

Bank of Finland Legal Provisions 2017



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A

NATIONAL LEGISLATION

No. 731/1999

THE CONSTITUTION OF FINLAND

Issued in Helsinki on 11 June 1999

Section 91. *Bank of Finland*

The Bank of Finland operates under the guarantee and supervision of the Parliament, as laid down by law. For the purpose of supervising the operations of the Bank of Finland, the Parliament elects the members of the Parliamentary Supervisory Council.

The appropriate Committee of the Parliament and the members of the Parliamentary Supervisory Council have the right to receive the information needed for the supervision of the operations of the Bank of Finland.

No. 252/2000

RULES OF PROCEDURE OF THE PARLIAMENTARY SUPERVISORY COUNCIL

Adopted in Helsinki on 25 February 2000

Section 1. *Term of office*

The term of office of the Parliamentary Supervisory Council begins when the Parliament has conducted an election of Council members and continues until a new election of the Parliamentary Supervisory Council is conducted.

Section 2. *Organisation*

The members of the Council convene immediately after the election to select a chairman and deputy chairman amongst themselves. The election shall be conducted in accordance with the rules concerning election of the Speaker of the Parliament, as applicable, unless the members unanimously decide otherwise. The result of the election shall be submitted to the Parliament.

The first meeting of the Parliamentary Supervisory Council shall be summoned by the oldest member in terms of age of the Council. He or she shall preside until the chairman has been selected.

The elected council members comprise the Parliamentary Supervisory Council. The Parliamentary Supervisory Council may establish a working division amongst themselves, to which one Council member shall be selected, in addition to the chairman and the deputy chairman. The duty of the working division is to prepare matters for discussion by the Council.

Section 3. *Duties*

The duties of the Parliamentary Supervisory Council, as provided for in more detail in the Act on the Bank of Finland (214/1998) and the Act on the Employees of the Bank of Finland (1166/1998), is to: (16.10.2009/801)

- 1) supervise the administration and operations of the Bank of Finland
- 2) submit reports to the Parliament

3) make proposals to the Parliament and the Government on important matters of principle

4) make proposals on the filling of the position of Chairman of the Board and appoint and dismiss other members of the Board (16.10.2009/801)

5) decide on certain issues concerning the employment relationships concerning the Members of the Board and officials of the Bank of Finland

6) ratify the pension and survivors' pension rules for the Bank and the Rules of Procedure of the Board of the Bank of Finland and other permanent regulations

7) ratify the compensation and grounds thereof of the auditors selected by the Parliament and their secretaries.

The Parliamentary Supervisory Council, by virtue of the Working hours Act (605/1996), shall stipulate which officials of the Bank of Finland shall not be subject to the Working Hours Act.

The Parliamentary Supervisory Council shall appoint and dismiss the Board members and Director General of the Financial Supervisory Authority (FIN-FSA) and supervise the administration and activities of the FIN-FSA in accordance with the Act on the Financial Supervisory Authority (878/2008). The Parliamentary Supervisory Council also acts as supervisory board to Sitra, the Finnish Innovation Fund, as provided for in more detail in the Act on Sitra, the Finnish Innovation Fund (717/1990). (16.10.2009/801)

The Parliamentary Supervisory Council issues instructions on decision-making concerning the allocation of the duties during a leave of absence of a member of the Board of the Bank of Finland lasting up to a week. It is the duty of the Parliamentary Supervisory Council to take appropriate action if a member of the Board of the Bank of Finland or the Director General of the Financial Supervision Authority is suspected of malfeasance or grounds giving rise to a civil suit against them have emerged. (16.10.2009/801)

Section 4. Assembly

The Parliamentary Supervisory Council convenes on invitation by the chairman. The chairman shall also summon the Parliamentary Supervisory Council if a member of the Parliamentary Supervisory Council or the Board of the Bank of Finland requires.

If both the chairman and deputy chairman are hindered in performing their duties, a temporary chairman shall be chosen in accordance with the provisions on the election of a chairman. If a working division has been selected to the Parliamentary

Supervisory Council, the third member of the work division shall act as temporary chairman.

Section 5. *Preparation of reports*

The Parliamentary Supervisory Council may prepare reports referred to in section 11 of the Act on the Bank of Finland and request statements and reviews on the execution of monetary policy. The Parliamentary Supervisory Council may also hear experts.

Section 6. *Minutes*

The Parliamentary Supervisory Council shall appoint a secretary who prepares the minutes of meetings of the Parliamentary Supervisory Council, writes the documents and performs duties assigned to him by the Parliamentary Supervisory Council.

The chairman and deputy chairman of the Parliamentary Supervisory Council shall review the minutes of meetings of the Parliamentary Supervisory Council. The chairman and deputy chairman of the Parliamentary Supervisory Council shall sign the documents of the Parliamentary Supervisory Council.

Section 7. *Remuneration*

A member of the Parliamentary Supervisory Council shall receive an annual remuneration amounting to one third of the annual remuneration, with all increments for service, paid to a Member of Parliament in accordance with the Act on the Remuneration of Parliament Members (328/1947). In addition, the chairman and deputy chairman of the shall be paid annual remuneration amounting to a half for the chairman and a fifth for the deputy chairman of the annual remuneration paid to a member of the Parliamentary Supervisory Council. One twelfth of the annual remuneration shall be paid on a monthly basis.

Members of the Parliamentary Supervisory Council shall be paid a meeting remuneration amounting to a third of the monthly remuneration for each meeting.

The Parliamentary Supervisory Council shall decide on the remuneration of the secretary.

The remuneration of the members and other expenses of the Parliamentary Supervisory Council shall be paid from the assets of the Bank of Finland.

Section 8. *Entry into force*

These Rules of Procedure will enter into force on 1 March 2000.

These Rules of Procedure shall render the Rules of Procedure of the Parliamentary Supervisory Council adopted on 2 March 1926 and subsequent amendments thereto obsolete.

After the entry into force of these Rules of Procedure, the operation of a more compact Parliamentary Supervisory Council shall cease and the Parliamentary Supervisory Council shall be organised in accordance with these Rules of Procedure.

No. 214/1998

ACT ON THE BANK OF FINLAND

Issued in Helsinki on 27 March 1998

CHAPTER 1 GENERAL PROVISIONS

Section 1. Status

The Bank of Finland is the central bank of Finland. It is an independent institution governed by public law.

The Bank of Finland shall act as part of the European System of Central Banks in the manner laid down in the Treaty establishing the European Community, hereinafter referred to as '*the Treaty*', and the Statute of the European System of Central Banks and of the European Central Bank, hereinafter referred to as '*the Statute*'.

In performing tasks of the European System of Central Banks, the Bank of Finland shall act in accordance with the guidelines and instructions of the European Central Bank.

Section 2. Objective

In accordance with the Treaty, the primary objective of the Bank of Finland shall be to maintain price stability.

Without prejudice to the objective laid down in paragraph 1, the Bank of Finland shall also support the achievement of other economic policy objectives in accordance with the Treaty.

Section 3. Tasks

The task of the Bank of Finland shall be to contribute to the execution of monetary policy as defined by the Governing Council of the European Central Bank.

The Bank of Finland shall also:

- 1) contribute to maintenance of the currency supply and issuance of bank notes;
- 2) contribute to holding and management of foreign exchange reserves;
- 3) participate in maintaining the reliability and efficiency of the payment system and overall financial system and

participate their development; and

4) provide for the compilation and publication of statistics as necessary for carrying out its tasks.

Section 4. *Independence and cooperation with other authorities*

In performing tasks of the European System of Central Banks, neither the Bank of Finland nor members of its governing bodies shall seek or take instructions concerning such tasks from entities other than the European Central Bank.

The Bank of Finland shall cooperate as necessary with the Council of State and other authorities.

Section 5. *Powers*

In order to carry out its tasks, the Bank of Finland is empowered to:

- 1) grant and obtain credit;
- 2) accept and make deposits;
- 3) engage in trade in securities, precious metals and foreign exchange;
- 4) handle payment transactions and clearing of payments;
- 5) engage in other activities in the securities, money and foreign exchange markets; and
- 6) issue rules and instructions concerning the handling of notes and coins to banks and other monetary institutions and to other similar entities.

The Bank of Finland may own shares, other participations and real estate to the extent necessary for carrying out its tasks and organizing its activities.

Section 6. *Prohibition of public financing*

The Bank of Finland is not allowed to grant credit to any institution or body of the European Union or to any Member State of the European Union or its regional, local or other authorities, or to any other public entity.

Nor is the Bank of Finland allowed to subscribe to debt instruments issued by entities referred to in paragraph 1.

With the exception of credit institutions, the provisions laid down in paragraphs 1 and 2 shall apply also to companies in which a public entity referred to in paragraph 1 exercises control. Publicly owned credit institutions shall be given the same treatment as private credit institutions in the context of the supply of reserves by central banks.

Section 7. Collateral

The Bank of Finland shall hold adequate collateral in connection with the granting of credit.

Paragraph 2 was repealed by the Act (26 November 1999/1084). (See the Act on Certain Conditions of Securities and Currency Trading as well as Settlement Systems, Section 10; page 23.)

Section 8. Capital

The Bank of Finland shall have primary capital and a reserve fund.

The reserve fund can be used for increasing the primary capital or for covering losses, as prescribed in section 21.

CHAPTER 2 ADMINISTRATION

Section 9. Governing bodies

The Bank of Finland's governing bodies are the Parliamentary Supervisory Council and the Board.

Section 10. Parliamentary Supervisory Council

The Parliamentary Supervisory Council, which shall consist of nine members elected by Parliament, shall elect a chairman and a deputy chairman from among its members.

A member of the Parliamentary Supervisory Council is obliged to resign if he is appointed as a member of the Council of State or a member of the Board, or if he has undertaken an occupation that, according to a unanimous decision of the Parliamentary Supervisory Council, is incompatible with membership on the Parliamentary Supervisory Council.

Section 11. Tasks of the Parliamentary Supervisory Council

As a body supervising the administration and activities of the Bank of Finland, the Parliamentary Supervisory Council shall perform the following tasks:

- 1) confirm, upon proposal of the Board, the basic principles applied in drawing up the annual accounts of the Bank of Finland;
- 2) decide, on the basis of the auditors' report, on the confirmation of the Bank's balance sheet and profit and loss account;

3) decide, upon proposal of the Board, on measures concerning the Bank's profit or loss for the financial year,

4) report annually to Parliament on the Bank's activities and administration and on the main issues dealt with by the Parliamentary Supervisory Council; and

5) as necessary, submit to Parliament reports on the execution of monetary policy and the other activities of the Bank of Finland.

In respect of the Bank's administration, the Parliamentary Supervisory Council shall:

1) make proposals to the Council of State on the filling of the position of Chairman of the Board (19.12.2008/850);

2) decide on the principles for determining salaries, leaves of absence and annual leaves of members of the Board as well as on the execution of their duties during leaves of absence exceeding one week;

3) decide on the issuance of warnings to members of the Board and settle other issues related to their service;

4) appoint, upon proposal of the Board, directors of the Bank of Finland;

5) appoint the Deputy Chairman of the Board;

6) confirm the Bank of Finland's Pension and Survivors' Pension Regulations and issue regulations concerning the management of the Bank's pension liability, upon proposal of the Board, and

7) issue, upon proposal of the Board, regulations concerning the language skills required of officials of the Bank of Finland.

In addition, the Parliamentary Supervisory Council shall:

1) decide on motions to be put before Parliament;

2) decide on proposals to be submitted to the Council of State in highly important matters of principle;

3) confirm the bases for fees and remunerations to be paid to auditors elected by Parliament and their secretary;

4) confirm, upon proposal of the Board, the Bank of Finland's rules referred to in paragraph 3 of section 15; and

5) order payment of compensation for appointment of an employee of the Bank for a fixed term without statutory grounds.

The Parliamentary Supervisory Council shall have the right to obtain any information necessary for carrying out its tasks laid down in this section.

Section 12. *Decisionmaking by the Parliamentary Supervisory Council*

Six members of the Parliamentary Supervisory Council shall

constitute a quorum. An opinion that is seconded by the majority of the Council shall be considered a decision. In the case of a tie vote, the Chairman's vote shall be decisive.

The members of the Board shall have the right to be present and to be heard at meetings of the Parliamentary Supervisory Council.

Section 13. Board

The Board shall consist of the Chairman and a maximum of five other members. The President of the Republic appoints the Chairman of the Board for a seven-year term. The other members of the Board are appointed by the Parliamentary Supervisory Council, each for a five-year term. The eligibility criteria for a member of the Board are a higher academic degree appropriate for the position, conversance with the monetary economy or financial operations and proven management skills and management experience. (19.12.2008/850)

The Chairman of the Board shall be the Governor of the Bank of Finland.

One and the same person can be appointed as a member of the Board for a maximum of three terms. However, one and the same person can be appointed Chairman of the Board for two terms even if the said person has previously been a member of the Board.

Section 14. Tasks of the Board

The Board shall be responsible for the administration of the Bank of Finland and for ensuring that all tasks assigned to the Bank are duly executed, except for statutory tasks of the Parliamentary Supervisory Council and matters that are otherwise provided for in the Act on the Financial Supervision Authority (503/1993).

The activities of the Bank shall be organized in an efficient and cost-effective manner.

The Board shall have the right to issue more detailed regulations on the tasks and powers of the Bank's units and employees.

The Governor and the other members of the Board shall be obliged to provide the Parliamentary Supervisory Council with information on a regular basis concerning the execution of monetary policy and other activities of the Bank of Finland.

Section 15. Decisionmaking by the Board

Three members of the Board shall constitute a quorum. An opinion seconded by the majority of the Board shall be

considered a decision. In the case of a tie vote, the Chairman's vote shall be decisive.

The independence and the powers of the Governor of the Bank of Finland in respect to the performance of his duties in the Governing Council of the European Central Bank are laid down in the Treaty and the Statute.

More detailed provisions on the Board's decisionmaking procedure and related presentations may be laid down in the Bank's rules.

Section 16. *Dismissal of a member of the Board*

The President of the Republic may dismiss the Chairman of the Board, and the Parliamentary Supervisory Council may dismiss another member of the Board, only if the member no longer fulfils the conditions required for the performance of his duties or if he has been guilty of serious misconduct. (19.12.2008/850)

A member of the Board other than the Chairman of the Board may appeal a decision referred to above in paragraph 1 to the Supreme Administrative Court as prescribed in applicable provisions of the Act on Application of Administrative Law (586/1996). The Statute provides for the right of appeal of the Chairman of the Board.

