EUROPEAN CENTRAL BANK

EUROSYSTEM

OPINION OF THE EUROPEAN CENTRAL BANK

of 6 April 2011

on a tax on the total value of a bank's balance sheet

(CON/2011/31)

Introduction and legal basis

On 23 March 2011, the European Central Bank (ECB) received a request from the Slovenian Ministry of Finance for an opinion on a draft law on a tax on the total value of a bank's balance sheet (hereinafter 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 sixth 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[1], as the draft law contains rules applicable to financial institutions insofar as they materially influence the stability of financial institutions and markets. 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

The purpose of the draft law is to stimulate banks' credit activity and thus ensure that the economy acquires the necessary funds in times of economic crisis. The main characteristics of the tax proposed by the draft law are the following: (a) banks providing banking services in Slovenia will be subject to the tax; (b) the tax is to be based on the balance sheet total, calculated as the average of balances held on the last day of each month in a calendar year; (c) the tax is payable yearly at the rate of 0,1 % of the balance sheet total; (d) the tax can be reduced by 0,2 % of the amount of loans granted to non-financial corporations and sole traders, calculated in accordance with the methodology laid down by Banka Slovenije; (e) the proceeds of the tax will go to the State budget. The draft law is intended to apply from 1 May 2011.

2. Duty to consult the ECB

The Ministry has asked for the ECB opinion to be delivered within three weeks. In accordance with Article 3 of Decision 98/415/EC, the consulting authorities may, if they consider it necessary, set the ECB a time limit for the submission of its opinion which may not be less than one month. In

1 OJ L 189, 3.7.1998, p. 42.

cases of extreme urgency, however, it can be requested that an opinion be delivered within an even shorter time limit. The consulting authorities should limit such requests to highly exceptional cases and must expressly state the reasons for the urgency of the matter. The consultation request in the present consultation did not contain any such reasons; it only stated that the Slovenian Parliament should be allowed to adopt the draft law in due course. The ECB invites the Ministry to consider if it could systemically allocate an appropriate time for consultation with the ECB at an earlier point in the national legislative procedure. This will help to ensure that sufficient time is available for the ECB to provide its expert advice on draft legislative provisions concerning matters within the scope of its competence.

3. Implications of the draft law on economic activity and financial stability

3.1 The ECB understands that the Slovenian Government aims to provide banks with an incentive to grant loans to the non-financial sector by providing for a reduction in the taxation of their balance sheet by a certain percentage of the amount of loans granted to non-financial corporations and sole traders[2]. The ECB recognises the need to maintain the flow of funds to this sector of the economy, but cautions against incentives in loan provision that may lead to distortions in the efficient allocation of loan supply and further sectoral imbalances in the real economy. The availability of credit by banks should be based on risk and creditworthiness criteria.

3.2 The ECB has taken into consideration the intention of the Slovenian Government to ensure that sufficient funds are available to the economy in times of financial crisis. However, in the ECB's opinion, the risk to financial stability is that the provision of credit from the banks is steered by the potential tax benefits. The provision of credit should primarily rely on a robust prudential system and full compliance with requirements for the creditworthiness of borrowers. Such an approach would contribute to the appropriate distribution of loans in the economy, and this in turn would safeguard the banks' balance sheet from future potential losses. Over a period of time, this would also aid in fostering sustainable financial stability.

3.3 In light of the above, the ECB recommends a comprehensive impact assessment of the proposed measure to ensure that the public benefit from the proposed tax outweighs any potential negative implications for banks, their customers and the economy.

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

2 Article 8 of the draft law.