EUROPEAN CENTRAL BANK

EUROSYSTEM

OPINION OF THE EUROPEAN CENTRAL BANK

of 30 October 2014

on a specific tax benefit granted to financial institutions

(CON/2014/77)

Introduction and legal basis

On 1 October 2014, the European Central Bank (ECB) received a request from the Hungarian Ministry of National Economy (hereinafter the 'consulting authority') for an opinion on a draft law amending Law LIX of 2006 on a special and annuity tax to improve the balance of public finances (hereinafter the 'draft law'). On 21 October 2014, the consulting authority submitted the draft law[1] to the Hungarian Parliament for adoption in the Parliamentary procedure.

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[2], as the draft law 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 law

The Hungarian Government intends to partially compensate Hungarian financial institutions for any losses their related undertakings operating in Ukraine have suffered as a direct result of the crisis in Ukraine, through a tax benefit scheme introduced under the draft law (hereinafter the 'scheme'). The scheme allows those financial institutions to decrease their bank tax liability that would otherwise be payable under Law LIX of 2006. Portfolio investments are outside the scope of the scheme, as it only covers the loss in value of the related undertaking operating in Ukraine.

Under the draft law, a financial institution could decrease its tax liability for the year 2014, payable in 2015, by the amount of the loss in value of its Ukrainian related undertaking up to a maximum of 5 billion forints[3]. Any unused part of the available benefit could not be carried forward to subsequent tax years or applied retrospectively. Furthermore, if any of the losses incurred by a participating financial institution are recovered in subsequent years, the financial institution will have to repay the corresponding amount of the benefit.

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1 See Article 51 of draft law No T/1705, available on the website of the Hungarian Parliament: www.parlament.hu.

2 Council Decision 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions (OJ L 189, 3.7.1998, p. 42).

3 Approximately 17 million euro.

2. Observations

2.1 Although the scheme is of general application, it is anticipated that only a limited number of financial institutions will be eligible to participate in the scheme. Furthermore, any losses incurred by such financial institutions as a result of losses incurred by their related undertakings in Ukraine are not expected to be substantial. It seems unlikely at the present time that this scheme, being temporary and limited in scope, would significantly influence the overall stability of financial institutions and markets in Hungary.

2.2 These observations are without prejudice to any assessment by other Union institutions with regard to compliance with Union law on competition and State aid.

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

Done at Frankfurt am Main, 30 October 2014.

[signed]

The President of the ECB

Mario DRAGHI