EUROPEAN CENTRAL BANK

EUROSYSTEM

ECB-PUBLIC

Frank Elderson
Member of the Executive Board

Mr Michael McGrath TD
Minister for Finance
Department of Finance
Government Buildings, Upper Merrion Street
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Frankfurt am Main, 16 May 2024

Contact person:
Marguerite O'Connell
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Request for an ECB opinion on the Motor Insurance Insolvency Compensation Bill 2023
Your reference: FIN-MO-006-6-2024

Dear Minister,

Thank you for your letter of 21 February 2024 requesting an opinion of the European Central Bank (ECB) on the draft Motor Insurance Insolvency Compensation Bill 2023 (hereinafter the 'draft bill'), and for the full text of the draft bill itself, received on 23 April 2024.

The ECB notes that the main purpose of the draft bill is to transpose Articles 10a and 25a of Directive (EU) 2009/103/EC of the European Parliament and of the Council[1] into Irish law. The ECB understands that these provisions of Directive (EU) 2009/103/EC pertain to the protection of injured parties in respect of damage resulting from accidents in the case of the insolvency of an insurance undertaking. The draft bill seeks to establish, in Irish legislation, the Compensation Body, a role to be undertaken by the Motor Insurance Bureau of Ireland (MIBI); provide MIBI with recourse to funding in order to pay motor vehicle liability claims in an efficient manner and not negatively impact the MIBI's solvency; and make technical changes to the Insurance Compensation Fund in order to improve operations. In doing so, the draft bill introduces some changes to the existing responsibilities of the Central Bank of Ireland (CBI) for maintaining and administering the Insurance Compensation Fund, which had been introduced by the Insurance (Amendment) Act 2018, which amended the Insurance Act 1964. In this respect, it is understood that the existing provision of Irish law[2] which provides that the CBI shall not have any liability arising from the Insurance Compensation Fund, remains unchanged. Moreover, the ECB understands that the tasks conferred on the CBI under the relevant provisions of Irish law[3], as amended under the draft bill, would operate such that the CBI will not be liable for damages for anything

1 Directive 2009/103/EC of the European Parliament and of the Council of 16 September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability (OJ L 263, 7.10.2009, p. 11).

2 See section 2(9) of the Insurance Act 1964, as amended.

3 See Insurance (Amendment) Act 2018.

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done or omitted in the performance or purported performance or exercise of any of its functions or powers, unless it is proved that the act or omission was in bad faith[4].

Pursuant to Articles 127(4) and 282(5) of the Treaty on the Functioning of the European Union, in conjunction with Article 2(1) of Council Decision 98/415/EC[5], national authorities are required to consult the ECB on draft legislative provisions on national central banks (NCBs) in the European System of Central Banks (ESCB), including the CBI. However, the ECB does not automatically adopt an opinion on draft national legislation that relates to NCBs, unless the draft national legislation: (1) impairs the NCB's independence under Article 130 of the Treaty; (2) breaches the monetary financing prohibition under Article 123 of the Treaty; or (3) is otherwise of non-marginal importance to the ECB's fields of competence. Following careful review of the draft bill, it appears that the draft bill does not impair the CBI's independence or breach the monetary financing prohibition, and is not otherwise of non-marginal importance to the ECB's fields of competence. Consequently, the ECB has decided not to adopt an opinion in the present case.

The ECB appreciates that you have sent the draft bill to the ECB for consultation and remains confident that the Department of Finance will continue to consult the ECB on future draft legislative provisions that fall within the ECB's fields of competence under the Treaty and Decision 98/415/EC.

Yours sincerely,

[signed]

Cc: Mr Gabriel Makhlouf, Governor, Central Bank of Ireland

4 See section 33AJ(2) of the Central Bank Act 1942.

5 Council Decision 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions (OJ L 189, 3.7.1998, p. 42).