>>> Unofficial translation! <<<

3 July 2012

Dr György Matolcsy
Minister
Ministry for National Economy

2-4 József Nádor tér
Budapest
1051

Dear Minister,

Considering that the opinion of the Magyar Nemzeti Bank has been requested on Bill No T/7037 on the Financial Transaction Tax as well as on proposed amendment No T/7037/18 submitted by the Audit Office and Budget Committee of Parliament for the Bill, exercising the right granted by Article 32 of Act CCVIII of 2011 on the Magyar Nemzeti Bank (hereinafter the MNB Act) I would like to inform you of the opinion of the Magyar Nemzeti Bank.

We maintain our opinion on the Bill as indicated in our attached letter of 25 June 2012 sent to the Prime Minister. Our position on the proposed amendment referred to above is the following.

The proposed amendment would terminate the exemption of the Magyar Nemzeti Bank from being subject to the financial transaction tax, which was included in the original version of the Bill submitted to Parliament. Under the proposed amendment, the MNB's deposit transactions with at least overnight and up to two-week maturity would be subject to financial transaction tax, with the MNB being liable to pay such tax. In contrast to the uniform degree of tax that could be levied on financial transactions, the proposed amendment does not set a cap on the amount of tax to be paid by the MNB.

Notwithstanding these amendments, however, payment transactions conducted by a payment service provider to the debit of the payment account of another domestic payment service provider would be exempted from the financial transaction tax under the proposed amendment. Although payment transactions, including deposit transactions with at least overnight and up to two-week maturity conducted by credit institutions as counterparties for monetary policy implementation are also included in the range of transactions exempted from financial transaction tax, the amendment proposes imposing a higher-than-uniform degree of tax burden exclusively on a payment transaction related to one of the monetary policy instruments of the MNB.

The observations of the Magyar Nemzeti Bank on the proposed amendment are the following:

Our estimate for the financial transaction tax payable by the MNB in 2013, based on the 2012 average stocks of two-week bills (presumably the intention of the legislator is that the two-week bill should be the base for financial transaction tax) and overnight deposits, may amount to HUF 100–120 billion. As a result, the Bank's loss may reach HUF 220–240 billion in 2013, in contrast with HUF 120 billion projected earlier and published on our website.

Currently, the MNB is not in the position to pass the amount of financial transaction tax to be levied on its monetary policy instrument on to its counterparties, participants and users of the financial intermediary system. Passing on the tax would lead to a significant easing of monetary conditions – if the full amount of tax was passed on, it would correspond to an approximately 2.5 percent reduction in the interest rate on the two-week bill. This would jeopardise price stability and the stability of the financial system, and, consequently, it would be contrary to the statutory primary objective and basic tasks of the MNB.

Under the MNB Act, the central budget will reimburse the realised loss of the Bank for the subject year in the following year, within 8 days of the shareholder's receipt of the notification on the annual report for the subject year. Consequently, if the financial transaction tax increases the Bank's loss by HUF 100–120 billion in 2013, the corresponding amount will appear as an expenditure in the 2014 budget. The effect of this reimbursement for the Bank's loss will have to be recorded in the ESA-based budget balance for 2014.

In summary, the improvement in the budget balance in 2013 caused by the financial transaction tax levied on the MNB will be associated with an expected similar deterioration in balance in the year 2014. Although the measure will improve the central government balance temporarily in a single year, it cannot be considered as a balance improvement in terms of long-term fiscal sustainability. All this is inconsistent with Hungary's commitment undertaken in the Excessive Deficit Procedure of the European Union and will lead to a significant reduction in the transparency of financial relations between the MNB and the State.

In our opinion, the imposition of financial transaction tax liability on central bank deposits reflected in the proposed amendment breaches the institutional independence of the Bank, as explained below.
Under Article 7 subsection a) of the MNB Act, the central bank deposit, to be subjected to financial transaction tax as proposed by the amendment, is one of the instruments of monetary policy. Under Article 6 of the MNB Act, the Bank conducts its monetary policy and develops the instruments for enforcing such policy independently within the framework set out in the Act.
As the proposed amendment defines exclusively one of the MNB's transactions within the set of its monetary policy instruments as the base for a significant HUF 100–120 billion revenue from financial transaction tax, the Act on the Financial Transaction Tax – if it is passed by Parliament together with this amendment – will directly affect the operational framework for monetary policy, despite the fact that the MNB Act refers the formulation and implementation of monetary policy to the sole competence of the MNB. In addition, the proposed amendment would breach the principle of central bank independence as defined in Article 130 of the Treaty on the functioning of the European Union (hereinafter the Treaty), and, in particular, it would result in an infringement of institutional independence by influencing the conduct of the Bank's monetary policy.

In addition, the proposed imposition of financial transaction tax on central bank deposits would also breach the financial independence of the Bank. Financial independence, being part of overall central bank independence, requires that the MNB has appropriate financial resources to discharge its functions arising from its membership in the European System of Central Banks and its tasks defined by the MNB Act. The amount of financial transaction tax to be paid under the proposed amendment, estimated by the MNB to be more than HUF 100 billion, raises the risk that that the availability of financial resources required to fulfil the MNB's tasks at all times as well as their independent use will be jeopardised.

In view of the fact that the prohibition of monetary financing defined in Article 15 of the Act on the MNB and in Article 123 of the Treaty, must be interpreted extensively, the tax liability imposed on central bank deposits proposed in the amending proposal may be contrary to the principle of the prohibition of monetary financing.

The proposed amendment sets different degrees of financial transaction tax in respect of different entities, rather than setting a uniform degree: while a maximum amount of financial transaction tax is levied on financial service providers per transaction, there is no cap to the tax levied on the MNB (and the Treasury). The proposed amendment does not detail why different degrees of financial contributions to public burdens are levied on different entities, and why a higher degree of tax would be levied on the MNB compared to other financial sector participants. The unjustified distinction in respect of the degree of tax raises the concern of a conflict between the proposed amendment and Article XXX (1) of the Constitution.

Yours sincerely,

András Simor

Copy:

Dr László Kövér, Speaker of the Parliament

Dr László Nyikos, Chairman of Parliament's Audit Office and Budgetary Committee