EUROPEAN CENTRAL BANK

STRICTLY CONFIDENTIAL

ANNEX II

to the report on legal aspects of euro area short-term securities

Commercial paper

8 February 2002

First Draft

ANNEX II

Commercial Paper

1	Legal basis
BELGIUM	“Thesauriebewijzen/Billets de trésorie”” (TBT or Treasury Notes) is the legal name chosen by the Belgian legislator to define CP issued under Belgian Law (Law on Commercial Paper and Certificates of Deposit of 22 July 1991 and Royal Decree on Commercial Paper and Certificates of Deposit of 14 October 1991).
GERMANY	The general rules within the Civil Code (Bürgerliches Gesetzbuch), in particular sections 793 seq. of the Civil Code, and in supervisory law apply. Specific definitions are to be found in section 1(11)Nr.2(3) of the Banking Act (Kreditwesengesetz) of 1998, section 2 (1a) of the Securities Trading Act (Wertpapierhandelsgesetz), section 7a(2) of the UCITS-Act (Kapitalanlagegesellschaftsgesetz) (‘money market instruments’).
GREECE	Development of CP market is put off until the tax regime is harmonised with the EU
SPAIN	Law 24/1998 of 28 July on the Securities Market (*Ley del Mercado de Valores*, “the Law”), and implementing legislation including Royal Decree 291/1992 of 27 March on Issue and Public Offerings of Securities (*Real Decreto sobre Emisiones y Ofertas Publicas de Venta de Valores*, “the Decree”). Law of Private Corporations (as published by Royal-Decree 1564/1989 of 22 December). There is no specific legislation regulating commercial paper. Many aspects of its definition, legal status and issue are “soft law”.
FRANCE	Article L 213-1 of the French Financial and Monetary Code defines negotiable debt securities ("Titres de Créances Négociables" -TCN-) as "*titres émis au gré de l'émetteur, négociables sur un marché réglementé ou de gré à gré, qui représentent chacun un droit de créance pour une durée déterminée*". This definition covers in particular "certificats de dépôt" (certificates of deposit), "billets de trésorerie" (commercial paper) and "bons à moyen terme négociables" (Medium-Term Notes). Conditions of issuance are defined in Articles L.213-2 to Article L.213-4 of the Code and by Decrees and CRBF Regulations (See Decree nº92-137 of 13 February 1992 regarding TCN and amended by Decree nº98-1316 of 31 December 1998 and Regulation of CRBF nº98-08 of 7 December 1998 and Arrêté of 31 December 1998). Decree nº98-1316 defines general principles applicable to all kinds of TCN. The CRBF Regulation nº98-08 defines the rules applicable to the issuance by credit institutions and investment firms, respectively of certificates of deposit and of commercial paper as well as the issuance of MTN by these two categories of issuers. Arrêté of 31 December 1998 defines the rules applicable to securities issued by non-financial entities (commercial paper and MTN of industrial and commercial undertakings).

1	**Legal basis**
IRELAND	The Central Bank of Ireland, in its capacity as the competent authority for the licensing and supervision of credit institutions, has issued a Notice (BSD CP 1/98) exempting issuers of commercial paper from the requirement to hold a license in respect of the carrying on of a banking business provided that they satisfy certain conditions. This Notice, issued pursuant to the exercise of the Central Bank of Ireland's statutory powers, provides the legal basis for the issuance of commercial paper by entities which are not licensed as credit institutions. None of the provisions of the notice apply to paper issued by or on behalf of the Irish State or any other Member State of the European Union.
ITALY	In Italy the law regulates the "cambiale finanziaria": Law 13-1-1994, n. 43. The general rules related to promissory notes are applicable to it. An atypical instrument called "polizza di credito commerciale" is also known in the Italian market.
LUXEMBOURG	None (various legal provisions have of course an impact on CPs).
THE NETHERLANDS	The Act on the Supervision of Credit Institutions 1992 (*Wet toezicht kredietwezen*) and implementing rules and regulations, the Act on the Supervision of Securities Trade (*Wet toezicht effectenverkeer*) and implementing rules and regulations.
AUSTRIA	The general legal basis is the commercial certificate of obligation according to section 363 Commercial Code and the principle of freedom of contract.
PORTUGAL	Decree-Law No. 181/92 of 22 August 1992, as amended by Decree-Law No. 231/94 of 14 September 1994, Decree-Law No. 343/98 of 6 November 1998 and Decree-Law No. 26/2000 of 3 March 2000.
FINLAND	The Securities Markets Act (495/1989) contains a broad definition of financial instruments. Commercial paper would seemingly fall under the definition in Chapter 1, Section 2(3).

