

**NOTICE BY THE CENTRAL BANK OF IRELAND  
OF EXEMPTIONS GRANTED UNDER SECTION 8 (2)  
OF THE CENTRAL BANK ACT, 1971, AS AMENDED.**

**Purpose of this Notice**

This notice defines the classes of person which the Central Bank of Ireland ('the Bank') has decided to exempt, in accordance with its statutory power set out below, from the requirement to hold a banking licence.

The exemptions created by this notice take immediate effect. This notice will replace that published by the Bank in Iris Oifigiuil on 20 February 1998 which will cease to be valid for new issues with effect from 12 November 2002..

**Statutory Basis**

Section 8 (2)(a) of the Central Bank Act, 1971 (inserted by Section 31 of the Central Bank Act, 1989, as amended by Section 70(d) of the Central Bank Act, 1997) provides that:

“Subject to such conditions, if any, as it may consider appropriate, the Bank may exempt any person or any class or classes of person from the requirement to hold a licence in respect of the issuing of any category or categories of securities or other obligations, howsoever described, where—

- (i) the requirements would arise *only* out of the issuing of such securities or other obligations to which the definition of banking business relates; and
- (ii) the Bank is of the opinion that the exemption would not conflict with the orderly and proper regulation of banking”.

'banking business'; is defined in Section 2 of the Central Bank Act, 1971, as amended by Section 29 of the Central Bank, Act 1989, and by Section 70 (b) of the Central Bank Act, 1997.

**Definition of 'Commercial Paper'**

For the purposes of this Notice, the generic term 'commercial paper' is defined as *paper or other securities which have an original maturity of less than one year* and which represent “securities or

other obligations to which the definition of ‘banking business’ relates”, in respect of which the Bank has been granted a power of exemption.

### **Regulatory Status**

Investors in

- (i) commercial paper (i.e. less than one year) or
- (ii) securities or other paper with an original maturity of one year or more

should be aware that their investment *does not have the status of a bank deposit* and is **not within the scope of the Deposit Protection Scheme operated by the Bank**. Moreover, issuers who are covered by this notice are *not regulated by the Bank* by virtue of the issue either of commercial paper or of securities or other paper with an original maturity of one year or more.

### **CLASSES OF EXEMPTEE**

**The Central Bank of Ireland has decided that, subject to compliance with the conditions set out in this notice, three classes of person (designated below as I, II and III) should be exempt from the requirement to hold a banking licence where the requirement would arise solely from the issue of:**

- (i) commercial paper or**
- (ii) securities or other paper with an original maturity of one year or more.**

### **I Issuers of Commercial Paper (other than ‘Asset-backed Commercial Paper’)**

Issuers of Commercial Paper (other than Asset-backed Commercial Paper, the criteria for which are set out at **II** below), taking the form of:

- I(A)(i) a company or other body corporate, whether Irish or otherwise, or body created under statute, whether Irish or otherwise (a ‘statutory body’), the latest audited accounts of which indicate that it has shareholders’ funds (meaning paid-up share capital, capital reserves, revenue reserves and minority interests, as disclosed in the most recent audited accounts or appropriate equivalent for a statutory body) of at least **€25 million** or foreign currency equivalent; or
- (ii) A company or other body corporate whether Irish or otherwise, whose commercial paper is guaranteed by a parent, other company or body corporate, or by a statutory body where the guarantor has shareholders’ funds of at least **€25 million** or foreign currency equivalent;

- I (B) a company or other body corporate, whether Irish or otherwise, or a statutory body whose commercial paper is guaranteed by a credit institution (*as defined by the Codified Banking Directive (2000/12/EC )of 20 March 2000*) or equivalent from an OECD member state;
- I (C) Any OECD member state, or the European Union or a company, other body corporate or statutory body whose commercial paper is guaranteed by any OECD member state or by the European Union

Which issues commercial paper which meets the following criterion:

- commercial paper under exemption category I (A), (B) or (C) must be issued and transferable in minimum amounts of €125,000 or foreign currency equivalent. (This does not preclude the commercial paper from being issued or transferable in amounts greater than and not multiples of €125,000).
- **provided that any such issuer notifies the Bank as soon as it commences activity, stating the category – I (A), I (B) or I (C) – under which it claims exemption from the requirement to hold a banking licence; and**
- **that any such issue is in compliance with the General Conditions for Exemption of Commercial Paper, set out below.**

## **II ISSUERS OF ASSET-BACKED COMMERCIAL PAPER**

Issues of Asset-backed Commercial Paper, taking the form of:

