



## **OPINION OF THE EUROPEAN CENTRAL BANK**

**of 8 March 2011**

**on the Central Corporate Credit Register**

**(CON/2011/20)**

### **Introduction and legal basis**

On 11 February 2011, the European Central Bank (ECB) received a request from the Nationale Bank van België/Banque Nationale de Belgique (NBB), acting on behalf of the Belgian Ministry of Finance, for an opinion on a draft law on the Central Corporate Credit Register (hereinafter the 'draft law') and a draft royal decree on the Central Corporate Credit Register (hereinafter the 'draft royal decree') (the draft law and the draft royal decree hereinafter collectively referred to as the 'draft legislation').

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 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 legislation relates to the NBB. 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 legislation**

1.1 The draft legislation will amend the current legal framework for the Central Corporate Credit Register (CCCR)<sup>2</sup>, under which credit institutions established in Belgium must report to the NBB certain data concerning credit, from an aggregated amount of EUR 25 000<sup>3</sup>, granted to a beneficiary with a view to including such data in the CCCR. The reform will increase the amount of credit data available in the CCCR. The rationale behind the draft legislation is twofold: (a) as shown during the financial crisis, a comprehensive and efficient centralisation of credit data is essential to ensure good credit risk management; and (b) in view of developments in the credit granting business, the CCCR no longer contains all the data necessary for a proper assessment of credit risks by individual institutions and supervisory authorities<sup>4</sup>. The explanatory memorandum to the draft law specifies

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

<sup>2</sup> Centrale voor kredieten aan ondernemingen/Centrale des crédits aux entreprises. The legal framework for the CCCR consists of Title VI of the Law of 22 March 1993 on the status and supervision of credit institutions, and the implementing Royal Decree of 12 December 1994 on the centralisation of information relating to credit risks.

<sup>3</sup> A similar reporting requirement also applies to insurance companies established in Belgium that are licensed to provide: (i) credit insurance services or (ii) suretyship insurance services, with respect to credit insurance and suretyship insurance agreements (Article 2 of the Royal Decree of 12 December 1994).

<sup>4</sup> Explanatory memorandum to the draft law, pp. 1 and 2.

that a consensus was reached with the current and prospective reporting institutions concerning the increase in the amount of data subject to CCCR reporting requirements.

1.2 The main changes introduced by the draft legislation in the current legal framework relate to:

- (a) the addition of leasing and factoring companies to the group of institutions subject to reporting requirements<sup>5</sup>;
- (b) the abolition of the EUR 25 000 threshold for reporting credit data to the CCCR; and
- (c) the extension of the reporting requirement to a more detailed set of data concerning certain agreements concluded by reporting institutions<sup>6</sup>. The new set of data to be reported would cover<sup>7</sup>, for example, the date and the amount of any payment default<sup>8</sup>, the initial and residual duration of the agreement and the country where it was concluded<sup>9</sup>, any recoverable amount<sup>10</sup> and the probability of default at one year<sup>11</sup>.

## 2. General observation

The ECB fully welcomes the draft legislation. By broadening the scope of the requirement to report credit data to the CCCR, the reform will increase the amount of data centrally available in the CCCR and the level of detail of such data. In turn, this will serve to enhance individual institutions' credit risk management<sup>12</sup>, as well as risk assessment for the financial sector as a whole. In this latter respect, the draft legislation will be beneficial for the exercise of prudential supervision, currently carried out in Belgium by the Banking, Finance and Insurance Commission (BFIC)<sup>13</sup>, as well as for the NBB's task of contributing to the stability of the financial system<sup>14</sup>. In addition, the ECB welcomes the provision of the

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<sup>5</sup> Article 2, 2° b) and Article 2, 2° c) of the draft law. See also Article 20 of the draft law amending the current definition of leasing in Royal Decree No 55 of 10 November 1967 organising the legal status of leasing companies. In the case of leasing and factoring companies, the data to be reported to the CCCR concerns leasing and factoring agreements concluded with Belgian residents in the context of their professional activities.

