

EUROPEAN CENTRAL BANK Ms
Chiara Zilioli Chairperson of
LEGCO

Ref.: SG/EDL/LS/CV/41/16

Luxembourg, 18 October 2016

2016/101/LEGCO First WP (extended) - Questionnaire on assigning powers to the NCB to assess competition and issue directions to lenders with regard to interest rates (LS/16/1114)

Dear Chair,

We refer to your letter of 12 October.

Please find, hereafter, our answers to the questions together with some additional observations.

I. Answers to the questions

1. Has your central bank been assigned with tasks relating to the **protection of competition**? Has it been assigned similar powers to regularly assess the state of competition? Please describe briefly the scope of those tasks, also referring to the legal basis.

No.

2. Has your central bank been assigned with powers to **regulate the interest rates charged** by banks in respect of loans and/or the **savings remuneration offered** by banks in respect of deposits; and/or the application of **usury laws** in your respective jurisdictions? Please describe briefly the scope of those powers, also referring to the legal basis.

No.

With regard to the interest rates on the loans given by credit institutions to their customers, BCL only exercises limited functions:

(i) BCL collects and publishes on a monthly basis statistics on the interests charged by the credit institutions for their customers in Luxembourg based on ECB legal instrument.

(ii) Late interest payments in commercial matters are determined by reference to the main refinancing facility rate of the ECB (Article 5 of the law of 18 April 2004). For the publication of this rate in the *Mémorial* (Official gazette), BCL provides assistance to the Government. The legal interest rate in Luxembourg is determined by grand ducal regulation; it is determined by reference to the rates applicable to commercial and private credits as applied by credit institutions in Luxembourg (Article 14 of law of 18 April 2004).

In Luxembourg, interest rates changes by credit institution are based on the contractual freedom. Protective provisions exist in the Luxembourg Civil Code and in the Luxembourg Criminal Code.

- The Luxembourg Civil Code provides that e.g. contractual interest may exceed the legal interest rate if agreed unless prohibited by law (Article 1907); a reduction of interests may be claimed before the courts (article 1907-1). Rules on compounding of interests also exist (Article 1154).
- The Luxembourg Criminal code provides for sanctions if a creditor takes advantage of weak persons (**Art. 494.** *Quiconque aura habituellement fourni des valeurs, de quelque manière que ce soit, à un taux excédant l'intérêt légal et en abusant des faiblesses ou des passions de l'emprunteur, sera condamné à un emprisonnement d'un mois à un an et à une amende de 500 euros à 25.000 euros, ou à une de ces peines seulement.*)

3. Has another public authority, such as the **national competition or consumer protection authority**, been conferred with such tasks to assess competition, or to regulate interest rates on loans or deposit rates offered by financial institutions? How do these authorities interact with the central bank and/or the prudential supervisor in carrying out such tasks? Please describe briefly the scope of those powers, also referring to the legal basis.

No.

The Supervisory Authority of the Financial Sector (CSSF) has competence to settle disputes between the credit institutions and their clients qualifying as consumers (also Article 224-26 of Code de consommation). The Luxembourg Consumer protection code only foresees general disclosure requirements on interest determination in the contractual documentation for the proper information of clients. Being in charge of the supervision of banks according to the law of 5 April 1993 as amended, no specific provisions exist in this respect.

II. Additional observations



Kind regards,

[Redacted]

[Redacted] 

CC: LEGCO Members (Standard composition)