



EUROPEAN CENTRAL BANK
EUROSYSTEM

ECB-PUBLIC

COURTESY TRANSLATION

Mario DRAGHI
President

Ms Paloma López Bermejo
Member of the European Parliament
European Parliament
60, rue Wiertz
B-1047 Brussels

Frankfurt, 27 February 2017

L/MD/17/94

Re: Your letter (QZ-003)

Honourable Member of the European Parliament, dear Ms López Bermejo,

Thank you for your letter, which was passed on to me by Mr Roberto Gualtieri, Chairman of the Committee on Economic and Monetary Affairs, accompanied by a cover letter dated 18 January 2017.

Pursuant to Article 127(4) of the Treaty on the Functioning of the European Union, in conjunction with the sixth indent of Article 2(1) of Council Decision 98/415/EC¹, the authorities of Member States are required to consult the ECB on any draft legislative provision within the ECB's fields of competence pursuant to the Treaty, including on "rules applicable to financial institutions insofar as they materially influence the stability of financial institutions and markets".

Please be informed that on 17 January the Banco de España, on behalf of the Spanish Secretary of State for Economy and Business Support, submitted an urgent consultation request to the ECB for an opinion on Royal Decree-Law 1/2017 (the "Royal Decree-Law"), specifically on urgent consumer protection measures regarding floor clauses.

While the Royal Decree-Law clearly contains "rules applicable to financial institutions", it was not entirely clear to what extent these rules "materially influence the stability of financial institutions and markets". The ECB convened an internal panel of experts to analyse the matter and, after careful consideration, concluded that

¹ Council decision 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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the Royal Decree-Law does not fall within the ECB's fields of competence and decided not to issue an opinion. The Royal Decree-Law, taken in isolation, does not have a material influence on the stability of financial institutions and markets. Instead, the potential impact on financial stability stems from the financial implications for financial institutions of the annulment of non-transparent floor clauses by the Supreme Court of Spain, followed by confirmation of the full retroactive effect of such annulment by the European Court of Justice in its ruling of 21 December 2016 in Joined Cases C-154/15, C-307/15 and C-308/15.²

This assessment, together with the ECB's decision to not issue an opinion on the Royal Decree-Law, was communicated to the Governor of the Banco de España in a letter sent by the ECB on 1 February 2017.

As the ECB did not consider itself competent to issue an opinion on the Royal Decree-Law, it has not expressed an opinion on the substance of the rules contained in the Royal Decree-Law. The ECB simply noted in its letter dated 1 February 2017 that the Royal Decree-Law provides a practical framework with the aim of accelerating the repayment of amounts due to customers, thereby reducing litigation costs.

Yours sincerely,

[signed]

Mario Draghi

² The judgement of the Court is available at:

<http://curia.europa.eu/juris/document/document.jsf?jsessionid=9ea7d2dc30d5f2c91308ce134abe84e9f523c67361fe.e34KaxiLc3qMb40Rch0SaxyKch10?text=&docid=186483&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=580382>

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