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Opinion of the European Central Bank of 6 April 2010 on extending government guarantees to banks and other institutions (CON/2010/29)

European Central Bank (ECB)

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EUROPEAN CENTRAL BANK

EUROSYSTEM

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Introduction and legal basis

On 19 March 2010, the European Central Bank (ECB) received a request from the Swedish Ministry of Finance for an opinion on a draft ordinance amending Ordinance 2008:819 on government guarantees to banks, etc. (hereinafter the 'draft ordinance').

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 sixth indent of Article 2(1) of Council Decision 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions[1], as the draft ordinance relates to rules applicable to financial institutions insofar as they materially influence the stability of financial institutions and markets. 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 ordinance

The draft ordinance amends Ordinance 2008:819 on government guarantees to banks, etc. which was adopted by the Swedish Ministry of Finance on 29 October 2008. The ECB was consulted on Ordinance 2008:819 at the draft stage and adopted its Opinion CON/2008/62 on 29 October 2008[2].

In March 2009 the ECB was consulted on proposed amendments to Ordinance 2008:819 and adopted its Opinion CON/2009/30 and in October 2009 the ECB was consulted on further proposed amendments to Ordinance 2008:819 and adopted its Opinion CON/2009/79.

Under the provisions currently in force, the Swedish guarantee scheme expires on 30 April 2010. In the memorandum accompanying the draft ordinance, the Swedish Government states that while the scheme and other measures have contributed to the stabilisation of the financial markets, the Swedish Government is of the view that markets have not yet returned to normal functioning. The memorandum also points out that the guarantee schemes of many Union Member States will expire on 30 June 2010,

1 OJ L 189, 3.7.1998, p. 42.

2 All ECB opinions are published on the ECB's website at www.ecb.europa.eu.

and that there is an ongoing discussion at the European level on the harmonised conditions for prolongations of these programs beyond 30 June 2010.

The Swedish Government concludes that the guarantee scheme should be prolonged for another two months, i.e. until 30 June 2010, on unchanged terms.

2. General observations

To the extent relevant, the observations made in Opinions CON/2008/62, CON/2009/30 and CON/2009/79 also apply to the draft ordinance.

In particular, the ECB reiterates that any initiatives put in place by the competent national authorities to restore confidence in the financial markets should be coordinated and should aim to implement common principles in a spirit of close cooperation with other Member States and the Union institutions since significant differences in national implementation could create distortions in global banking markets. In this regard, the ECB emphasises that coordination of the duration of national financial support schemes across the Union is of crucial importance in order to ensure a level playing field[3]. In addition, the ECB notes the need for national support measures to be temporary in nature[4].

The ECB therefore underlines the temporary nature of this State guarantee scheme and the fact that the guarantees of the Swedish State will be limited in time.

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

Done at Frankfurt am Main, 6 April 2010.

[signed]

The President of the ECB

Jean-Claude TRICHET

3 See Opinions CON/2009/24, paragraph 3.1, CON/2009/54, paragraph 2.5.2, and CON/2009/73, paragraph 3.2.

4 See Opinions CON/2009/24, paragraph 2.2, CON/2009/62, paragraph 3.3, CON/2009/73, paragraph 3.2, and CON/2009/92, paragraph 3.6.