2	**Legal definitions**
BELGIUM	TBT are defined as debt instruments created for a limited period of time by Art. 1 §1 of the Law on Commercial Paper and Certificates of Deposit of 22 July 1991, and when issued by credit institutions are called *“Depositobewijzen/Certificats de dépôt”* (CD or Certificates of Deposit). Under Belgian law, TBT may be issued for maturities exceeding one year.
GERMANY	Debt security (section 793 seq. of the Civil Code), usually issued by a (non-financial) corporate.
GREECE	
SPAIN	Commercial paper is called “*pagarés de empresa*” or “*pagarés financieros*”. No legal definition. The legal status of commercial paper is object of diverse doctrinal interpretations.
FRANCE	Article L 213-1 of the French Financial and Monetary Code defines "Titres de Créances Négociables" (TCN) as "titres émis au gré de l'émetteur, négociables sur un marché réglementé ou de gré à gré, qui représentent chacun un droit de créance pour une durée déterminée" (see 1). This definition covers "billets de trésorerie" (commercial paper). According to Arrêté of 31 December 1998 and CRBF Regulation of 7 December 1998, commercial paper must have a fixed maturity date, an initial maturity of at least one day and a unit value equivalent to at least EUR 150.000. Their maximum maturity must not exceed one year.
IRELAND	Commercial paper has been defined as short-term unsecured, unsubordinated promissory notes which are negotiable instruments issued by both government and private issuers. See Agnes Foy, The Capital Markets: Irish and international law and regulations p. 158 (Round Hall Sweet & Maxwell 1998). Commercial paper would fall within the statutory definition of a ‘debenture’ under section 2(1) of the Companies Act, 1963 and within the definition of a ‘debt security’ under the Irish Regulations implementing the Listing Particulars and Prospectus Directives. For the purpose of the Central Bank of Ireland’s Notice BSD CP 1/98, the generic term ‘commercial paper’ is defined as paper or other securities which have an original maturity of less than one year and which involve the issue of securities or other obligations, howsoever described.
ITALY	*The“cambiale finanziaria”* is a negotiable instrument with maturity from 1 month to 1 year (article 1, law 43/94). A decree issued by the Treasury lays down the main features of it. The minimum amount is 100 million lire.
LUXEMBOURG	None. ABBL (Banker’s association) defines it as follows “Commercial papers (CPs) are negotiable bearer unsecured promissory notes with short-term maturities less than a year issued by corporate, public or semi-public entities. These securities are mainly bought by institutional and professional investors. Usually issued at a discount by using a group of dealers, commercial papers are traded on the international secondary market. They are used for the optimisation of cash management: CPs are flexible short-term investments providing a yield depending on the rating of the issuer.”

2	Legal definitions
THE NETHERLANDS	Defined in the Credit System Supervision Manual (implementing the Act on the Supervision of the Credit System 1992): short-term negotiable bearer debt instruments issued by issuers other than banks. Commonly: Short-term securities issued by corporate institutions for a maturity ranging from one day to two years with fixed or floating rates. There is a minimum amount of NLG 1,000,000 or EUR 454,000.
AUSTRIA	Under Austrian law a CP is a security. There are no special legal definitions. More generally, bonds and other securities are mentioned in several Austrian laws (e.g. the Banking Act, the Securities Deposit Act, the Capital Market Act, the Stock Exchange Act, the Capital transaction Tax Act). However, these acts also do not contain express definitions. For the purposes of banking supervision the Banking Act contains a definition of money market papers in its liquidity provisions (section 25 (4) 3. last sentence). According to this provision money market certificates are credit institution bonds which may only be traded between those credit institutions which have committed themselves to selling such certificates only to credit institutions.
PORTUGAL	Pursuant to Article 1 of Decree-Law No. 181/92, commercial paper ('papel comercial') corresponds to short-term securities issued by corporations, including civil, cooperatives, public enterprises and public authorities and private entities and public authorities both vested with legal personality. Two different short-term maturities are set up according to Articles 2(1) and 13 respectively: (i) maturity of less than one year and (ii) maturity of more than one year but less than two years. Placement is either by direct placement (CP with a maturity of more than one year but less than two years) or competitive auction (CP with a maturity of less than one year). In both these cases, CP is considered as a security of a monetary nature, and therefore is not subject to the provisions of the Securities Code *ex vi* its Article 2(2). Pursuant to Article 14 of Decree-Law No. 181/92, CP with a maturity of more than one year but less than two years can be placed by means of a competitive auction, which becomes, still according to that legal provision, subject to the provisions of the Securities Code.
FINLAND	No specific legal definition of "commercial paper" is laid down in the relevant provision of the Securities Markets Act (Chapter 1, Section 2 of the Act). In practice such papers are securities issued by Government, local governments, companies, banks and other financial institutions.

3	**Issuance** (generally: by corporates and financial institutions; discount paper; dematerialised)
BELGIUM	Minimum EUR 250,000.00. The “quasi” medium term notes that are issued with maturities exceeding one year are issued in a similar way as the short term TBT with the exception that their tenor exceeds one year and the panel of terms and conditions is wider. Pursuant to Article 1 of the Law of 22 July 1991, commercial paper may be issued by corporates or credit institutions established in Belgium or corporates or credit institutions established in another EU Member State who have the right, under their respective national laws, to commercial paper.
GERMANY	No minimum tradable lot prescribed by law, usually the minimum lot is beyond DEM 1,000000.00. Issuers are normally (non-financial) corporates. The issue is normally made as securitised debt on a discount basis, rarely as unsecuritised debt (Schuldschein), in any case the issue is in fungible form.
GREECE	
SPAIN	Generally issued by corporations, although there are no restrictions on credit institutions to issue commercial paper. Commercial paper is generally issued with a maturity of minimum 7 days and maximum 21 months, although maturity may reach 2 or 3 years. 18 months is the preferred maximum maturity, as it determines the liquidity classification of the title (see next section: rating). These limitations are guidelines of the CNMV (soft law) and established market practice, as the law lays down no requirements on the maturity of commercial paper. Corporations may not issue commercial paper for a total value higher than their subscribed capital plus reserves (Law of Corporations, Art. 282). The law establishes no other limits on the value of commercial paper. Issue can be dematerialized. Regulation in Royal Decree 116/1992. The Law and Decree apply to securities issued in Spanish territory, meaning addressed to investors resident in Spain (Decree, Art. 3).
FRANCE	Article L 213-3 of the French Monetary and Financial enumerates the legal entities who may issue TCN, i.e. credit institutions, investment firms, Caisse des Dépôts et Consignations, companies making public offerings ("faisant appel public à l'épargne"), EIG, Community institutions and international organisations to which France belongs. Billets de trésorerie (commercial paper) are issued by investment firms, companies making public offerings, resident or non-resident with at least two years of activity, public companies, EIG and Community institutions and international organisations to which France belongs. Since the law "NRE" (New Economic Regulations) of 15 May 2001, local public bodies are also authorised to issue commercial paper and MTN (see Decree n° 2001-930 of 9 October 2001 amending the Decree n° 92-137 of 13 February 1992 regarding TCN, French OJ of 12 October 2001, p 16023). Dematerialisation is compulsory since 1993.

