EUROPEAN CENTRAL BANK

EUROSYSTEM

ECB-PUBLIC

Mario DRAGHI
President

Mr Luke Ming Flanagan
Member of the European Parliament
European Parliament
60, rue Wiertz
B-1047 Brussels

Frankfurt am Main, 14 June 2019
L/MD/19/212

Re: Your letter (QZ-021)

Honourable Member of the European Parliament, dear Mr Flanagan,

In your letter to Mr Andrea Enria, Chair of the ECB's Supervisory Board, which was passed on by Mr Roberto Gualtieri, Chair of the European Parliament's Committee on Economic and Monetary Affairs, with a cover letter dated 1 March 2019, you enquired about issues beyond the scope of the ECB's supervisory tasks. Consequently, Mr Enria forwarded your letter to me.

As you acknowledge at the beginning of your letter, some matters, such as consumer protection in the provision of banking and financial services, fall outside the legal remit of the ECB despite being closely related to banking supervision and financial stability. The SSM Regulation[1] tasked the ECB with supervising credit institutions from a prudential perspective. Supervisory tasks not conferred on the ECB, including consumer protection[2], remain the responsibility of the national competent authorities. The ECB respects this allocation of responsibilities, which was decided on by the EU legislator.

The ECB recognises that the resolution of non-performing loans (NPLs) is a complex and challenging issue. From the perspective of the ECB's mandate, NPLs are a concern as they reduce a banks' ability to extend new credit to businesses and households. Consequently, NPLs can impair the transmission of monetary policy to the real economy. They can also reduce banks' profitability and pose a risk to financial stability in cases where banks lack sufficient capital to provision against potential losses from NPLs. Through these channels, high levels of NPLs may lead to higher interest rates being charged to households and businesses,

[1] Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).

[2] Recital 28 of the SSM Regulation.

act as an impediment to achieving high, sustainable economic growth and, therefore, reduce overall welfare and harm citizens. At the same time, the resolution of NPLs can have implications of its own for the affected borrowers.

As I had the opportunity to highlight at the European Parliament on 15 January[3], while consideration should be given to addressing the social implications of resolving NPLs and helping borrowers in distress, this should not come at the cost of undermining the payment culture, thus hindering credit extension and reducing the economy's overall performance. Rather, the social consequences of NPL resolution should be dealt with separately and in a targeted fashion, using social policy tools to help affected borrowers in financial difficulties.

To help euro area banks deal with NPLs, ECB Banking Supervision has set out a number of considerations for banks to take into account when defining realistic NPL strategies.[4] The transfer of risk through asset sales, securitisation and other measures is an important part of the toolkit available to banks to reduce NPLs effectively. This is in addition to other tools, such as the originating credit institutions' internal procedures for handling the workout of NPLs.

Under the EU Treaties[5], the ECB has an advisory role with regard to draft national legislation in its fields of competence.[6] In this context, it recently issued an opinion on the No Consent, No Sale Bill 2019[7], which would require borrowers in Ireland to provide written consent for the transfer of all transfers of residential mortgages, whether performing or non-performing. The draft law would make it effectively impossible for Irish credit institutions to carry out the type of asset transfers required to issue asset-backed securities, covered bonds or residential (or special residential) mortgage-backed promissory notes, or to create security over pools of credit claims. All of these instruments and techniques are essential for the funding and thus the day-to-day functioning of the Irish banking sector, as well as for the provision by Irish banks of collateral to access Eurosystem central bank funding. Banks' access to central bank liquidity is of fundamental importance in normal circumstances and is critical in times of financial stress, as the financial crisis showed. By reducing the types of collateral that can be created by Irish credit institutions, the No Consent, No Sale Bill 2019 could therefore significantly limit the effectiveness in Ireland of the Eurosystem's monetary policy measures, which could in turn increase banks' funding costs, reduce their funding sources and ultimately lead to increased interest rates being charged to ordinary borrowers. More specifically, the draft law could also impede portfolio

3 See transcript of the closing remarks during the debate on the ECB annual report, 15 January 2019, available at https://www.ecb.europa.eu/press/key/date/2019/html/ecb.sp190115_1.en.html.

4 Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).

5 Recital 28 of the SSM Regulation.

6 Articles 127(4) and 282(5) of the Treaty on the Functioning of the European Union.

7 See ECB Opinion on requiring the consent of borrowers to transfers of loans secured by mortgages on residential property (CON/2019/14), available on the ECB's website at https://www.ecb.europa.eu/ecb/legal/pdf/en_con_2019_14_f_sign.pdf.

Address
European Central Bank
Sonnemannstrasse 20
60314 Frankfurt am Main
Germany

Postal Address
European Central Bank
60640 Frankfurt am Main
Germany

Tel. +49-69-1344-0
Fax: +49-69-1344-7305
Website: www.ecb.europa.eu

sales by banks and thus inhibit NPL reduction.[8] While the ECB's assessment of the draft law in the opinion is necessarily restricted to the ECB's fields of competence, NPL resolution may of course have implications beyond these areas, as acknowledged above. However, as mentioned before, rather than lead to a less ambitious reduction in NPLs on the part of banks, such challenges should be addressed by the appropriate national policy tools. In this regard, social policy can play a role in addressing the issues faced by borrowers who are unable to meet their commitments, especially in cases where NPLs relate to mortgages on primary residences.

Yours sincerely,

[signed]
Mario Draghi

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8 This assessment was reiterated in the recent staff statement following the eleventh post-programme surveillance mission to Ireland, issued 27 May 2019, available at https://ec.europa.eu/info/news/staff-statement-following-eleventh-post-programme-surveillance-mission-ireland-2019-may-27_en.

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