Section 17. *Permit for a secondary occupation of a member of the Board*

A member of the Board shall neither accept nor carry on a secondary occupation unless the Parliamentary Supervisory Council, upon application, grants him a permit to do so. Such a permit can also be granted for a fixed term or with restrictions. A permit for a secondary occupation can also be withdrawn for justifiable reasons.

When considering the granting of a permit for a secondary occupation, the Parliamentary Supervisory Council shall ensure that the secondary occupation does not disqualify the member of the Board from his position. Nor shall the secondary occupation jeopardize confidence in the member of the Board in respect of his performance of tasks of the European System of Central Banks or other tasks or otherwise impede the appropriate performance of his duties.

For the purposes of paragraphs 1 and 2 above, secondary occupation shall mean a position, paid or unpaid work, or a duty that the member of the Board is entitled to refuse, or a profession, trade or business.

Section 18. *Election of auditors*

Parliament shall elect five auditors and a deputy for each of them, for the purpose of auditing the Bank of Finland's annual accounts and accounting system and management.

A minimum of two of the auditors and their respective deputies must be KHT Auditors or JHT Auditors. (1177/2015)

The auditors shall elect a chairman from among them selves and appoint as secretary a person who is a KHT Auditor. (1177/2015)

CHAPTER 3

ANNUAL ACCOUNTS, MONETARY INCOME, ALLOCATION OF PROFITS AND AUDITING

Section 19. *Annual accounts*

The Bank of Finland's financial year is the calendar year.

The Bank of Finland's annual accounts, which comprise the balance sheet, profit and loss account, notes to the financial statements and the annual report, shall be drawn up by the end of February and published by the end of April.

The annual accounts shall provide a true and fair view of the Bank of Finland's financial condition and on the composition of its profit or loss. The annual accounts are drawn up and signed by the Board of the Bank of Finland.

The Bank's balance sheet shall be published monthly during the financial year.

Section 20. *Accounting*

In respect of its accounting procedures, the Bank of Finland shall observe generally accepted accounting principles.

Provisions can be made in the annual accounts if necessary for safeguarding the real value of the Bank's funds or for smoothing out variations in profit or loss arising from changes in exchange rates or market values of securities.

Provisions necessary for covering the Bank's pension liability may be made in the annual accounts.

Section 21. *Monetary income and allocation of profits*

The monetary income accruing within the European System of Central Banks in the performance of its monetary policy function shall be calculated and allocated between the national central banks in accordance with the provisions of the Statute

and the decisions made by the Governing Council of the European Central Bank.

Half of the profit, following allocation of the monetary income that has accrued within the European System of Central Banks, shall be transferred to the reserve fund. The remaining profit shall be made available for use in accordance with the needs of the state. The Parliamentary Supervisory Council may decide on use of the profit for other purposes if this is justifiable because of the Bank's financial condition or the size of the reserve fund. Parliament shall decide on the disposal of the profit made available for use in accordance with the needs of the state.

If the Bank's annual accounts show a loss, the loss must be covered out of the reserve fund. If the reserve fund is insufficient to cover part of the loss, the uncovered part of the loss may be left temporarily uncovered. Any profits in subsequent years shall be used first to cover such uncovered losses.

Section 22. Auditing

The auditors elected by Parliament shall audit the Bank's accounts annually by the end of March following the close of the financial year.

The audit shall be carried out according to generally accepted auditing principles.

Auditors shall have access to all documents and information that they consider necessary for the auditing task.

The powers of auditors approved by the Council of the European Union to examine the accounting system and accounts of the Bank of Finland and to obtain information on the Bank's transactions are laid down in the Statute.

Section 23. Auditors' report

The auditors elected by Parliament shall submit a written report to the Parliamentary Supervisory Council, which shall include statements on the observance of the grounds confirmed by the Parliamentary Supervisory Council on the drawing up of annual accounts, on the confirmation of the profit and loss account and balance sheet and on the Board's proposal on measures to be taken concerning the Bank's profit or loss, as well as any comments that may affect confirmation of the profit and loss account or balance sheet.

CHAPTER 4

MISCELLANEOUS PROVISIONS

Section 24. *Administrative procedures and official language*

In dealing with administrative matters, the Bank of Finland shall observe the Administrative Procedures Act (598/1982).

The provisions on the official language of a bilingual administrative district shall apply to the Bank of Finland in respect of its official language.

Section 25. *Charges*

The Bank of Finland shall be entitled to levy charges for services that it performs. In determining the charges to be levied for such services as part of the Bank's official activities, excluding charges for tasks of the European System of Central Banks, account shall be taken of applicable provisions in the Act on the Grounds for Charges Levied by Government and Public Institutions (150/1992).

Section 26. *Right and obligation of disclosure*

Other provisions on the secrecy obligation notwithstanding, the Bank of Finland shall have the right to obtain from the authorities and credit and financial institutions and other financial market participants any notifications, reports and other information necessary for carrying out the Bank's statutory tasks.

Provisions on the secrecy obligation notwithstanding, the Bank of Finland shall be obliged to provide information to the authority supervising the financial markets and information other than that obtained for statistical purposes to other authorities that are entitled under the law to obtain such information. The Bank of Finland shall be entitled to provide information obtained for statistical purposes to other authorities for statistical purposes, if such authorities are entitled under the law to obtain such information.

Rights to obtain and provide information on the tasks of the European System of Central Banks are also laid down in the legislation of the European Community.

Notwithstanding the provisions on the secrecy obligation elsewhere in law, the Bank of Finland shall forthwith notify the authorities referred to in section 71, subsection 1, paragraphs 1 and 3 of the Act on the Financial Supervisory Authority (878/2008)

when the Bank of Finland is made aware of an emergency situation in Finland as referred to in Article 18 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC, or of a comparable emergency situation. (8.8.2014/619)

Section 26 a *Cooperation with the Ministry of Finance, the Financial Supervisory Authority and the Finnish Resolution Authority (19.12.2012/1203)*

In the planning and supervision of crisis resolution measures as referred to in the Act on the Crisis Resolution of Credit Institutions and Investment Firms (1194/2014), and in the monitoring of decisions taken, the Bank of Finland shall cooperate with the Ministry of Finance, Financial Supervisory Authority and Finnish Resolution Authority as referred to in the Act on the Finnish Resolution Authority. (1195/2014).

Section 27. *Obligation to provide information to a Parliamentary committee*

The Bank of Finland shall be obliged to provide any concerned committee of Parliament with all information that is necessary for the performance of the Committee's tasks.

Section 28. *Right to obtain information for the compilation of balance of payments statistics*

For the purpose of compiling balance of payments statistics, any entity shall be obliged to provide the Bank of Finland with the following information on its financial transactions, in accordance with the Bank's instructions:

- 1) payments to and from nonresident entities;
- 2) claims of a resident entity on nonresident entities, other assets located abroad and liabilities to resident entities; and
- 3) other financial transactions that change or may change the claims of a resident entity on nonresident entities or the liabilities of a resident entity to nonresident entities.

The Bank of Finland may oblige any entity to supply it with information as referred to in paragraph 1 under penalty of fine. The Bank of Finland shall decide on the imposition of such a fine.

Decisions referred to above in paragraph 2 may be appealed to the Administrative Court as prescribed in the Administrative Judicial Procedure Act . A ruling of the Administrative Court on the issue of ordering payment of a conditionally imposed fine may be appealed, as prescribed in the Administrative Judicial

Procedure Act. Other rulings of the Administrative Court may be appealed only if leave to appeal is granted by the Supreme Administrative Court. A decision that has been appealed may be enforced despite the appeal, unless the appeal authority orders otherwise. (947/2015)

Section 29. *Right of action and place of jurisdiction*

The Board shall exercise the right of action of the Bank of Finland before the Court of Justice of the European Communities and other courts as well as other authorities and corporate entities.

In civil cases, the Bank of Finland shall act as defendant at the Helsinki District Court.

Section 30 was repealed by the Act (17 November 2000/962).

CHAPTER 5 ENTRY INTO FORCE

Section 31. *Entry into force and transitional provisions*

This Act shall enter into force at the date when Finland enters the single currency area in accordance with Article 109l of the Treaty. The Act shall repeal the Act on the Bank of Finland enacted 24 July 1997 (719/1997) and all subsequent amendments thereto, hereinafter referred to as '*the previous Act*'. However, chapter 3 and sections 36, 43 and 45–48 of the previous Act shall remain in force until otherwise provided by law.

Paragraph 1 notwithstanding, sections 4 and 15–17 of this Act shall enter into force on 1 May 1998. Until such time, sections 5 and 17–19 of the previous Act shall remain in force in place of the aforementioned sections.

Measures necessary for enforcement of this Act can be taken before the Act enters into force.

No. 1084/1999

**ACT ON CERTAIN CONDITIONS OF
SECURITIES AND CURRENCY TRADING
AS WELL AS SETTLEMENT SYSTEMS**

Issued in Helsinki on 26 November 1999

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Section 10. *Specific provisions on collateral (17.10.2014/829)*

The rights pertaining to collateral provided to central banks in connection with central banking operations may be exercised notwithstanding an insolvency or other corresponding proceeding against the provider of the collateral. The collateral shall not be withdrawn on the basis of section 14 of the Act on Recovery into a Bankruptcy Estate.

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No. 1166/1998

ACT ON OFFICIALS OF THE BANK OF FINLAND

Issued in Helsinki on 30 December 1998

CHAPTER 1 SCOPE OF APPLICATION

Section 1

The provisions of this Act concerning officials, service relationships and positions at the Bank of Finland shall apply, unless otherwise provided in the Act on the Bank of Finland (214/1998). Of this Act, the following parts shall not apply to members of the Board of the Bank of Finland: section 11, paragraph 1, sentence 2; section 14; section 19, paragraphs 1–5; sections 20–26; and chapters 7 and 16.

A service relationship as referred to in this Act is an employment relationship under public law in which the Bank of Finland is the employer and an official is the employee.

Section 2

The aim of the Act is to ensure efficient and appropriate performance of the tasks of the Bank of Finland and to meet legal protection requirements and ensure that officials' status vis-à-vis the employer is fair.

CHAPTER 2 POSITIONS AND APPOINTMENTS

Section 3

The Bank of Finland has the positions of member of the Board, director and such others as decided by the Board of the Bank of Finland.

Section 4

The Board appoints officials, unless otherwise provided in the Act on the Bank of Finland, sections 11 and 13 or section 14, paragraph 3.

The Constitution Act contains provisions on the general grounds for appointments. In deciding on an appointment, the Bank of Finland may not unjustifiably place any person in a different position to other persons for the reasons given in section 9. Otherwise appointments are made in accordance with decisions of the Board. A person to be appointed as an official must be at least 18 years of age. (23.12.1999/1256)

However, a person who is at least 15 years of age and has completed his compulsory education may be appointed as an official if such appointment is considered appropriate in terms of proper handling of the duties in question.

Section 5

An official may be appointed for a fixed term or other limited period if required by the nature of the work or the fact that the position is a substitute position or part of temporary arrangements for performance of the duties of a vacant office or traineeship. In this event, the official is not appointed to a permanent position but only to a service relationship.

A person may be appointed as an official for a fixed term or other limited period for good cause, regarding the nature of the position or the operations of the Bank of Finland.

Section 6 (21 December 2004/1231)

Anyone appointed to the position of member of the Board, director, head of department, head of unit or adviser to the Board shall submit, prior to the appointment, a clarification of:

- 1) his or her business activities;
- 2) shareholdings in companies and other significant assets;
- 3) debts, guarantees and other liabilities;
- 4) secondary occupations as referred to in section 14;
- 5) other interests which may be relevant in assessing his capability to perform the duties of the position.

That provided in paragraph 1 shall also apply when a person is appointed to a position where he or she has other than occasional access to confidential information concerning monetary policy, financial markets, economic statistics, financial position of a private organisation, or business secrets. The Parliamentary Supervisory Council shall determine, on proposal of the Board, what positions are meant herein.

That provided above in paragraph 1 shall also apply in case a

person is appointed under section 5 to undertake the performance of the duties of a position referred to in paragraphs 1 or 2.

An official shall report without delay any material changes in the content of the clarification, correct any shortcomings observed therein, and otherwise supplement the clarification as necessary. He or she shall also otherwise provide information on matters referred to in paragraph 1 at the request of the Bank of Finland

Information in the clarification on matters referred to in subparagraphs 1–3 or paragraph 1 is confidential.

The Parliamentary Supervisory Council shall adopt more specific regulations on submitting the clarification.

Separate provisions have been adopted on the obligation of officials of the Financial Supervision Authority to submit clarifications of their financial interests.

Section 7

A precondition for making an appointment to a permanent position is that those who have applied or declared themselves for consideration for the position submit information on their health-related abilities to conduct the duties of the position and undergo check-ups and tests to verify such information, if necessary. As regards the consequent costs, the provisions of section 16, paragraph 2 shall apply.

That provided in paragraph 1 shall also apply when a person is appointed under section 5, paragraph 1, to a fixed-term service relationship.

Section 8

On the appointment of an official, it may be specified that the service relationship can be cancelled by either the Bank of Finland or the official concerned within a trial period of not more than six months. Such cancellation cannot, however, be on the grounds referred to in section 9 or other irrelevant grounds.

Paragraph 1 shall not apply to a member of the Board or a director.

CHAPTER 3 **GENERAL OBLIGATIONS OF THE BANK OF** **FINLAND AND OFFICIALS**

Section 9

The Bank of Finland shall treat all employees in its service

equally, unless the duties or position of the employee warrant an exception. (30.12.2014/1335)

Provisions on equality and non-discrimination are laid down in the Non-Discrimination Act (1325/2014). Provisions on gender equality and gender non-discrimination are laid down in the Act on equality between women and men (609/1986). (30.12.2014/1335)

The Bank of Finland shall not forbid an employee to join or belong to an association or pressure him to join a particular association, nor forbid him to resign from such.

Section 10

The Bank of Finland shall ensure that officials have all benefits and rights as are attached to their respective service relationships.

On request by an official, the Bank of Finland shall provide him without delay with a salary certificate showing the amount of salary and basis of calculation.

Section 11

An official shall perform his duties properly and without delay. He shall follow the orders of his superiors and supervisors.

An official shall conduct himself in a manner befitting his status and duties.

Section 12

An official may not demand, accept or receive a financial or other benefit if this could reduce confidence in the official or the Bank of Finland.

Section 13

An official whose duties include representing his employer in a manner described in section 42, paragraph 2, may not hold any position in an association representing those employed by the Bank of Finland that may conflict with the said duties.

