



OPINION OF THE EUROPEAN CENTRAL BANK
of 6 April 2011
on the financing of a central register of bank account numbers
(CON/2011/30)

Introduction and legal basis

On 1 April 2011, the European Central Bank (ECB) received a request from the Belgian Ministry of Finance, for an opinion on three Parliamentary amendments¹ to a draft law on various provisions (hereinafter respectively the ‘amendments’ and the ‘draft law’).

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 provisions², as the amendments relate to the Nationale Bank van België/Banque Nationale de Belgique (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 amendments

1.1 The ECB understands that the amendments relate to broader changes that will be introduced by the draft law to reinforce the fight against tax fraud in Belgium. Under the draft law, Belgian credit institutions will be required to communicate certain data to a central register of bank account numbers³. In the event of indications of tax fraud by a tax payer, certain specifically appointed high ranking civil servants in the tax authorities will have access to this central register⁴. The register will also be accessible to foreign tax authorities under certain conditions⁵.

¹ Amendments Nos 15 to 17 to the draft law on various provisions, *Doc. House of Representatives*, o.s. 53 2010-2011, 1208/007, p. 8.

² OJ L 189, 3.7.1998, p. 42.

³ See also amendment No 15, introducing a new Article 322 § 3, first subparagraph, in the Income Tax Code. The central register is referred to as the central contact point in the amendments. The following data needs to be communicated to the central register by credit institutions: (a) customer names and bank account numbers, and (b) the agreements concluded with such customers.

⁴ Amendment No 15, introducing a new Article 322 § 3, second subparagraph, in the Income Tax Code. The tax authorities are responsible for assessing whether these conditions are met, not the central register (Justification under the amendments, p. 17). The establishment of a centralised register is considered more efficient, and respectful of the privacy of tax payers, than a consultation of all Belgian credit institutions by the tax authorities (Justification under the amendments, p. 17).

⁵ Amendment No 15, introducing a new Article 322 § 4 in the Income Tax Code.

1.2 The amendments will entrust the NBB with managing this central register of bank account numbers⁶. The financing of the new task is not defined in the draft law or in the amendments. The way in which the central register works will be defined in a Royal decree⁷.

2. Central bank independence and the monetary financing prohibition

- 2.1 In the absence of any provision on the financing of the new task entrusted to the NBB under the amendment, the ECB underlines the importance of safeguarding compliance with the prohibition of monetary financing laid down in Article 123(1) of the Treaty. The prohibition is designed to prevent central banks from providing overdraft facilities or any other type of credit facility to the public sector. The ECB notes that the new task entrusted to the NBB under the amendment is not a central banking task, nor does it facilitate the performance of such a task. Rather, the ECB understands that the new task entrusted to the NBB is linked to a State task, i.e. the collection of taxes by the State and the reinforcement of the fight against tax fraud, and is performed in the interest of the State. Therefore, if the NBB is to be entrusted with such a task, it needs to be adequately remunerated in advance, to ensure compliance with the monetary financing prohibition.
- 2.2 In addition, the financing of this new task entrusted to the NBB must comply with the principle of financial independence, under which a national central bank must have sufficient means not only to perform its ESCB-related tasks, but also its national tasks, e.g. financing its administration and own operations⁸.

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

Done at Frankfurt am Main, 6 April 2011.

[signed]

The President of the ECB
Jean-Claude TRICHET

⁶ Amendment No 15, introducing a new Article 322 § 3, first subparagraph, in the Income Tax Code.

⁷ Amendment No 15, introducing a new Article 322 § 3, third subparagraph, in the Income Tax Code.

⁸ See the ECB's Convergence Report, May 2010, p. 21, and in particular Opinion CON/2011/5, paragraph 3.1 and CON/2011/20, paragraph 3.1.