

## **OPINION OF THE EUROPEAN MONETARY INSTITUTE**

on a consultation from the Irish Department of Finance under Article 109f (6) of the Treaty establishing the European Community (the "Treaty") and Article 5.3 of the Statute of the EMI as elaborated in the Council Decision of 22nd November 1993 (93/717/EC) (the "Decision") on a proposal for legislation entitled the Central Bank Bill (the "Bill") and, specifically, for provisions within the Bill to amend various sections of the Investment Intermediaries Act, 1995 (the "Intermediaries Act").

### **CON/97/02**

1. The above consultation was initiated on 10th January 1997 by the Irish Department of Finance, which requested an opinion of the EMI within one month of receipt of the consultation, i.e. by 20th February 1997. For this purpose, the Department of Finance submitted relevant provisions of the Bill, being in the form of Committee Stage Amendments to the text of the Bill, together with explanatory notes and a copy of the Intermediaries Act.
2. The EMI's competence to deliver an opinion is based on Article 1, section 1 of the Decision, as the Bill relates, inter alia, to the following: the status and powers of the Central Bank of Ireland (second indent of section 1); and, rules which are applicable to the regulation by the Central Bank of Ireland of financial institutions and which may have an impact upon the stability of financial institutions and markets (fifth indent of section 1).
3. The EMI was consulted on a previous draft of the Bill, as a whole, in March 1996 (and subsequently issued an opinion relating to that consultation - Reference 96/04 - dated 28th May 1996). The present consultation is confined to certain new provisions of the Bill, proceeding from the Committee stages of the Bill, and which concern proposed amendments to the Intermediaries Act.
4. The proposed amendments to the Intermediaries Act are intended to provide that responsibility for the regulation of investment business firms, as defined in the Intermediaries Act, shall rest solely with the Central Bank of Ireland. The Intermediaries Act presently provides for a split in competence concerning the regulation of investment business firms. The Minister for Enterprise and Employment is the regulatory authority for investment business firms which only provide services concerning limited categories of investment instruments - particularly Undertakings for Collective Investment in Transferable Securities and other collective investment scheme arrangements - and only where such investment business firms have no discretionary control over client funds or investment instruments. The Central Bank is currently the regulatory authority for all other types of investment business firms.

5. The EMI considers that the proposed amendments to the Intermediaries Act whereby the Central Bank of Ireland will become the sole regulatory authority for investment business firms will not adversely affect the stability of financial institutions or financial markets.
6. The EMI also confirms that these proposed amendments to the Intermediaries Act are not, in principle, inconsistent with the requirement for independence of central banks, imposed by Article 107 of the Treaty as reflected in Article 7 of the Statute of the ESCB, nor are they incompatible with either the Treaty or the Statute of the ESCB (so as to be contrary to the requirements of Article 108 of the Treaty as reflected in Article 14.1 of the Statute of the ESCB). This opinion does not prejudge the rights of the ECB under Article 14.4 of the Statute of the ESCB.
- 7 The EMI confirms that it has no objection to this opinion being made public.

**12 February 1997**