



OPINION OF THE EUROPEAN CENTRAL BANK
of 26 June 2009
on the regulation of finance leasing and leasing companies' activities
(CON/2009/57)

Introduction and legal basis

On 20 May 2009 the European Central Bank (ECB) received a request from the Cypriot Ministry of Finance for an opinion on a draft law regulating finance leasing and the activities of leasing companies (hereinafter the 'draft law').

The ECB's competence to deliver an opinion is based on Article 105(4) of the Treaty establishing the European Community and on 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 provisions¹, as the draft law relates 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 and contents of the draft law

- 1.1 The purpose of the draft law is to lay down a framework for the provision, to the public, of finance leasing services in Cyprus and to establish a prudential supervision regime applicable to finance leasing service providers (finance leasing companies², banks and cooperative credit institutions). Accordingly, the draft law governs (i) the types of business in which finance lease service providers may engage, (ii) eligible lease property, (iii) licensing and regulatory requirements for finance leasing service providers, (iv) the form and contents of a finance lease agreement, (v) the rights and obligations of the parties to a finance lease and (vii) enforcement measures and sanctions.
- 1.2 As stated in Article 3(2) of the draft law and reiterated in the explanatory memorandum accompanying the consultation request, the draft law does not apply to finance leasing services where (i) they are not offered to the public in Cyprus or (ii) they relate to the sale and purchase of movable property where the sum total of the finance provided does not exceed EUR 5 000 per item

¹ OJ L 189, 3.7.1998, p. 42.

² Companies financing the purchase of tangible assets designated by the lessee in view of their subsequent lease to such lessee.

of movable property purchased or (iii) the credit period foreseen in the finance lease is inferior to three months.

1.3 This opinion only covers the provisions of the draft law that directly relate to the CBC.

2. New central bank tasks

The draft law entrusts the CBC with novel licensing and supervision tasks in connection with finance lease service providers other than cooperative credit institutions or their subsidiaries³. Significantly, the draft law recognises the CBC's powers of entry and investigation, requiring additional expenditure and sufficient human and material resources. For the CBC to be in a position to perform its new tasks in parallel with its Eurosystem-related and other tasks under the Laws on the Central Bank of Cyprus of 2002 to 2007⁴, it is essential for the CBC to dispose of the abovementioned resources. The ECB notes, in this regard, that the draft law⁵ explicitly foresees the reimbursement of the CBC's expenses arising from the performance of its newly assigned tasks.

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

Done at Frankfurt am Main, 26 June 2009.

The President of the ECB

Jean-Claude TRICHET

³ See in particular Article 2.

⁴ Law 138(I)/2002, *Episimi Efimerida tis Dimokratias*, Annex I(I), No 3624 of 19.07.2007.

⁵ Article 13(5).