



## OPINION OF THE EUROPEAN CENTRAL BANK

of 7 March 2007

at the request of the German Ministry of Finance  
on a draft Eighth Law amending the Law on the Deutsche Bundesbank

(CON/2007/6)

### Introduction and legal basis

On 5 February 2007 the European Central Bank (ECB) received a request from the German Ministry of Finance for an opinion on a draft Eighth Law amending the Law on the Deutsche Bundesbank (hereinafter the 'draft law').

The ECB's competence to deliver an opinion is based on Article 105(4) of the Treaty establishing the European Community and the third 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 law relates to a national central bank. 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**

The draft law reduces the number of Executive Board members of the Deutsche Bundesbank (hereinafter the 'Executive Board') from eight to six members and is aimed at making the Bundesbank's decision-making body more efficient. According to the Law on the Deutsche Bundesbank currently in force, the Executive Board is composed of eight members, namely the President, the Vice-President and six other members, whereby the President, Vice-President and two other members are nominated by the Federal Government and four other members are nominated by the *Bundesrat* (the Upper House of Parliament). By means of the draft law, the Executive Board will be reduced to six members, namely the President, the Vice-President and four other members, whereby the President, Vice President and one other member will be nominated by the Federal Government and three other members will be nominated by the *Bundesrat*. Furthermore, the draft law amends the provision concerning the nomination of the Executive Board members under §7(3) by inserting a new sentence whereby the *Bundesrat* may propose a nominee for Vice-President to the Federal Government. The draft law also provides for an amendment of the transitional provision under §45 by introducing a transitional regime effective until 30 April 2009, during

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

which the Executive Board may consist of seven members (the President, Vice-President and five other members).

## **2. The ECB's observations**

- 2.1 The ECB welcomes the proposed amendments. Establishing a more efficient decision-making structure within the Deutsche Bundesbank was also the express intention of the Seventh Law amending the Deutsche Bundesbank of 2002<sup>2</sup>, and the current draft law represents a further measure to achieve this aim.
- 2.2 As regards the transitional regime effective until 30 April 2009 under §45 of the draft law, the ECB notes, as in earlier opinions<sup>3</sup>, that it should be compatible with Article 14.2 of the Statute of the European System of Central Banks and the European Central Bank.
- 2.3 In general, the principle of personal independence, as laid down in Article 14.2 of the Statute requires that the same rules for the security of tenure of office of Governor apply to other members of NCB decision making-bodies involved in the performance of ESCB-related tasks. This applies in particular where a governor is first among equals between colleagues with equivalent voting rights. Thus, any NCB reorganisation measure affecting the tenure of office of the members of its decision-making bodies involved in the performance of ESCB-related tasks should foresee that they continue to perform their duties until the end of their appointed term, in accordance with Article 14.2 of the Statute<sup>4</sup>.

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<sup>2</sup> See ECB Opinion CON/2001/17 of 2 August 2001 on a draft Seventh Law amending the Deutsche Bundesbank Act.

<sup>3</sup> See ECB Opinions CON/2006/44 of 25 August 2006 at the request of the Banca d'Italia on the amended Statute of the Banca d'Italia, CON/2004/16 of 11 May 2004 at the request of the Italian Ministry of Economic Affairs and Finance on a draft law on the protection of savings, CON/2006/32 of 22 June 2006 at the request of the French Senate on draft law on the Banque de France and CON/2004/35 of 4 November 2004 at the request of the Hungarian Ministry of Finance on a draft law amending the Law on Magyar Nemzeti Bank.

<sup>4</sup> See the above mentioned opinions.

2.4. The ECB notes that the end of the transitional regime coincides with the expiry of the terms of office of two current Executive Board members. This will allow the reduction of Executive Board members to six without termination of their term of office before its expiry. Since all members of the Executive Board will therefore be able to complete their term of office, the draft law does not affect the tenure of office of the Executive Board members, i.e. the principle of personal independence. In view of the above, the ECB has no comments on §45 of the draft law.

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

Done at Frankfurt am Main, 7 March 2007.

[signed]

*The President of the ECB*

Jean-Claude TRICHET