



EUROPEAN CENTRAL BANK

EUROSYSTEM

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ECB-PUBLIC

## OPINION OF THE EUROPEAN CENTRAL BANK

of 17 December 2014

on credit requirements

(CON/2014/88)

### Introduction and legal basis

On 13 November 2014 the European Central Bank (ECB) received a request from the Estonian Ministry of Finance for an opinion on the Law on credit providers and credit intermediaries (hereinafter '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 third indent of Article 2(1) of Council Decision 98/415/EC<sup>1</sup>, as the draft law relates to Eesti Pank. 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 draft law relates to Eesti Pank's powers to specify loan requirements. The primary aim of the draft law is to harmonise the requirements applicable to undertakings operating in the financial market and to regulate credit provision and credit intermediation to consumers. The draft law applies to financial institutions, other than credit institutions, whose principal economic activity is credit provision. Non-bank credit providers and credit intermediaries include also lessors and deferred payment providers.

### **2. Macro-prudential objective**

The draft law introduces an amendment to the Law on credit institutions in order to enhance legal certainty and states expressly that the purpose of Eesti Pank's power to specify certain loan requirements is macro-prudential supervision.

The Law on Eesti Pank<sup>2</sup> implementing Recommendation ESRB/2011/3<sup>3</sup> designates Eesti Pank as the macro-prudential authority in Estonia<sup>4</sup>. This law authorises Eesti Pank to conduct macro-prudential policy at a national level. Eesti Pank has numerous instruments it can use to achieve this objective including the faculty to establish loan requirements set forth in the draft law.

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<sup>1</sup> 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).

<sup>2</sup> *Riigi Teataja* I 1993, 28, 498.

<sup>3</sup> Recommendation ESRB/2011/3 of the European Systemic Risk Board of 22 December 2011 on the macro-prudential mandate of national authorities. Available on the website of the ESRB at [www.esrb.europa.eu](http://www.esrb.europa.eu).

<sup>4</sup> See Opinion CON/2014/21. Available on the website of the ECB at [www.ecb.europa.eu](http://www.ecb.europa.eu).

### 3. General observations

The ECB observes that the powers to take macro-prudential measures provided for in Regulation (EU) No 575/2013<sup>5</sup> and Directive 2013/36/EU<sup>6</sup> are subject to Article 5 of Regulation (EU) No 1024/2013<sup>7</sup> (hereinafter the 'SSM Regulation'), which requires national competent or designated authorities to notify the ECB of their intention to take certain measures. According to Article 5(2) of the SSM Regulation, the ECB may apply more stringent measures aimed at addressing macro-prudential risks. The ECB further notes that, pursuant to Article 9(1) of the SSM Regulation, the ECB may require national competent or designated authorities, by way of instructions, to make use of their macro-prudential powers where the SSM Regulation does not confer such powers on the ECB.

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

Done at Frankfurt am Main, 17 December 2014.

[signed]

*The President of the ECB*

Mario DRAGHI

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<sup>5</sup> Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

<sup>6</sup> Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on the access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

<sup>7</sup> Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).