



EUROPEAN CENTRAL BANK

OPINION OF THE EUROPEAN CENTRAL BANK**of 18 December 2003**

**at the request of the Spanish State Under-Secretary for Economic Affairs
on a draft proposal amending Article 6 of Law 13/1994 of 1 June on the autonomy of
the Banco de España**

(CON/2003/28)

1. On 27 November 2003 the European Central Bank (ECB) received a request dated 26 November 2003 from the Banco de España at the request of the Spanish State Under-Secretary for Economic Affairs for an opinion on a draft proposal amending Article 6 of Law 13/1994 of 1 June on the autonomy of the Banco de España (hereinafter the 'draft amendment').
2. The ECB's competence to deliver an opinion is based on the second indent of Article 105(4) of the Treaty establishing the European Community and the third indent of Article 2(1) of Council Decision 98/415/EC of 29 June 1998 on the consultation of the ECB by national authorities regarding draft legislative provisions, since the amendment would modify Law 13/1994 of 1 June on the autonomy of the Banco de España (hereinafter 'Law 13/1994'). In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the ECB, the Governing Council of the ECB has adopted this opinion.
3. The ECB notes that the proposed amendment would introduce a new Article 6 bis in Law 13/1994 providing that the relations between the Banco de España and its members of staff are governed by employment law. It would further refer to the restrictions imposed on certain members of staff who may have access to confidential information on their securities market transactions and to their obligations concerning information on their private financial activities, as laid down in the insider trading rules in the Code of Conduct for the Staff of the Banco de España, adopted by Internal Circular 10/2002 of 18 October 2002. The ECB notes that the data provided under these reporting obligations is to be kept for a maximum of five years.
4. The ECB welcomes these rules intended to ensure that central bank staff do not benefit financially from access to privileged information. In this respect, the ECB notes that the draft amendment would incorporate into Law 13/1994 the insider trading rules that are already established in the Banco de España's Code of Conduct. Section Three of this Code of Conduct specifies the requirements applying to those members of staff who have access to privileged information,

including the obligation to submit an annual declaration to the internal audit office regarding their private financial transactions. The ECB welcomes the legal certainty that would ensue from incorporating these rules into Law 13/1994.

5. The ECB confirms that it has no objection to the competent national authorities making this opinion publicly available at their discretion. This opinion will be published on the ECB's website six months after the date of its adoption.

Done at Frankfurt am Main on 18 December 2003.

The President of the ECB

[signed]

Jean-Claude TRICHET