



OPINION OF THE EUROPEAN CENTRAL BANK

of 14 May 2010

on the transfer of rights and obligations in relation to the issuance, distribution and redemption of public debt

(CON/2010/39)

Introduction and legal basis

On 28 April 2010 the European Central Bank (ECB) received a request from the Cypriot Minister for Finance (hereinafter 'the consulting authority') for an opinion on a draft law amending the Laws of 1989 to 2008 on Treasury bills (hereinafter, the 'draft law') and on two accompanying draft regulations (hereinafter, the 'draft regulations').

The ECB's competence to deliver an opinion is based on Articles 127(4) and 282(5) of the Treaty on the Functioning of the European Union and on 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 the Central Bank of Cyprus (CBC). 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 and the draft regulations

- 1.1 The objective of the draft law and of its associated draft regulations is to transfer from the CBC to the Ministry of Finance the 'rights, privileges, obligations, responsibilities, competences, duties and tasks' involved in the issuance, distribution and redemption of public debt. This objective is to be achieved by means of the adoption of three identically worded legal acts, namely (i) the (Amending) Law of 2010 on Treasury bills, (ii) the (Amending) Regulations of 2010 on loan (development), (iii) the (Amending) Regulations of 2010 on savings loans. According to the request for an opinion, these legal acts are interrelated and are to be submitted to the Cypriot Council of Ministers and Parliament as a single legislative package.
- 1.2 Until now, the issuance, distribution and redemption of Government bonds, Treasury bills and other securities have been carried out by the CBC which, in its capacity as agent to the Cypriot

¹ OJ L 189, 3.7.1998, p. 42.

Government in financial matters pursuant to Sections 6(2)(f) and 51(c) of the Laws on the CBC², has also managed public debt.

2 General observations

- 2.1 The domestic legal framework governing the issuance, distribution and redemption of Government bonds, Treasury bills and other securities comprises not only those legal acts that the consulting authority proposes amending through the draft law and its associated draft regulations, but also the CBC Laws. Section 51(c) thereof attributes specific executory powers to the CBC in connection with (i) the issuance of Government bonds, Treasury bills and other securities, and (ii) the servicing of public debt.
- 2.2 Section 51(c) of the CBC Laws expressly provides that the CBC's powers pertaining to the issuance of Government bonds, Treasury bills and other securities and the servicing of public debt may be repealed by the Cypriot Council of Ministers, provided that certain procedural requirements are met. In July 2008 the Council of Ministers transferred the CBC's public debt management authority from the CBC to the Ministry of Finance, with effect from 1 August 2010. More generally, the ECB notes that it is common for central banks not to be responsible for public debt management and, instead, for this task to be the responsibility of an independent debt management agency.
- 2.3 Without prejudice to the foregoing observations, the ECB stresses the need for Cyprus to ensure the same level of transparency and accountability in managing its public debt as that achieved by the CBC, *inter alia*, in the interests of the Eurosystem's liquidity management. If the Ministry of Finance is to be directly responsible for debt management, debt management should be kept separate from budget and fiscal control, and sufficient material resources and expertise will need to be secured for a public debt management office to substitute the CBC in its public debt management tasks. Alternatively, if debt management is to be delegated to a separate, independent agency outside the Ministry of Finance, clear governance, legal and institutional arrangements will need to be established to control and monitor the external agency's compliance with the debt management objectives, benchmarks and guidelines set by the Ministry of Finance and to avoid conflicts of interest.

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

² Law 138(I)/2002, *Ο περί της Κεντρικής Τράπεζας της Κύπρου Νόμος* (Official Government Gazette No. 3624 of 19 July 2002), as amended.

Done at Frankfurt am Main, 14 May 2010.

[signed]

The President of the ECB

Jean-Claude TRICHET