



EUROPEAN CENTRAL BANK

## OPINION OF THE EUROPEAN CENTRAL BANK

of 12 December 2005

**at the request of the Ministry of Finance of the Slovak Republic on a draft law amending the State Treasury Act**

**(CON/2005/55)**

1. On 27 October 2005 the European Central Bank (ECB) received a request from the Ministry of Finance of the Slovak Republic on a draft law amending the Act No 291/2002 Coll. on the State Treasury and on amendments to certain laws, as last amended, and amending the Act No 523/2004 Coll. on the budgetary rules of public administration and on amendments to certain laws, as last amended (hereinafter the 'draft law').
2. The ECB's competence to deliver an opinion is based on 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 provisions<sup>1</sup>, as the draft law contains provisions concerning a national central bank (NCB). 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.
3. According to the explanatory memorandum to the draft law, the amendments proposed in the draft law are based on practical experience with the operation of the State Treasury system in 2004 and 2005 and their main objective is to facilitate the maintenance and further development of the State Treasury system as an advanced tool for managing public finance in Slovakia. The ECB also notes that the draft law amends a number of provisions of the current version of the Act No 291/2002 Coll. on the State Treasury and on amendments to certain laws, as last amended (hereinafter the 'State Treasury Act') in relation to Národná banka Slovenska's (NBS) fiscal agency tasks and its compliance with the prohibition on monetary financing under Article 101(1) of the Treaty establishing the European Community.
4. It is noted that the ECB was consulted recently on amendments to the Act No 566/1992 Coll. on Národná banka Slovenska, as last amended (hereinafter the 'NBS Act')<sup>2</sup>. In its Opinion CON/2005/26, the ECB assessed whether the proposed amendments to the NBS Act complied with the prohibition on monetary financing under the Treaty and also considered the the relevant

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<sup>1</sup> OJ L 189, 3.7.1998, p. 42.

<sup>2</sup> ECB Opinion CON/2005/26 of 4 August 2005 at the request of Národná banka Slovenska on a draft law amending the Act No 566/1992 Coll. on NBS, as amended, and on amendments to certain laws.

provisions of the State Treasury Act, noting that ‘both the draft law<sup>3</sup> [amending the NBS Act] and the State Treasury Act contain important safeguards ensuring the compatibility of such operations with the prohibition on monetary financing contained in Article 101(1) of the Treaty establishing the European Community<sup>4</sup>. Moreover, the ECB welcomed the new provisions concerned and noted that ‘the services currently provided by NBS to the State Treasury and the Agency for Debt and Liquidity Management do not appear to go beyond the scope of what is permissible<sup>5</sup>’.

5. The ECB notes that the draft law partially reformulates the provisions of the State Treasury Act concerning the ‘single account<sup>6</sup>’, which is a memorandum account containing a summary of the balances of all State Treasury accounts held with NBS. The draft law provides for a new State Treasury client named the ‘State Debt’. Financial operations performed on the State Debt’s accounts relate to financing of the state budget deficit and the state debt, risk management and investment of temporarily uncommitted resources<sup>7</sup>. The ECB notes too that the State Debt may also open an account with NBS outside the scope of the State Treasury scheme in order to invest temporarily uncommitted resources and to carry out financial operations relating to risk management. While the draft law lifts the existing obligation for individual State Treasury accounts held with NBS to show a credit balance<sup>8</sup>, the ECB welcomes the fact that the draft law stipulates that the single account<sup>9</sup> held with the State Treasury as well as the State Debt account<sup>10</sup> held with NBS must at all times show a credit balance. At the same time the ECB notes that pursuant to the NBS Act, NBS may carry out payments from State Treasury accounts only up to the level of the credit balance on these accounts<sup>11</sup>. Finally, the ECB takes note that the draft law does not amend any existing provisions of the State Treasury Act which ensure compliance with the prohibition on overdraft facilities or any other type of credit facility with NBS in favour of the State Treasury as laid down in Article 101(1) of the Treaty. In fact, the draft law reproduces the important safeguard that the single account must at all times show a credit balance.<sup>12</sup> In order to ensure that the State Treasury observes its obligations in this respect, there are also safeguards to ensure that (i) only the State Treasury is empowered to settle payments from State Treasury accounts held with NBS and recorded in the single account<sup>13</sup>; (ii) a client of the State Treasury may request the State Treasury to execute expenditure only if the request for execution of the payment has been approved by the State

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3 It is noted that the draft law [amending the NBS Act], which was the subject of ECB Opinion CON/2005/26, was published on 28 November 2005 in the Collection of Laws of the Slovak Republic as the Act No 519/2005 Coll. on amendments to the Act No 566/1992 Coll. on Národná banka Slovenska, as amended, and on amendments to certain laws.

4 See Paragraph 12 of ECB Opinion CON/2005/26.

5 Ibid.

6 See the proposed new Article 11(1) of the State Treasury Act.

7 See the proposed new Article 2c(1) of the State Treasury Act.

8 Currently provided for in Article 11(2) of the State Treasury Act.

9 See the proposed new Article 11(2) of the State Treasury Act.

10 See the proposed new Article 2c(5) of the State Treasury Act.

11 Article 25(2) of the NBS Act.

12 See the proposed new Article 11(2) of the State Treasury Act.

13 See the proposed new Article 11(4) of the State Treasury Act.

Treasury<sup>14</sup>; and (iii) the State Treasury must compare the request for execution of the payment with the credit balance on the client account. Where there is a discrepancy between the total payment stated in the request for payment execution and the credit balance on the client account, the State Treasury may not approve the request for payment execution and must inform the client thereof at the latest within one working day following the maturity date of the requested payment<sup>15</sup>.

6. The ECB takes note that the draft law refers to the State Treasury's obligation 'to compile aggregate data intended for international organisations and the European Union in accordance with the requirements of the Ministry of Finance<sup>16</sup>'. In this context, the ECB notes that NBS and Štatistický úrad Slovenskej Republiky have to provide annual and quarterly government finance statistics in compliance with Community law, including with the requirements laid down in Guideline ECB/2005/5 of 17 February 2005 on the statistical reporting requirements of the European Central Bank and the procedures for exchanging statistical information within the European System of Central Banks in the field of government finance statistics<sup>17</sup>. In this regard, the basic statistical information provided by the State Treasury should ideally support the efficient performance of this obligation. A progressive alignment of the Slovak public accounting system with national accounting standards would also support the provision of reliable information on public finances.
7. This opinion will be published on the ECB's website.

Done at Frankfurt am Main, 12 December 2005.

[signed]

*The President of the ECB*

Jean-Claude TRICHET

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<sup>14</sup> See the proposed new Articles 9(4) and 9a(5) of the State Treasury Act.

<sup>15</sup> See the proposed new Articles 9(5) and 9a(6) of the State Treasury Act.

<sup>16</sup> See the proposed new Article 6(3)(b) of the State Treasury Act.

<sup>17</sup> OJ L 109, 29.4.2005, p. 81.