Banc Ceannais na hÉireann
Central Bank of Ireland
Eurosystem

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Gobharnóir / Governor

Ms Mairéad Farrell T.D.
Cathaoirleach
Joint Oireachtas Committee on Finance, Public Expenditure, Public Service Reform and Digitalisation, and Taoiseach
Houses of the Oireachtas
Leinster House
Kildare Street
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Dear Cathaoirleach,

Further to my most recent appearance before the Committee on 15 July, I attach two appendices that provide further information with regard to the State of Israel bond programme:

- Appendix 1 sets out the Central Bank's position on the recommendations of your Committee's report on the bond programme; and

- Appendix 2 sets out our up-to-date legal assessment of the bond programme.

I hope this information is helpful in your continued deliberations.

Yours sincerely,

Gabriel Makhlouf

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Appendix 1

Recommendations of the Committee's Report on the Israeli Bond Programme (August 2025)

The Central Bank welcomes the Committee's August 2025 report.

After its publication, we reviewed its recommendations in the context of the 2024 prospectus. We further considered the recommendations in advance of our appearance at the Committee in October 2025 and earlier this month.

Our analysis considers the recommendations alongside the applicable EU legal framework, relevant national legislation and relevant matters raised in the context of international law. The Central Bank also obtained legal advice in accordance with our normal practice.

We continue to monitor legislative and international developments to ensure that our bond prospectus approval process and transfer process is in compliance with relevant legal and regulatory frameworks.

We approve a prospectus application where all necessary information is included in the prospectus which is material to an investor for making an informed assessment of:

- the assets and liabilities, profits and losses, financial position, and prospects of the issuer and of any guarantor;
- the rights attaching to the securities; and
- the reasons for the issuance and its impact on the issuer.

In this context, the information presented in the prospectus must meet the criteria of completeness, consistency and comprehensibility

We summarise below the Central Bank's position in relation to each of the report's recommendations:

Recommendation	Central Bank's Position
<u>Recommendation 1</u> The Joint Committee recommends that the Government engage at EU level with a view to amending the EU Prospectus regulations to permit each individual European Central Bank to refuse to act as a Competent Authority.	This recommendation is relevant to the Government.
<u>Recommendation 2</u> The Joint Committee recommends that the Central Bank engage with other EU Central Banks to develop	This is a matter for the Irish Government as it would require an amendment to the EU Prospectus Regulation to enable a mechanism whereby an

a mechanism whereby an individual Central Bank can refuse to process any new prospectus certification request.	individual Central Bank could refuse to process a prospectus request, without going through the review process provided for under the Regulation. Without such an amendment, EU Central Banks would not have the power to develop a mechanism to refuse to process a prospectus request.
<u>Recommendation 3</u> The Joint Committee recommends that the Central Bank as the competent authority shall conduct an immediate internal review in advance of any renewal in September of the Israeli bond prospectus with the intention of determining whether it is in compliance with the Prospectus Regulation in terms of the required level of disclosure, accuracy and transparency.	 During 2024 and 2025 the Central Bank carried out an internal review of its prospectus approval processes. These are processes which are kept under constant review. This includes monitoring legislative and international developments to ensure that the bond prospectus approval process is in compliance with relevant legal and regulatory frameworks. The Governor wrote to the Joint Committee in December 2024 regarding the Central Bank's review of the 2024 Prospectus. The Central Bank continued to keep under review the compliance of the 2024 Prospectus with EU law, national law and international law. It was the Central Bank's assessment, taking into account legal advice, that it did not have a legal basis to refuse to approve or suspend any offers under the 2024 Prospectus (which expired on 1 September 2025).
<u>Recommendation 4</u> The Joint Committee recommends that the Central Bank of Ireland pending a compliance review of the Israeli Bond Prospectus under Article 32.1D, exercises the powers vested in it, by refusing to certify the renewal of the prospectus or any new applications for the certification of a related prospectus, until such a time when it is satisfied that it is in compliance with the rules as set out in the Regulation.	 In respect of Recommendation 4, the Central Bank is restricted by way of professional secrecy obligations from providing confidential information with regard to specific supervisory matters, including any engagements with regard to a future Prospectus. The Central Bank continues to monitor legislative and international developments to ensure that its bond prospectus approval process is in compliance with relevant legal and regulatory frameworks.

