



EUROPEAN MONETARY INSTITUTE

6 February 1998

OPINION OF THE EUROPEAN MONETARY INSTITUTE

**at the request of the Bank of England under Article 109f(6) of the Treaty establishing the European Community (the “Treaty”) and Article 5.3 of the Statute of the EMI concerning the Financial Markets and Insolvency (Definition of Money Market Contract) Regulations 1997
(CON/97/28)**

1. On 31 October 1997 the EMI received from the Bank of England a request for an opinion on a proposed statutory instrument, the Financial Markets and Insolvency (Definition of Money Market Contract) Regulations 1997 (the “proposed regulations”).
2. The EMI’s competence to deliver an opinion is based on Article 1.1, fourth and fifth indents, of the Council Decision of 22 November 1993 (93/717/EC) on consultation of the EMI by the authorities of the Member States on draft legislative provisions, as the Regulations contain provisions concerning clearing and payment systems and rules applicable to financial institutions which might influence the stability of financial institutions and markets.
3. The purpose of the Regulations is to expand the existing definition in the relevant part of UK law of a money market contract, as it currently appears in the Financial Markets and Insolvency (Money Market) 1995 Regulations, (SI 1995/2049), at regulation 2. That definition states that a money market contract means a contract for the acquisition or disposal of currency of the United Kingdom or of any other country or territory. The proposed regulations expand that definition by adding reference to the ECU, which does not currently fall within the definition because the ECU is a unit of account, rather than a currency.
4. The general views of the EMI on the 1995 regulations referred to above were set out in the EMI’s opinion CON/95/10 dated 21st July 1995. In that opinion the EMI expressed its support for the overall scope and purpose of those regulations, which is to improve the security and

stability of the UK financial markets, in this case by applying special rules that take precedence over the normal provisions of UK insolvency law in relation to the default of a member of certain key clearing houses and exchanges.

5. The EMI understands that the purpose of the proposed regulations is to ensure that spot and forward contracts in ECU are capable of being within the netting and settlement scheme of ECHO, the only foreign exchange clearing system to which the 1995 regulations so far apply, and welcomes the proposed regulations accordingly.
6. The EMI has no objection to its opinion being made public.

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