OPINION OF THE EUROPEAN CENTRAL BANK

of 10 December 2015

relating to stamp duty on cash withdrawals from automated teller machines

(CON/2015/55)

Introduction and legal basis

On 20 October 2015, the Irish Minister for Finance formally presented the Finance Bill 2015 (hereinafter the 'draft law') to *Dáil Éireann*, the lower house of the *Oireachtas* (the National Parliament). The European Central Bank (ECB) has not been consulted by the Irish authorities on the draft law.

The ECB's competence to deliver an opinion is based on Articles 127(4) and 282(5) of the Treaty on the Functioning of the European Union and the first and second indents of Article 2(1) of Council Decision 98/415/EC[1], as the draft law relates to currency matters and means of payment. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the European Central Bank, the Governing Council has adopted this opinion.

1. Purpose of the draft law

Section 61 of the draft law amends the existing Stamp Duties Consolidation Act 1999, to replace the current flat rate stamp duty charge on cash, debit and combined cards as of 1 January 2016 with a charge on cash withdrawals using these cards from automated teller machines (ATMs) in Ireland. Each such cash withdrawal will be charged EUR 0.12, but the annual charge will continue to be capped at a maximum of EUR 2.50 for single function (i.e. cash or debit) card withdrawals and EUR 5 for combined (i.e. cash and debit) card withdrawals. The purpose of the draft law is to encourage greater use of electronic methods of payment in Ireland by providing consumers with an incentive to use debit cards instead of withdrawing cash from ATMs.

2. General observations

2.1 One of the basic tasks of the European System of Central Banks (ESCB) under the fourth indent of Article 127(2) of the Treaty on the Functioning of the European Union (TFEU) is to promote the smooth operation of payment systems. The ECB also has a special responsibility for cash, as it has the exclusive right to authorise the issue of euro banknotes within the Union in accordance with Article 128 TFEU and Article 16 of the Statute on the European System of Central Banks and the European Central Bank. Within its sphere of competence, the ECB monitors and continuously seeks to promote the safety, resilience and efficiency of these means of payment. The ECB is

1 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).

neutral with regard to these different means of payment, meaning that it does not favour one instrument over another. As a result, the ECB favours a carefully considered and balanced approach to national measures taken in this area.

2.2 The ECB understands the objective of encouraging the greater use of electronic methods of payment in Ireland. This should not, however, lead to legislation making the use of euro banknotes more expensive than electronic methods of payment, thus putting legal tender at a disadvantage.

2.3 The ECB would point out that since the stamp duty charge is a form of taxation on the withdrawal of cash from ATMs, it could affect the legal tender status of euro banknotes. Moreover, notwithstanding the public reason for the stamp duty charge and the low level of charges imposed by the draft law, the ECB is concerned that this may set a precedent for the possible future taxation on the channels to access euro banknotes.

2.4 While welcoming the removal of the stamp duty charge on cash, debit and combined cards, the ECB notes that the proposed stamp duty on ATM withdrawals could make the use of euro banknotes more expensive than electronic payments, and would therefore recommend that the measure be reconsidered.

This opinion will be published on the ECB's website.

Done at Frankfurt am Main, 10 December 2015.

[signed]

The President of the ECB

Mario DRAGHI