



**OPINION OF THE EUROPEAN CENTRAL BANK**  
**of 28 December 2020**  
**on NCB participation in International Monetary Fund borrowing arrangements**  
**(CON/2020/37)**

**Introduction and legal basis**

On 18 December 2020, the European Central Bank (ECB) received a request from the Italian Ministry of Economic Affairs and Finance for an opinion on draft legislative provisions (hereinafter the ‘draft legislative provisions’) included in the Italian Law on the budget for the year 2021 and for the multi-year period 2021-23 (hereinafter the ‘2021 Law on the budget’). The 2021 Law on the budget must be approved by the end of December 2020.

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<sup>1</sup>, as the draft legislative provisions relate to the Banca d’Italia. 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 legislative provisions**

**1.1 *Background context***

The draft legislative provisions aim at amending existing borrowing arrangements between Italy and the International Monetary Fund (IMF). In particular, the draft legislative provisions concern the New Arrangements to Borrow (NAB), the Bilateral Borrowing Agreement (BBA), and the contribution of Italy to the Poverty Reduction and Growth Trust (PRGT). In relation to the NAB and the BBA, the draft legislative provisions aim at aligning the Italian legal framework with the outcome of the negotiations between the IMF and its creditor member countries. In particular, following a negotiation of participating member countries under the IMF 15th General Review of Quotas – in an effort to review quotas and to increase the IMF’s capacity through this main source of financing – and the unsuccessful support for such quota increase, the IMF’s Executive Board approved, on 16 January 2020, a doubling of the NAB<sup>2</sup> and, on 31 March 2020, a framework for a new round of BBAs<sup>3</sup>. The provision of bilateral lending by IMF member countries through BBA schemes constitutes a third line of defence, after quotas and the NAB, to supplement IMF resources. The new arrangements under the NAB and BBAs are expected to take effect on 1 January 2021, subject to timely approvals by creditor member countries and their institutions. The renegotiation of

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<sup>1</sup> 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).

the NAB, BBA and PRGT borrowing arrangements are also considered to be critical steps in order to ensure that the IMF can support its membership through the global pandemic<sup>4</sup>.

#### 1.2 *Extension of the Banca d'Italia's participation in the New Arrangements to Borrow*

The draft legislative provisions authorise the Banca d'Italia to extend the term of the NAB scheme, due to expire on 16 November 2022, until 31 December 2025 and to increase the maximum amount of the disbursable loan, from 6,898.52 million special drawing rights (SDR) to 13,797.04 million SDR<sup>5</sup>.

#### 1.3 *Authorisation for the Banca d'Italia to renew Italy's BBA with the IMF*

The draft legislative provisions authorise the Banca d'Italia to renew the BBA currently in place between Italy and the IMF for the previously committed maximum amount of EUR 23,480 million. The term of the BBA, initially due to expire on 31 December 2020, is to be extended to 31 December 2023, further extendable to 31 December 2024. On entry into force of the renewed NAB, the amount of the BBA will be automatically reduced to EUR 10,115 million. While the maximum amount of the disbursable loan is expressed in EUR, the disbursements are denominated in SDR<sup>6</sup>.

#### 1.4 *New contribution to the Poverty Reduction and Growth Trust*

The draft legislative provisions authorise the Banca d'Italia to enter into a new loan agreement to the IMF's PRGT, for an amount of 1 billion SDR. The new loan agreement is in addition to the existing PRGT loan of 400 million SDR<sup>7</sup>.

#### 1.5 *Provision of a State guarantee and identification of financial resources*

The draft legislative provisions further provide for a State guarantee to the Banca d'Italia in respect of the reimbursement of principal and interest due on the NAB, BBA and PRGT loans. The State guarantee also covers any exchange risk related to the execution of the NAB and BBA loans<sup>8</sup>.

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2 See the IMF's press release No 20/10, available on the IMF's website at [www.imf.org](http://www.imf.org).

3 See the IMF's press release No 20/123, available on the IMF's website at [www.imf.org](http://www.imf.org).

4 Ibid.; as regards the PRGT, see the IMF's Questions and Answers on its response to COVID-19, available on the IMF's website at [www.imf.org](http://www.imf.org): 'The IMF is currently seeking additional donor support to expand its PRGT concessional lending for low-income countries.'

5 Currently, the NAB arrangements between Italy and the IMF are regulated by Article 2(13) and (15) of the Decree Law on the extension of deadlines and on urgent measures in the field of taxation, of 29 December 2010, No 225, converted by the Law of 26 February 2011, No 10, and by Article 16(6-bis) to (6-quinquies) of the Decree Law on the extension of deadlines, of 30 December 2016, No 244, converted by the Law of 27 February 2017, No 19.

