

PRESS STATEMENT BY THE DIRECTOR OF CORPORATE ENFORCEMENT
EUROFOOD IFSC LIMITED –
DIRECTOR WELCOMES DECISION OF THE EUROPEAN COURT OF JUSTICE

Mr Paul Appleby, the Director of Corporate Enforcement, has welcomed today's judgment of the European Court of Justice (ECJ) in the case of Eurofood IFSC Limited. The case concerned the resolution of specific legal questions concerning the interpretation of the EU Cross-Border Insolvency Regulation – Council Regulation (EC) 1346/2000 of 29 May 2000 on Insolvency Proceedings. These questions had been referred to the ECJ by the Supreme Court of Ireland on the basis that preliminary rulings from the ECJ were necessary before the Supreme Court could give judgment on an appeal brought against the appointment by the Irish High Court of a liquidator to the Irish company, Eurofood IFSC Limited. That appeal was brought by Mr Enrico Bondi, the Extraordinary Administrator appointed to Parmalat SpA, a major global food company incorporated in Italy, of which Eurofood was a subsidiary.

In a comment on the ECJ decision this afternoon, Mr Appleby stated—

“With more and more businesses operating across frontiers, both creditors and investors—as well as fiscal and regulatory authorities—need a clear legal framework within which to assess the consequences which ought to follow in the event of a business becoming insolvent. The EU Cross-Border Insolvency Regulation seeks to bring greater certainty to this area in order to support the further development of the EU Internal Market in goods and services.

I am particularly pleased that the ECJ has today confirmed that a company's “centre of main interests” should be presumed to be located in the Member State in which it is incorporated, unless there are factors *‘which are both objective and ascertainable by third parties’* to clearly rebut that presumption. The ECJ has stated that *‘the mere fact that a company's economic choices are or can be controlled by a parent company in another Member State is not enough to rebut the presumption.’*

Ireland's creditor-friendly insolvency regime is one of the many factors that make investing in Irish companies attractive. It is clear from today's judgment that Irish insolvency law will remain the applicable framework for the liquidation of the majority of Irish-registered companies trading in the EU.”

2 May 2006
ENDS

Editors' Note

1. A copy of the ECJ decision is available at [http://curia.eu.int/jurisp/cgi-bin/form.pl?lang=EN&Submit=Rechercher\\$docrequire=alldocs&numaff=C-341/04&datefs=&datefe=&nomusuel=&domaine=&mots=&resmax=100](http://curia.eu.int/jurisp/cgi-bin/form.pl?lang=EN&Submit=Rechercher$docrequire=alldocs&numaff=C-341/04&datefs=&datefe=&nomusuel=&domaine=&mots=&resmax=100). This contains a summary of the case and the questions submitted by the Irish Supreme Court for determination by the ECJ.
2. For further information on the EU's measures to improve cross-border insolvency proceedings, see http://europa.eu.int/comm/justice_home/fsj/civil/insolvency/fsj_civil_insolvency_en.htm.
3. The text of the earlier judgments in the High Court and Supreme Court are available at <http://www.odce.ie/court/insolvencyarticle.asp?NID=295&NCID=38>.
4. The Director of Corporate Enforcement has been a party to this litigation both in the Irish and European Courts. In particular, both written and oral submissions were made to the ECJ on the Director's behalf. The other parties who participated in the proceedings before the ECJ were as follows—
 - Signor Enrico Bondi, the Extraordinary Administrator appointed under Italian Law;
 - Bank of America N.A;
 - Mr Pearse Farrell, the Official Liquidator of Eurofood IFSC Limited, who was appointed by the High Court of Ireland;
 - the holders of certain certificates and loan notes issued by Eurofood IFSC Limited;
 - the Governments of Ireland, the Czech Republic, Germany, France, Italy, Hungary, Austria and Finland;
 - the European Commission.
5. The final phase in this litigation will be a resumed hearing before the Irish Supreme Court (for which no date has yet been fixed). The Director will be represented at that hearing at which his lawyers will be arguing that, in the light of today's rulings from the ECJ, it was and remains appropriate for the insolvency of Eurofood IFSC Limited to be dealt with under Irish law.
6. For further information, please contact Paul Appleby at (01) 8585820.

Office of the Director of Corporate Enforcement
2 May 2006