



OPINION OF THE EUROPEAN CENTRAL BANK

of 14 January 2008

at the request of the Swedish Parliament on a draft amendment to the Law on Sveriges Riksbank concerning the terms of office of members of Sveriges Riksbank's Executive Board

(CON/2008/4)

Introduction and legal basis

On 9 October 2007 the European Central Bank (ECB) received a request from the Finance Committee of the Swedish Parliament for an opinion on a draft amendment to the Law on Sveriges Riskbank concerning the terms of office of members of Sveriges Riksbank's Executive Board (hereinafter the 'draft amendment').

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 provisions¹, as the draft law relates to Sveriges Riksbank. 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 regulations

At present all members of Sveriges Riksbank's Executive Board are appointed for six-year terms. The underlying assumption when the system was established in 1999 was that one member of the Executive Board would be replaced each year. However, this cycle has been disturbed because several Executive Board members have left before the end of their terms of office, and this may happen again in future. To deal with this, the draft amendment provides that Executive Board members' terms can be either five or six years. This provides some flexibility when appointing new Executive Board members, allowing their terms to be arranged so as to avoid a situation where the terms of several members expire at the same time.

2. General observations

2.1 The proposed terms of office comply with Article 14.2 of the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the 'ESCB Statute'), which inter alia

¹ OJ L 189, 3.7.1998, p. 42.

lays down a minimum five-year term of office for Governors of national central banks (NCBs). However, the ECB would nonetheless make the following comments and recommendations concerning the draft amendment and the requirements of central bank independence.

- 2.2 Various Treaty and ESCB Statute provisions require comparable security of tenure to that of Governors for all members of NCBs' decision-making bodies. Article 14.2 of the ESCB Statute does not restrict the security of tenure of office to Governors, whilst Article 108 of the Treaty and Article 7 of the ESCB Statute refer to 'members of the decision-making bodies' of NCBs, rather than to Governors specifically². This applies in particular where a Governor is first among equals between colleagues with equivalent voting rights or where such other members may have to deputise for the Governor³. Personal independence would be jeopardised if the same rules for the security of tenure of office did not also apply to other members of the decision-making bodies of NCBs involved in the performance of ESCB-related tasks⁴.
- 2.3 Although the ECB in principle encourages having terms of office of equal length for all members of NCBs' decision-making bodies, there may be justifiable exceptions. If Member States wish to have different terms of office for their Executive Board members, this is acceptable provided that the reasons behind the approach are clearly stated and the arrangement does not infringe the principles of central bank independence. In the current case, the explanatory memorandum explains clearly that the intention behind the change in the law is that one member of the Executive Board should be replaced each year. This is an arrangement that the ECB does not oppose, since both of the proposed terms of office (6 and 5 years, respectively) comply with Article 14.2 of the ESCB Statute.

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

Done at Frankfurt am Main, 14 January 2008.

[signed]

The President of the ECB

Jean-Claude TRICHET

² ECB Convergence Report May 2007, p. 19.

³ ECB Convergence Report May 2007, p. 19.

⁴ See: paragraph 8 of ECB Opinion 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; paragraph 8 of ECB Opinion CON/2005/26 of 4 August 2005 at the request of Národná banka Slovenska on a draft law amending the Act No 566/1992 Coll. on Národná banka Slovenska, as amended, and on amendments to certain laws; paragraph 3.3 of ECB Opinion CON/2006/44 of 25 August 2006 at the request of the Banca d'Italia on the amended Statute of the Banca d'Italia; paragraph 2.6 of ECB Opinion CON/2006/32 of 22 June 2006 at the request of the French Senate on a draft law on the Banque de France; and paragraphs 2.3 and 2.4 of ECB Opinion CON/2007/6 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.