3	Issuance (generally: by corporates and financial institutions; discount paper; dematerialised)
IRELAND	Under the Central Bank of Ireland's Notice BSD CP 1/98, three classes of person are exempted from the requirement to hold a banking license where the requirement would arise solely from the issue of commercial paper (other than asset-backed commercial paper): (1) either (a) a company or other body corporate, whether Irish or otherwise, or body created under statute, whether Irish or otherwise, the latest audited accounts of which indicate that is 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 20 million Irish pounds (approximately EUR 25 million) or (b) 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 shareholder's funds of at least 20 million Irish pounds (approximately EUR 25 million) or foreign currency equivalent; (2) a company or other body corporate, whether Irish or otherwise, or a statutory body whose commercial paper is guaranteed by a credit institution or equivalent from an OECD member state; or (3) 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. Under the Central Bank of Ireland's Notice BSD CP 1/98, eligible issuers of commercial paper other than asset-backed commercial paper must meet the following criteria: first, the commercial paper must be issued and transferable in minimum amounts of 100,000 Irish pounds (approximately EUR 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 100,000 Irish pounds (approximately EUR 125,000)); second, the issuer must notify the Central Bank of Ireland as soon as it commences activity, stating the issuer category under which it claims exemption from the requirement to hold a banking license; third, all commercial paper issued under the exemption must carry the title 'Commercial Paper' and must identify the issuer by name; fourth, it must be stated explicitly on the face of the commercial paper and, where applicable, in the contract between the investor and the issuer that it is issued in accordance with an exemption from the requirement to hold a banking license granted by the Central Bank of Ireland; fifth, it must be stated explicitly on the face of the commercial paper and, where applicable, in the contract between the investor and the issuer that the investment does not have the status of a bank deposit, is not within the scope of the Central Bank of Ireland's deposit protection scheme and that issuers are not regulated by the Central Bank of Ireland arising from the issue of commercial paper; and sixth, any issue of commercial paper which is guaranteed must carry a statement to that effect and identify the guarantor by name. Under the Central Bank of Ireland's Notice BSD CP 1/98, a company or other body corporate, whether Irish or otherwise, or a statutory body which issues asset-backed commercial paper is exempt from the requirement to hold a banking license where the requirement would arise solely from the issue of asset-backed commercial paper which meets the following criteria: first, at the time of issue the commercial paper must be backed by assets to at least 100% of the value of the commercial paper issued; second, at the time of issue, the commercial paper must be rated to at least investment grade by one or more recognised rating agencies; third, the commercial paper must be issued and transferable in minimum amounts of 250,000 Irish pounds (approximately EUR 312,500) or foreign currency equivalent (this does not preclude the commercial paper from being issued or transferable in amounts greater than and not multiples of 250,000 Irish pounds (approximately EUR 312,500)); fourth, the issuer must notify the Central Bank of Ireland as soon as it commences activity, stating the issuer category under which it claims exemption from the requirement to hold a banking license; fifth, all commercial paper issued under the exemption must carry the title 'Commercial Paper' and must identify the issuer by name; sixth, it must be stated explicitly on the face of the commercial paper and, where applicable, in the contract between the investor and the issuer that it is issued in accordance with an exemption from the requirement to hold a banking license granted by the Central Bank of Ireland; seventh, it must be stated explicitly on the face of the commercial paper and, where applicable, in the contract between the investor and the issuer that the investment does not have the status of a bank deposit, is not within the scope of the Central Bank of Ireland's deposit protection scheme and that issuers are not regulated by the Central Bank of Ireland arising from the issue of commercial paper; and eighth, any issue of commercial paper which is guaranteed must carry a statement to that effect and identify the guarantor by name. The regime established by the Central Bank of Ireland's Notice BSD CP 1/98 does not apply to paper issued by or on behalf of the Irish State or any other Member State of the European Union. The Irish Government issues short-term paper in the form of exchequer notes and bills with an original maturity of between one day and one year.

