



OPINION OF THE EUROPEAN CENTRAL BANK
of 19 March 2013
on dormant deposit accounts with credit institutions
(CON/2013/20)

Introduction and legal basis

On 26 February 2013, the European Central Bank (ECB) received a request from the Greek Ministry of Finance for an opinion on a set of draft legislative provisions regarding the management of dormant deposit accounts by credit institutions in Greece (hereinafter the ‘draft provisions’). The draft provisions are part of a draft law on arrangements amending and improving pension-related, fiscal, administrative and other provisions of the Ministry of Finance.

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 provisions¹, as the draft provisions concern the Bank of Greece. 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 provisions

- 1.1 According to the draft provisions, their main purpose is to allow money in dormant deposit accounts to transfer to the State once the rights of the depositors or their legal heirs have lapsed². To this end, the draft provisions reform the current legal framework governing such accounts³. In particular, they establish an automated procedure requiring credit institutions operating in Greece to take specific action to deal with dormant deposit accounts held with them, including monitoring compliance with and implementation of the draft provisions. Furthermore, the draft provisions confer on the Bank of Greece specific supervisory tasks to ensure the adequate implementation of the scheme.
- 1.2 More specifically, for the purposes of the draft provisions, ‘dormant deposit account’ means an account on which no transaction by depositors has been recorded for a period of 20 years from the

¹ OJ L 189, 3.7.1998, p. 42.

² Article 6 of the draft provisions.

³ See Legislative Decree 1195/1942 (FEK A 70).

day following the last transaction⁴. The draft provisions require a credit institution to notify the beneficiary of a potentially dormant account several times⁵ before the expiry of the 20-year period that the balance on the dormant deposit account will be statute barred for the benefit of the Greek State twenty years from the day following the last transaction.

- 1.3 Following the expiry of the 20-year period, the credit institution concerned must transfer to the State the aggregate balance on any time-barred dormant deposit accounts, including any interest, by the end of April of each year and the credit institution must also notify the General Accounting Office (GAO) and the concerned beneficiaries or heirs of the transfer, as provided for in the draft provisions⁶.
- 1.4 The draft provisions confer on the Bank of Greece supervision of proper compliance by credit institutions with their obligations and impose the necessary sanctions for breaches. In addition, within the first two months of every year the Bank of Greece is required to submit to the GAO a list of all credit institutions operating in Greece. Finally, the Minister for Finance may ask the Bank of Greece to carry out ad hoc inspections, whenever necessary, to confirm correct application of the draft provisions⁷.

2. General observations

- 2.1 According to the explanatory memorandum, the draft provisions are expected to clarify that the money on dormant deposit accounts after the 20-year lapse of the rights of beneficiaries and their heirs may be used to fund State protection of vulnerable social groups. In this respect, the ECB broadly welcomes the draft provisions and notes the importance of ensuring that a fair balance is struck between general interest considerations underlying the statute-barring and the protection of beneficiaries' property rights, as enshrined in national and international legislation⁸. Furthermore, the ECB notes that, in the explanatory memorandum, the Greek legislator has taken into account the relevant national legislation and well established case law on statute-barring, as well as relevant arrangements in other Member States, noting however that currently there is no harmonised European Union legislation dealing especially with time barring for dormant deposit accounts. In this context, the ECB notes that it is essential to ensure equal treatment of depositors, regardless of whether they are resident in Greece or abroad.
- 2.2 Moreover, the ECB notes that the Bank of Greece is assigned supervisory tasks related to the application of the draft provisions, as set out in paragraph 1.4 above. The ECB has consistently expressed its concern that, when allocating additional tasks to national central banks, it must be

⁴ Article 7 of the draft provisions.

⁵ For deposited amounts in excess of EUR 100 notification by letter with acknowledgement of receipt takes place at least twice. See Article 8(1) of the draft provisions. According to the explanatory memorandum, the notification requirements seem to reflect Judgment No 66610/09 of the European Court of Human Rights.

⁶ Article 8(3) of the draft provisions.

⁷ Article 9 of the draft provisions.

⁸ See in particular European Convention on Human Rights.

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ensured that they have sufficient human and financial resources, both in terms of quantity and quality, for all of their tasks, and in particular that their capacity to fulfil their European System of Central Banks or Eurosystem-related tasks is not affected⁹.

- 2.3 Finally, in particular as regards the power of the Minister of Finance to ask the Bank of Greece to carry out ad hoc inspections in accordance with Article 9(5) of the draft provisions, the ECB notes that this is not in line with the prohibition on the Bank of Greece from taking instructions from the Government¹⁰. If the intention of the Greek legislator is to hold the Bank of Greece accountable for its new tasks, it should set up an appropriate accountability framework, such as additional reporting.

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

Done at Frankfurt am Main, 19 March 2013.

[signed]

The President of the ECB

Mario DRAGHI

⁹ See the ECB's Convergence Report 2012, p. 25. See also Opinion CON/2011/105. All ECB opinions are published on the ECB's website at www.ecb.europa.eu.

¹⁰ See Article 5A of the Statute of the Bank of Greece, available on the website of the Bank of Greece (www.bankofgreece.gr).