Section 14

An official may not accept or hold a secondary occupation which requires his working hours to be spent handling the duties of the said job, unless the Bank of Finland grants him permission on application. Permission for a secondary occupation may also be issued for a fixed term and with restrictions. Permission can also be rescinded for good cause.

When the Bank of Finland considers whether to grant permission for a secondary occupation it must take into account that an official may not be prevented from performing his own

duties because of a secondary occupation. Similarly, a secondary occupation must not endanger confidence in his impartiality in performing his duties or otherwise hamper the proper performance of said duties or manifestly damage his employer because it is a competitive activity.

An official shall notify the Bank of Finland of any secondary occupation, other than one referred to in paragraph 1, which may disqualify him from accepting and holding such secondary occupation on the grounds laid down in paragraph 2.

The term 'secondary occupation' is used in paragraphs 1–3 to mean a position and paid work or duties which the concerned official is entitled to refuse, or any profession, trade or business.

Section 15

In considering granting to an official the Bank of Finland's owner's rights or other representation rights related to control and supervision, it shall be taken into account that the official must not become disqualified for his principal official duties more than occasionally or temporarily.

Section 16

At the request of the Bank of Finland, an official shall provide the Bank with any information about his state of health in relation to the performance of his duties. An official may also be ordered to undergo check-ups and tests to have his state of health affirmed if this is necessary to determine his ability to perform his duties.

The unavoidable costs of any check-ups or tests referred to in paragraph 1 above and ordered by the Bank of Finland shall be paid from the Bank's funds.

CHAPTER 4

LEAVE OF ABSENCE

Section 17

An official may temporarily discontinue working if the Bank of Finland grants him leave of absence on application or if he is automatically entitled to leave of absence under the law. That provided separately applies regarding the discontinuation of work on other grounds. Leave of absence can also be granted without application if the official has not been able to apply for it before discontinuing work or if the reason for the discontinuation has been

sufficiently well established otherwise.

An official shall be on leave of absence for a period during which he is a Member of Parliament or a member of the Council of State, a Member of the European Parliament elected in Finland or is performing military service. In other cases, leave of absence is granted at the discretion of the Bank of Finland, unless otherwise provided or specified separately in some respect, or otherwise agreed in a collective agreement for officials.

Leave of absence can also be granted on a partial basis. An official on leave of absence can also, if he agrees, be required to perform certain official duties if special cause exists.

CHAPTER 5 WARNING

Section 18

An official who acts contrary to his official obligations or fails to meet them can be given a written warning.

CHAPTER 6 TERMINATION OF A SERVICE RELATIONSHIP

Section 19

Notice can be given by either party that a service relationship will end following a given period of notice or, if agreed or separately provided by law, without observing a notice period.

The Bank of Finland may not give notice on a service relationship for a reason deriving from the official, unless this reason is especially weighty. In any case, none of the following reasons may apply:

1) sickness, disorder or injury on the part of the official, unless the consequence thereof is a substantial and permanent deterioration in working capacity and the official is thereby entitled to a disability pension;

2) participation of the official in a strike or other industrial action decided on and implemented by an officials' association; or

3) the official's political, religious or other opinions or his participation in social or association activities.

Notice on grounds referred to in this section must be given

within a reasonable period of the said grounds coming to the attention of the Bank of Finland.

The right of the Bank of Finland to give notice can also be restricted by agreement, allowing the Bank to exercise the right only on grounds laid down in the agreement.

The Bank of Finland may not give notice to an official because of pregnancy. If the Bank of Finland gives notice to a pregnant official, this shall be viewed as due to the pregnancy, unless other grounds are shown. The Bank may not give notice to an official during special maternity, maternity, paternity or parental leave or during care leave, nor may it give notice that employment relationship is to end at the start of or during any of the said forms of leave, having discovered that an official is pregnant or intends to exercise the above-mentioned right.

The service relationship of an official appointed for a fixed term ends without notice when the said fixed term expires, unless it is terminated earlier because notice is given.

Section 20

The Bank of Finland is entitled to give notice to an official if:

- 1) the unit where the official works is eliminated; or
- 2) the official's duties or the Bank's potential for providing the official with work substantially decrease other than temporarily.

The grounds for giving notice referred to in paragraph 1, subparagraph 2, above shall not be considered to exist if:

- 1) the giving of notice was preceded or followed by employment of another person to carry out similar duties and no change has occurred in the Bank's operating conditions in the meantime;

- 2) the reorganisation of duties stated as the reason for giving notice does not in fact reduce the volume of work offered by the Bank or alter its nature;

- 3) the reason stated for giving notice is the acquisition of equipment or appliances, which, considering his expertise, the official could have been trained or could be trained to use;

- 4) the reason stated for giving notice is savings in costs by reducing staff, but such savings are so negligible that, in view of the situation of the Bank and the official, they cannot be considered the true reason for giving notice.

If a position is relocated and the official concerned, absent good cause, does not transfer to the new locality, he can be given notice by virtue of this section.

However, the Bank of Finland is not entitled to give a notice to an official for a reason provided for in paragraph 1 if he can

be reasonably relocated in the Bank in view of his professional skills and capabilities, or can be trained for new duties.

That provided in section 19, paragraphs 4 and 5, regarding restricted right to give notice applies correspondingly to the grounds for giving notice referred to in this section.

Section 21

The Bank of Finland and an official can agree that the service relationship shall end immediately because of notice. Upon termination of the service relationship, the official shall, however, be entitled to compensation equivalent to salary for the period of notice.

The Bank of Finland may withdraw the notice before the end of the notice period if the official agrees. An official may not withdraw notice once given, unless the Bank so agrees.

Section 22

Irrespective of the notice period otherwise to be observed in the service relationship, an official who has been laid off is entitled to give notice to have his service relationship terminated at any time during the lay-off period, though not during the last week before it ends if he already knows when this is.

If the Bank of Finland gives notice to an official before the end of a lay-off, the official is also entitled to the notice-period salary during the lay-off, unless the notice is cancelled as a result of an appeal.

Where a lay-off has taken effect without the official having had the benefit of a notice period concerning termination of the service relationship and where an indefinite lay-off has lasted continuously for a minimum of 200 calendar days, the laid-off official, if he gives notice of termination himself, shall be entitled to compensation for salary lost during the lay-off period, as he would if the Bank of Finland had given notice, unless the Bank offers the official work within a week after giving notice.

Section 23

An agreed period of notice cannot exceed six months. If a longer period has been agreed, the stated maximum notice period shall be observed notwithstanding.

The period of notice affecting the Bank of Finland can by agreement be set longer than the time an official must observe when giving notice on official employment.

If employment with the Bank of Finland has continued without interruption and it has not been agreed otherwise, the

Bank of Finland can give an official notice effective at the earliest:

- 1) after one month if employment has lasted up to one year;
- 2) after two months if employment has lasted over one year and up to five years;
- 3) after three months if employment has lasted over five years and up to nine years;
- 4) after four months if employment has lasted over nine years and up to twelve years;
- 5) after five months if employment has lasted over twelve years and up to fifteen years; and
- 6) after six months if employment has lasted over fifteen years.

When an official gives notice, a notice period of one month shall be observed. However, if the employment relationship with the Bank of Finland has lasted up to one year, a notice period of fourteen days shall be observed and if the employment relationship with the Bank has lasted over ten years, the notice period shall be two months.

Section 24

The Bank of Finland may make a service relationship part-time as of the end of a notice period on the same grounds as apply to notice for a service relationship under section 20, paragraph 1.

Section 25

When an official has been given notice for reasons not deriving from the official himself, and the Bank of Finland needs manpower for the same or similar duties within 24 months of the end of the notice period, the Bank shall ask the local labour authority whether it has any former officials on its books, and if so, offer any work or office primarily to those former officials who possess the required qualifications.

If the Bank of Finland deliberately or negligently fails to fulfil the obligation referred to in paragraph 1, it shall compensate the official for any losses thus caused.

Section 26

An official's service relationship can be cancelled immediately if he grossly violates or neglects his official obligations.

Unless the cause has already lost its significance, the right to cancellation shall lapse within two weeks of the Bank of Finland's becoming aware of the reason for the cancellation or,

if the cause still exists, of being informed that it no longer exists. If there is a valid obstacle to cancellation, it can be effected within two weeks of the obstacle ceasing to exist.

If cancellation has been postponed because of a preliminary inquiry or to obtain some other necessary evidence, the cancellation can take place within two weeks of the end of the preliminary inquiry or of the evidence being acquired, but not later than six months after the origination of cause for cancellation.

Section 27 (21.12 2004/1231)

The compulsory retirement age for Bank of Finland employees is 70 years. (16.12.2016/1169)

The service relationship of an official ends without giving notice or without any other action intended to terminate the relationship at the end of the month during which he or she reaches retirement age.

CHAPTER 7 LAY-OFFS

Section 28

If the Bank of Finland could give notice to an official under section 20, paragraph 1, the official can be laid off at 14 days' notice in such a way that performance of his office and his salary are terminated for a fixed term or indefinitely, even though the service relationship otherwise remains in force.

An official can be laid off as provided in paragraph 1 for a maximum period of 90 days if his duties or the ability of the Bank of Finland to provide him with work have temporarily decreased and Bank of Finland cannot reasonably arrange for him other work or training at the Bank to meet the Bank's needs.

Even though the service relationship remains in force, it is possible to agree on the lay-off of an official at either the Bank of Finland's or the official's initiative. A collective agreement for officials or a codetermination agreement as referred to in section 57 can contain provisions on lay-offs that differ from what is provided in paragraphs 1 and 2.

Section 29

Being laid off shall not prevent an official from accepting other work during the lay-off period.

While laid off, an official shall retain any right to live in housing placed at his disposal under his terms of employment. If an important reason so requires, the Bank of Finland may place some other suitable housing at the disposal of an official not performing his duties because of lay-off. The consequent moving costs shall be paid out of the Bank's funds.

Section 30

When the Bank of Finland becomes aware that a lay-off is unavoidable, it shall immediately, and if possible at latest three months before the lay-off begins, inform the appropriate shop steward of the lay-off and, if the lay-off affects more than ten officials, also inform the labour authorities. This advance notice shall state the reason for the lay-off, its estimated starting date and duration, and the estimated number of officials to be laid off, by professional grouping.

The notification of impending lay-off referred to in section 28, paragraph 1, above shall be made to the official in person, unless otherwise agreed between the Bank of Finland and the association representing the officials concerned. It shall state the reason for the lay-off, its starting date and the duration of a fixed-term layoff, and in the case of an indefinite lay-off, its estimated duration. At the official's request, the Bank of Finland shall provide a written certificate testifying to the lay-off. Notification of the lay-off shall also be made to the appropriate shop steward and, if the lay-off affects at least ten officials, also to the labour authorities.

There is, however, no notification obligation as referred to in paragraph 2 above in cases in which the Bank of Finland is not obliged to pay salary for the lay-off period for some reason other than the lay-off concerned.

With the official's consent, the Bank of Finland can alter the starting and ending date of the lay-off or cancel the lay-off. If the official is laid off indefinitely, he must be informed that work is to recommence at least one week beforehand.

CHAPTER 8

SUSPENSION FROM OFFICE

Section 31

If the decision to give a notice to an official has not taken on legal force by the time the notice period comes to an end, he

shall be suspended from office, unless the Supreme Administrative Court stipulates otherwise for special reason. If an official has been dismissed from office or the service relationship has been cancelled, he shall immediately be suspended from office even if the decision has not taken on legal force.

An official may also be suspended from office:

1) for the period of a criminal charge and the relevant investigations if this may influence the official's preconditions for performing his duties;

2) if the official refuses to have the check-ups and tests referred to in section 16 or if he refuses to provide information about his state of health in accordance with the same section;

3) if an official servant has a sickness that materially detracts from the performance of his office; or

4) immediately following the giving of notice, if the act or negligence constituting the grounds for giving notice shows the official to be so unfit for his office that he can no longer perform its duties or if the continued performance of his duties might jeopardize national security.

An official suspended from office on the grounds referred to in paragraph 2, subparagraph 4, shall however be entitled to compensation equivalent to the salary for the notice period.

CHAPTER 9 CONTRACT ON TERMS OF EMPLOYMENT

Section 32

The Bank of Finland may conclude a written contract with an official on the terms to be observed in the employment relationship. However, contracts with members of the Board of the Bank of Finland are made by the Parliamentary Supervisory Council under the Act on the Bank of Finland, section 11, paragraph 2, subparagraph 3.

A contract referred to in paragraph 1 above may not agree to any matter that cannot be agreed upon according to section 40, paragraphs 2 and 3. A contract may likewise not agree to any terms of employment worse than those laid down in a collective agreement for officials.

If an official is given notice or his service relationship is cancelled, this shall be considered to constitute notice on the contract.

If no contract is made or if a contract does not provide otherwise, what is provided or stipulated, or agreed under chapter 12, shall apply regarding the terms to be observed in a service relationship.

CHAPTER 10

APPEALS REGARDING SERVICE RELATIONSHIPS

Section 33

An official who considers that the Bank of Finland has not rendered him the financial benefit due to him from his employment relationship may submit a written request for rectification to the Board. No request for rectification can be made in a matter that falls within the jurisdiction of the Labour Court, unless the Labour Court has decided not to settle the matter under section 1, paragraph 2, of the Act on the Labour Court (646/1974).

Rectification of a decision by which the Bank of Finland has issued an official with a warning, laid him off or given him notice, cancelled the service relationship, suspended him from office or decided on a matter concerning his pension contribution or secondary occupation, as well as a decision referred to in paragraph 6 on a request for rectification referred to in paragraph 1 can be requested by appealing to the Supreme Administrative Court in accordance with the provisions of the Administrative Judicial Procedure Act (586/1996). A matter referred to in this paragraph shall be treated as urgent by the Supreme Administrative Court.

Decision of the Board concerning pension can be appealed to the Insurance Court. Otherwise as regards a request for rectification on pension, the applicable provisions of the Act on State Pensions (280/1966) shall apply.

A decision to lay off an official or a secondary occupation shall be observed notwithstanding appeal. What is provided above applies also to a decision on suspending an official from his duties, unless the Supreme Administrative Court decides otherwise.

An official's service relationship shall continue uninterrupted if he has been given notice or the service relationship has been cancelled according to a legally valid decision without the grounds laid down in this Act.

An official appointed for a fixed term without the grounds laid down in section 5 or successively appointed for a fixed term

without proper cause is entitled to compensation equivalent to at least six and at most 24 months' pay from the Bank of Finland when his service relationship ends on the grounds that he is no longer being appointed an official at the Bank. A claim for compensation must be submitted to the Parliamentary Supervisory Council within six months of termination of the service relationship.