3	**Issuance** **(generally: by corporates and financial institutions; discount paper; dematerialised)**
ITALY	The “cambiale finanziaria” can be issued by companies listed in a regulated market and companies who had profits in the last three years. In the latter case, a guarantee is requested by a bank, an insurance undertaking or a financial company (Delibera of CICR, 3 March 1994). The issuance of “cambiale finanziaria” and “polizza di credito commerciale” is regulated by “Istruzioni di Vigilanza” of Banca d'Italia, Title IX.
LUXEMBOURG	There is no specific procedure dealing with the issuance. It is generally and in practice considered that certificates of deposit can be issued by banks on an individual and private basis whilst commercial paper (billets de trésorerie) and MTNs (bons à moyen terme négociables) will generally be issued in series and placed either privately or publicly.
THE NETHERLANDS	Issuance is generally regulated by the Act on the Supervision of Securities Trade 1995 (*Wte 1995*)
AUSTRIA	Short-term securities (bonds) are issued by corporates, banks and the Austrian Federal Financing Agency (Austrian Treasury Bills). Banks tend to establish multi-currency CP programmes, not used for domestic funding.
PORTUGAL	According to Article 1 of Decree-Law No. 181/92, CP is issued by corporations, cooperatives, public enterprises and all other public and private legal entities, that fulfil the criteria: (a) shareholders’ equity or net assets not lower than € 5 million, (b) positive net incomes/assets variations in the last 3 years. No minimum amount for issue is laid down in the legal act at stake. Pursuant to Article 4(2) of Decree-Law No. 181/92, dematerialisation of commercial paper is allowed, subject to the conditions laid down by the Banco de Portugal. The issue of CP is not subject to commercial register, as flows from Article 2(4) of Decree-Law No. 181/92.
FINLAND	In practice minimum € 100,000.00. Also by local authorities and banks. Dematerialised

4	**Rating** (generally: rating not compulsory)
BELGIUM	Rating (not compulsory).
GERMANY	Frequent. Normally, rated corporates would issue. Other issuer would use credit support techniques.
GREECE	
SPAIN	There are no regulatory provisions on rating. The CNMV has a list of securities classified as having high liquidity. This classification is relevant because Money Market Investment Funds must have 60% of their capital invested in high liquidity titles. The classification of a title as 'high liquidity' is determined by 3 criteria: (1) that it is negotiated in a secondary market, (2) that it may be easily transferred, and (3) that it has a maturity of no more than 18 months (Ministerial Order of 31 July 1991). This classification explains that commercial paper is often issued with a maturity inferior to 18 months, so as to encourage its acquisition by Funds.
FRANCE	The rating is not compulsory. This rating is obtained from a rating agency expressly mentioned in the list established by the French Ministry of Economy and Finance. Banque de France may also grant issuers a rating. Rated issuers are exempted from the application for a visa to the COB and benefit from asimplified information procedure.
IRELAND	Under the Central Bank of Ireland's Notice BSD CP 1/98, an issuer of asset-backed commercial paper is only exempt from the requirement to hold a banking license where, at the time of issue, the commercial paper is rated to at least investment grade by one or more recognised rating agencies. This requirement does not apply to non-asset backed commercial paper, with respect to which stricter issuer eligibility criteria are applied.
ITALY	Not compulsory.
LUXEMBOURG	?
THE NETHERLANDS	Rating (not compulsory).
AUSTRIA	No provisions on rating.
PORTUGAL	According to Article 7(1)(f) of Decree-Law No. 181/92, rating by a company registered in *Comissão de Mercado de Valores Mobiliários* (CMVM) is compulsory, unless the payment responsibilities are guaranteed by a credit institution.

4	**Rating (generally: rating not compulsory)**
FINLAND	Pursuant to Chapter 3, Section 11 of the Securities Markets Act, the Stock Exchange may list an instrument such as e.g. a commercial paper that has been issued to the public, if the issuer is a member of the Stock Exchange and applies for such listing.

5	**Investors and prospectuses (Generally: issuers must release prospectus containing main features of the programme and financial documents –annual report, interim report. Prospectus must be updated annually and each time an event occurs that might influence the creditworthiness of the issuer.)**
BELGIUM	For each CP programme a prospectus is to be made available in accordance with Art 5 of the Law on Commercial Paper and Certificates of Deposit of 22 July 1991 and part 2 of the Royal Decree on Commercial Paper and Certificates of Deposit of 14 October 1991.
GERMANY	Prospectus is required under section 7 of the Prospectus Act (Verkaufsprospektgesetz) of 1998. In practice, exemptions apply in case of restricted subscribers, minimum tradable lots beyond 80.000 DM or maturities below 1 year. Prospectuses have to be deposited with the Federal Securities Office (BAWe).
GREECE	
SPAIN	Under the Law, Art. 26(d)), before issue, a prospectus must be presented to and registered (with some exceptions) with the CNMV (Comisión Nacional del Mercado de Valores: Spanish securities supervision agency). The prospectus must contain enough information for investor to make a judgment on the proposed investment. It must reproduce the conclusion of the mandatory audits as per Art. 27 of the Law, the obligations derived from the securities, and the procedure for placing the security on the market. The prospectus must follow the models approved by the CNMV (see CNMV Circular 2/1999) and fulfil a series of minimum formal requirements. Correction of mistakes or relevant ex-post information must be included in a supplement. (Decree, Art. 15-23) The public offer must take place within a month of the registry of the prospectus with the CNMV (Decree, Art. 25). In the case of international offers (i.e., including non-Spanish residents) the prospectus must include all information provided to foreign investors, even if not required by Spanish legislation. All information must be translated into Spanish (Decree, Art. 26). In the case of issuers not resident in Spain, the required audit must comply with the legislation of the place of residence of the issuer. If this is outside the EU, the CNMV may require additional clarification re. the applicable norms. As commercial paper tends to have a short maturity, its issue would be often exempt from the requirement of prior registry of a prospectus with the CNMV.
FRANCE	Pursuant to Article L.213-4 of the French Financial and Monetary Code, the issuers of TCN are under an obligation to fulfil certain information obligations concerning their economic and financial situation and their issuing programme. A Decree specifies the content of these obligations and the conditions of publicity. The COB is in charge of the control of the fulfillment of these obligations (especially when issuers do not provide any rating and must apply for a visa of the COB). The information document to be presented by issuers is called "Dossier de présentation financière" and communicated to BdF.

