



**OPINION OF THE EUROPEAN CENTRAL BANK**  
**of 8 August 2007**  
**at the request of Banca Națională a României**  
**on a draft regulation concerning statistical reporting of assets and liabilities recorded**  
**on the balance sheet of non-banking financial institutions**  
**(CON/2007/24)**

**Introduction and legal basis**

On 12 July 2007 the European Central Bank (ECB) received a request from Banca Națională a României (BNR) for an opinion on a draft regulation concerning statistical reporting of assets and liabilities recorded on the balance sheet of non-banking financial institutions (hereinafter the ‘draft regulation’).

The ECB’s competence to deliver an opinion is based on Article 105(4) of the Treaty establishing the European Community and the fourth indent 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 provisions<sup>1</sup>, as the draft regulation relates to the collection, compilation and distribution of monetary, financial and banking statistics. 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**

- 1.1 The draft regulation is aimed at aligning statistical reporting requirements in the field of money and banking statistics with Guideline ECB/2003/2 of 6 February 2003 concerning certain statistical reporting requirements of the European Central Bank and the procedures for reporting by the national central banks of statistical information in the field of money and banking statistics<sup>2</sup>. Guideline ECB/2003/2 is one of the key legal instruments relating to the provision of monetary, financial institutions and markets statistics. The ECB is currently preparing a recast of Guideline ECB/2003/2 to make it more readable and user-friendly for its addressees and users.
- 1.2 The draft regulation sets up a legal framework that will ensure the collection of statistical information necessary for analysing the credit activity of non-banking financial institutions in Romania. In particular, the draft regulation requires non-banking financial institutions that are registered in the General Register maintained by BNR to report quarterly statistical data on assets

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<sup>1</sup> OJ L 189, 3.7.1998, p. 42.

<sup>2</sup> OJ L 241, 26.9.2003, p. 1.

and liabilities recorded on their balance sheet. The draft regulation is expected to enter into force on 1 December 2007 so that statistical data relating to the financial year 2007 can be collected.

## **2. General observations**

- 2.1 Article 5.2 of the Statute of the European System of Central Banks and of the European Central Bank provides that ‘national central banks shall carry out, to the extent possible, the tasks described in Article 5.1’, which are the tasks of the European System of Central Banks (ESCB) as defined by the Treaty and the Statute. Article 43.1 of the Statute implies that legal instruments adopted by the ECB for the fulfilment of its statistical reporting requirements do not confer any rights or impose any obligations on the non-participating Member States.
- 2.2 At the same time, Article 47.2 of the Statute states that the ECB’s General Council is required to contribute to the collection of statistical information as referred to in Article 5 of the Statute. In addition, Article 10 of the Treaty requires Member States to ‘take all appropriate measures ... to ensure fulfilment of the obligations arising out of the Treaty’ and, more specifically, Article 4 of Council Regulation (EC) No 2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank<sup>3</sup> requires all Member States to ‘organise themselves in the field of statistics ... and fully co-operate with the ESCB in order to ensure the fulfilment of the obligations arising out of Article 5 of the Statute’. These provisions, therefore, imply that non-participating Member States are under an obligation to design and implement, at the national level, all measures they consider appropriate to carry out the collection of statistical information needed to fulfil the ECB’s statistical reporting requirements and to make timely preparations in the field of statistics in order for them to become participating Member States<sup>4</sup>.
- 2.3 In this context, it is primarily the task of the national authorities of non-participating Member States to determine which detailed reporting requirements and collection methods are the most efficient and effective at the national level and the least burdensome for the reporting population concerned. On this basis, the ECB welcomes the draft regulation which is aimed at aligning BNR’s statistical reporting requirements for non-banking financial institutions with the ECB’s statistical reporting requirements for financial corporations.
- 2.4 The ECB notes that the draft regulation forms part of the new legal framework which was introduced by the new law on non-banking financial institutions. The ECB has already provided its opinion on this new law<sup>5</sup>.

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3 OJ L 318, 27.11.1998, p. 8.

4 See ECB Opinion CON/2005/52 of 5 December 2005 at the request of Magyar Nemzeti Bank on a draft regulation on the scope of information to be supplied to the central bank’s information system and on the method and time limits for data supply and ECB Opinion CON/2005/49 of 30 November 2005 at the request of Česká národní banka on a draft provision concerning the submission of statements by banks and foreign bank branches to Česká národní banka.

5 See ECB Opinion CON/2007/23 of 2 August 2007 at the request of Banca Națională a României on a draft law on non-banking financial institutions.

### 3. Technical comments

- 3.1 The ECB considers that BNR should closely monitor the activities of non-banking financial corporations and ensure the inclusion of the entire sectorial breakdown in Appendix 1 to the draft regulation, in accordance with Guideline ECB/2003/2. The ECB also recommends that loans for health services (Article 3 (e1.1) of the draft regulation) be classified as ‘credits for other purposes’. In addition, the ECB notes the following differences between the ECB’s statistical reporting framework and the draft regulation: (i) while Guideline ECB/2003/2 requires that securities other than shares, shares and other equity held by financial corporations be reported at market value, the draft regulation does not lay down such requirements; and (ii) according to asset categories in Annex I, Part 3 of Regulation ECB/2001/13 of 22 November 2001 concerning the consolidated balance sheet of the monetary financial institutions sector<sup>6</sup>, loans granted to households for the purpose of education (Article 3 (e1.1) of the draft regulation) are classified as ‘other loans’ and not as ‘consumer credits’.
- 3.2 This opinion does not prejudice any future ECB assessment relating to the reporting scheme for statistics on balance sheet assets and liabilities of non-banking financial corporations applicable in Romania.

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

Done at Frankfurt am Main, 8 August 2007.

[signed]

*The President of the ECB*

Jean-Claude TRICHET

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6 OJ L 333, 17.12.2001, p. 1.