No decision concerning an official made by the Bank of Finland other than one referred to in paragraphs 1–3 can be appealed. A decision concerning an official's appointment cannot be appealed, unless provided by law.

CHAPTER 11

MISCELLANEOUS PROVISIONS ON SERVICE RELATIONSHIPS

Section 34

The amount of any pay or other financial benefit gained unjustifiably from the employment relationship can also be recovered by deducting it from the official's salary in connection with the next salary payment, if he is still in the service of the Bank of Finland.

The sum that may be recovered from salary at any time under paragraph 1 may not exceed the amount that may be distrained from pay according to the law. When the recovery process is initiated, the official must be informed of the grounds for it and the sum to be recovered.

Recovery shall begin as provided in this section or be initiated in some other manner within three years of the end of the calendar year during which the sum of unjustified pay or other financial benefit was paid. If recovery is not begun or initiated within the required period, right to it shall be forfeited.

Section 35

If request for rectification as referred to in section 33, paragraph 1, has not been made within three years of the end of the calendar year during which payment should have been made, or within 60 days of being informed of the Labour Court judgment referred to in the said paragraph, the right to the benefit shall be forfeited.

In a matter concerning the financial benefit deriving from an employment relationship which falls within the jurisdiction

of the Labour Court, if a suit has not been brought in the Labour Court within three years of the end of the calendar year during which payment should have been made, the right to the benefit shall be forfeited. If the matter should first be negotiated, in the cases referred to in section 11, paragraph 2, of the Act on the Labour Court, the right to the benefit shall be forfeited if negotiations have not been called for in the agreed manner within the period referred to above.

Section 36

If an official fails to comply with regulations issued under the Sickness Insurance Act (364/63) concerning application for the daily allowance or maternity benefit or some other benefit payable to an employer under the law, a sum equivalent to the daily allowance, maternity benefit or other benefit can be recovered from the salary paid during leave of absence in connection with the next payment/s of salary.

Section 37

Compensation for losses caused in the service relationship is covered by separate provisions.

An official shall not pay the State, nor the State an official, compensation for losses caused by the discontinuation of work due to an industrial action, unless the said action was embarked upon without observing the provisions concerning conciliation of labour disputes, or the action was contrary to the provisions of chapter 12 or 13 or the stipulations of a collective agreement, and, unless the harm caused by the discontinuation was substantial. Similarly, an official is not required to pay the Bank compensation for losses caused by the discontinuation of work due to industrial action if he has taken part in an action decided and initiated by an officials' association, even if the said industrial action is contrary to the provisions and stipulations referred to above.

The provisions on limiting the compensatory responsibilities of an official laid down in paragraph 2 above shall however not apply to an official who has undertaken an industrial action forbidden by virtue of section 49, paragraph 1.

Section 38

If an official is given notice or his service relationship is cancelled, he shall be so informed in writing.

Before an official is suspended or given notice under section 19, his service relationship is cancelled, or he is issued a warning, he shall be given an opportunity to present his case on the matter.

Before a decision is made to lay off an official, give notice or suspend him, or to cancel his service relationship, arrangements for hearing the relevant chief shop steward or shop steward shall be made in accordance with a codetermination agreement as referred to in section 57.

Section 39

On request, an official shall be entitled to a certificate from the Bank of Finland on the duration of an employment relationship and the nature of the duties (certificate of employment). If the official so requests, the certificate of employment shall state the reason why the employment relationship was terminated and provide an assessment of the official's professional skill, diligence and conduct. On the death of an official, his estate is entitled to a certificate of employment.

If a certificate of employment is requested later than 10 years from the end of the employment relationship, the Bank of Finland shall be required to provide the certificate only if this does not cause unreasonable inconvenience. A new certificate of employment shall be provided to replace one that has been lost or damaged on the same condition.

A certificate of employment shall not contain any entry, nor shall it be issued in any form, that is intended to give any information about the official other than what is apparent from the wording.

CHAPTER 12

DETERMINATION OF TERMS AND CONDITIONS OF EMPLOYMENT RELATIONSHIPS

Section 40

Negotiations to confirm the terms and conditions of officials' employment relationships vis-à-vis the collective agreement for officials and to ensure labour peace shall be conducted in accordance with the provisions of this Act.

The terms and conditions of the employment relationships of officials shall be governed by collective agreements concluded thereon.

The terms and conditions of employment shall not include the basic principles of the organisational rules of, or other organisation of the arrangements for officials at the Bank of Finland, the establishment or termination of a public office, the duties or

internal division of duties of the Bank of Finland, the direction of work, work methods or the establishment or termination of a service relationship, with the exception of the period of and grounds for notice.

Excluded from the scope of collective agreements shall be:

1) the qualifications for a position, the grounds for appointment, and the duties of an official;

2) pensions, survivors' pensions or other corresponding benefits, the amount of rent for official residences or compensation for the use of other Bank of Finland property, with the exception of the premises and tools of a person functioning in a position of cooperation between the Bank and its officials; and

3) matters which are not included within the scope of collective agreements regarding private law employees.

A matter not governed by a collective agreement for officials shall be governed by specific provisions or regulations issued or to be issued thereon or agreed with the official.

Any term of a collective agreement for officials that violates paragraphs 3–5 shall be void.

Section 41

A separate agreement may be concluded on the negotiation procedure as well as the procedure for guaranteeing labour peace or other corresponding procedure (*principal agreement*). A separate agreement may be concluded on the procedure to be complied with in the handling of matters concerning officials (*general agreement*).

The general agreement referred to above in paragraph 1 may not contravene the procedures provided by law. In other respects, the agreements referred to in paragraph 1 shall be governed by the provisions on collective agreements for officials, unless otherwise stipulated.

Section 42

The parties to the negotiations and agreements shall be:

1) The Bank of Finland; and

2) on behalf of the officials, a registered association whose principal purpose includes looking after the interests of officials in service relationships (officials' association) and with whom the Bank of Finland considers it appropriate to conduct negotiations in order to conclude a collective agreement for officials.

The Bank of Finland may designate those officials whose tasks include the representation of the Bank of Finland in negotiations referred to in this chapter or in the event of

industrial action, or whose tasks otherwise include representation of the employer. The terms and conditions of the employment relationship of such officials shall be determined by the Bank of Finland.

Section 43

A collective agreement for officials shall be concluded in writing. The agreement may be concluded also by entering the contents of the agreement in minutes kept by the negotiating parties in the negotiations, which minutes are then verified by the parties in a manner jointly agreed upon.

Bound by the collective agreement shall be:

- 1) The Bank of Finland;
- 2) the officials' associations that have concluded the collective agreement or, upon the consent of the earlier parties to the agreement, joined the agreement in writing;
- 3) the registered associations that either directly or indirectly are or, during the validity of the agreement, have been member associations of the officials' associations referred to in subparagraph 2; and
- 4) the officials who, during the validity of the agreement, have been members of an association bound by the agreement.

Except for cases referred to in section 32 and section 42, paragraph 2, the Bank of Finland may not, within the scope of application of a collective agreement for officials, issue provisions or conclude such agreements on the terms and conditions of the employment relationship of an official not governed by the collective agreement but performing work governed by said agreement as would be in conflict with the collective agreement.

The provisions of paragraphs 2 and 3 above shall be applied only insofar as the Bank of Finland, the association or the official is not bound by an earlier collective agreement for officials concluded with different terms or insofar as the scope of application of a collective agreement for officials is not restricted by its own terms and conditions.

Section 44

Unless otherwise agreed regarding the period of notice, a party to a collective agreement for officials not concluded for a specified period of time shall have the right to terminate the agreement subject to a three-month notice. A collective agreement for officials concluded for a period of longer than four years shall, at the end of said four years, continue in force in the same way as an agreement whose period of validity has

not been specified. The above shall also apply to a principal agreement; however, with a six month-period of notice.

The period of notice valid for a party to an agreement shall also apply to an association referred to in section 43, paragraph 3, subparagraph 3, if the association has ceased to be a member association of an association that is party to the agreement. The member association shall, nevertheless, be bound by the collective agreement for officials for the same period as the association referred to above that is party to the agreement.

Notice shall be given in writing.

Even if a collective agreement for officials has ceased to be in force, the terms and conditions of employment stipulated by the agreement shall be applied until a new agreement has been concluded and has entered into force, unless otherwise agreed upon or stipulated by section 40, paragraph 5.

CHAPTER 13

LABOUR PEACE AND LABOUR DISPUTES

Section 45

Industrial action, other than a lock-out or strike, may not be taken against a valid employment relationship.

The forms of industrial action referred to in paragraph 1 shall also be prohibited if they are aimed at matters other than those open for collective bargaining under section 40 or if otherwise so stipulated law. This prohibition shall concern matters excluded from the scope of collective agreements under section 40, even when said matters can be agreed upon in a principal agreement or a general agreement under section 41.

A lock-out shall denote a work stoppage organised by the Bank of Finland and a strike a work stoppage organised by an officials' association against the Bank of Finland and aimed at pressuring the other party in a labour dispute by stopping the performance of all official duties of officials within the scope of the work stoppage.

An official may participate in a strike only on a decision of the officials' association that has initiated the strike. The officials referred to above in section 49, paragraph 2, may not participate in an industrial action. The decision on a lock-out shall be made by the Bank of Finland.

Section 46

No-one bound by a collective agreement for officials may, while the agreement is in force, undertake industrial action to settle a dispute concerning the validity of the agreement, or whether the agreement is in force or not, or the correct interpretation of the agreement or a claim based on the agreement, nor to change a collective agreement that is in force or bring about a new agreement. The above peace obligation may be extended by a collective agreement for officials. The peace obligation shall govern also an association whose member association referred to in section 43, paragraph 2, subparagraph 2, has concluded a collective agreement for officials upon the consent of the association. The validity of a principal agreement, a general agreement or other agreement governing specific matters only shall not prohibit industrial action aimed at concluding a new agreement on other matters, unless otherwise agreed upon.

Section 47

An officials' association shall be responsible to supervise that its member associations and officials refrain from industrial action prohibited under section 45.

An association bound by a collective agreement shall be responsible to supervise that its member associations and officials governed by an agreement do not violate the peace obligation referred to in section 46 or the terms and conditions of the agreement.

Included in the responsibility of an association under paragraph 1 or 2 is that it shall not support or assist prohibited industrial action nor in any other way favour such measures, but that it shall be responsible to try and stop the same.

Section 48

An official shall not be liable to perform functions subject to an allowed lock-out, strike or blockage directed against functions which are subject to collective bargaining under section 40. An official who is not included in the scope of an industrial action shall perform his ordinary official duties, in addition to which he shall be liable to perform protective work. The provisions of section 45, paragraph 2, shall not prevent an official, within the scope of an industrial action, from performing protective work.

Protective work shall denote work whose performance during an industrial action is necessary in order to prevent the lives or health of citizens from being endangered or to protect property which is especially endangered by the industrial action.

Section 49

Any industrial action which hinders the performance of the legally mandated tasks of the Bank of Finland in such manner as may result in significant damage to the Republic or severe disturbances in the functioning of the payment or financial system or a serious threat to the security of the Bank of Finland shall be forbidden.

Performance of the Bank of Finland's legally mandated tasks shall be safeguarded even in case of industrial action. If an industrial action prevents or significantly disturbs the performance of such tasks, the parties shall undertake without delay, upon being informed thereof, necessary actions to eliminate such disturbances or detriments.

CHAPTER 14

CONSEQUENCES OF A BREACH OF COLLECTIVE AGREEMENT FOR OFFICIALS AND PROVISIONS OF CHAPTER 12 AND 13

Section 50

Anyone bound by a collective agreement for officials who knew or ought to have known that he was breaching the provisions of the agreement may be sentenced to pay a compensatory fine by the Labour Court.

If the Bank of Finland is found to have contravened section 45 or 46 or if an officials' association violates or fails to comply with the provisions of section 45–47, the Bank of Finland or officials' association shall, unless otherwise provided in a collective agreement for officials, pay a compensatory fine in lieu of damages. The provisions of this paragraph shall, however, not be applied to an association that has given a consent referred to in section 46.

In case of the Bank of Finland or an association, the compensatory fine may not exceed FIM 74,000 and in the case of an official, FIM 300. The amounts of compensatory fines are subject to change by a decision by the Council of State on the review of markka-denominated amounts in accordance with the State Civil Servants Act (664/1970) Section 19, paragraph 3.

Section 51

In the imposition of a compensatory fine, regard shall be had to all the relevant facts presented, such as the amount of damage caused, the amount of guilt, a reason on the part of the

other party to the breach, if any, and the size of the association. For special reasons, the imposition of a compensatory fine may be waived.

Unless otherwise stipulated by a collective agreement for officials, the compensatory fine shall be awarded to the party that has suffered the damage or, if no damage was caused, to the party upon whose decision the decision is given. If there is more than one party entitled to compensation, the decision shall, taking into consideration the proportion of the damage suffered by each party and the members and parties that it represents, state how the amount awarded shall be divided among them.

Section 52

If the terms and conditions of a collective agreement for officials have been breached to such a substantial extent that it is unreasonable to expect the other parties to the agreement to continue the contractual relationship, the Labour Court may declare the agreement void with immediate effect. When an agreement has been declared void on the basis of a complaint filed against an officials' association, notice to terminate the agreement also with regard to the other associations may be given within two weeks.

If an agreement has been declared void on the basis of a complaint filed by an association, another association that is party to the agreement or that, under section 44, paragraph 2, has the right to terminate the agreement by notice, shall also have the right to give notice to terminate the agreement within two weeks.

An agreement on which notice has thus been given shall terminate with immediate effect.

Section 53

The participation of an official in an industrial action, by decision of an officials' association, with the exception of industrial actions referred to in section 49, arranged by the association, shall not be deemed a crime in office or an act subject to disciplinary punishment.

CHAPTER 15

MISCELLANEOUS PROVISIONS ON COLLECTIVE AGREEMENTS

Section 54

An official may not, without compelling reason, be prevented from taking part in negotiations referred to in chapters 12 and 13 as a representative of an officials' association.

Section 55

An official within the scope of an industrial action shall not be paid his salary or other economic benefits for the period that his work is prevented due to industrial action directed against the Bank of Finland. Nor shall these be paid to an official within the scope of a lock-out arranged by the Bank of Finland. The official shall, however, have the right to the use of his official residence during an industrial action.

Section 56

An official may not appeal or demand correction in a manner referred to in section 40 if he or the officials' association has the right to bring the matter before the Labour Court.