5	**Investors and prospectuses (Generally: issuers must release prospectus containing main features of the programme and financial documents –annual report, interim report. Prospectus must be updated annually and each time an event occurs that might influence the creditworthiness of the issuer.)**
IRELAND	Insofar as a commercial paper is a negotiable instrument, it is a debt security whose issuance is also subject to the general regulatory regime applicable to the issuance of debt securities under Irish law. The prospectus requirements of the Companies Act, 1963, are not applicable to notes offered and placed publicly. In the absence of clear statutory or common law guidance regarding the scope of the private placement exemption, steps have been taken by market participants to ensure that note issuance facilities for the issuance of commercial paper are not subject to prospectus requirements. One approach has been for the issuer and the bank acting as the issuer's agent in offering the notes to agree on a list of a maximum number of 20 potential purchasers. All invitations and offers are made orally, and only confirmed in writing upon once an oral agreement to purchase a note has been agreed. Additional safeguards would be that not more than five potential offerees would be contacted on any one day and/or that only persons who expressed an interest in the notes would receive an offer and/or that the identity of the issuer would not be disclosed to potential purchasers in the initial stages of the offering. The facility letter would also contain additional safeguards designed to avoid a secondary market in the issuer's notes. See Johnston, Banking and Security Law in Ireland pp. 219-221. Under the Central Bank of Ireland's Notice (BSD CP 1/98) exempting issuers of commercial paper from the requirement to hold a license in respect of the carrying on of a banking business, all commercial paper issued under the exemption must carry the title 'Commercial Paper' and must identify the issuer by name; it must be stated explicitly on the face of the commercial paper that it is issued in accordance with an exemption from the requirement to hold a banking license granted by the Central Bank of Ireland; it must be stated explicitly on the face of the commercial paper that the investment does not have the status of a bank deposit, is not within the scope of the Central Bank of Ireland's deposit protection scheme and that issuers 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 that effect and identify the guarantor by name.
ITALY	There is no obligation to issue a prospectus. The "Istruzioni di Vigilanza" of Banca d'Italia lays down the main features that are mandatory for cambiale finanziaria and polizza di credito commerciale. The issuance of certificates with features different from those laid down by the Istruzioni is subject to prior notification to Banca d'Italia following the procedure laid down by article 129 of the Consolidated Banking law.
LUXEMBOURG	A prospectus is only required if the instruments are either offered to the public in Luxembourg or listed on the Luxembourg Stock Exchange. To the extent that the instruments are issued under a public programme, then an annual update of the prospectus is required. An update is also required if major events occur that could affect the creditworthiness of the issuer.
THE NETHERLANDS	The Act on the Supervision of Securities Trade 1995 (and further rules and regulations) stipulates the requirements to the prospectus, which must be published unless securities are offered only to professionals, to a select group or only outside the Netherlands.
AUSTRIA	Article 2 of the Austrian Capital Market Act provides for the requirement of a prospectus when securities are offered to the public. No prospectus has to be drawn up, when securities are only offered to limited number of professional investors or in case of continuous issues by credit institutions.
PORTUGAL	Pursuant to Article 7 of Decree-Law No. 181/92, a prospectus informing about the main features of the issuing program and about the financial situation of the issuer must be released.

5	**Investors and prospectuses (Generally: issuers must release prospectus containing main features of the programme and financial documents –annual report, interim report. Prospectus must be updated annually and each time an event occurs that might influence the creditworthiness of the issuer.)**
FINLAND	All issuers of financial instruments, other than shares in companies that fall within the scope of the Securities Markets Act are subject to the information requirements laid down in Chapter 2, Section 2 of the Act. Pursuant to this provision, anyone who issues securities (e.g. commercial paper) to the public must provide sufficient information on any circumstances that may substantially affect the value of the securities in question.

6	**Trading (generally: placement by credit institutions, usually secondary market is negligible)**
BELGIUM	The issuer may restrict trading of CP Buy-back possible by issuer but unusual.
GERMANY	Placement by credit institutions. Due to the short-term nature, an exchange admission is seldom sought, small trading activities ('buy and hold' paper), in the OTC market. Buy-back possible but unusual.
GREECE	
SPAIN	The admission of securities to trading in official markets requires prior verification (but no authorization) by the CNMV (Law, Art. 32.1) and the agreement of the authority of the secondary market concerned. Commercial paper is traded in the stock exchange and mostly in the official secondary market AIAF (*Asociación de Intermediarios de Activos Financieros*). The AIAF is a price market (i.e., not blind) for fixed-return titles without participation from the public. If traded outside an official secondary market, the transaction requires intervention by public notary, or a certified securities agent (*sociedad o agencia de valores*) but only if the title is not dematerialised. Generally, commercial paper is documented in accounts. Buy-back would be possible if so provided for in a public document (not required for dematerialised commercial paper), and by purchase in the stock exchange.
FRANCE	Disposal and trading is open to any authorised credit institution or investment firm. Buy-back possible by issuers: reporting obligation to BdF
IRELAND	Commercial paper is in theory negotiable, but in practice every effort is made to ensure that these instruments are issued privately without the need to comply with prospectus requirements, with the result that there is no secondary market for Irish commercial paper. Buy-back possible by issuer but unusual
ITALY	Placement by credit institutions.
LUXEMBOURG	There are no specific rules dealing with the trading of such instruments, which basically trade like any other securities.
THE NETHERLANDS	Buy-back possible by issuer but unusual.
AUSTRIA	OTC. In principle, CPs can be admitted to trading at the Stock Exchange provided the requirements set out in the Stock Exchange Act are met.

