



OPINION OF THE EUROPEAN CENTRAL BANK

of 2 August 2007

**at the request of Banca Națională a României
on a draft law on non-banking financial institutions**

(CON/2007/23)

Introduction and legal basis

On 16 July 2007 the European Central Bank (ECB) received a request from Banca Națională a României for an opinion on a draft law on non-banking financial institutions (hereinafter ‘draft law’).

The ECB’s competence to deliver an opinion is based on Article 105(4) of the Treaty establishing the European Community and on the third and sixth 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 national central banks and rules applicable to financial institutions insofar as they materially influence the stability of financial institutions and markets. 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 law

The draft law clarifies and adapts the legal framework for non-banking financial institutions, harmonising it with the new legislation on credit institutions and capital adequacy, and on commercial companies in Romania. At the same time, it anticipates the expansion of the regulatory and supervisory powers of Banca Națională a României over non-banking financial institutions in the area of money laundering and terrorist financing in the context of the future implementation of Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing² in Romania.

2. Extension of regulatory and supervisory powers of Banca Națională a României in the area of money laundering and terrorist financing

2.1 The ECB takes note of the changes in the legislative framework for non-banking financial institutions and underlines that ‘Member States may not put their NCBs in a position where they

¹ OJ L 189, 3.7.1998, p. 42.

² OJ L 309, 25.11.2005, p. 15.

have insufficient financial resources to carry out their ESCB- or Eurosystem-related tasks, as applicable³. Therefore, the ECB expects that when extending Banca Națională a României's tasks, care will be taken to ensure that it has sufficient financial and personnel resources both in terms of quantity and quality to carry out all its tasks, and in particular that its capacity to carry out ESCB-related tasks will not be affected⁴. It should be kept in mind that such sufficient and skilled resources will, at a later stage, be assessed in the framework of the Mutual Evaluation Report reviewing Member States' compliance with Financial Action Task Force Standards.

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

Done at Frankfurt am Main, 2 August 2007.

[signed]

The President of the ECB

Jean-Claude TRICHET

³ See e.g. ECB's Convergence Report 2007, p. 19, available on www.ecb.int.

⁴ See paragraph 3.2 of ECB Opinion CON/2007/17 of 18 June 2007 at the request of the Italian Ministry of Economic Affairs and Finance on a draft law on the regulation and supervision of markets and the functioning of the competent independent authorities.