CHAPTER 16

CODETERMINATION SYSTEMS

Section 57

In order to ensure the appropriate handling of matters concerning compliance with the agreements referred to above in sections 40 and 41, the just and swift resolution of disagreements arising among the parties, and the maintenance of labour peace and occupational safety, the parties may agree on a shop steward system, occupational safety organisation and other codetermination procedures.

CHAPTER 17

PENSIONS

Section 58

The right to a pension paid from the funds of the Bank of Finland of those engaged in an employment relationship with the Bank of Finland shall be determined on the same basis as state pension security, where applicable. State pension security shall denote the right to a pension, survivors' pension and other benefits to be paid from State funds, whose substance and requisites are provided in the Act on State Pensions and related legislation. Pension and survivors' pension are granted by the Board of the Bank of Finland.

More specific provisions on the payment of pension and survivors' pension and on other respects of pension security are laid down in the Pension and Survivors' Pension Regulations on in the Act on the Bank of Finland, section 11, paragraph 2, subparagraph 6.

Those in an employment relationship with the Bank of Finland are obligated to participate in the funding of the pension security under this section by paying an employee's pension contribution, which amounts to a certain percentage of the salary as provided in the Employees' Pensions Act section 12, paragraph 1.

Section 58 a (21.12.2004/1231)

The right of the Bank of Finland to receive necessary information, free of charge and notwithstanding provisions on confidentiality and other limitations to access to information for the provision of pension security referred to in section 58 is subject to the provisions of the State Employees' Pension Act, section 26, on the right of the State Treasury to receive information.

The obligation of a pension applicant and recipient to submit information to the Bank of Finland for the handling and resolution of pension matters is subject to the applicable provisions of the State Employees' Pension Act, section 26 a.

In addition to the provisions of the Act on the Openness of Government Activities (621/1999), the right of the Bank of Finland to release information and to open a technical user connection, notwithstanding provisions on confidentiality and other limitations to access to information, is subject to the provisions of the State Employees' Pension Act, sections 26 d and 26 e.

Section 58b (16.12.2016/1169)

The retirement age of 60 applicable to employees whose contract of employment with the Bank of Finland has commenced before 1 January 1992 will be raised so that if the retirement age under the Bank of Finland Pension Rule was attained in:

- 1) 2018, the retirement age will be raised by three months;
- 2) 2019, the retirement age will be raised by six months;
- 3) 2020, the retirement age will be raised by nine months;
- 4) 2021, the retirement age will be raised by one year;
- 5) 2022, the retirement age will be raised by one year and three months;
- 6) 2023, the retirement age will be raised by one year and six months;
- 7) 2024, the retirement age will be raised by one year and nine months;
- 8) 2025 or later, the retirement age will be raised by two years.

However, the retirement age of 60 referred to in subsection 1 above cannot be raised above the lowest retirement age prescribed for each age group under section 10, subsections 2 and 3 of the Public Sector Pensions Act (81/2016)

CHAPTER 18

IMPLEMENTING AND TRANSITIONAL PROVISIONS

Section 59

This Act enters into force on 1 January 1999. This Act repeals chapter 3 and sections 43 and 45–48 of the Act on the Bank of Finland of 24 July 1997 (719/1997).

Section 60

Sections 45 and 46 of the Act on the Bank of Finland, otherwise repealed by this Act, shall continue in force.

Section 61

Officials appointed to offices referred to in section 6 or corresponding fixed-term employment relationships prior to the entry into force by this Act shall submit the notification referred to in section 6 within six months of the entry into force of this Act.

Section 62

That provided in section 22, paragraph 3, shall apply to lay-

offs begun prior to the entry into force of this Act. However, in the calculation of calendar days referred to in said paragraph only lay-off days following the entry into force of this Act shall be taken into account.

ENTRY INTO FORCE AND APPLICATION OF AMENDING PROVISIONS

(23.12.1999/1256)

This Act enters into force on 1 March 2000.

(21.12.2004/1231)

This Act enters into force on 1 January 2005.

An official referred to in paragraph 2, section 6 of this Act shall submit such clarification as referred to in said section within three months from the date the Parliamentary Supervisory Council determines after the entry into force of this Act, which positions fall within the scope of the reporting obligation.

(16.12.2016/1169)

This Act will enter into force on 1 January 2017.

Section 27, subsection 1 of the Act will enter into force on 1 January 2018, with phased-in application so that the compulsory retirement age will be 68 years for those born in 1957 or before, 69 years for those born in 1958–1961 and 70 years for those born in 1962 or later.

RULES OF PROCEDURE OF THE BANK OF FINLAND

In accordance with section 11, subsection 3, paragraph 4 and section 15, subsection 3 of the Act on the Bank of Finland (214/1998), the Parliamentary Supervisory Council has adopted the following Rules of Procedure.

1. Decision making by the Board

The Board shall discuss and resolve matters within its mandate in its meetings. Board meetings may also be organised as teleconferences, when necessary. Teleconferences shall be organised so that all participating persons are connected to the same conference call.

2. Decision making outside meetings

When the Board has a quorum, it may, as an exception, make decisions outside meetings when the matter is too urgent to organise a regular Board meeting. Such decisions upon endorsement must be submitted without delay to all Board members and recorded in the minutes of the Board.

In addition, the Board may, by virtue of section 14, subsection 3 of the Act on the Bank of Finland, delegate the authority to make a decision to one member of the Board member or official of the Bank, in accordance with the specific decisions thereon.

3. Presentation of matters

The Board shall decide on the presentation of matters in Board meetings as well as the exceptional circumstances referred to in section 2, above. The presentation shall be conducted by the Board member to whose field the matter belongs, to in accordance with the division of responsibility established by the Board, or when said member is prevented, by the member acting as deputy to said member in accordance with the division of responsibility of the Board.

The presentation may also be made by the head of department or unit assigned to the duty by a Board member, or when said official is prevented or as otherwise necessary, by a head of division, drafter of the matter or another official acquainted with the subject.

If the opinion of the presenter deviates from the decision of the Board, the presenter shall have the right to have his opinion

recorded in the minutes of the Board. As regards other rights and obligations of the presenter, the applicable principles concerning presentation in the Council of State shall apply.

Discussion of matters shall be based on written documentation handed out with the agenda, including at least:

- specific decision proposal;
- material used in the preparation of the matter, including any significant opinions made during preparation and information on which parties have been heard in the preparation;
- proposal on related internal and external communication;
- when necessary, a confidentiality classification in accordance with the Bank's data security guidelines.

4. Entry into force

This guideline will enter into force on 1 January 1999.

RULES OF PROCEDURE OF THE BOARD OF THE BANK OF FINLAND

The Board of the Bank of Finland has adopted these Rules of procedure of the Board of the Bank of Finland, on 6 October 2015, supplementing the Rules of procedure of the Bank of Finland adopted by the Parliamentary Supervisory Board on 19 November 1998.

1. Meetings of the Board

The Board shall be summoned by its chairman, or in the event that he/she is hindered from doing so, deputy chairman or the latter's deputy.

The Board shall convene on Tuesdays or Wednesdays at 9 am, unless the chairman of the Board has cancelled the meeting or changed the time of the meeting. The venue of the meeting shall be the Board's meeting room, unless otherwise specified in the invitation to the meeting.

2. Meeting schedule

A meeting schedule shall be made semi-annually in advance for the planning of the Board's meetings, to be followed during the planning period in preparing the agenda for individual meetings.

The Senior Secretarial Staff shall, under command of the chairman of the Board, attend to the drafting and updating of the meeting schedule. The secretarial staff shall request information from the departments well in advance of the planning period on issues to be discussed by the Board and the date of discussion, which must be approved by the member of the Board responsible for the relevant area. The chairman of the Board and the secretarial staff shall also be informed of any pending or upcoming issues that must be addressed in Board meeting or are otherwise far-reaching or significant for the operations of the Bank.

The chairman of the Board shall adopt the meeting schedule and any revisions to it made for special reasons. The Board shall discuss the meeting schedule on a quarterly basis. The secretarial staff shall see that the updated meeting schedule is communicated to the Board and the Bank's departments.

3. Agenda, meeting memorandum and other meeting material

The Chairman of the Board shall adopt a plan for the meeting of the Board based on the content of the agenda and requests for discussion presented by the members of the Board.

Issues on the agenda shall be divided in four categories: issues to be decided on, issues requiring a discussion of principles, issues to be recorded for information and seminar-type issues. The agenda shall specify, in addition to the issue, its presenter, the experts present and document material to be distributed. An issue outside the agenda may only be brought to discussion for a special reason and with the advance consent of the chairman of the Board.

A presentation memorandum in accordance with the adopted model and approved by the member of the Board responsible for the area must be made on every issue to be discussed, with the exception of seminar-type issues and issues addressed in the governing Council or General Council of the ECB, which clearly indicates the main content of the proposal for a decision and other issues requiring a statement by the Board with justifications and including communication. The presentation memorandum may be supplemented by other material relating to the issue to be discussed.

4. Participants

Meetings of the Board shall be attended by the members of the Board, Secretary to the Board, Head of Communications and experts assigned as participants.

Based on a decision by the Parliamentary Supervisory Council, a member of the Board shall be deputised by an Adviser to the Board or a Head of Department of the Bank of Finland in the order of seniority. A person designated as deputy member shall participate in the Board's meetings and decision-making. The chairman of the Board shall notify the Parliamentary Supervisory Council of the deputy member.

Decision-making related to hearing of the personnel and other forms of cooperation are subject to the provisions in the Administrative Procedure Act (434/2003) and the Cooperative Agreement of the Bank of Finland on the cooperation procedure.

As necessary, the Board may summon external persons to be heard as experts on a matter.

5. Presentation of matters and order of decision-making

Quorum requirements and decision-making in Board meetings have been provided for in Section 15, subsection 1 of the Act on the Bank of Finland (214/1998).

Presentation of issues in a Board meeting has been provided for in Section 3 of the Procedure of the Bank of Finland.

Decision-making shall follow the following order:

- The Board Member, to whom the administrative field of the issue belongs, presents the issue, after which a discussion is held where the presenter and experts answer any questions that may arise.

- Once the discussion has ended, the Chairman states the decision of the Board.

- If differences of opinion arise, the issue is decided on by vote. Dissenting opinions or the voting statement of the presenter of the issue or a Board Member left in the minority shall be recorded in the minutes for the meeting in which the issue is decided on.

Issues addressed in the Governing Council or General Council of the ECB shall, however, be discussed in deviation of the procedure above so that an actual presentation and proposal for a decision is not made, but a discussion is held over a stance proposal by the secretarial staff.

6. Communication of Board decisions and monitoring their implementation

The senior secretarial staff is generally in charge of communicating Board decisions. Decisions are communicated internally on the Bank's intranet pages and, as necessary, by special announcements or other means deemed appropriate. Each department shall ensure a more detailed communication of issues falling within their field of responsibility. The secretarial staff shall monitor and ensure that Board decisions are implemented appropriately or that other measures required by the decisions are taken.

7. Recording of Board decisions

The Board shall, as a rule, address and resolve issues falling within its competence in its meetings. Other means of decision making by the Board are provided for in Sections 1 and 2 of the Rules of procedure of the Bank of Finland. All decisions are recorded in the minutes of the Board's meeting, which also functions as a register of decisions. Issues and solutions with significance in terms of principles or otherwise made by virtue

of powers delegated by the Board or by an external party with special reference to the operations of the Bank may also be recorded in the minutes.

The minutes are signed by the Chairman, or when he is prevented from doing so, by the chairman and secretary of the meeting, after the Board has approved the content of the minutes in its subsequent meeting.

8. Administration of Board meetings

The council of the Board shall administer the meetings of the Board, in accordance with more specific orders and guidelines provided by the chairman of the Board and the Head of the secretarial staff.

9. Delegation of Board's decisive powers

The Board may delegate its decision-making powers to one or more of its members or an official of the Bank. Delegation of a decision shall be explicit and contain provisions on how the use of delegated powers shall be reported and monitored.

10. Entry into force

These Rules of procedure enter into force on 6 October 2015 and repeal the Rules of procedure adopted on 23 April 2014.

No. 358/1993

CURRENCY ACT*

Issued in Helsinki on 16 April 1993

Obligation to accept and redeem

Section 11. Paragraph 2

The Bank of Finland shall accept a torn bank note at its face value if more than one half of it is preserved in one piece. In other cases, the Bank of Finland shall decide whether a banknote will be accepted and whether at face value or a lower value.

Miscellaneous provisions

Section 14

Decisions as to which banknotes and coins shall no longer be legal tender shall be made by the Bank of Finland and the Ministry of Finance, respectively.

The Bank of Finland is nevertheless obliged to redeem at face value banknotes or coins that have been determined to no longer be legal tender for a period of ten years from the date of entry into force of a decision as referred to in paragraph 1.

The State shall in like manner redeem coins that have been redeemed by the Bank of Finland in accordance with paragraph 2 within one year from the expiry of the time period referred to in paragraph 2.

* This Act has been partly repealed. See Act on Repeal of the Currency Act (215/1998), p. 59 and Coins Act (216/1998), p. 60.

No. 215/1998

ACT ON REPEAL OF THE CURRENCY ACT

Issued in Helsinki on 27 March 1998

Section 1

This Act repeals the Currency Act issued on 16 April 1993 (358/1993) and subsequent amendments thereto.

Section 2

This Act shall enter into force when Finland becomes a part of the single currency area in accordance with Article 109I of the Treaty establishing the European Community.

Notwithstanding the forementioned provisions, certain provisions of the repealed Currency Act shall remain in force as follows:

7) paragraph 2 of section 11 and paragraph 2 of section 14, in respect of what is said therein concerning banknotes, shall be in effect for ten years starting at such time when the banknotes issued pursuant to the repealed Currency Act have ceased to be legal tender.

No. 216/1998

COINS ACT

Issued in Helsinki on 27 March 1998

Section 1

In Finland, pursuant to the legislation of the European Communities, the State has the exclusive right to mint coins for its own account.

Nominal values and characteristics of commemorative coins may be provided for by a decree of the Ministry of Finance in accordance with legislation of the European Union. Commemorative coins referred to in this subsection are legal tender in Finland (24 May 2002/378)

Section 2

Coins shall be issued by the Bank of Finland. The competent Ministry shall convey the coins to the Bank of Finland, at face value, for issuance.

The volume of the issue of coins shall be subject to approval by the European Central Bank.

The Bank of Finland and the competent Ministry may jointly agree on the procedure by which coins are issued.

Section 3

Substantially damaged coins shall not be used as means of payment nor shall it be obligatory to accept such coins as payment.

The Bank of Finland shall accept a damaged coin, if it can be established with certainty that it is genuine.

Section 4

The State shall redeem coins issued by the Bank of Finland and returned to the Bank of Finland at their face value.