6	**Trading (generally: placement by credit institutions, usually secondary market is negligible)**
PORTUGAL	Pursuant to Article 2(1) of Decree-Law No. 181/92, buy-back is admitted but only before the maturity deadline expires.
FINLAND	Buy-back possible by issuer but unusual, due to practice, but not because of Finnish Law

7	Nature of rights
BELGIUM	Issuers have to meet financial criteria or be guaranteed by a corporate meeting the criteria or a public authority, ex Art 13 of the Royal Decree on Commercial Paper and Certificates of Deposit of 14 October 1991.
GERMANY	Normally issued as securitised debt instruments (Schuldverschreibung, sections 793 seq. Civil Code), whereby the general securities and safe custody laws apply. Exceptionally, CDs could be issued as unsecuritised debt (Schuldschein), in which case the investor holds an unsecuritised claim.
GREECE	
SPAIN	Proprietary rights of dematerialized titles are established by their inscription in the relevant registry (Law, Art. 8). For securities not admitted to negotiation in official secondary markets, the register is chosen by the issuer among those authorized for this activity (i.e., credit institutions). For securities admitted to negotiation in secondary markets, the registry is that of the relevant market, in this case the registry of the SCLV (Servicio de Compensacion y Liquidacion de Valores: settlement and clearing system of the Spanish stock exchange). Registered securities are fungible. The transfer of rights takes place by account transfer, whereby the inscription of the transfer has the same effects that a transfer of title, and has force vis-à-vis third parties from the moment of the inscription. A third party acquiring the title from the person identified by the registry as able to transfer the title, cannot be re-vindicated (Law, Art. 9). The system of the representation of securities in accounts is further regulated by Royal-Decree 116/1992 of 14 February.
FRANCE	Guarantees can be given by credit institutions, investment firms with financial links with the issuer or other entity authorised to issue CP provided that this firm has financial links to the issuer (See Regulation CRBF nº98-08 of 7 December 1998 and Arrêté of 31 December 1998).
IRELAND	Insofar as commercial paper is a negotiable instrument, proprietary rights attach to the holder of such a negotiable instrument.
ITALY	Negotiable instrument. The circulation is regulated by the general law on promissory notes.
LUXEMBOURG	The holder of the instrument has a contractual claim against the issuer of the instrument and a right in rem against the depository of such instruments.
THE NETHERLANDS	There are no specific rules or regulations in this regard. General Dutch civil/commercial law applies.
AUSTRIA	General civil law rules apply.

7	Nature of rights
PORTUGAL	Pursuant to Article 2(5) of Decree-Law No. 181/92, the transfer of CP is only deemed effective upon communication by the transferee to the credit institution in which the issuer has registered or deposited the CP. Pursuant to Article 2(2) of Decree-Law No. 181/92, buy-back by the issuer is possible (although rather unusual). Pursuant to Article 1(3) of Decree-Law No. 181/92, collateral may be provided by credit institutions fulfilling the requirements laid down in Article 6. These requirements are two-fold: (i) the object of the credit institutions at stake must encompass the granting of collateral and (ii) shareholders' equity or net assets not lower than € 5 million. The granting of collateral by these credit institutions exempts the issuer from fulfilling the requirements laid down in Article 1(2) relating to its shareholders' equity or net assets and the balance sheet figures.
FINLAND	The right of the holder of the commercial papers arises from Section 1 of the Law on Promissory Notes (622/1947), wherein the obligation to repay debts under promissory notes is explicitly stated.

8	**Procedures for clearing and settlement (terms and conditions of securities clearing and settlement systems)** **(generally: CP may be administered by a local CSD or a international clearer)**
BELGIUM	There are no specific rules or regulations in this regard.
GERMANY	Usually, the settlement takes place through Clearstream Frankfurt or its affiliates. Normally, CPs are held in immobilised with a global note.
GREECE	
SPAIN	If traded in an official secondary market, commercial paper must be registered with the SCLV (or a subsidiary agency) with the exception of singular titles. The SCLV has exclusive rights for the registry, clearing and settlement of securities traded in the stock exchanges and other official secondary markets. The clearing and settlement agency for the AIAF is Espaclear, Agencia de Valores, dependent of the SCLV. The regulation of clearing and settlement of securities in Spain will be subject to substantial regulatory changes before the end of this year.
FRANCE	Compulsory domiciliation in a credit institution or an investment firm established in France or Caisse des Dépôts. Possibility, on request of the issuer, to be managed in Euroclear France Currently, more than 90% of commercial paper are managed by Euroclear France.
IRELAND	Irish Government exchequer notes and bills with an original maturity of between one day and one year are settled in a system managed by the Irish National Treasury Management Agency (NTMA). In practice, there is no secondary market for exchequer notes and bills, but they can be mobilised as collateral for central bank operations. Given that Irish commercial paper is issued in private placements without any secondary market trading, the paper is issued in physical form and there are no procedures for clearing and settling commercial paper transactions.
ITALY	According to CONSOB Resolution n. 12479 and the Decree of the Ministry of Treasury of 23 August 2000, all securities normally traded on the money market are eligible for deposit at Monte Titoli and can be transferred through it.
LUXEMBOURG	There are no specific procedures for clearing and settlement of these instruments, which are cleared and settled like any other types of securities.
THE NETHERLANDS	There are no specific rules or regulations in this regard.
AUSTRIA	Settlement through the national CSD as well as an international CSD is possible.

