



OPINION OF THE EUROPEAN CENTRAL BANK

of 7 December 2012

on certain conditions on granting loans

(CON/2012/102)

Introduction and legal basis

On 9 October 2012, the European Central Bank (ECB) received a request from Banca Națională a României (BNR) for an opinion on a draft regulation on certain conditions on granting loans (hereinafter the ‘draft regulation’).

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 provisions¹, as the draft regulation relates to 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 regulation

1.1 The main purpose of the draft regulation is to ensure the implementation of some sections² of Recommendation ESRB/2011/1 of the European Systemic Risk Board of 21 September 2011 on lending in foreign currencies³. To this end, it amends and supplements BNR Regulation No 24/2011 on granting loans to individuals⁴, which provides requirements in relation to lending to individuals in a foreign currency, and the creditworthiness of a borrower and its capacity to withstand adverse shocks due to exchange and interest rate movements. In respect of BNR Regulation No 24/2011, the ECB has previously issued Opinion CON/2011/74 on lending to natural persons⁵. The draft regulation also clarifies some of the existing provisions. The draft regulation is scheduled to enter into force on 1 January 2013, when BNR Regulation No 24/2011 will be repealed.

1 OJ L 189, 3.7.1998, p. 42.

2 Sections A.1, B.2, B.3 and G.

3 OJ C 342, 22.11.2011, p. 1.

4 Monitorul Oficial al României, Part One, No 767, 31.10.2011.

5 All ECB opinions are published on the ECB’s website at www.ecb.europa.eu.

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- 1.2 The main amendments in the draft regulation aim to: (a) improve the current foreign currency risk awareness mechanisms so that they are aligned with Recommendation ESRB/2011/1, and (b) add requirements in relation to lending to non-financial entities in a foreign currency:
- (a) creditors offering foreign currency loans must inform unhedged clients, both individuals and non-financial entities, applying for such loans about the negative effect on repayments of a severe depreciation of the national currency and, for loans with variable interest rates, about the negative effect of a severe depreciation of the national currency associated with an increase in interest rates;
 - (b) creditors must establish internal eligibility criteria for the granting of foreign currency loans. Such criteria must ensure that unhedged non-financial entities would be eligible for foreign currency loans only if they demonstrate their repayment ability even in the event of a severe currency depreciation associated with an increase in interest rates;
 - (c) creditors must ensure that conditions for the granting and guaranteeing of foreign currency loans to unhedged non-financial entities are stricter than those applicable to the granting of similar products in the national currency;
 - (d) creditors that are Romanian legal persons and conduct lending activities in another Member State, either through a branch or by the provision of services, must comply with the requirements for foreign currency lending to unhedged clients in force in the Member State in which the branch is situated, or in which the services are provided.

2. General observations

- 2.1 The ECB welcomes the draft regulation, which is aimed at promoting responsible lending by credit institutions, including in the area of foreign currency lending, as well as enhancing market discipline. The ECB has assessed the draft regulation also taking into account the documentation for the consultation procedure which resulted in Opinion CON/2011/74. The ECB reiterates the observations made in that opinion.
- 2.2 The draft regulation only implements some sections of Recommendation ESRB/2011/1. The ECB is of the view that implementation of all elements of Recommendation ESRB/2011/1 should be considered.
- 2.3 The ECB notes in this regard that the assessment of the compliance of the draft regulation with Recommendation ESRB/2011/1 will be undertaken by the European Systemic Risk Board.

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

Done at Frankfurt am Main, 7 December 2012.

[signed]

The President of the ECB

Mario DRAGHI