Section 5

Pursuant to the legislation of the European Communities, the competent Ministry can decide which coins shall cease to be legal tender.

Notwithstanding the aforementioned provisions, the Bank

of Finland shall redeem at face value coins that have ceased to be legal tender for a period of ten years from the date of entry into force of a decision referred to in paragraph 1.

The State shall in like manner redeem coins that have been redeemed by the Bank of Finland in accordance with paragraph 2 within one year from the expiry of the time period specified in paragraph 2.

A decision of the Ministry as referred to in paragraph 1 shall be published in the Statute Book of Finland at least six months before the decision enters into force, unless there is good cause to act otherwise.

Section 6

This Act shall enter into force when Finland becomes a part of the single currency area in accordance with Article 109l of the Treaty establishing the European Community.

Coins that are legal tender under provisions in force at the time of entry into force of this Act shall continue to be legal tender until otherwise provided pursuant to paragraph 1 of section 5.

No. 890/2000

ACT ON THE ROUNDING OF EURO-DENOMINATED PAYMENTS

Adopted in Helsinki on 27 October 2000

Section 1

Euro-denominated payments made in Finland shall be rounded as follows:

1) if the payment to be effected ends with one or two cents, it shall be rounded down to the nearest amount of cents divisible by ten,

2) if the payment to be effected ends with three or four cents, it shall be rounded up to the nearest amount of cents divisible by five,

3) if the payment to be effected ends with six or seven cents, it shall be rounded down to the nearest amount of cents divisible by five,

4) if the payment to be effected ends with eight or nine cents, it shall be rounded up to the nearest amount of cents divisible by ten.

Payments in the amount of one and two cents shall not be rounded.

A payment may be rounded as provided for in subsection 1 also when debiting it in writing or when recording it as debt in lieu of payment, or when paid for by a bank card or another payment card. (14 June 2002/496)

Section 2

Cent amounts shall not be rounded if so agreed on by the parties or if the payment is effected by credit transfer between accounts.

When a payment is effected through a bank in another manner than credit transfer referred to in subsection 1, the bank may require that the amount of payment and payment voucher be rounded. In this case, if multiple payments are effected simultaneously, each one shall be rounded separately.

Section 3

This Act will enter into force on 1 January 2002.

No. 1112/1977

**ACT ON THE APPROVAL OF CERTAIN
AMENDMENTS TO THE ARTICLES OF
AGREEMENT OF THE INTERNATIONAL
MONETARY FUND**

Issued in Helsinki on 2 December 1977

Section 1

Amendments to the Articles of Agreement of the International Monetary Fund that were approved by the Board of Governors on 30 April 1976, provided they do not contravene current legislation, shall remain in force as agreed.

Section 2

The Bank of Finland acting on behalf of the Republic of Finland, shall maintain contacts with the International Monetary Fund and shall serve as the depository for all funds held by the latter and denominated in Finnish markkaa.

Section 3

The principal rules regarding the execution of this Act shall be issued as a decree.

No. 1113/1977

**DECREE ON THE ENTRY INTO FORCE
OF CERTAIN AMENDMENTS TO
THE ARTICLES OF AGREEMENT OF
THE INTERNATIONAL MONETARY FUND**

Issued in Helsinki on 30 December 1977

Section 1

Amendments to the Articles of Agreement of the International Monetary Fund that were approved by the Board of Governors on 30 April 1976 shall remain in force as agreed.

Section 2. (22 December 1978/1046)

The Bank of Finland, acting on behalf of the Republic of Finland, shall carry out such business activities as required pursuant to the above-mentioned Articles and shall be responsible for such notifications and commitments as are necessary for the application of Articles XV–XXV and Schedules F–I.

(The text of the Articles of Agreement is included in the Statute Book of Finland, Treaty Series, No. 69/1977. The amendment to the Articles is included in the Treaty Series, No. 30/1998 (see also the Decree on the Entry into Force of Certain Amendments to the Articles of Agreement of the International Monetary Fund, Statute Book of Finland, No. 195/1998).)

B

EUROPEAN UNIONS LEGISLATION

THE TREATY ON EUROPEAN UNION

Of 7 february 1992*

— — —

Article 3

4. The Union shall establish an economic and monetary union whose currency is the euro.

— — —

Article 13

1. The Union shall have an institutional framework which shall aim to promote its values, advance its objectives, serve its interests, those of its citizens and those of the Member States, and ensure the consistency, effectiveness and continuity of its policies and actions.

The Union's institutions shall be:

- the European Parliament,
- the European Council,
- the Council,
- the European Commission (hereinafter referred to as 'the Commission'),
- the Court of Justice of the European Union,
- the European Central Bank,
- the Court of Auditors.

2. Each institution shall act within the limits of the powers conferred on it in the Treaties, and in conformity with the procedures, conditions and objectives set out in them. The institutions shall practice mutual sincere cooperation.

3. The provisions relating to the European Central Bank and the Court of Auditors and detailed provisions on the other institutions are set out in the Treaty on the Functioning of the European Union.

4. The European Parliament, the Council and the Commission shall be assisted by an Economic and Social Committee and a Committee of the Regions acting in an advisory capacity.

* Unofficial, consolidated version as amended by the Treaty of Lisbon, which was signed on 13 December 2007 in Lisbon and entered into force on 1 December 2009.

THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION

of 25 March 1957*

Article 119

1. For the purposes set out in Article 3 of the Treaty on European Union, the activities of the Member States and the Union shall include, as provided in the Treaties, the adoption of an economic policy which is based on the close coordination of Member States' economic policies, on the internal market and on the definition of common objectives, and conducted in accordance with the principle of an open market economy with free competition.

2. Concurrently with the foregoing, and as provided in the Treaties and in accordance with the procedures set out therein, these activities shall include a single currency, the euro, and the definition and conduct of a single monetary policy and exchange-rate policy the primary objective of both of which shall be to maintain price stability and, without prejudice to this objective, to support the general economic policies in the Union, in accordance with the principle of an open market economy with free competition.

3. These activities of the Member States and the Union shall entail compliance with the following guiding principles: stable prices, sound public finances and monetary conditions and a sustainable balance of payments.

* Unofficial, consolidated version as amended by the Treaty of Lisbon, which was signed on 13 December 2007 in Lisbon and entered into force on 1 December 2009.

CHAPTER 2

MONETARY POLICY

Article 127

1. The primary objective of the European System of Central Banks (hereinafter referred to as 'the ESCB') shall be to maintain price stability. Without prejudice to the objective of price stability, the ESCB shall support the general economic policies in the Union with a view to contributing to the achievement of the objectives of the Union as laid down in Article 3 of the Treaty on European Union. The ESCB shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in Article 119.

2. The basic tasks to be carried out through the ESCB shall be:

- to define and implement the monetary policy of the Union,
- to conduct foreign-exchange operations consistent with the provisions of Article 219,
- to hold and manage the official foreign reserves of the Member States,
- to promote the smooth operation of payment systems.

3. The third indent of paragraph 2 shall be without prejudice to the holding and management by the governments of Member States of foreign-exchange working balances.

4. The European Central Bank shall be consulted:

- on any proposed Union act in its fields of competence,
- by national authorities regarding any draft legislative provision in its fields of competence, but within the limits and under the conditions set out by the Council in accordance with the procedure laid down in Article 129(4).

The European Central Bank may submit opinions to the appropriate Union institutions, bodies, offices or agencies or to national authorities on matters in its fields of competence.

5. The ESCB shall contribute to the smooth conduct of policies pursued by the competent authorities relating to the prudential supervision of credit institutions and the stability of the financial system.

6. The Council, acting by means of regulations in accordance with a special legislative procedure, may unanimously, and after

consulting the European Parliament and the European Central Bank, confer specific tasks upon the European Central Bank concerning policies relating to the prudential supervision of credit institutions and other financial institutions with the exception of insurance undertakings.

Article 128

1. The European Central Bank shall have the exclusive right to authorise the issue of euro banknotes within the Union. The European Central Bank and the national central banks may issue such notes. The banknotes issued by the European Central Bank and the national central banks shall be the only such notes to have the status of legal tender within the Union.

2. Member States may issue euro coins subject to approval by the European Central Bank of the volume of the issue. The Council, on a proposal from the Commission and after consulting the European Parliament and the European Central Bank, may adopt measures to harmonise the denominations and technical specifications of all coins intended for circulation to the extent necessary to permit their smooth circulation within the Union.

Article 129

1. The ESCB shall be governed by the decision-making bodies of the European Central Bank which shall be the Governing Council and the Executive Board.

2. The Statute of the European System of Central Banks and of the European Central Bank (hereinafter referred to as 'the Statute of the ESCB and of the ECB') is laid down in a Protocol annexed to the Treaties.

3. Articles 5.1, 5.2, 5.3, 17, 18, 19.1, 22, 23, 24, 26, 32.2, 32.3, 32.4, 32.6, 33.1(a) and 36 of the Statute of the ESCB and of the ECB may be amended by the European Parliament and the Council, acting in accordance with the ordinary legislative procedure. They shall act either on a recommendation from the European Central Bank and after consulting the Commission or on a proposal from the Commission and after consulting the European Central Bank.

4. The Council, either on a proposal from the Commission and after consulting the European Parliament and the European Central Bank or on a recommendation from the European Central Bank and after consulting the European Parliament and the Commission, shall adopt the provisions referred to in Articles 4, 5.4, 19.2, 20, 28.1, 29.2, 30.4 and 34.3 of the Statute of the ESCB and of the ECB.

Article 130

When exercising the powers and carrying out the tasks and duties conferred upon them by the Treaties and the Statute of the ESCB and of the ECB, neither the European Central Bank, nor a national central bank, nor any member of their decision-making bodies shall seek or take instructions from Union institutions, bodies, offices or agencies, from any government of a Member State or from any other body. The Union institutions, bodies, offices or agencies and the governments of the Member States undertake to respect this principle and not to seek to influence the members of the decision-making bodies of the European Central Bank or of the national central banks in the performance of their tasks.

Article 131

Each Member State shall ensure that its national legislation including the statutes of its national central bank is compatible with the Treaties and the Statute of the ESCB and of the ECB.

Article 132

1. In order to carry out the tasks entrusted to the ESCB, the European Central Bank shall, in accordance with the provisions of the Treaties and under the conditions laid down in the Statute of the ESCB and of the ECB:

– make regulations to the extent necessary to implement the tasks defined in Article 3.1,

first indent, Articles 19.1, 22 and 25.2 of the Statute of the ESCB and of the ECB in cases which shall be laid down in the acts of the Council referred to in Article 129(4),

– take decisions necessary for carrying out the tasks entrusted to the ESCB under the Treaties and the Statute of the ESCB and of the ECB,

– make recommendations and deliver opinions.

2. The European Central Bank may decide to publish its decisions, recommendations and opinions.

3. Within the limits and under the conditions adopted by the Council under the procedure laid down in Article 129(4), the European Central Bank shall be entitled to impose fines or periodic penalty payments on undertakings for failure to comply with obligations under its regulations and decisions.

Article 133

Without prejudice to the powers of the European Central Bank, the European Parliament and the Council, acting in

accordance with the ordinary legislative procedure, shall lay down the measures necessary for the use of the euro as the single currency. Such measures shall be adopted after consultation of the European Central Bank.

CHAPTER 3

INSTITUTIONAL PROVISIONS

Article 134

1. In order to promote coordination of the policies of Member States to the full extent needed for the functioning of the internal market, an Economic and Financial Committee is hereby set up.

2. The Economic and Financial Committee shall have the following tasks:

- to deliver opinions at the request of the Council or of the Commission, or on its own initiative for submission to those institutions,

- to keep under review the economic and financial situation of the Member States and of the Union and to report regularly thereon to the Council and to the Commission, in particular on financial relations with third countries and international institutions,

- without prejudice to Article 240, to contribute to the preparation of the work of the Council referred to in Articles 66, 75, 121(2), (3), (4) and (6), 122, 124, 125, 126, 127(6), 128(2), 129(3) and (4), 138, 140(2) and (3), 143, 144(2) and (3), and in Article 219, and to carry out other advisory and preparatory tasks assigned to it by the Council,

- to examine, at least once a year, the situation regarding the movement of capital and the freedom of payments, as they result from the application of the Treaties and of measures adopted by the Council; the examination shall cover all measures relating to capital movements and payments; the Committee shall report to the Commission and to the Council on the outcome of this examination.

The Member States, the Commission and the European Central Bank shall each appoint no more than two members of the Committee.

3. The Council shall, on a proposal from the Commission and after consulting the European Central Bank and the Committee

referred to in this Article, lay down detailed provisions concerning the composition of the Economic and Financial Committee. The President of the Council shall inform the European Parliament of such a decision.

4. In addition to the tasks set out in paragraph 2, if and as long as there are Member States with a derogation as referred to in Article 139, the Committee shall keep under review the monetary and financial situation and the general payments system of those Member States and report regularly thereon to the Council and to the Commission.

Article 135

For matters within the scope of Articles 121(4), 126 with the exception of paragraph 14, 138, 140(1), 140(2), first subparagraph, 140(3) and 219, the Council or a Member State may request the Commission to make a recommendation or a proposal, as appropriate. The Commission shall examine this request and submit its conclusions to the Council without delay.

CHAPTER 4

PROVISIONS SPECIFIC TO MEMBER STATES WHOSE CURRENCY IS THE EURO

Article 136

1. In order to ensure the proper functioning of economic and monetary union, and in accordance with the relevant provisions of the Treaties, the Council shall, in accordance with the relevant procedure from among those referred to in Articles 121 and 126, with the exception of the procedure set out in Article 126(14), adopt measures specific to those Member States whose currency is the euro:

(a) to strengthen the coordination and surveillance of their budgetary discipline;

(b) to set out economic policy guidelines for them, while ensuring that they are compatible with those adopted for the whole of the Union and are kept under surveillance.

2. For those measures set out in paragraph 1, only members of the Council representing Member States whose currency is the euro shall take part in the vote.

A qualified majority of the said members shall be defined in accordance with Article 238(3)(a).

Article 137

Arrangements for meetings between ministers of those Member States whose currency is the euro are laid down by the Protocol on the Euro Group.

Article 138

1. In order to secure the euro's place in the international monetary system, the Council, on a proposal from the Commission, shall adopt a decision establishing common positions on matters of particular interest for economic and monetary union within the competent international financial institutions and conferences. The Council shall act after consulting the European Central Bank.

2. The Council, on a proposal from the Commission, may adopt appropriate measures to ensure unified representation within the international financial institutions and conferences. The Council shall act after consulting the European Central Bank.