8	**Procedures for clearing and settlement (terms and conditions of securities clearing and settlement systems)** **(generally: CP may be administered by a local CSD or a international clearer)**
PORTUGAL	There are no specific rules or regulations in this regard.
FINLAND	Domestic settlement through the Central Securities Depository (APK). The parties would both be bound by the Rules of the APK.

9	Taxation and stamp duty
BELGIUM	No withholding tax is applied. Article 10 of the Law of 22 July 1991 introduces an amendment to the Code on Stamp Duty (*Code des taxes assimilées au timbre*) that provides for the rules laid down in article 126(1) of the Code to be applicable to certificates of deposit.
GERMANY	No stamp duty. The capital gains tax (Kapitalertragssteuer) is levied by banks (usually 30%) having safe custody accounts for investors.
GREECE	
SPAIN	Securities with a maturity of more than one year are subject to special controls by the Tax Authority (Agencia Tributaria). Applicable legislation: Ley de Activos Finacieros y de Control de Cambios.
FRANCE	Principles applicable to the fiscal treatment of TCN are defined in the administrative instruction of 24 February 1987 CBOI 4 A-4-87 concerning taxation of TCN held by companies.
IRELAND	Under Section 19 of the Finance Bill 2002 currently pending before the Oireachtas (Irish Parliament), interest paid by financial institutions on commercial paper is subject to deposit interest retention tax (DIRT) because the amount received by the institution for the commercial paper is treated in the same way as any other deposit made with a financial institution for purposes of applying DIRT. Under Section 246 of the Taxes Consolidation Act 1997 interest paid by a company on euro commercial paper issued by the company must, subject to certain exceptions, be paid net of tax.
ITALY	CPs are free from stamp duty. As regards income tax: proceeds cumulate with normal revenues of the company, no withholding tax is applied. VAT: as bonds.

9	**Taxation and stamp duty**
LUXEMBOURG	A. Corporate tax aspects The tax treatment of the commercial paper follows the accounting treatment (please see accounting): profits accounted for are taxable and charges are deductible. In case the Luxembourg bank issues the promissory note, there is no withholding tax on interest, whether to a resident or non-resident taxpayer. Where the Luxembourg bank receives interest on a promissory note issued by a non-resident corporation, such interest may be subject to withholding tax in that other state. If this other state has signed a double tax treaty with Luxembourg, the withholding tax is either avoided or reduced. The foreign tax levied is creditable against the corporate income tax of the bank, the excess credit is deductible. It must be noted that only foreign tax paid can basically be creditable against the corporate income tax (this condition is provided under the Luxembourg domestic and also usually under tax treaties signed with Luxembourg). Furthermore, the foreign tax is creditable against the corporate income tax of the year in the course of which the foreign-source interest is taxable in Luxembourg. In this respect arises the question of the offset of the foreign tax levied on interest accrued as profit in the accounts of the Luxembourg bank but not yet paid to the Luxembourg bank (e.g. in case of commercial papers issued at discount, the interests are booked in the P&L pro-rata temporis; see above under the accounting treatment). Under such an hypothesis, assuming that the foreign withholding tax is levied upon payment of the interest (which is often the case), the situation would be that the income (interest) is accounted for as profit and taxed during the same year. Assuming a commercial paper issued for more than one year, the interest accrued as profit in the accounts of the bank would not be subject to payment of withholding tax in the foreign state (the foreign tax will be levied upon payment of the interest only). The offset of the foreign tax is however not lost. Indeed, when the foreign tax is (assessed and) paid after the filing of the tax return of the Luxembourg bank (or after taxation of the foreign-source interest in Luxembourg), the tax return (or the corporate income tax) must be modified in order to take into account the foreign tax paid (i.e. offsetting of the foreign tax against the corporate income tax). This modification is possible within the limits of the statute of limitation. In practice however, the tax authorities basically accept the offset of the foreign tax on an accrued basis. It is however advisable to obtain written approval from the tax authorities before substantial investments in foreign assets raising the above-mentioned issue. As to the net worth tax, no specific rules apply (please refer to the general principles for details on the common net worth tax regime). B. VAT aspects The issue of commercial paper by a bank is not regarded as a transaction falling within the scope of the VAT. On the other hand, transactions, including negotiation, concerning amongst others negotiable instruments are exempted from VAT. As such, they do not open any right to input VAT for the bank, which carries them on, unless the customer is located outside of the European Union.
THE NETHERLANDS	No stamp duty, as regards income tax: proceeds cumulate with normal revenues of the company, no withholding tax is applied.
AUSTRIA	There is no securities transaction tax. Austrian residents are subject to a withholding tax on interests.

