

OPINION OF THE EUROPEAN CENTRAL BANK
of 21 August 2017
on the reporting of credit data
(CON/2017/33)

Introduction and legal basis

On 21 July 2017 the European Central Bank (ECB) received a request from the Austrian Ministry of Finance for an opinion on a draft law regarding amendments to the Banking Act, the Investment Fund Act and the Law on the National Bank in connection with Regulation (EU) 2016/867 (hereinafter the 'draft law')¹.

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 on the third and fourth indents of Article 2(1) of Council Decision 98/415/EC², as the draft law relates to the Oesterreichische Nationalbank (OeNB) and the collection of financial statistics. 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 main purpose of the draft law is to ensure the effective implementation of Regulation (EU) 2016/867 of the European Central Bank (ECB/2016/13)³. To this end, the draft law amends national reporting requirements for credit institutions in order to avoid a duplication of reporting requirements. These requirements mainly relate to the reporting of credit data, which is currently reported through the central credit register established pursuant to section 75 of the Banking Act. With a view to enabling the collection of data in an integrated and efficient manner, the draft law also aligns the current terminology in the Banking Act with the terms used in Regulation (EU) 2016/867.
- 1.2. Under the draft law, the OeNB must ensure that the Financial Market Authority (FMA) is able to access the data reported by reporting agents in accordance with the draft law and within the scope of the right of reciprocity by other reporting Member States and the right of national central banks (NCBs) to deny access to other NCBs at all times, as set out in Regulation (EU) 2016/867. Where there is reciprocity, the OeNB has to make available data provided by reporting Member States

¹ Bundesgesetz, mit dem das Bankwesengesetz, das Investmentfondsgesetz und das Nationalbankgesetz geändert werden.

² 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).

³ Regulation (EU) 2016/867 of the European Central Bank of 18 May 2016 on the collection of granular credit and credit risk data (ECB/2016/13) (OJ L 144, 1.6.2016, p. 44).

- under Regulation (EU) 2016/867 to reporting agents and other third parties.
- 1.3. Furthermore, the draft law seeks to strengthen the OeNB's mandate of maintaining stability on the financial markets. In this respect, data not covered by Regulation (EU) 2016/867 is currently only collected from credit institutions. According to the draft law's explanatory memorandum, this restriction has hindered the collection of data relevant to the stability of the financial markets from other companies. The draft law clarifies that the OeNB may also collect such data from other companies active in the financial sector, including investment firms, capital management companies, financial institutions, (re)insurance companies and pension funds. From a technical perspective, the amendments ensure that the data collected pursuant to Regulation (EU) 2016/867 can be included in the OeNB's data model, which will facilitate the efficient collection of data within the scope of a multi-dimensional data model.

2. Observations

- 2.1 The ECB welcomes the fact that the draft law amends national reporting requirements with a view to ensuring the efficient reporting of credit data and avoiding reporting redundancies. This approach is in line with the spirit of Regulation (EU) 2016/867, the recitals of which note that, with a view to ensuring efficient reporting and adequate interoperability with other existing or new reporting frameworks, national central banks should be allowed to collect the information to be transmitted to the ECB as a part of a broader national reporting framework and to extend the reporting of credit data beyond the scope outlined in Regulation (EU) 2016/867, for their own statutory purposes, in line with relevant national law⁴.
- 2.2 The ECB notes that the previous reporting limit of EUR 350 000 per debtor should remain unchanged for counterparties and reporting agents that do not fall within the scope of Regulation (EU) 2016/867. The ECB understands that this also applies to financial institutions which do not fall within the scope of Regulation (EU) 2016/867.
- 2.3 The draft law contains provisions pursuant to which the OeNB must ensure that the FMA is able to access data within the scope of reciprocal use by other reporting Member States and must make available to certain third parties, where there is the right to reciprocity, data provided by reporting Member States under Regulation (EU) 2016/867. The ECB understands that these provisions of the draft law are intended to ensure that such data is only transmitted in full compliance with the provisions of Regulation (EU) 2016/867. In this respect, it is recalled that, pursuant to Article 10 of Regulation (EU) 2016/867, NCBs shall use credit data reported under Regulation (EU) 2016/867 to the extent and for the purposes defined in Council Regulation (EC) No 2533/98 of 23 November 1998⁵, including the confidentiality regime set out therein. Such data may be used, in particular, to establish and maintain a feedback loop in accordance with Article 11 of Regulation (EU) 2016/867. This Regulation does not give reporting agents any right to a feedback loop. Additionally, NCBs have the right to deny access to other NCBs to the granular credit data that they collect for the

⁴ See recital 15 of Regulation (EU) 2016/867.

⁵ Council Regulation (EC) No 2533/93 of 23 November 1998 concerning the collection of statistical information by the European Central Bank (OJ L 318, 27.11.1998, p. 8).

purposes of a feedback loop, except for information on an institutional unit of a reporting agent established in another reporting Member State. Further, pursuant to this Regulation, NCBs have the right to require reciprocity as regards provision of granular credit data with any NCB that requests data from another NCB for the purposes of a feedback loop. For the sake of legal certainty, it is suggested that the draft law, or alternatively the explanatory memorandum accompanying the draft law, could be usefully adapted to reflect these provisions of Regulation (EU) 2016/867.

- 2.4 The ECB welcomes the proposed amendments to the National Bank Act, which aim to strengthen the OeNB's mandate to maintain financial market stability. These amendments are in line with the aim of Regulation (EU) 2016/867 to ensure, inter alia, financial stability surveillance⁶.

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

Done at Frankfurt am Main, 21 August 2017.

[signed]

The President of the ECB

Mario DRAGHI

⁶ See recital 1 of Regulation (EU) 2016/867.