3. For the measures referred to in paragraphs 1 and 2, only members of the Council representing Member States whose currency is the euro shall take part in the vote.

A qualified majority of the said members shall be defined in accordance with Article 238(3)(a).

CHAPTER 5 **TRANSITIONAL PROVISIONS**

Article 139

1. Member States in respect of which the Council has not decided that they fulfil the necessary conditions for the adoption of the euro shall hereinafter be referred to as 'Member States with a derogation'.

2. The following provisions of the Treaties shall not apply to Member States with a derogation:

(a) adoption of the parts of the broad economic policy guidelines which concern the euro area generally (Article 121(2));

(b) coercive means of remedying excessive deficits (Article

126(9) and (11));

(c) the objectives and tasks of the ESCB (Article 127(1) to (3) and (5));

(d) issue of the euro (Article 128);

(e) acts of the European Central Bank (Article 132);

(f) measures governing the use of the euro (Article 133);

(g) monetary agreements and other measures relating to exchange-rate policy (Article 219);

(h) appointment of members of the Executive Board of the European Central Bank (Article 283(2));

(i) decisions establishing common positions on issues of particular relevance for economic and monetary union within the competent international financial institutions and conferences (Article 138(1));

(j) measures to ensure unified representation within the international financial institutions and conferences (Article 138(2)).

In the Articles referred to in points (a) to (j), 'Member States' shall therefore mean Member States whose currency is the euro.

3. Under Chapter IX of the Statute of the ESCB and of the ECB, Member States with a derogation and their national central banks are excluded from rights and obligations within the ESCB.

4. The voting rights of members of the Council representing Member States with a derogation shall be suspended for the adoption by the Council of the measures referred to in the Articles listed in paragraph 2, and in the following instances:

(a) recommendations made to those Member States whose currency is the euro in the framework of multilateral surveillance, including on stability programmes and warnings (Article 121(4));

(b) measures relating to excessive deficits concerning those Member States whose currency is the euro (Article 126(6), (7), (8), (12) and (13)).

A qualified majority of the other members of the Council shall be defined in accordance with Article 238(3)(a).

Article 140

1. At least once every two years, or at the request of a Member State with a derogation, the Commission and the European Central Bank shall report to the Council on the progress made by the Member States with a derogation in fulfilling their obligations regarding the achievement of

economic and monetary union. These reports shall include an examination of the compatibility between the national legislation of each of these Member States, including the statutes of its national central bank, and Articles 130 and 131 and the Statute of the ESCB and of the ECB. The reports shall also examine the achievement of a high degree of sustainable convergence by reference to the fulfilment by each Member State of the following criteria:

- the achievement of a high degree of price stability; this will be apparent from a rate of inflation which is close to that of, at most, the three best performing Member States in terms of price stability,

- the sustainability of the government financial position; this will be apparent from having achieved a government budgetary position without a deficit that is excessive as determined in accordance with Article 126(6),

- the observance of the normal fluctuation margins provided for by the exchange-rate mechanism of the European Monetary System, for at least two years, without devaluing against the euro,

- the durability of convergence achieved by the Member State with a derogation and of its participation in the exchange-rate mechanism being reflected in the long-term interest rate levels.

The four criteria mentioned in this paragraph and the relevant periods over which they are to be respected are developed further in a Protocol annexed to the Treaties. The reports of the Commission and the European Central Bank shall also take account of the results of the integration of markets, the situation and development of the balances of payments on current account and an examination of the development of unit labour costs and other price indices.

2. After consulting the European Parliament and after discussion in the European Council, the Council shall, on a proposal from the Commission, decide which Member States with a derogation fulfil the necessary conditions on the basis of the criteria set out in paragraph 1, and abrogate the derogations of the Member States concerned.

The Council shall act having received a recommendation of a qualified majority of those among its members representing Member States whose currency is the euro. These members shall act within six months of the Council receiving the Commission's proposal.

The qualified majority of the said members, as referred to in

the second subparagraph, shall be defined in accordance with Article 238(3)(a).

3. If it is decided, in accordance with the procedure set out in paragraph 2, to abrogate a derogation, the Council shall, acting with the unanimity of the Member States whose currency is the euro and the Member State concerned, on a proposal from the Commission and after consulting the European Central Bank, irrevocably fix the rate at which the euro shall be substituted for the currency of the Member State concerned, and take the other measures necessary for the introduction of the euro as the single currency in the Member State concerned.

Article 141

1. If and as long as there are Member States with a derogation, and without prejudice to Article 129(1), the General Council of the European Central Bank referred to in Article 44 of the Statute of the ESCB and of the ECB shall be constituted as a third decision-making body of the European Central Bank.

2. If and as long as there are Member States with a derogation, the European Central Bank shall, as regards those Member States:

- strengthen cooperation between the national central banks,
- strengthen the coordination of the monetary policies of the Member States, with the aim of ensuring price stability,
- monitor the functioning of the exchange-rate mechanism,
- hold consultations concerning issues falling within the competence of the national central banks and affecting the stability of financial institutions and markets,
- carry out the former tasks of the European Monetary Cooperation Fund which had subsequently been taken over by the European Monetary Institute.

Article 142

Each Member State with a derogation shall treat its exchange-rate policy as a matter of common interest. In so doing, Member States shall take account of the experience acquired in cooperation within the framework of the exchange-rate mechanism.

Article 143

1. Where a Member State with a derogation is in difficulties or is seriously threatened with difficulties as regards its balance of payments either as a result of an overall disequilibrium in its

balance of payments, or as a result of the type of currency at its disposal, and where such difficulties are liable in particular to jeopardise the functioning of the internal market or the implementation of the common commercial policy, the Commission shall immediately investigate the position of the State in question and the action which, making use of all the means at its disposal, that State has taken or may take in accordance with the provisions of the Treaties. The Commission shall state what measures it recommends the State concerned to take.

If the action taken by a Member State with a derogation and the measures suggested by the Commission do not prove sufficient to overcome the difficulties which have arisen or which threaten, the Commission shall, after consulting the Economic and Financial Committee, recommend to the Council the granting of mutual assistance and appropriate methods therefor.

The Commission shall keep the Council regularly informed of the situation and of how it is developing.

2. The Council shall grant such mutual assistance; it shall adopt directives or decisions laying down the conditions and details of such assistance, which may take such forms as:

(a) a concerted approach to or within any other international organisations to which Member States with a derogation may have recourse;

(b) measures needed to avoid deflection of trade where the Member State with a derogation which is in difficulties maintains or reintroduces quantitative restrictions against third countries;

(c) the granting of limited credits by other Member States, subject to their agreement.

3. If the mutual assistance recommended by the Commission is not granted by the Council or if the mutual assistance granted and the measures taken are insufficient, the Commission shall authorize the Member State with a derogation which is in difficulties to take protective measures, the conditions and details of which the Commission shall determine.

Such authorisation may be revoked and such conditions and details may be changed by the Council.

Article 144

1. Where a sudden crisis in the balance of payments occurs and a decision within the meaning of Article 143(2) is not

immediately taken, a Member State with a derogation may, as a precaution, take the necessary protective measures. Such measures must cause the least possible disturbance in the functioning of the internal market and must not be wider in scope than is strictly necessary to remedy the sudden difficulties which have arisen.

2. The Commission and the other Member States shall be informed of such protective measures not later than when they enter into force. The Commission may recommend to the Council the granting of mutual assistance under Article 143.

3. After the Commission has delivered a recommendation and the Economic and Financial Committee has been consulted, the Council may decide that the Member State concerned shall amend, suspend or abolish the protective measures referred to above.

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THE EUROPEAN CENTRAL BANK

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Article 282

1. The European Central Bank, together with the national central banks, shall constitute the European System of Central Banks (ESCB). The European Central Bank, together with the national central banks of the Member States whose currency is the euro, which constitute the Eurosystem, shall conduct the monetary policy of the Union.

2. The ESCB shall be governed by the decision-making bodies of the European Central Bank. The primary objective of the ESCB shall be to maintain price stability. Without prejudice to that objective, it shall support the general economic policies in the Union in order to contribute to the achievement of the latter's objectives.

3. The European Central Bank shall have legal personality. It alone may authorise the issue of the euro. It shall be independent in the exercise of its powers and in the management of its finances. Union institutions, bodies, offices and agencies and the governments of the Member States shall respect that independence.

4. The European Central Bank shall adopt such measures as are necessary to carry out its tasks in accordance with Articles 127 to 133, with Article 138, and with the conditions laid down in the Statute of the ESCB and of the ECB. In accordance with these same Articles, those Member States whose currency is not the euro, and their central banks, shall retain their powers in monetary matters.

5. Within the areas falling within its responsibilities, the European Central Bank shall be consulted on all proposed Union acts, and all proposals for regulation at national level, and may give an opinion.

Article 283

1. The Governing Council of the European Central Bank shall comprise the members of the Executive Board of the European Central Bank and the Governors of the national central banks of the Member States whose currency is the euro.

2. The Executive Board shall comprise the President, the Vice-President and four other members.

The President, the Vice-President and the other members of the Executive Board shall be appointed by the European Council, acting by a qualified majority, from among persons of recognised standing and professional experience in monetary or banking matters, on a recommendation from the Council, after it has consulted the European Parliament and the Governing Council of the European Central Bank.

Their term of office shall be eight years and shall not be renewable.

Only nationals of Member States may be members of the Executive Board.

Article 284

1. The President of the Council and a Member of the Commission may participate, without having the right to vote, in meetings of the Governing Council of the European Central Bank. The President of the Council may submit a motion for deliberation to the Governing Council of the European Central Bank.

2. The President of the European Central Bank shall be invited to participate in Council meetings when the Council is discussing matters relating to the objectives and tasks of the ESCB.

3. The European Central Bank shall address an annual report on the activities of the ESCB and on the monetary policy of both the previous and current year to the European Parliament, the Council and the Commission, and also to the European Council. The President of the European Central Bank shall present this report to the Council and to the European Parliament, which may hold a general debate on that basis.

The President of the European Central Bank and the other members of the Executive Board may, at the request of the European Parliament or on their own initiative, be heard by the competent committees of the European Parliament.

PROTOCOL (No 4)

**ON THE STATUTE OF
THE EUROPEAN SYSTEM OF
CENTRAL BANKS AND OF
THE EUROPEAN CENTRAL BANK***

CHAPTER I

THE EUROPEAN SYSTEM OF CENTRAL BANKS

Article 1 *The European System of Central Banks*

In accordance with Article 282(1) of the Treaty on European Union, the European Central Bank (ECB) and the national central banks shall constitute the European System of Central Banks (ESCB). The ECB and the national central banks of those Member States whose currency is the euro shall constitute the Eurosystem.

The ESCB and the ECB shall perform their tasks and carry on their activities in accordance with the provisions of the Treaties and of this Statute.

CHAPTER II

OBJECTIVES AND TASKS OF THE ESCB

Article 2 *Objectives*

In accordance with Article 127(1) and Article 282(2) of the Treaty on the Functioning of the European Union, the primary objective of the ESCB shall be to maintain price stability. Without prejudice to the objective of price stability, it shall support the general economic policies in the Union with a view to contributing to the achievement of the objectives of the

* Unofficial, consolidated version of the Protocol attached to the Treaty on the Functioning of the European Union as amended by the Treaty of Lisbon, which was signed on 13 December 2007 in Lisbon and entered into force on 1 December 2009.

Union as laid down in Article 3 of the Treaty on European Union. The ESCB shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in Article 119 of the Treaty on the Functioning of the European Union.

Article 3 *Tasks*

3.1. In accordance with Article 127(2) of the Treaty on the Functioning of the European Union, the basic tasks to be carried out through the ESCB shall be:

- to define and implement the monetary policy of the Union;
- to conduct foreign-exchange operations consistent with the provisions of Article 219 of that Treaty;
- to hold and manage the official foreign reserves of the Member States;
- to promote the smooth operation of payment systems.

3.2. In accordance with Article 127(3) of the Treaty on the Functioning of the European Union, the third indent of Article 3.1 shall be without prejudice to the holding and management by the governments of Member States of foreign-exchange working balances.

3.3. In accordance with Article 127(5) of the Treaty on the Functioning of the European Union, the ESCB shall contribute to the smooth conduct of policies pursued by the competent authorities relating to the prudential supervision of credit institutions and the stability of the financial system.

Article 4 *Advisory functions*

In accordance with Article 127(4) of the Treaty on the Functioning of the European Union:

- (a) the ECB shall be consulted:
 - on any proposed Union act in its fields of competence;
 - by national authorities regarding any draft legislative provision in its fields of competence, but within the limits and under the conditions set out by the Council in accordance with the procedure laid down in Article 41;
- (b) the ECB may submit opinions to the Union institutions, bodies, offices or agencies or to national authorities on matters in its fields of competence.

Article 5 *Collection of statistical information*

5.1. In order to undertake the tasks of the ESCB, the ECB,

assisted by the national central banks, shall collect the necessary statistical information either from the competent national authorities or directly from economic agents. For these purposes it shall cooperate with the Union institutions, bodies, offices or agencies and with the competent authorities of the Member States or third countries and with international organisations.

5.2. The national central banks shall carry out, to the extent possible, the tasks described in Article 5.1.

5.3. The ECB shall contribute to the harmonisation, where necessary, of the rules and practices governing the collection, compilation and distribution of statistics in the areas within its fields of competence.

5.4. The Council, in accordance with the procedure laid down in Article 41, shall define the natural and legal persons subject to reporting requirements, the confidentiality regime and the appropriate provisions for enforcement.

Article 6 International cooperation

6.1. In the field of international cooperation involving the tasks entrusted to the ESCB, the ECB shall decide how the ESCB shall be represented.

6.2. The ECB and, subject to its approval, the national central banks may participate in international monetary institutions.

6.3. Articles 6.1 and 6.2 shall be without prejudice to Article 138 of the Treaty on the Functioning of the European Union.

CHAPTER III **ORGANISATION OF THE ESCB**

Article 7 Independence

In accordance with Article 130 of the Treaty on the Functioning of the European Union, when exercising the powers and carrying out the tasks and duties conferred upon them by the Treaties and this Statute, neither the ECB, nor a national central bank, nor any member of their decision-making bodies shall seek or take instructions from Union institutions, bodies, offices or agencies, from any government of a Member State or from any other body. The Union institutions, bodies, offices or agencies and the governments of the Member States undertake to respect this principle and not to seek to influence

the members of the decision-making bodies of the ECB or of the national central banks in the performance of their tasks.

Article 8 *General principle*

The ESCB shall be governed by the decision-making bodies of the ECB.

