



EUROPEAN CENTRAL BANK

EUROSYSTEM

**ECB-RESTRICTED**

Jean-Claude TRICHET  
*President*

Mr Michael Noonan  
Minister for Finance  
Department of Finance  
Government Buildings  
Upper Merrion Street  
**IRE - Dublin 2**

26 October 2011

Dear Minister,

**Timeframe for consulting the European Central Bank on draft national legislation**

I am writing to you with regard to the timeframe for consulting the European Central Bank (ECB) on draft national legislation. As you know, the ECB responds to consultations on draft legislation in its advisory role pursuant to Article 127(4) of the Treaty on the Functioning of the European Union and 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>. Over the years, the ECB has issued a significant number of opinions on draft national legislation and these opinions have benefited from close cooperation between the consulting authorities and the ECB. Against this background, I would be grateful if you would take the suggestions below into consideration in your future consultations with the ECB.

National authorities should take the measures necessary to ensure effective compliance with Decision 98/415/EC, pursuant to Article 4 thereof, by duly consulting the ECB on draft legislative provisions falling within its field of competence<sup>2</sup> at an appropriate stage of the legislative process. In that context, the ECB recommends putting in place appropriate internal procedures to ensure that consultation of the ECB takes place at an appropriate stage, which enables the consulting and/or adopting authority to take into consideration the ECB's Opinion before the legislative provision in question is adopted. Re-consultation is necessary if the draft provisions are substantially amended during the legislative procedure.

The ECB understands that the legislative process may be subject to a number of tight deadlines, especially in times of crisis. Under such circumstances, the ECB does all that it can to accommodate the particular needs of a consulting authority by accelerating its own internal procedure. The ECB also stands

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<sup>1</sup> OJ L 189, 3.7.1998, p. 42. All ECB Opinions are published on the ECB's website at [www.ecb.europa.eu](http://www.ecb.europa.eu).

<sup>2</sup> This also includes provisions which are not subject to parliamentary approval. Only those draft legislative provisions which exclusively serve to transpose Union law are excluded from the consultation duty.

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ready to receive your consultation requests, duly signed and addressed, by fax to +00 49 69 [REDACTED] or, as a scanned attachment, by e-mail to [REDACTED]@ecb.europa.eu.

The ECB would like to draw your attention to the time needed for the preparation of an opinion. The consultation procedure requires a number of steps to be taken before an opinion can be adopted:

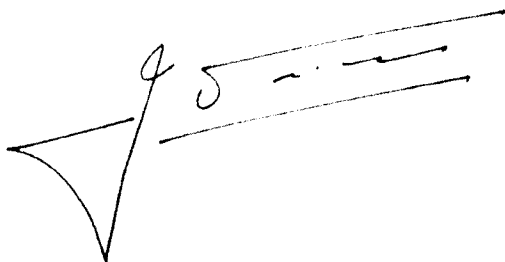
- (i) first, there is the time necessary to translate the draft legislation to ensure appropriate review;
- (ii) following translation, the relevant provisions are analysed in detail by the ECB experts involved in drafting the opinion;
- (iii) then, the members of the Governing Council may comment and the General Council make observations on the draft opinion. A standard deadline for this written procedure is one week. Any comments or observations submitted by members must also be considered and another written procedure may be required.

As you can see, the ECB needs several weeks to prepare an opinion. If a consulting authority considers it necessary, Article 3(1) of Decision 98/415/EC provides that it can set the ECB a time limit for the submission of its opinion. This may normally not be less than one month. In cases of extreme urgency this time limit may be reduced (see Article 3(2) of Decision 98/415/EC).

Let me finally assure you that the procedure for the preparation and adoption of ECB opinions is carried out under strict confidentiality conditions, so that politically or market sensitive issues addressed by the draft legislation are not made public during the consultation procedure. Upon request, the publication of the opinion can be delayed in order to take into account such sensitive issues.

I would be grateful if you could take the above into account when consulting the ECB and setting a deadline for an opinion.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'P. Honohan', written over two horizontal lines.

cc: Mr Patrick Honohan, Governor of the Central Bank of Ireland