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<tr><td><u>Recommendation 5</u>

The Joint Committee recommends that as part of a review seek supplementary information from the issuer and include an examination of the completeness of the bond prospectus and a request that further information be provided by the issuer with regards to:
• The nature of the case taken by South Africa against Israel under the Genocide Convention and the interim findings of the ICJ in that regard.
• the ICJ Advisory Opinion of July 2024 in respect of the illegal situation created by Israel in the Occupied Palestinian Territories'
• Any other pertinent matters in respect of international law.</td><td>The Central Bank will only approve a prospectus application where all necessary information is included in the prospectus which is material to an investor for making an informed assessment of:

(a) the assets and liabilities, profits and losses, financial position, and prospects of the issuer and of any guarantor;
(b) the rights attaching to the securities; and
(c) the reasons for the issuance and its impact on the issuer.

In this context, the information presented in the prospectus must meet the criteria of completeness, consistency and comprehensibility.

The Central Bank is restricted by way of professional secrecy obligations from providing confidential information with regard to specific supervisory matters</td></tr>
<tr><td><u>Recommendation 6</u>

The Joint Committee recommends that the Central Bank of Ireland be cognisant of their obligations that should the information sought not be provided, the Central Bank should act as provided for under the Prospectus Regulation.</td><td>The Central Bank will only approve a prospectus application where all necessary information is included in the prospectus which is material to an investor for making an informed assessment of:

(a) the assets and liabilities, profits and losses, financial position, and prospects of the issuer and of any guarantor;
(b) the rights attaching to the securities; and
(c) the reasons for the issuance and its impact on the issuer.

In this context, the information presented in the prospectus must meet the criteria of completeness, consistency and comprehensibility.</td></tr>
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	The prospectus is not a general information document, but a document for the investor.
<u>Recommendation 7</u> The Joint Committee recommends that any review be conducted in accordance with paragraph 88 of the Preamble of the Prospectus Regulation.	As set out in the Governor's letter to the Committee of 21 November 2025, the Central Bank's considered position is that recitals of EU Regulations set out the background/reasons for EU regulations and are not operative provisions of those Regulations. The European Court of Justice does allow recitals to be used as an interpretative legal tool, in circumstances where the operative provision of the relevant EU Regulation is ambiguous and the recital assists to clarify that provision. In the case of the EU Prospectus Regulation, it is clear that the Central Bank must approve a prospectus where that prospectus meets the standards of completeness, comprehensibility and consistency as prescribed in the EU Prospectus Regulation. There is no ambiguity in this regard and the recital does not provide any clarity in relation to these particular provisions.
<u>Recommendation 8</u> The Joint Committee recommends that the Central Bank seeks legal advice and makes information available which clarifies that their decision in approving a prospectus is not in breach of international law.	The Central Bank has sought and obtained legal advice with regard to the Israeli bond programme, including as to matters of international law. While the Central bank does not publish its legal advice, as discussed during the Committee hearing on 15 July, Appendix 2 provides the Committee with an up-to-date overview of the Bank's legal assessment of these matters. This follows the Governor's letter to the Committee in November 2025 which also looked at this issue.
<u>Recommendation 9</u> The Joint Committee recommends that the Central Bank of Ireland reviews its process for assessment	The Central Bank completed an internal review of its processes in 2024 and 2025 and continues to keep them under constant review. This includes monitoring

of a prospectus and ensures that due diligence is discharged by the Central Bank including appropriate consideration of national and international law.	legislative and international developments to ensure that the bond prospectus approval process is in compliance with relevant legal and regulatory frameworks. The Governor wrote to the Joint Committee in December 2024 regarding the review of the 2024 Prospectus and appeared before the Oireachtas Finance Committee in June and October 2025 to answer additional questions with regard to the Central Bank's role as competent authority with regard to the Prospectus Regulation. The Central Bank's prospectus scrutiny and approval processes, including the necessary disclosures and permitted criteria, are based on legislative specifications set out in the Prospectus Regulation and a Delegated Commission Regulation (CDR (EU) 2019/9800) as well as supervisory guidance by ESMA. The processes are subject to regular internal audit and peer review by ESMA.
Recommendation 10 The Joint Committee recommends the Government consider what National Restrictive Measures are possible in relation to the approval of prospectuses by the Central Bank of Ireland, which could be used to ensure compliance with the ICJ opinion of July 2024.	 This recommendation is relevant to the Government.
Recommendation 11 The Joint Committee recommends that consideration is given to carrying out a review in consultation with the European Central Bank regarding options for the strengthening and clarifying of powers to impose national	 This recommendation is for Government as changes to powers – and involvement of the ECB – would require an amendment to the EU Prospectus Regulation.