<sup>6</sup> I.e. credit agreements, leasing agreements, factoring agreements, suretyship insurance agreements and credit insurance agreements.

<sup>7</sup> Articles 3 and 4 of the draft law, further specified in Article 1, 3° and Articles 3 and 4 of the draft royal decree.

<sup>8</sup> Payment default is defined as (a) the absence of reimbursement by the beneficiary of an amount outstanding, or the incomplete reimbursement of such amount, within 90 calendar days following its due date, or (b) the fact that the reporting institution considers it unlikely that the outstanding amount will be fully reimbursed in accordance with the terms of the contract unless appropriate measures are taken, such as the realisation of possible guarantees (Article 2, 9° of the draft law). Article 1, 3° of the draft royal decree defines which amount is to be reported as payment default in these two cases. See also Article 3 §2, 5° of the draft royal decree.

<sup>9</sup> Article 3 §2, 2° of the draft royal decree.

<sup>10</sup> I.e. the total amount that the reporting institution considers it will probably be able to recover on the basis of the guarantees that were provided by the beneficiary (Article 3 §2, 3° of the draft royal decree).

<sup>11</sup> Article 3 §2, 4° of the draft royal decree.

<sup>12</sup> The right to consult the CCCR is open to all reporting institutions (Article 9 §1 1° of the draft law).

<sup>13</sup> Commissie voor het Bank-, Financier- en Assurantiewezen/Commission bancaire, financière et des assurances. The BFIC may consult the CCCR for the execution of the tasks entrusted to it by or pursuant to the law (Article 9 §1 2° of the draft law). With respect to the envisaged transfer of prudential supervisory tasks from the BFIC to the NBB, see Opinions CON/2010/7 and CON/2011/5. All ECB opinions are published on the ECB's website [www.ecb.europa.eu](http://www.ecb.europa.eu). The ECB understands that the royal decree organising this transfer of competence has been adopted by the Belgian Government on 25 February 2011.

<sup>14</sup> This task is laid down in Article 12 of the Law of 22 February 1998 establishing the organic status of the Nationale Bank van België/Banque Nationale de Belgique. The draft law expressly allows the NBB to use the data recorded in the CCCR

draft law allowing the NBB to also use the information stored in the CCCR for research and statistical purposes<sup>15</sup>.

### 3. Specific observations

- 3.1 Under the draft legislation, the NBB will be designated as the central reporting point for the relevant credit data. The NBB is also entrusted with various tasks related to the maintenance of and access to the CCCR by authorised entities<sup>16</sup>, as is already the case under the CCCR's current legal framework<sup>17</sup>. As regards the financing of such tasks performed by the NBB, the ECB refers to the principle of financial independence under which a national central bank must have sufficient means not only to perform its European System of Central Bank tasks, but also its national tasks, e.g. financing its administration and own operations<sup>18</sup>. The ECB considers that the draft legislation does not raise concerns in this respect, since it authorises the NBB to charge the costs related to the collection, storage, management, checking and dissemination of CCCR data to the reporting institutions<sup>19</sup>.
- 3.2 The ECB understands that the requirements arising from the national transposition of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>20</sup> will be followed with respect to the CCCR data that the NBB will be authorised to keep beyond the one year retention period for scientific or statistical purposes, under Article 8 of the draft royal decree.

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

Done at Frankfurt am Main, 8 March 2011.

[signed]

*The President of the ECB*

Jean-Claude TRICHET

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for scientific and statistical purposes, as well as in the context of its tasks carried out under the Law of 22 February 1998 (Article 16 of the draft law).

15 Article 16 of the draft law.

16 See in particular Articles 3, 6 and 9 of the draft law.

17 See in particular Articles 91 and 92 of the Law of 22 March 1993.

18 See the ECB's Convergence Report, May 2010, p. 21, and in particular Opinion CON/2011/5, paragraph 3.1.

19 Article 17 of the draft law.

20 OJ L 281, 23.11.1995, p. 31.