9	**Taxation and stamp duty**
PORTUGAL	Pursuant to Article 74(3)(b) of the IRS Code and Article 69(2)(d) of the IRC Code, the interests of CP are taxed in the measure of 20% (tax deduction at source), but exempted from stamp tax. The benefits resulting from the transfer of CP are furthermore subject to IRC taxation.
FINLAND	

10	Supervisory and regulatory aspects (generally: not regulated; reporting requirements to NCBs for statistical purposes)
BELGIUM	The National Bank of Belgium has several tasks in the administration of the trading in this area under the Royal Decree on Commercial Paper and Certificates of Deposit of 14 October 1991.
GERMANY	Not regulated as far as issue is concerned.
GREECE	
SPAIN	The CNMV, Spanish securities supervision agency is in charge of supervision of the issue and trading of commercial paper, as with other securities. The CNMV may suspend issue or trading of any securities under its supervision. Generally, there is no prior authorisation required for issue, with the exception of securities with an interest linked to price indexes (Ministerial Order of 28 May 1999). Nevertheless, the issue must be communicated to the CNMV, together with the submission and registry of documentation regarding the characteristics of the emission, issuer's audit reports and annual accounts, and prospectus. These requirements do not apply to issues of securities with a maturity of less than 12 months that are addressed exclusively to clients, or to public institutions. The requirements to register audit reports, annual accounts and the prospectus do not apply to issues addressed to public institutions, to less than 50 investors, to the staff of the institution, or to those whose total value is less than ESP 1,000.00.
FRANCE	Banque de France (BdF) is the competent authority supervising the TCN market. BdF must control the respect by issuers of conditions for he issuance of TCN. It is vested with the power to suspend or prohibit issuance of e.g., commercial paper if the issuer fails to comply with the conditions laid down for such issuance. BdF is informed of any new entrant on the TCN market and receives communication of " Dossier de présentation financière" (See point 5 above). COB controls the information to be provided, when the issuer does not provide any rating (application for a visa).
IRELAND	The issuance of commercial paper by credit institutions is supervised by the Central Bank of Ireland as the competent authority responsible for the licensing and supervision of credit institutions.
ITALY	The issuance of cambiale finanziaria and commercial paper is subject to prior notification to Banca d'Italia following the procedure laid down by article 129 of the Consolidated Banking law. See also Istruzioni di Vigilanza of Banca d'Italia, title IX. No notification required for securities with standard characteristics issued for amount below 50 millions euro.

10	**Supervisory and regulatory aspects (generally: not regulated; reporting requirements to NCBs for statistical purposes)**
LUXEMBOURG	For the purpose of calculating capital requirements to cover foreign exchange risk, credit institutions shall include the commercial papers denominated in foreign currencies in the net open positions by currency. The net global positions (defined as the sum of all long positions by currency on one hand and the sum of all short positions by currency on the other hand) are computed, the higher of which is submitted to a 8% capital requirement in excess of 2% of the eligible own funds. An alternative method based on statistics may be used by the credit institutions. Issued commercial papers are not subject to any capital requirement to cover credit risk. Purchased commercial papers, if they are part of the banking book, are subject to capital requirements to cover credit risk by applying a weighting depending on the quality of the counterpart. If those commercial papers are part of the trading book, transactions unsettled after their due delivery dates (spot or forward sale or purchase of securities) and free deliveries (undelivered but purchased and paid securities or unpaid but sold and delivered securities) are subject to capital requirements to cover settlement/delivery risk and counterpart risk. Those requirements are calculated as a percentage applied either on the difference between the market value and the settlement value or directly on the settlement value. Those percentages are increasing with the quality of the counterpart and the aging of the unsettled transaction. Commercial papers from the trading book are subject to a specific capital requirement to cover the risk associated with variation in the price of securities. Capital requirements must be sufficient to cover the specific risk (risk of a price change in the instrument due to factors related to the issuer of the certificate) and the general risk (risk of a price change in the certificate due to a change in the overall level of the market). Finally, the certificates included in the trading book are subject to an additional capital requirement due to excesses over the limits of large exposures. This requirement equals 200% minimum weighting on the capital requirement to cover the specific risk mentioned above and is subject to multiplication factors as from the 11th day following the excess. The public offering of securities requires the issuance of a prospectus and a number of publications in Luxembourg which are subject to the approval of the Commission de Surveillance du Secteur Financier. Luxembourg entities that issue on regular basis these types of instruments may be considered, depending on the circumstances, as carrying out an activity of taking of deposits from the public and may thus need a banking license. Issuers of securities do not need to report these issues to the supervisory authority.
THE NETHERLANDS	Securities Commission in charge of supervision as per the Act on the Supervision of the Securities Trade 1995.
AUSTRIA	The Austrian Securities Authority is responsible for investigations and the oversight of market participants' activities (credit institutions, issuers, investment services providers, securities exchange).
PORTUGAL	CP with a maturity of more than one year but less than two years placed by direct placement and CP with a maturity of less than one year placed by competitive auction are considered as securities of a monetary nature, and therefore subject to the supervisory and regulatory powers of the Banco de Portugal *ex vi* Decree-Law No. 22/99 of 28 January 1999. CP with a maturity of more than one year but less than two years placed by means of a competitive auction are subject to the legal framework adopted by the Securities Code, and are thus subject to the supervisory and regulatory powers of the CMVM.

10	**Supervisory and regulatory aspects (generally: not regulated; reporting requirements to NCBs for statistical purposes)**
FINLAND	The Finnish Financial Supervisory Authority (FSA) operates in connection with the Bank of Finland but is a functionally independent body. It supervises the financial markets and the participants therein. The Capital Markets Department of the FSA, in particular, monitors securities markets practices and issuers’ compliance with disclosure requirements.