



## OPINION OF THE EUROPEAN CENTRAL BANK

of 8 July 2014

**on the age limit applicable to and term of office of the Governor and Deputy Governors of the  
Banque de France**

**(CON/2014/51)**

### **Introduction and legal basis**

On 30 June 2014 the European Central Bank (ECB) received a request from the French Ministry of Finance and Economic Affairs for an opinion on draft legislation amending Article L. 142-8 of the Monetary and Financial Code (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<sup>1</sup>, 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**

The draft law concerns the age limit applicable to and the term of office of the Governor and Deputy Governors of the Banque de France. It provides that upon reaching the age limit, the Governor and Deputy Governors shall nonetheless remain in office until the expiry of their current term of office.

### **2. Personal independence of the Governor and Deputy Governors of the Banque de France**

2.1 In accordance with Article 14.2 of the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the ‘Statute of the ESCB’), national central bank (NCB) statutes must provide for a minimum term of office of five years for a Governor. This does not preclude longer terms of office. Indeed, an indefinite term of office does not require an NCB’s statute to be amended, provided the grounds for the dismissal of its Governor are in line with those of Article 14.2 of the Statute of the ESCB. National legislation which provides for a compulsory retirement age must ensure that the retirement age does not interrupt the minimum term of office required by Article 14.2, which prevails over any compulsory retirement age in respect of a

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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).

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- Governor<sup>2</sup>. If an NCB's statutes are amended, the amending law must safeguard the security of tenure of the Governor and of other members of decision-making bodies who are involved in the performance of ESCB-related tasks<sup>3</sup>.
- 2.2 Personal independence would be jeopardised if the same rules for the security of tenure and grounds for dismissal of Governors did not also apply to other members of the decision-making bodies of NCBs involved in the performance of ESCB-related tasks<sup>4</sup>. Various provisions of the Treaty and of the Statute of the ESCB require comparable security of tenure. Article 14.2 of the Statute of the ESCB does not restrict the security of tenure of office to Governors, while Article 130 of the Treaty and Article 7 of the Statute of the ESCB refer to 'members of the decision-making bodies' of NCBs, rather than to Governors specifically. This is of particular importance where a Governor is 'first among equals' with colleagues with equivalent voting rights, or where such other members are involved in the performance of ESCB-related tasks<sup>5</sup>.
- 2.3 The ECB welcomes the inclusion of an express provision in Article L. 142-8 of the Monetary and Financial Code to the effect that when the Governor and Deputy Governors reach the age limit during their term of office, they nonetheless remain in office until the end of their original term, as it brings the Monetary and Financial Code in line with the requirements of Article 14.2 of the Statute of the ESCB in conjunction with Article 130 of the Treaty and Article 7 of the Statute of the ESCB.

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

Done at Frankfurt am Main, 8 July 2014.

[Signed]

*The President of the ECB*

Mario DRAGHI

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<sup>2</sup> See Opinion CON/2012/89. All ECB opinions are published on the ECB's website at [www.ecb.europa.eu](http://www.ecb.europa.eu).

<sup>3</sup> See the ECB's June 2014 Convergence Report, pp. 29-30.

<sup>4</sup> The relevant ECB opinions in this area are CON/2004/35, CON/2005/26, CON/2006/32, CON/2006/44 and CON/2007/6.

<sup>5</sup> See the ECB's June 2014 Convergence Report, p. 30.