

DECISION OF THE EUROPEAN CENTRAL BANK

of 9 May 2011

amending Decision ECB/2004/3 on public access to European Central Bank documents

(ECB/2011/6)

(2011/342/EU)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular Article 12.3 thereof,

Having regard to Decision ECB/2004/2 of 19 February 2004 adopting the Rules of Procedure of the European Central Bank ⁽¹⁾, and in particular Article 23 thereof,

Whereas:

(1) Pursuant to Article 127(6) of the Treaty on the Functioning of the European Union, the Council may confer specific tasks upon the European Central Bank (ECB) concerning policies relating to the prudential supervision of credit institutions and other financial institutions with the exception of insurance undertakings. The Council has exercised this option and pursuant to Article 2 of Council Regulation (EU) No 1096/2010 of 17 November 2010 conferring specific tasks upon the European Central Bank concerning the functioning of the European Systemic Risk Board ⁽²⁾ has conferred on the ECB the task of ensuring the Secretariat to the European Systemic Risk Board (ESRB) thereby providing analytical, statistical, logistical and administrative support to the ESRB. In this context, the ECB will also draw up or hold documents relating to its ESRB-related activities and policies or decisions which will qualify as ECB documents within the meaning of Decision ECB/2004/3 of 4 March 2004 on public access to European Central Bank documents ⁽³⁾.

(2) While pursuant to Article 7(1) of Regulation (EU) No 1096/2010, the Secretariat of the ESRB ensures the application of Decision ECB/2004/3 which defines the conditions and limits according to which the ESRB must give access to ESRB documents, the ECB should adapt Decision ECB/2004/3 to reflect the fact that the ECB will draw up or hold documents relating to its ESRB-related activities and policies or decisions which will qualify as ECB documents within the meaning of Decision ECB/2004/3.

(3) There is a need to ensure that the ECB can refuse access to documents relating to its activities and policies or

decisions pursuant to Article 127(5) and (6) of the Treaty drawn up or held by it in the field of financial stability, including those relating to its support to the ESRB, where their disclosure would undermine the protection of the public interest as regards the stability of the financial system in the Union.

(4) The necessary amendments should also be made to Decision ECB/2004/3 to reflect terminology changes and article renumbering following the entry into force of the Treaty of Lisbon,

HAS ADOPTED THIS DECISION:

Article 1

Decision ECB/2004/3 is amended as follows:

(1) Article 4(1) is amended as follows:

(a) in point (a) the following indent is added:

‘ — the stability of the financial system in the Union or in a Member State;’

(b) the word ‘Community’ is replaced by ‘Union’;

(2) in Article 4(4) the following sentence is added:

‘As regards requests for access to European Systemic Risk Board documents, Decision ESRB/2011/5 of the European Systemic Risk Board of 3 June 2011 on public access to European Systemic Risk Board documents ^(*), adopted on the basis of Article 7 of Council Regulation (EU) No 1096/2010 of 17 November 2010 conferring specific tasks upon the European Central Bank concerning the functioning of the European Systemic Risk Board ^(**), shall apply.’

^(*) OJ C 176, 16.6.2011, p. 3.

^(**) OJ L 331, 15.12.2010, p. 162.’;

⁽¹⁾ OJ L 80, 18.3.2004, p. 33.

⁽²⁾ OJ L 331, 15.12.2010, p. 162.

⁽³⁾ OJ L 80, 18.3.2004, p. 42.

(3) in Article 8 the references to Article 230 are replaced by references to Article 263 and references to Article 195 by references to Article 228 of the Treaty.

Article 2

This Decision shall enter into force on 18 June 2011.

Done at Frankfurt am Main, 9 May 2011.

The President of the ECB
Jean-Claude TRICHET
