



OPINION OF THE EUROPEAN CENTRAL BANK
of 21 May 2010
on certain provisions relating to the Banque de France
(CON/2010/44)

Introduction and legal basis

On 19 April 2010 the European Central Bank (ECB) received a request from the French Ministry for Economic Affairs, Industry and Employment for an opinion on certain provisions of a draft law ratifying Order No 2010-76 of 21 January 2010 merging the banking and insurance licensing and supervisory authorities (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/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 Banque de France. 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 draft law provides for the ratification of the order that created the new Prudential Control Authority². It modifies the composition of the Banque de France’s General Council (hereinafter the ‘General Council’) and provides that the Prudential Control Authority’s Vice-President becomes a member of the General Council³. It also clarifies that the Banque de France, the Prudential Control Authority and the Financial Markets Authority are to cooperate with each other and that they may share the information necessary for the performance of their tasks⁴.

2. General observations

2.1 The ECB understands that the reason for the Prudential Control Authority’s Vice-President becoming a member of the General Council is to strengthen the links between the Prudential

¹ OJ L 189, 3.7.1998, p. 42.

² See Opinion CON/2010/4. All opinions are published on the ECB’s website at www.ecb.europa.eu.

³ Article L. 142-3 of the French Monetary and Financial Code as amended by the draft law.

⁴ Article L. 631-1 of the French Monetary and Financial Code as amended by the draft law.

Control Authority and the Banque de France. The General Council is, *inter alia*, responsible for the administration of the Banque de France, managing the Banque de France's activities other than those related to the European System of Central Banks (ESCB), deciding on the use of own funds, and drawing-up projected and amended expenditure budgets to ensure that the Banque de France is allocated the necessary resources for carrying out the tasks delegated to it due to its ESCB participation⁵. The ECB understands that the General Council will therefore be the competent body within Banque de France for deciding on the allocation of additional contributions to the Prudential Control Authority⁶. In this context, the ECB considers that the participation of the Prudential Control Authority's Vice-President in the General Council does not affect the Banque de France's financial independence⁷.

2.2 The ECB welcomes the provision that provides for information sharing between the national supervisory authorities and the Banque de France for the performance of their tasks. The ECB understands that, prior to the establishment of the Prudential Control Authority and the setting-up of structured collaboration between the Prudential Control Authority and the Financial Markets Authority, the national supervisory authorities and the Banque de France did cooperate and were able to share the information required for their respective tasks. Information sharing remains crucial following the establishment of the Prudential Control Authority as an independent administrative authority closely connected to the Banque de France.

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

Done at Frankfurt am Main, 21 May 2010.

[signed]

The President of the ECB

Jean-Claude TRICHET

⁵ The General Council is also responsible for examining issues relating to the terms of employment of staff and approving the Banque de France's balance sheet and accounts, allocating profits and fixing the State's share of the dividend. See Article L.141-1 of the French Monetary and Financial Code.

⁶ Article L. 612-18 of the French Monetary and Financial Code.

⁷ The ECB's Convergence Report 2008, p. 20. The principle of financial independence implies that a national central bank must have sufficient means not only to perform ESCB-related tasks but also its own national tasks (e.g. financing its administration and own operations).