



INTERNATIONAL
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COMPENSATION
FUND

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Agenda item 5

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ANY OTHER BUSINESS

Investment with Baring Brothers & Co Ltd

Note by the Director

1 Introduction

1.1 On Sunday 26 February 1995 substantially all entities with the Baring Group, a United Kingdom merchant banking group, ceased trading and were placed in administration. The main bank in the group is Baring Brothers and Co Ltd, with which the IOPC Fund has a six months fixed deposit, maturing on 21 June 1995.

1.2 The Director has considered it appropriate to bring this matter to the attention of Member States at the earliest opportunity.

2 IOPC Fund's investment policy

2.1 The IOPC Fund's investment policy is governed by Internal Regulation 10.2 and Financial Regulation 7.1.

2.2 Under Internal Regulation 10.2, the Director may invest any funds which are not required for the short-term operation of the IOPC Fund. In making investments, all necessary steps should be taken to ensure the maintenance of sufficient liquid funds for the operation of the IOPC Fund, to avoid undue currency risks and generally to obtain a reasonable return on the investments.

2.3 Financial Regulation 7.1 reads:

The assets of the Fund shall be invested by the Director in accordance with Internal Regulation 10.2 and the following principles:

- (a) the Fund's assets shall be held in pounds sterling or, if the Director considers it appropriate, in the currencies required to meet claims arising out of a specific incident which have been settled or are likely to be settled in the near future. Subject to prior approval by the Assembly, investments may also be made in currencies other than pounds sterling to meet payments in respect of a particular incident which has given rise to significant claims against the Fund;
- (b) the assets shall be placed on term deposit with banks or building societies enjoying a high reputation and standing in the financial community, or they shall be invested with discount houses which are members of the London Discount Market Association by the purchase of bank bills; the term of these investments shall in neither case exceed one year;
- (c) the maximum investment in any bank, building society or discount house shall not normally exceed 25% of the Fund's total assets, subject to a maximum of £8 million;
- (d) any exceptions to the normal limit in paragraph (c) shall be reported to the Assembly at its next meeting.

These principles shall be reviewed from time to time.

2.4 At its 17th Session the Assembly set up an Investment Advisory Body to advise the Director in general terms on investment matters. The mandate of the Body is annexed to the Record of Decisions of that session (document Fund/A.17/35, paragraph 23 and Annex).

3 Investment with Baring Brothers & Co Ltd

3.1 At a meeting held on 20 December 1994, the Investment Advisory Body recommended certain clarifications of the criteria to be used by the Director in deciding which institutions would qualify for investments. A list of such institutions was also submitted by the members of the Body, and this list included Baring Brothers and Co Ltd.

3.2 Baring Brothers and Co Ltd is the oldest merchant bank in the United Kingdom, founded in 1762. It enjoyed a very high reputation and standing in the financial community. For this reason the Director considered that Baring Brothers and Co Ltd fulfilled the conditions laid down in the IOPC Fund's Financial Regulations for the investment of the Fund's assets.

3.3 On 21 December 1994, the Director decided to invest an amount of £2 million on deposit for a fixed period of six months with Baring Brothers and Co Ltd, at 6 ³¹/₃₂% per annum.

3.4 On Sunday 26 February 1995, substantially all of the Baring entities ceased trading after the Group had contracted massive debts, mainly as a result of dealing in derivatives on a large scale in its Singapore branch. These entities were placed in administration after the Bank of England had failed to organise a rescue operation by other banks. The main bank in the group is Baring Brothers and Co Ltd.

3.5 On the morning of Sunday 26 February 1995 the Director learned of the precarious situation in which Barings found itself. After discussion with the Finance Officer the Director decided to convene a meeting of the Investment Advisory Body for the morning of Monday 27 February. At that meeting the situation was discussed, and certain interim measures were taken restricting the IOPC Fund's investments to a narrower group of institutions, pending further examination of the situation created in the London market by the cessation of trading by Barings. In particular, it was decided that no further investments should be made with merchant banks for the time being.

3.6 On 27 February the Director also requested Clifford Chance, a London firm of solicitors, to represent the IOPC Fund in this matter. Measures were taken to provide the administrator of Barings with particulars of the IOPC Fund's deposit with Baring Brothers and Co Ltd.

3.7 The Chairman of the Assembly, the Chairman of the Executive Committee and the IOPC Fund's External Auditor were informed of the situation.

3.8 On 6 March 1995, it was announced that the Dutch bank Internationale Nederlanden Group ("ING") had acquired Barings' main operating businesses, taking substantially all its assets and liabilities. It is understood that on Wednesday 8 March 1995, a formal agreement was signed whereby a new wholly owned subsidiary of ING was created, named Barings Bank Ltd, to take over the obligations relating to deposits made with Baring Brothers and Co Ltd. However, the exact terms of this agreement are not yet public, and until such publication the Director has to rely on information given in the media or obtained from the IOPC Fund's solicitors.

3.9 In view of the development set out above, it is anticipated that the IOPC Fund will recover the total amount of the principal of the deposit, maturing on 21 June 1995, together with interest.

3.10 The Director will continue to monitor the development of this issue.

4 Action to be taken by the Executive Committee

The Executive Committee is invited to take note of the information contained in this document.