restrictive measures to ensure compliance with law.	
<u>Recommendation 12</u> The Joint Committee welcomes the Irish Governments recent decision to divest from Israeli Bonds through Irish Strategic Investment Fund (ISIF) and recommends that future risk assessment in relation to Irish government investment would include assessment of obligations under international law.	This recommendation is relevant to the Government.
<u>Recommendation 13</u> The Joint Committee recommends that the Central Bank of Ireland as part of its functions as a competent authority perform a full review of its risk assessment processes, such a review should include but not be limited to risks to investors as risk of inability to appropriately repay bonds, risk of complicity in breaches of international law.	As per recommendation 9: The Central Bank completed an internal review of its processes in 2024 and 2025 and continues to keep them under constant review. This includes monitoring legislative and international developments to ensure that the bond prospectus approval process is in compliance with relevant legal and regulatory frameworks. The Governor wrote to the Joint Committee in December 2024 regarding the review of the 2024 Prospectus and appeared before the Oireachtas Finance Committee in June and October 2025 to answer additional questions with regard to the Central Bank's role as competent authority with regard to the Prospectus Regulation. The Central Bank's prospectus scrutiny and approval processes, including the necessary disclosures and permitted criteria, are based on legislative specifications set out in the Prospectus Regulation and a Delegated Commission Regulation (CDR (EU) 2019/9800) as well as supervisory guidance by ESMA. The processes are subject to regular internal audit and peer review by ESMA.

Recommendation 14 The Joint Committee recommends that the central bank take all possible steps available to it to suspend the offer of the prospectus under obligations to 'prevent trade or investment relations that assist in the maintenance of the illegal situation created by Israel in the Occupied Palestinian Territories' as outlined in the ICJ opinion of July 2024.	As set out in national and EU law, the scope of the Central Bank's powers with regard to the Israeli bond programme did not empower it to suspend the 2024 Israeli prospectus on the basis of the July 2024 ICJ opinion. The 2024 ICJ Opinion is not legally binding. It is addressed to Member States of the United Nations, other States and international organisations and not to the Central Bank.
Recommendation 15 The Joint Committee recommends that the Central Bank of Ireland ensures that due diligence is discharged by the Central Bank with respect to the potential direct or indirect complicity in the violation of international law when assessing a prospectus under the Regulation.	The Central Bank has outlined its position on the matter of compliance with international law both verbally at the Committee and in its correspondence with the Committee, in particular in the Governor's letter of 21 November 2025.

Appendix 2

Outline of the assessment carried out by the Central Bank with regard to the 2025 transfer of prospectus approval and the 2024 prospectus approval

The Central Bank confirms that it carried out a comprehensive assessment, which included obtaining legal advice, with regard to the transfer of approval of the 2025 Prospectus and the approval of the 2024 Prospectus.

The conclusion of the Central Bank's assessment, supported by legal advice, was that the transfer of approval in respect of the 2025 Prospectus and approval of the 2024 Prospectus was in line with EU, national and international law.

Further details with regard to these matters are set out below.

Transfer of approval of the 2025 Prospectus

Article 20(8) of the EU Prospectus Regulation provides that, on the request of an issuer of securities, the competent authority of the home Member State may transfer the approval of a prospectus to the competent authority of another Member State. Any such transfer is subject to prior notification to ESMA and the agreement of the competent authority to whom the approval function is to be transferred.

