of the Treaty establishing the European Community and the third and fifth indents of Article 2(1), and Article 2(2) 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 amendments relate to a national central bank (NCB), payment and settlement systems and the instruments of monetary policy. 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 regulation

The main objective of the draft amendments is to adjust the eligibility criteria for counterparties that participate in Latvijas Banka's monetary policy operations. They aim to restrict access to such monetary policy operations to credit institutions that are subject to Latvijas Banka's minimum reserve requirements. Furthermore, taking into account the fact that the primary operational objective of Latvijas Banka's securities settlement system (hereinafter the 'VNS') is to ensure securities settlement for monetary policy operations, the draft amendments apply similar access criteria for participation in the VNS. The ECB has previously delivered opinions on the two Regulations that are now being amended².

¹ OJ L 189, 3.7.1998, p. 42.

² See ECB Opinion CON/2006/49 of 23 October 2006 at the request of Latvijas Banka on a draft regulation for the use of Latvijas Banka's monetary policy instruments and ECB Opinion CON/2006/52 of 14 November 2006 at the request of Latvijas Banka on a draft regulation on Latvijas Banka's securities settlement system.

2. General observations

- 2.1 Although non-participating Member States retain their powers in the field of monetary policy, it is nevertheless beneficial for them to gradually achieve consistency with Eurosystem standards so that credit institutions operating in their territories can become acquainted with the requirements that will apply once these Member States have adopted the euro. Such gradual harmonisation prior to the adoption of the euro will assist a smooth integration of the NCB into the Eurosystem.
- 2.2 ECB notes that, on adoption of the euro in Latvia, and provided that the VNS is selected to provide securities settlement of central bank credit operations, the VNS will be assessed against the Eurosystem standards for the use of EU securities settlement systems in ESCB credit operations³. For that reason, this opinion is without prejudice to a future ECB assessment of the VNS against the abovementioned standards.
- 2.3 The ECB expects Latvijas Banka to ensure that the VNS complies with the Latvian Law on settlement finality in payment and security settlement systems.

3. Specific observations

- 3.1 The ECB notes that a reference to minimum reserves in the amendment to Article 1.1 of the Regulation on the use of Latvijas Banka's monetary policy instruments would further align the Latvian definition of counterparties with the one applied by the Eurosystem.
- 3.2 Under Article 1.1 of the Regulation on Latvijas Banka's securities settlement system the VNS's primary, but not sole, operational objective is to ensure securities settlement of Latvijas Banka's monetary and intraday credit operations. As long as the VNS legally remains open for other kinds of operations (e.g. trading of government debt), restricting participation in a securities settlement system by excluding EU/EEA credit institutions that do not have branches in Latvia would appear to represent a restriction on freedom to provide (and receive) services, which is prohibited by Article 49 of the Treaty. Therefore, the ECB would welcome a formulation that would also allow EU/EEA credit institutions which do not have branches in Latvia to participate in the VNS.

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

Done at Frankfurt am Main, 30 April 2007.

[signed]

The President of the ECB

Jean-Claude TRICHET

³ The standards are available on the ECB's website at www.ecb.int.