



**OPINION OF THE EUROPEAN CENTRAL BANK**  
**of 23 July 2013**  
**on the supervision of cooperative credit institutions**  
**(CON/2013/51)**

**Introduction and legal basis**

On 25 June 2013, the European Central Bank (ECB) received a request from the Ministry of Finance of the Republic of Cyprus for an opinion on two draft laws (hereinafter the ‘draft laws’), which amend the Law on banking<sup>1</sup> and the Law on cooperative societies<sup>2</sup>, respectively.

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 and sixth indents 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>3</sup>, as the draft laws relate to the Central Bank of Cyprus (CBC) and 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 laws**

- 1.1 The draft laws’ aim is to authorise the CBC to issue binding instructions to the Commissioner of the Co-operative Societies’ Supervision Authority (CSSA), which is currently responsible for supervising the cooperatives sector, thereby enabling the CBC to order the Commissioner to intervene at the level of individual cooperative credit institutions in regard to supervision.
- 1.2 The Memorandum of Understanding on specific economic policy conditionality of 26 April 2013 (hereinafter the ‘MoU’)<sup>4</sup> required Cypriot authorities to: (a) ensure that the regulation and supervision of cooperative credit institutions is in line with that of commercial banks; (b) take responsibility for supervising cooperative credit institutions from the Ministry of Commerce, Industry and Tourism, and transfer this responsibility to the CBC by the end of July 2013; (c)

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<sup>1</sup> Law 66(I) of 1997, as amended.

<sup>2</sup> Law 22(I) of 1985, as amended.

<sup>3</sup> OJ L 189, 3.7.1998, p. 42.

<sup>4</sup> Available on the European Commission’s website at [www.ec.europa.eu](http://www.ec.europa.eu).

introduce, by the end of May 2013, legislation to authorise the CBC to instruct the Commissioner to intervene at the level of individual cooperative credit institutions in regard to supervision<sup>5</sup>.

1.3 According to the draft laws:

- (a) the CSSA must provide all necessary data and information concerning cooperative credit institutions to the CBC to ensure the stability of the financial system;
- (b) the CBC may issue binding instructions to the Commissioner, where the CBC considers that:
  - (i) the capital adequacy, liquidity and value of a cooperative credit institution's assets have been impaired or adversely affected, or there is a risk that these will be impaired or adversely affected;
  - (ii) there is a risk that the cooperative credit institution's ability to meet its obligations in relation to its depositors or creditors may be impaired or it is necessary to take measures to safeguard interests of depositors or creditors;
  - (iii) the cooperative credit institution fails to comply with its obligations under the law.

1.4 Under the proposed amendments, the CBC may instruct the Commissioner to take, *inter alia*, the following specific measures in relation to a cooperative credit institution:

- (a) increase its share capital;
- (b) restore its funds to the required minimum level;
- (c) make adjustments to the institution's corporate governance and the terms of its business, operation or its licence.

## 2. General observations on the draft laws

The ECB welcomes transferring supervision of cooperative credit institutions to the CBC, in line with the terms and conditions of the MoU. The ECB notes that the draft laws are the first step agreed in the MoU towards the CBC assuming supervision of cooperative credit institutions. In this respect, the consulting authority may wish to indicate the transitional nature of the draft laws, clarifying that their provisions are to remain in force until the new supervisory regime for cooperative credit institutions has been introduced, at which time supervision of cooperative credit institutions will be fully transferred to the CBC, in line with the MoU.

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<sup>5</sup> Paragraph 1.13 of the MoU.

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### 3. Specific observations on the draft laws

- 3.1 With a view to reinforcing the efficiency of the draft laws, the consulting authority may wish to consider clarifying, in the draft law amending the Law on cooperative societies, that the Commissioner has a duty to fully comply with the CBC's instructions with regard to the specific measures to be applied to a cooperative credit institution. The ECB notes that the corresponding amendment to the Law on banking is clear on this point.
- 3.2 Under new Section 35(3) of the draft law amending the Law on banking, the CBC may, after taking into consideration whether the cooperative credit institution is licenced under section 41B(1)(a) of the Law on cooperative societies or through affiliation with the central body pursuant to section 41B(1)(b) of that same law, issue binding instructions to the Commissioner to take the measures specified by the CBC. Since the draft laws' purpose is to allow the CBC to intervene at the level of individual cooperative credit institutions in regard to supervision, regardless of whether they are affiliated, the consulting authority may wish to eliminate the above distinction made in the draft law amending the Law on banking.

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

Done at Frankfurt am Main, 23 July 2013

[signed]

*The President of the ECB*

Mario DRAGHI