In accordance with the EU Prospectus Regulation, the competent authority of the home Member State only approves the transfer to the competent authority of another Member State but does not approve the prospectus. The competent authority of the other Member State then reviews and approves the prospectus. The Central Bank's Guidance on the Prospectus Regulatory Framework sets out the factors that the Central Bank considers in assessing a request to transfer a prospectus which include:

- the domicile of the issuer;
- the country where the issuer's securities are admitted to trading; and
- the location of any offer proposed by the issuer.

In summary, agreement to the request to transfer is grounded in the connectivity of the relevant jurisdiction with the relevant prospectus.

Ireland is not one of the jurisdictions to which the 2025 Prospectus has been passported to and is not named as an offer jurisdiction in the 2025 Prospectus. The bonds are only offered to the public in Austria, France, Germany, Luxembourg and the Netherlands. It is on this basis that the Central Bank approved the transfer of approval of the 2025 Prospectus to the CSSF.

While the Central Bank's guidance on the transfer of prospectus approvals speaks of absolute discretion in its decisions, as with all public bodies, the Central Bank is constrained in the exercise of its discretion and must act reasonably and with proportionality in exercising its discretion. In exercising its discretion in making decisions it must act within its powers, consistently with the objectives of the relevant legislation, reasonably, rationally, and on the basis of relevant considerations. To do otherwise would render the decision and the exercise of its discretion unlawful.

Where the Central Bank is a competent authority subject to the laws of the EU Prospectus Regulation and the request to transfer arises under the EU Prospectus Regulation, it must exercise its discretion in line with those laws. The framework of the EU Prospectus Regulation supports approval of prospectus decisions being taken by a competent authority with the relevant connectivity to the prospectus.

The powers and functions conferred on the Central Bank by the Central Bank Acts and the powers expressly or impliedly conferred under the EU Prospectus Regulation and the objectives of that regulation are critically relevant to the parameters applying to the exercise of the Central Bank's discretion under the Prospectus Regulation

There is no provision of EU or Irish law which would have permitted the Central Bank to refuse the 2025 transfer request on grounds extraneous to the framework of the EU Prospectus Regulation.

The Central Bank Acts, which set out the functions and powers of the Central Bank, confers on the Central Bank no role in relation to general governmental policies. Neither is the

Central Bank conferred with any power in respect of international affairs or the imposition of sanctions.

As previously noted, Article 20(8) of the EU Prospectus Regulation only allows for the transfer of approval of a particular prospectus. Upon completion of the transfer of the approval, the competent authority to whom the approval of the prospectus has been transferred shall be deemed to be the competent authority for that prospectus for the purposes of the EU Prospectus Regulation.

To summarise, there are, therefore, two distinct and separate steps in the transfer of approval process. The first is the transfer of approval of the prospectus to another competent authority. The second is the review and approval of the prospectus by that other authority. In carrying out its role of reviewing and approving the relevant prospectus, the CSSF was entirely independent of the Central Bank of Ireland. The CSSF approved the 2025 prospectus.

Sanctions

It has been said that the Central Bank should have sanctioned the State of Israel and refused to approve the transfer of the approval process relating to the 2025 Prospectus to the CSSF. The Central Bank is not empowered under EU law to impose sanctions for breaches or alleged breaches of international law. The EU imposes sanctions in those circumstances.

Even if the Central Bank had refused to approve the transfer of the approval process for the 2025 Prospectus to the CSSF, it does not follow, as has been suggested, that the State of Israel would not then have been able to issue a prospectus in the EU for 2025. In those circumstances, the State of Israel could have submitted that prospectus to the Central Bank for review and approval.

The Central Bank would then have needed to go through the review and approval process, described below, for the 2025 Prospectus. In addition, the State of Israel could have issued a 2025 Prospectus for bonds with a denomination of at least €1,000 in any other EU Member State without needing to obtain the approval of the Central Bank.

The Central Bank's assessment was that it did not have a legal basis to refuse the transfer of approval of the 2025 prospectus.

The Central Bank considered the arguments that have been made that Recital 88 of the EU Prospectus Regulation provided a legal basis to refuse the transfer of approval. The Central Bank does not agree with that analysis. There is nothing contained within Recital 88, which would provide the Central Bank with a legal basis to refuse the transfer of approval.

