



OPINION OF THE EUROPEAN CENTRAL BANK

of 5 May 2009

**on the liberalisation of correspondent banking services for payments in the national currency and
on related statistical reporting requirements**

(CON/2009/43)

Introduction and legal basis

On 27 March 2009 the European Central Bank (ECB) received a request from Banca Națională a României (BNR) for an opinion on a draft Regulation on the liberalisation of correspondent banking services for payments in national currency and on statistical reports to be submitted to Banca Națională a României on payments made through correspondent banking arrangements (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 and fifth 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 regulation relates to the collection, compilation and distribution of monetary, financial, banking, payment systems and balance of payments statistics and to payment and settlement systems. 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 contributes to the setting up of the regulatory framework for BNR to promote and monitor the smooth functioning of payment systems. It applies to Romanian credit institutions and branches of foreign credit institutions established in Romania, which it refers to as ‘credit institutions’. In particular, the draft regulation: (i) removes the restriction on correspondent banking operations performed in Romanian national currency which currently apply to participants in Romanian payment systems; (ii) creates the legal framework which enables the credit institutions as defined by it to perform payment services – and other services related to payments – in national currency through correspondent banking arrangements for other credit institutions; and (iii) with reference to the abovementioned correspondent banking arrangements and operations, sets the statistical indicators to be reported to BNR by the credit institutions which qualify as payment systems participants, as well as the related reporting requirements.

¹ OJ L 189, 3.7.1998, p. 42.

1.2 The draft regulation falls under Article 405 of Government Urgency Ordinance No 99/2006 on credit institutions and capital adequacy², which requires BNR to regulate payment and securities settlement systems, and, in particular, ‘the criteria and rules for supervising the systems, including the participants in these systems and their operators’.

2. General observations

The ECB welcomes the draft regulation which establishes the regulatory framework for credit institutions to perform payment services in national currency through correspondent banking arrangements for other credit institutions. It will support BNR in promoting and monitoring the smooth functioning of payment systems.

3. Specific observations

When defining specific terms in Article 2 of the draft regulation, the ECB recommends inserting a definition for ‘overnight credit’, which appears to be necessary taking into consideration the references to this specific term in the annexes.

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

Done at Frankfurt am Main, 5 May 2009.

[signed]

The President of the ECB

Jean-Claude TRICHET

² Published in the *Monitorul Oficial al României*, Part One, No 1027, 27.12.2006.