



OPINION OF THE EUROPEAN CENTRAL BANK

of 2 November 2010

on the extension of the Irish State guarantee of certain liabilities of credit institutions

(CON/2010/75)

Introduction and legal basis

On 28 October 2010 the European Central Bank (ECB) received a request from the Irish Minister for Finance (hereinafter the ‘Minister’) for an opinion on a draft Credit Institutions (Eligible Liabilities Guarantee) (Amendment) (No 2) Scheme 2010 (hereinafter the ‘draft scheme’) amending the Credit Institutions (Eligible Liabilities Guarantee) Scheme 2009 (hereinafter the ‘ELG Scheme’).

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 of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions¹, as the draft scheme 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 revised draft scheme

- 1.1 The ELG Scheme was signed into law on 9 December 2009. The ECB was consulted on the ELG Scheme at the draft stage and adopted its Opinion CON/2009/56². Subsequently the ECB adopted Opinions CON/2009/92 and CON/2010/71 on proposed amendments to the ELG Scheme.
- 1.2 The Irish Government now proposes a further prolongation of the validity of the ELG Scheme by 12 months, i.e. that eligible liabilities may be issued until 31 December 2011 together with some minor technical changes.

2. The appropriate time to consult the ECB

The ECB notes that the Minister for Finance has requested that the ECB provides its opinion as soon as possible in order to ensure that Union State aid approval for the draft scheme can be obtained quickly and

¹ OJ L 189, 3.7.1998, p. 42.

² All ECB opinions are published on the ECB’s website at www.ecb.europa.eu.

the draft scheme presented for parliamentary approval. The ECB reiterates its view as expressed in previous opinions³ that the consultation should take place at a point in the legislative process which affords the ECB sufficient time to examine the draft legislative provisions and to adopt its opinion in all required language versions, and which also enables the relevant national authorities to take the ECB's opinion into consideration before the provisions are adopted. Article 3(4) of Decision 98/415/EC also obliges Member States to suspend the adoption process for draft legislative provisions, pending receipt of the ECB's opinion. The ECB would appreciate the Department of Finance giving due consideration to honouring their obligation to consult the ECB in the future, in accordance with Decision 98/415/EC.

3. The draft scheme

- 3.1 The purpose of the draft scheme is the extension of the issuance period under the ELG Scheme from 31 December 2010 to 31 December 2011. The Minister in his request for an opinion advises that a positive assessment by the ECB on financial stability grounds of the requirement for a prolongation of the guarantee of short term and interbank liabilities is considered essential by the European Commission to the Commission's approval process.
- 3.2 The ECB reiterates the views expressed in previous opinions⁴. In particular, it recalls that coordination of the duration of national financial support schemes across the Union is of crucial importance in order to ensure a level playing field⁵.
- 3.3 Taking into account financial stability considerations, an extension of the ELG Scheme may be beneficial.

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

Done at Frankfurt am Main, 2 November 2010.

[signed]

The President of the ECB

Jean-Claude TRICHET

³ See Opinion CON/2010/71, paragraph 2, CON/2010/50, paragraph 2 and CON/2010/36, paragraph 2.1.

⁴ See Opinions CON/2010/71, CON/2010/29 and CON/2008/44.

⁵ See Opinions CON/2009/24, paragraph 3.1, CON/2009/54, paragraph 2.5.2 and CON/2009/73, paragraph 3.2.