Recitals of EU Regulations set out the reasons for EU regulations. Recitals are not operative provisions of those Regulations. The European Court of Justice does allow recitals to be used as an interpretative legal tool, in circumstances where the operative provision of the relevant EU Regulation is ambiguous and the recital assists to clarify that provision. In the case of the EU Prospectus Regulation, it is clear that the Central Bank must approve a prospectus where that prospectus meets the standards of completeness, comprehensibility and consistency as prescribed in the EU Prospectus Regulation. It is also clear that prospectus approvals may be transferred to competent authorities with the relevant connectivity to the prospectus. There is no ambiguity in this regard and the recital does not provide any clarity in relation to these particular provisions.

Impact of international law rulings and opinions

It has been stated that the Central Bank could have refused the transfer of approval of the 2025 Prospectus to the CSSF and/or the approval of the prospectus itself on the basis of certain international law rulings and opinions, namely on the basis of the ICJ provisional rulings in the ongoing South Africa – Israel case and/or on the basis of the ICJ opinion on the Occupied Palestinian Territory. As stated above, the Central Bank cannot decide to impose sanctions or otherwise avoid to follow the requirements of the Prospectus Regulation on the basis of breaches or alleged breaches of international law.

The South Africa case against Israel referred to the ICJ in December 2023 alleges breaches of the Genocide Convention, with regard to Israel's actions in Gaza. In that case the ICJ has found that the rights claimed by South Africa were plausible. On that basis, the ICJ issued certain provisional measures to Israel between January and May 2024. This case, which Ireland has filed a declaration of intervention in, is ongoing and remains to be determined.

The ICC's investigation into the situation in the State of Palestine, which also includes an allegation of genocide, is also ongoing and remains to be determined.

The Convention on the Prevention and Punishment of the Crime of Genocide is an international treaty under which the contracting State parties confirm that genocide is a crime under international law and undertake to prevent and to punish it. The State of Ireland is a contracting party to the Convention, having acceded to it in 1976. The Genocide Convention was originally given effect in Irish law by the Genocide Act 1976, which was repealed and replaced by the International Criminal Court Act 2006. In accordance with the 2006 Act, it is an offence for any person, including the Central Bank, to commit genocide or a crime ancillary to genocide.

If there is a Court finding of genocide against the State of Israel, it would be for the EU and member States to decide on the measures to be taken and relevant laws to be introduced, which the Central Bank would comply with. That could, depending on the circumstances at the relevant time and decisions taken at the EU level, lead to EU sanctions being imposed upon the State of Israel, which could provide a legal basis to refuse to approve prospectuses issued by the State of Israel.

Separately, in an advisory opinion, from July 2024, the ICJ found that Israel's continued presence in the Occupied Palestinian Territory is unlawful. The ICJ opinion is not legally binding. It is addressed to Member States of the United Nations, other States and international organisations and not to the Central Bank. The ICJ opinion of July 2024 is not a basis upon which the Central Bank could refuse to approve the transfer of the 2025 Prospectus to the CSSF.

It is for international bodies such as the UN or EU or member States to determine how to respond to breaches or alleged breaches of international law, including to determine whether sanctions are necessary. The Central Bank cannot impose sanctions on Israel in circumstances where the EU has not imposed any such sanctions itself.

Again, as stated above, the Central Bank is not empowered under EU law to impose sanctions for breaches or alleged breaches of international law. The EU imposes sanctions in those circumstances.

For the Central Bank to refuse a transfer based on non-binding advisory opinions of the ICJ, ongoing ICJ or ICC cases or any other foreign policy consideration, would be implementing an improper purpose which would be unlawful.

To refuse the transfer request on grounds outside of the EU Prospectus Regulation would amount to a breach of the Central Bank's obligations and a breach of EU and domestic law. Furthermore, it would involve the Central Bank in matters in respect of which it has no vires.

Approval of the 2024 Prospectus

The Central Bank is designated as the competent authority in Ireland for the approval of securities prospectuses under the EU Prospectus Regulation.

The EU Prospectus Regulation is implemented into Irish law by way of the European Union (Prospectus) Regulations 2019 [S.I. No. 380 of 2019].

