



EUROPEAN CENTRAL BANK

EUROSYSTEM

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ECB-PUBLIC

OPINION OF THE EUROPEAN CENTRAL BANK

of 3 June 2016

on the internal audit of Българска народна банка (Bulgarian National Bank)

(CON/2016/30)

Introduction and legal basis

On 27 April 2016 the European Central Bank (ECB) received a request from the National Assembly of the Republic of Bulgaria for an opinion on a draft law amending and supplementing the Law on the internal audit in the public sector and amending the Law on Българска народна банка (Bulgarian National Bank (BNB)) (hereinafter the '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/EC¹, as the draft law relates to a national central bank. 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

- 1.1 The purpose of the draft law is to amend the law on BNB in order to improve the organisation and the legal framework for the internal audit of BNB. The draft law provides that the internal audit of BNB is undertaken by an internal audit unit managed by a chief auditor. In order to be appointed BNB's chief auditor and the auditors of the internal audit unit must meet the requirements set out in the Law on internal audit in the public sector².
- 1.2 Pursuant to the draft law the internal audit of BNB is undertaken in compliance with the international standards for the professional practice of internal auditing, the Code of Ethics of Internal Auditors, the rules of the Internal Auditors Committee of the European System of Central Banks (ESCB) and the rules of operation adopted by BNB's Governing Council.
- 1.3 The draft law provides that the objectives, powers, responsibilities, audit plan and activity report of the internal audit of BNB is approved by BNB's Governing Council.

2. Observations

- 2.1 The ECB welcomes that the draft law clarifies that the internal audit of BNB is undertaken in compliance with the international standards for the professional practice of internal auditing and the rules of the Internal Auditors Committee of the ESCB. In this regard the Audit Charter for the

¹ 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).

² See Article 19(2) of the Law on internal audit in the public sector.

Eurosystem/ESCB and the Single Supervisory Mechanism³ (hereinafter the 'Audit Charter') refers to and supplements the Institute of Internal Auditors' (IIA) International Standards for the Professional Practice of Internal Auditing (hereinafter the 'IIA Standards')⁴ and the IIA Code of Ethics⁵. In particular IIA Standard 1210, which is reflected in the Audit Charter, provides that internal auditors must possess the knowledge, skills and other competences needed to perform their individual responsibilities. Moreover the internal audit activity collectively must possess or obtain the knowledge, skills, and other competencies needed to perform its responsibilities.

2.2 Against this background, the draft law requires that BNB's chief auditor and the auditors in the internal audit unit meet the requirements for the appointment of internal auditors set out in the Law on internal audit in the public sector⁶. In accordance with these requirements internal auditors must have a 'Public Sector Internal Auditor' certificate issued by the Minister of Finance, an IIA 'Certified Internal Auditor' certificate, or an IIA 'Certified Government Auditing Professional' certificate⁷. The ECB notes in this regard that the IIA encourages internal auditors to demonstrate proficiency by obtaining appropriate certifications and qualifications⁸. The draft law requires internal auditors to have one of these certificates when they are recruited. Although this requirement does not correspond to a specific IIA recommendation, the objective of having formal professional qualifications for the internal audit function is clearly acknowledged by the ECB. However, the limitation to specific certifications may unduly discriminate against other relevant and internationally recognised certifications and qualifications in the field of auditing, control, risk management, fraud and corporate governance⁹. In addition the 'Public Sector Internal Auditor' certificate does not appear to correspond to the specific tasks of a central bank and may be less pertinent to a central bank's internal audit function than a requirement for higher education in a relevant field. Therefore, the ECB recommends that careful attention be given to not unreasonably limiting the recruitment of appropriately qualified technical experts into BNB's internal audit unit, as this may affect the proper balance and mixture of skills within the internal audit function, thus potentially affecting BNB's autonomy in staff matters as referred to in paragraph 2.3.

2.3 The ECB considers that the date of entry into force of the draft law, currently foreseen for 1 January 2017, introduces an element of uncertainty as regards the feasibility of the provision, since BNB's chief auditor and the auditors in the internal audit unit would have to obtain the certificates mentioned in paragraph 2.2 of this Opinion by that date unless they already have such certificates¹⁰. As noted in past ECB Convergence Reports, autonomy in staff matters, an aspect of the principle of central bank financial independence, implies that a national central bank may not be put in a position where it has limited control or no control over its staff, or where the government of a Member State may influence its policy on staff matters. The ECB considers it important that the

³ Published on the ECB's website at www.ecb.europa.eu.

⁴ The IIA Standards are published on the IIA's website at www.theiia.org.

⁵ The IIA Code of Ethics is published on the IIA's website at www.theiia.org

⁶ See Article 22(4) of the draft law.

⁷ See Article 19(2) and §1 of the Law on the internal audit in the public sector.

⁸ See the interpretation accompanying IIA Standard 1210.

⁹ Such as the certifications offered by the Association of Chartered Certified Accountants and the certificates of Certified Public Accountant, Chartered Financial Analyst, Certified Fraud Examiner and Certified Information Systems Auditor.

¹⁰ In accordance with Ordinance No. 6 of the Minister of Finance of 29 June 2006 the examination for the 'Public Sector Internal Auditor' certificate is carried out once a year in June.

National Assembly of the Republic of Bulgaria ensures that the draft law provides for a sufficient timeframe to give BNB's chief auditor and the auditors in the internal audit unit the opportunity to meet the new certification requirements. Therefore, the ECB recommends that the date of entry into force should be decided in close and effective cooperation with BNB, taking due account of its views so as to preserve BNB's autonomy in staff matters.

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

Done at Frankfurt am Main, 3 June 2016.

[signed]

The President of the ECB

Mario DRAGHI