6 The legal basis for the Banca d'Italia to negotiate a bilateral loan agreement with the IMF is found in Article 25(2) of the Decree Law of 29 December 2011, No 216, converted into the Law of 24 February 2012, No 14, subsequently modified by the Decree Law of 30 December 2016, No 244, converted into the Law of 27 February 2017, No 19. See Opinions CON/2012/20 and CON/2017/4. All ECB opinions are available on EUR-Lex.

7 Currently, Italy's participation in the PRGT is regulated by Article 16(6-sexies) of the Decree Law on the extension of deadlines, of 30 December 2016, No 244, converted by the Law of 27 February 2017, No 19. See Opinions CON/2011/10 and CON/2017/4.

8 The draft legislative provisions identify the sources of financing to cover the State guarantee by confirming the allocation of previously approved sources of financing: resources are provided under Article 13(6-ter) of the Decree Law on the extension of deadlines, of 30 December 2016, No 244, converted by the Law of 27 February 2017, No 19, and under Article 25(6) of the Decree Law of 29 December 2011, No 216, converted by the Law of 24 February 2012, No 14.

## 2. Monetary financing prohibition

- 2.1 Article 123(1) of the Treaty prohibits the national central banks (NCBs) from granting overdraft facilities or any other type of credit facility to public authorities and bodies of the Member States. This prohibition is however subject to certain exemptions contained in Council Regulation (EC) No 3603/93<sup>9</sup>. In particular, Article 7 of Regulation (EC) No 3603/93 provides that the financing by NCBs of obligations falling upon the public sector vis-à-vis the IMF is not regarded as a credit facility within the meaning of Article 123 of the Treaty. The fourteenth recital of Regulation (EC) No 3603/93 clarifies the rationale behind this exemption, stating that it is appropriate to authorise the financing by the NCBs of obligations falling upon the public sector vis-à-vis the IMF because such financing ‘results in foreign claims which have all the characteristics of reserve assets’. Therefore, the exemption in Article 7 of Regulation (EC) No 3603/93 must be interpreted in line with this rationale<sup>10</sup>.
- 2.2 Reserve assets have been defined as those external assets that are readily available to and controlled by monetary authorities for meeting balance of payments financing needs, for interventions in exchange markets to affect the currency exchange rate, and for other related purposes, such as maintaining confidence in the currency and the economy, and serving as a basis for foreign borrowing. Under this definition, reserve assets must be foreign currency assets and, other than gold bullion, must be claims on non-residents<sup>11</sup>.
- 2.3 The ECB considers that the Banca d’Italia’s transfer of Italy’s additional contribution to the IMF’s PRGT and renewal of loans under the NAB and BBA schemes with the IMF, as set out in the draft legislative provisions, falls within the exemption of Article 7 of Regulation (EC) No 3603/93 because this financing results in foreign currency (SDR)-denominated claims of the Banca d’Italia against non-resident persons (the IMF and an IMF-administered trust) that have all the characteristics of reserve assets<sup>12</sup>.

## 3. Financial independence

- 3.1 From the perspective of the financial independence required of an NCB in the European System of Central Banks (ESCB) under Article 130 of the Treaty, pursuant to which Member States may not put their NCBs in a position where they have insufficient financial resources to carry out their ESCB or Eurosystem-related tasks<sup>13</sup>, the ECB welcomes the guarantee to be provided by the State under the draft legislative provisions with respect to the reimbursement of principal and interest on the Banca d’Italia’s loans which, in relation to the execution of the NAB and BBA schemes, will also cover any exchange rate risk on such loans provided by the Banca d’Italia.

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<sup>9</sup> Council Regulation (EC) No 3603/93 of 13 December 1993 specifying definitions for the application of the prohibitions referred to in Articles 104 and 104b(1) of the Treaty (OJ L 332, 31.12.1993, p. 1).

<sup>10</sup> Consistent with this interpretation, see Opinions CON/2005/29, CON/2013/16 and CON/2017/4. With regard to the issue of NCBs’ financing of IMF quota increases, see Opinions CON/2011/97 and CON/2012/65.

<sup>11</sup> See International Monetary Fund, *Balance of Payments and International Investment Position Manual* (sixth edn., 2009), Chapter 8, Section F, pp. 111-18.

<sup>12</sup> See also Opinions CON/2017/4, CON/2020/27, CON/2020/32 and CON/2020/34.

<sup>13</sup> ECB Convergence Report 2020, para. 2.2.3.

This opinion will be published on EUR-Lex.

Done at Frankfurt am Main, 28 December 2020.

[signed]

*The President of the ECB*

Christine LAGARDE