Under the EU Prospectus Regulation, a prospectus must be drawn up, approved and published when securities are to be offered to the public or admitted to trading on a regulated market in the EU. The EU Prospectus Regulation covers a variety of different securities, such as shares, bonds, structured products but also government bonds for third countries. Government bonds issued by EU Member States are exempt from the requirement to publish a prospectus under the EU Prospectus Regulation.

The EU Prospectus Regulation makes clear that the regulation constitutes an essential step towards the completion of the Capital Markets Union and harmonises the approach to the approval of prospectuses. The EU Prospectus Regulation recites that divergent approaches would result in fragmentation of the internal market since issuers, offerors and persons asking for admission to trading on a regulated market would be subject to different rules in different Member States and prospectuses approved in one Member State could be prevented from being used in other Member States. It further recites that to ensure the proper functioning of the internal market and to improve the conditions of its functioning and to guarantee a high level of consumer investor protection it is appropriate to lay down a regulatory framework for prospectuses at Union level. Accordingly, a decision under the EU Prospectus Regulation must be made in accordance with EU law.

As competent authority under the EU Prospectus Regulation, the Central Bank is responsible for assessing whether a prospectus in respect of which Ireland is the 'home Member State' has been drawn up in compliance with the requirements of the EU Prospectus Regulation.

The Central Bank is established by statute to fulfil legal responsibilities and obligations including in relation to the Prospectus Regulation. In carrying out these responsibilities the Central Bank is at all times required to assess and understand the nature of its legal obligations and responsibilities.

The Central Bank's assessment of a prospectus is based solely upon the completeness, comprehensibility and consistency of the information in the prospectus, which are assessed against the prescribed requirements in the EU Prospectus Regulation (as further supplemented by Commission Delegated Regulations).

Article 20 of the EU Prospectus Regulation and Chapter V of Commission Delegated Regulation (EU) 2019/980 (Scrutiny and Approval of the Prospectus and Review of the Universal Registration Document) set out the process to be adopted by a competent authority under the EU Prospectus Regulation in the scrutiny and approval of a prospectus.

Where the disclosure in a prospectus complies with the requirements of the EU Prospectus Regulation, it must be approved unless there is a valid legal basis for not doing so. For example, under the EU's financial sanctions against Russia (Council Regulation (EU) 2022/262 amending Council Regulation (EU) No 833/2014), it is prohibited to directly or indirectly purchase, sell, provide investment services for or assistance in the issuance of, or otherwise deal with transferable securities issued after 9 March 2022 by Russia, its government, or the Central Bank of Russia.

The Central Bank does not endorse the issuer or the securities by way of the prospectus approval. To clarify the scope of the approval by national competent authorities, the EU Prospectus Regulation prescribes that each prospectus should include a statement that the competent authority only approves the prospectus as meeting the standards of completeness, comprehensibility and consistency imposed by the EU Prospectus Regulation and that such approval should not be considered as an endorsement of the issuer and the securities that is the subject of the prospectus.

For the Central Bank to refuse to approve the 2024 Prospectus based on non-binding advisory opinions of the ICJ, ongoing ICJ or ICC cases or any other foreign policy consideration, would be implementing an improper purpose which would be unlawful.

To refuse the 2024 Prospectus on grounds outside of the EU Prospectus Regulation would amount to a breach of the Central Bank's obligations and a breach of EU and domestic law. Furthermore, it would involve the Central Bank in matters in respect of which it has no vires.

Please see the response above, with regard to the 2025 transfer of approval process, for further details with regard to the impact of international law processes, rulings and opinions on the Central Bank's prospectus processes.

Sanctions

As noted above, while central banks have many powers and functions, their roles are still limited to their mandate. Under the EU legal framework, the EU Commission is responsible for trade policy and trade relations with third countries. The Central Bank has no mandate to impose sanctions on any State or person for breaches or alleged breaches of international law.

The EU adopts its own sanctions in certain circumstances and implements sanctions adopted by the UN. As Committee members know, unlike the EU sanctions against Russia after its invasion of Ukraine, the EU has not, at this time, adopted sanctions against the State of Israel.

The Central Bank would of course implement any sanctions adopted by the EU that are applicable to the Central Bank's functions, as it has in the case of Russia.