- II (A) a company or other body corporate, whether Irish or otherwise, or a statutory body which issues commercial paper which meets the following criteria;
- at the time of issue the commercial paper must be backed by assets to at least 100 per cent. of the value of the commercial paper issued;
  - at the time of the issue, the commercial paper must be rated to at least investment grade by one or more recognised rating agencies, based on the definitions set out in the Bank's implementation notice for credit institutions ( BSD S 2/00, of 30 June 2000) of the EU Directive on the Capital Adequacy of Investment Firms and Credit Institutions; *and*

- commercial paper under exemption category **II (A)** must be issued and transferable in minimum amounts of €300,000 or foreign currency equivalent. (This does not preclude the commercial paper from being issued or transferable in amounts greater than and not multiples €300,000).
- **provided that any such issuer notifies the Bank as soon as it commences activity, stating the category – II (A) – under which it claims exemption from the requirement to hold a banking licence; and**
- **that any such issue is in compliance with the General Conditions for Exemption of Commercial Paper, set out below.**

**General Conditions for Exemption of Commercial Paper Where a Physical Instrument is issued**

- all commercial paper issued under exemption categories **I (A), (B) or (C) or II (A)** must carry the title “Commercial Paper” (unless it is constituted under the laws of a country other than Ireland and, under those laws, the commercial paper carries a different title, in which case it must carry such title) and must identify the issuer by name:
  - it must be stated explicitly on the face of the commercial paper and, where applicable, in the contract between the investor and issuer that the commercial paper (howsoever identified therein) is issued in accordance with an exemption granted by the Bank under Section 8(2) of the Central Bank Act, 1971, inserted by section 31 of the Central Bank Act, 1989, as amended by Section 70 (d) of the Central Bank Act, 1997;
  - it must be stated explicitly on the face of the commercial paper and, where applicable in the contract between investor and issuer that the investment does not have the status of a bank deposit, is not within the scope of the Deposit Protection Scheme operated by the Central Bank of Ireland and that issuers who are covered by this notice are not regulated by the Central Bank of Ireland arising from the issue of commercial paper;
- and*
- any issue of commercial paper which is guaranteed must carry a statement to the effect that it is guaranteed and identify the guarantor by name.

**General Conditions for Exemption of Commercial Paper which is issued in a de-materialised format.**

- all offering/information memoranda and transaction confirmations provided by the issuer to the investor (or, as applicable, potential investor) either before or after the issue of commercial paper must identify the issuer by name and must contain an explicit statement that the commercial paper (howsoever identified therein) is issued in accordance with an exemption granted by the Bank under Section 8(2) of the Central Bank Act, 1971, inserted by section 31 of the Central Bank Act, 1989, as amended by Section 70 (d) of the Central Bank Act, 1997, and constitutes commercial paper for the purposes of that exemption;
  
- all offering/information memoranda and transaction confirmations provided by the issuer to the investor (or, as applicable, potential investor) either before or after the issue of commercial paper, must contain an explicit statement that the investment does not have the status of a bank deposit, is not within the scope of the Deposit Protection Scheme operated by the Central Bank of Ireland and that issuers who are covered by this notice are not regulated by the Central Bank of Ireland arising from the issue of commercial paper; (howsoever identified therein)

and

- Where an issue of commercial paper is guaranteed, all offering/information memoranda and transaction confirmations provided to the investor (or, as applicable, potential investor) must contain an explicit statement to the effect that it is guaranteed and identify the guarantor by name.

**III Issuers of Securities or Other Paper with an Original Maturity of One Year or More**

Issuers of securities or other paper which an original maturity of one year or more, taking the form of:

- III (A)** a company or other body corporate, whether Irish or otherwise, or a statutory body which issues securities or other paper *with an original maturity of one year or more*, and complies with the requirements of Irish company law or corresponding provisions in another jurisdiction.
  
- III (B)** any OECD member state, or the European Union.

In the event that any such issuers also issues commercial paper (under one year, as defined in this notice) exemption must be claimed under category **I** (A), (B), or (C) or **II** (A) above, as appropriate,

and the issuer must comply with the provisions of this notice but only insofar as they relate to the issue of that commercial paper.

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None of the provisions in this notice has application in relation to securities or other paper issued by or on behalf of the State or any other member state of the European Union. For the purposes of this notice, the term European Union includes any institution created under the provisions of the Treaties establishing the European Communities and of the subsequent Treaties and Acts modifying and supplementing them.

Notifications by issuers and any enquiries, in writing, relating to this notice should be addressed to

Head of Banking Supervision      Fax 01-6711370  
Central Bank of Ireland  
PO Box 559  
Dame Street  
Dublin 2

12 November 2002