Transparency of securities financing transactions and of reuse

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OPINION OF THE EUROPEAN CENTRAL BANK (ECB) on a proposal for a Regulation of the European Parliament and of the Council on reporting and transparency of securities financing transactions (SFTs).

The ECB **broadly welcomes the proposed regulation**, which is aimed at increasing the safety and transparency of the financial market, in line with recommendations issued by the Financial Stability Board (FSB) and endorsed in September 2013 by the G20 leaders. The ECB considers that the new uniform rules on reporting and transparency of SFTs, as well as the provisions on rehypothecation, may play an **important role in enhancing financial stability in the Union**.

The ECB makes the following recommendations:

Exemption for central bank transactions from reporting and transparency obligations: the ECB notes that proposed reporting and transparency framework does not provide an exemption with regard to transactions to which an ESCB central bank is a counterparty. The ECB would strongly recommend including a transaction-based exemption in the proposed regulation. Failure to include such an exemption would have the same effect as imposing such reporting and transparency obligations on the ESCB itself.

Clarification of the Commission's power to amend the list of exemptions: the ECB suggests clarifying Article 2(3) of the proposed regulation, which gives the Commission power to amend the list of exemptions under Article 2(2) by means of a delegated act. The ECB considers that Article 2(3) should contain a direct reference to the possibility of extending the list of exemptions to include central banks of third countries.

Rehypothecation: with regard to **contractual transparency requirements**, the proposed regulation does not make a distinction between financial collateral transferred under a 'title transfer financial collateral arrangement' and provided under a 'security financial collateral arrangement' within the meaning of Directive 2002/47/EC of the European Parliament and of the Council.

The ECB notes that a collateral taker should not be restricted from enjoying full ownership or full entitlement to the financial collateral, once a title transfer financial collateral arrangement has been entered into. It should be clarified that entering into a title transfer financial collateral arrangement already implies a consent to reuse and that any breach of requirements under Article 15 will not affect the validity or enforceability of the SFT, and the receiving counterparty could only be subject to administrative sanctions under the proposed regulation.

The ECB notes that the proposed regulation focuses only on introducing reporting and transparency requirements. However, the recent financial crisis has shown that significant financial stability risks may arise from the practices of reuse and rehypothecation of client assets.

Therefore, the ECB considers that it is important for the Commission to **assess the need for further regulatory measures, which go beyond the proposed reporting and transparency requirements, including quantitative limits on reuse and on rehypothecation of client assets**, which could be implemented in a future legal act.

Modalities for the reporting of data on securities financing transaction (SFTs): the ECB recommends that the SFT details should be reported, compiled and made accessible to the ESCB with the maximum degree of granularity and in a **fully standardised form**.

With regard to the **data items to be reported**, the ECB recommends that the technical standards prepared under the proposed regulation require details of the individual assets being used as collateral and the principal amount, currency, type, quality and value of each asset to be reported. The technical standards should also allow reporting of individual assets subject to securities or commodities lending or borrowing.

In addition, the ECB suggests that the technical standards should require counterparties to report **additional items** to facilitate more comprehensive monitoring for financial stability purposes and for the fulfilment of the ESCB tasks.

Lastly, the ECB recommends that technical standards under the proposed regulation require the reported data to include **appropriate identifiers** by using current and forthcoming internationally agreed standards. ESMA should make the use of such identifiers obligatory for all counterparties which fall within the scope of the proposed regulation, in particular, the international securities identification number (ISIN), the global legal entity identifier (LEI) and a unique trade identifier.