

**OPINION OF THE EUROPEAN MONETARY INSTITUTE**

on a consultation from the Belgian Ministry 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 22 November 1993 (93/717/EC) (the “Decision”) on a draft Law amending various statutory provisions on financial instruments and securities clearing systems (the “draft Law”).

**CON/97/05**

1. The above consultation was initiated by the Belgian Ministry of Finance on 19 March 1997 which submitted the draft Law together with an Explanatory Memorandum to the EMI.
2. The EMI’s competence to deliver an opinion is based on Article 1.1, second, fourth and fifth indents, of the Decision, as the draft Law relates, inter alia, to the tasks of the National Bank of Belgium, clearing and payment systems and the stability of the financial markets.
3. The EMI welcomes the draft Law as it intends to improve the smooth functioning of the financial instruments market in Belgium. From the EMI’s perspective, this is important since Article 18.1 of the Statute of the ESCB/ECB states that the ECB and the national central banks may enter into credit operations with their counterparties against “adequate collateral”. This requirement implies that mechanisms should be established to deliver collateral which accommodate the needs of the markets in this respect.
4. The EMI has noted with particular satisfaction that the draft Law intends to improve:
  - the transparency of the clearing and settlement of financial instruments (private financial instruments through the C.I.K. and public financial instruments through the National Bank of Belgium); as well as
  - the protection of holders of dematerialised/paperless financial instruments (through recognition of the fact that such holders may enforce their rights even in the rather theoretical case of insolvency of the custodians at the top of the two hierarchies of securities accounts, i.e. the CIK and the NBB).
5. The EMI has no objection to this opinion being made public.