Article 9 *The European Central Bank*

9.1. The ECB which, in accordance with Article 282(3) of the Treaty on the Functioning of the European Union, shall have legal personality, shall enjoy in each of the Member States the most extensive legal capacity accorded to legal persons under its law; it may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings.

9.2. The ECB shall ensure that the tasks conferred upon the ESCB under Article 127(2), (3) and (5) of the Treaty on the Functioning of the European Union are implemented either by its own activities pursuant to this Statute or through the national central banks pursuant to Articles 12.1 and 14.

9.3. In accordance with Article 129(1) of the Treaty on the Functioning of the European Union, the decision making bodies of the ECB shall be the Governing Council and the Executive Board.

Article 10 *The Governing Council*

10.1. In accordance with Article 283(1) of the Treaty on the Functioning of the European Union, the Governing Council shall comprise the members of the Executive Board of the ECB and the governors of the national central banks of the Member States whose currency is the euro.

10.2. Each member of the Governing Council shall have one vote. As from the date on which the number of members of the Governing Council exceeds 21, each member of the Executive Board shall have one vote and the number of governors with a voting right shall be 15. The latter voting rights shall be assigned and shall rotate as follows:

– as from the date on which the number of governors exceeds 15, until it reaches 22, the governors shall be allocated to two groups, according to a ranking of the size of the share of their national central bank's Member State in the aggregate gross domestic product at market prices and in the total aggregated balance sheet of the monetary financial institutions of the Member States whose currency is the euro. The shares in the aggregate gross domestic product at market prices and in the total aggregated balance sheet of the monetary financial

institutions shall be assigned weights of 5/6 and 1/6, respectively. The first group shall be composed of five governors and the second group of the remaining governors. The frequency of voting rights of the governors allocated to the first group shall not be lower than the frequency of voting rights of those of the second group. Subject to the previous sentence, the first group shall be assigned four voting rights and the second group eleven voting rights,

- as from the date on which the number of governors reaches 22, the governors shall be allocated to three groups according to a ranking based on the above criteria. The first group shall be composed of five governors and shall be assigned four voting rights. The second group shall be composed of half of the total number of governors, with any fraction rounded up to the nearest integer, and shall be assigned eight voting rights. The third group shall be composed of the remaining governors and shall be assigned three voting rights,

- within each group, the governors shall have their voting rights for equal amounts of time,

- for the calculation of the shares in the aggregate gross domestic product at market prices Article 29.2 shall apply. The total aggregated balance sheet of the monetary financial institutions shall be calculated in accordance with the statistical framework applying in the Union at the time of the calculation,

- whenever the aggregate gross domestic product at market prices is adjusted in accordance with Article 29.3, or whenever the number of governors increases, the size and/or composition of the groups shall be adjusted in accordance with the above principles,

- the Governing Council, acting by a two-thirds majority of all its members, with and without a voting right, shall take all measures necessary for the implementation of the above principles and may decide to postpone the start of the rotation system until the date on which the number of governors exceeds 18.

The right to vote shall be exercised in person. By way of derogation from this rule, the Rules of Procedure referred to in Article 12.3 may lay down that members of the Governing Council may cast their vote by means of teleconferencing. These rules shall also provide that a member of the Governing Council who is prevented from attending meetings of the Governing Council for a prolonged period may appoint an alternate as a member of the Governing Council.

The provisions of the previous paragraphs are without prejudice to the voting rights of all members of the Governing

Council, with and without a voting right, under Articles 10.3, 40.2 and 40.3.

Save as otherwise provided for in this Statute, the Governing Council shall act by a simple majority of the members having a voting right. In the event of a tie, the President shall have the casting vote.

In order for the Governing Council to vote, there shall be a quorum of two-thirds of the members having a voting right. If the quorum is not met, the President may convene an extraordinary meeting at which decisions may be taken without regard to the quorum.

10.3. For any decisions to be taken under Articles 28, 29, 30, 32 and 33, the votes in the Governing Council shall be weighted according to the national central banks' shares in the subscribed capital of the ECB. The weights of the votes of the members of the Executive Board shall be zero. A decision requiring a qualified majority shall be adopted if the votes cast in favour represent at least two thirds of the subscribed capital of the ECB and represent at least half of the shareholders. If a Governor is unable to be present, he may nominate an alternate to cast his weighted vote.

10.4. The proceedings of the meetings shall be confidential. The Governing Council may decide to make the outcome of its deliberations public.

10.5. The Governing Council shall meet at least 10 times a year.

Article 11 *The Executive Board*

11.1. In accordance with the first subparagraph of Article 283(2) of the Treaty on the Functioning of the European Union, the Executive Board shall comprise the President, the Vice-President and four other members.

The members shall perform their duties on a full-time basis. No member shall engage in any occupation, whether gainful or not, unless exemption is exceptionally granted by the Governing Council.

11.2. In accordance with the second subparagraph of Article 283(2) of the Treaty on the Functioning of the European Union, the President, the Vice-President and the other members of the Executive Board shall be appointed by the European Council, acting by a qualified majority, from among persons of recognised standing and professional experience in monetary or banking matters, on a recommendation from the Council after it has consulted the European Parliament and the Governing Council.

Their term of office shall be eight years and shall not be renewable.

Only nationals of Member States may be members of the Executive Board.

11.3. The terms and conditions of employment of the members of the Executive Board, in particular their salaries, pensions and other social security benefits shall be the subject of contracts with the ECB and shall be fixed by the Governing Council on a proposal from a Committee comprising three members appointed by the Governing Council and three members appointed by the Council. The members of the Executive Board shall not have the right to vote on matters referred to in this paragraph.

11.4. If a member of the Executive Board no longer fulfils the conditions required for the performance of his duties or if he has been guilty of serious misconduct, the Court of Justice may, on application by the Governing Council or the Executive Board, compulsorily retire him.

11.5. Each member of the Executive Board present in person shall have the right to vote and shall have, for that purpose, one vote. Save as otherwise provided, the Executive Board shall act by a simple majority of the votes cast. In the event of a tie, the President shall have the casting vote. The voting arrangements shall be specified in the Rules of Procedure referred to in Article 12.3.

11.6. The Executive Board shall be responsible for the current business of the ECB.

11.7. Any vacancy on the Executive Board shall be filled by the appointment of a new member in accordance with Article 11.2.

Article 12 Responsibilities of the decision-making bodies

12.1. The Governing Council shall adopt the guidelines and take the decisions necessary to ensure the performance of the tasks entrusted to the ESCB under these Treaties and this Statute. The Governing Council shall formulate the monetary policy of the Union including, as appropriate, decisions relating to intermediate monetary objectives, key interest rates and the supply of reserves in the ESCB, and shall establish the necessary guidelines for their implementation.

The Executive Board shall implement monetary policy in accordance with the guidelines and decisions laid down by the Governing Council. In doing so the Executive Board shall give the necessary instructions to national central banks. In addition the Executive Board may have certain powers delegated to it

where the Governing Council so decides.

To the extent deemed possible and appropriate and without prejudice to the provisions of this Article, the ECB shall have recourse to the national central banks to carry out operations which form part of the tasks of the ESCB.

12.2. The Executive Board shall have responsibility for the preparation of meetings of the Governing Council.

12.3. The Governing Council shall adopt Rules of Procedure which determine the internal organisation of the ECB and its decision-making bodies.

12.4. The Governing Council shall exercise the advisory functions referred to in Article 4.

12.5. The Governing Council shall take the decisions referred to in Article 6.

Article 13 The President

13.1. The President or, in his absence, the Vice-President shall chair the Governing Council and the Executive Board of the ECB.

13.2. Without prejudice to Article 38, the President or his nominee shall represent the ECB externally.

Article 14 National central banks

14.1. In accordance with Article 131 of the Treaty on the Functioning of the European Union, each Member State shall ensure that its national legislation, including the statutes of its national central bank, is compatible with these Treaties and this Statute.

14.2. The statutes of the national central banks shall, in particular, provide that the term of office of a Governor of a national central bank shall be no less than five years.

A Governor may be relieved from office only if he no longer fulfils the conditions required for the performance of his duties or if he has been guilty of serious misconduct. A decision to this effect may be referred to the Court of Justice by the Governor concerned or the Governing Council on grounds of infringement of these Treaties or of any rule of law relating to their application. Such proceedings shall be instituted within two months of the publication of the decision or of its notification to the plaintiff or, in the absence thereof, of the day on which it came to the knowledge of the latter, as the case may be.

14.3. The national central banks are an integral part of the ESCB and shall act in accordance with the guidelines and instructions of the ECB. The Governing Council shall take the necessary steps to ensure compliance with the guidelines and

instructions of the ECB, and shall require that any necessary information be given to it.

14.4. National central banks may perform functions other than those specified in this Statute unless the Governing Council finds, by a majority of two thirds of the votes cast, that these interfere with the objectives and tasks of the ESCB. Such functions shall be performed on the responsibility and liability of national central banks and shall not be regarded as being part of the functions of the ESCB.

Article 15 *Reporting commitments*

15.1. The ECB shall draw up and publish reports on the activities of the ESCB at least quarterly.

15.2. A consolidated financial statement of the ESCB shall be published each week.

15.3. In accordance with Article 284(3) of the Treaty on the Functioning of the European Union, the ECB shall address an annual report on the activities of the ESCB and on the monetary policy of both the previous and the current year to the European Parliament, the Council and the Commission, and also to the European Council.

15.4. The reports and statements referred to in this Article shall be made available to interested parties free of charge.

Article 16 *Banknotes*

In accordance with Article 128(1) of the Treaty on the Functioning of the European Union, the Governing Council shall have the exclusive right to authorise the issue of euro banknotes within the Union. The ECB and the national central banks may issue such notes. The banknotes issued by the ECB and the national central banks shall be the only such notes to have the status of legal tender within the Union.

The ECB shall respect as far as possible existing practices regarding the issue and design of banknotes.

CHAPTER IV **MONETARY FUNCTIONS AND** **OPERATIONS OF THE ESCB**

Article 17 *Accounts with the ECB and the national central banks*

In order to conduct their operations, the ECB and the

national central banks may open accounts for credit institutions, public entities and other market participants and accept assets, including book entry securities, as collateral.

Article 18 *Open market and credit operations*

18.1. In order to achieve the objectives of the ESCB and to carry out its tasks, the ECB and the national central banks may:

- operate in the financial markets by buying and selling outright (spot and forward) or under repurchase agreement and by lending or borrowing claims and marketable instruments, whether in euro or other currencies, as well as precious metals;
- conduct credit operations with credit institutions and other market participants, with lending being based on adequate collateral.

18.2. The ECB shall establish general principles for open market and credit operations carried out by itself or the national central banks, including for the announcement of conditions under which they stand ready to enter into such transactions.

Article 19 *Minimum reserves*

19.1. Subject to Article 2, the ECB may require credit institutions established in Member States to hold minimum reserve on accounts with the ECB and national central banks in pursuance of monetary policy objectives. Regulations concerning the calculation and determination of the required minimum reserves may be established by the Governing Council. In cases of non-compliance the ECB shall be entitled to levy penalty interest and to impose other sanctions with comparable effect.

19.2. For the application of this Article, the Council shall, in accordance with the procedure laid down in Article 41, define the basis for minimum reserves and the maximum permissible ratios between those reserves and their basis, as well as the appropriate sanctions in cases of non-compliance.

Article 20 *Other instruments of monetary control*

The Governing Council may, by a majority of two thirds of the votes cast, decide upon the use of such other operational methods of monetary control as it sees fit, respecting Article 2.

The Council shall, in accordance with the procedure laid down in Article 41, define the scope of such methods if they impose obligations on third parties.

Article 21 *Operations with public entities*

21.1. In accordance with Article 123 of the Treaty on the

Functioning of the European Union, overdrafts or any other type of credit facility with the ECB or with the national central banks in favour of Union institutions, bodies, offices or agencies, central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of Member States shall be prohibited, as shall the purchase directly from them by the ECB or national central banks of debt instruments.

21.2. The ECB and national central banks may act as fiscal agents for the entities referred to in Article 21.1.

21.3. The provisions of this Article shall not apply to publicly owned credit institutions which, in the context of the supply of reserves by central banks, shall be given the same treatment by national central banks and the ECB as private credit institutions.

Article 22 Clearing and payment systems

The ECB and national central banks may provide facilities, and the ECB may make regulations, to ensure efficient and sound clearing and payment systems within the Union and with other countries.

Article 23 External operations

The ECB and national central banks may:

- establish relations with central banks and financial institutions in other countries and, where appropriate, with international organisations;
- acquire and sell spot and forward all types of foreign exchange assets and precious metals; the term ‘foreign exchange asset’ shall include securities and all other assets in the currency of any country or units of account and in whatever form held;
- hold and manage the assets referred to in this Article;
- conduct all types of banking transactions in relations with third countries and international organisations, including borrowing and lending operations.

Article 24 Other operations

In addition to operations arising from their tasks, the ECB and national central banks may enter into operations for their administrative purposes or for their staff.

CHAPTER V

PRUDENTIAL SUPERVISION

Article 25 Prudential supervision

25.1. The ECB may offer advice to and be consulted by the Council, the Commission and the competent authorities of the Member States on the scope and implementation of Union legislation relating to the prudential supervision of credit institutions and to the stability of the financial system.

25.2. In accordance with any regulation of the Council under Article 127(6) of the Treaty on the Functioning of the European Union, the ECB may perform specific tasks concerning policies relating to the prudential supervision of credit institutions and other financial institutions with the exception of insurance undertakings.

CHAPTER VI

FINANCIAL PROVISIONS OF THE ESCB

Article 26 Financial accounts

26.1. The financial year of the ECB and national central banks shall begin on the first day of January and end on the last day of December.

26.2. The annual accounts of the ECB shall be drawn up by the Executive Board, in accordance with the principles established by the Governing Council. The accounts shall be approved by the Governing Council and shall thereafter be published.

26.3. For analytical and operational purposes, the Executive Board shall draw up a consolidated balance sheet of the ESCB, comprising those assets and liabilities of the national central banks that fall within the ESCB.

26.4. For the application of this Article, the Governing Council shall establish the necessary rules for standardising the accounting and reporting of operations undertaken by the national central banks.

Article 27 Auditing

27.1. The accounts of the ECB and national central banks shall be audited by independent external auditors recommended

by the Governing Council and approved by the Council. The auditors shall have full power to examine all books and accounts of the ECB and national central banks and obtain full information about their transactions.

27.2. The provisions of Article 287 of the Treaty on the Functioning of the European Union shall only apply to an examination of the operational efficiency of the management of the ECB.

Article 28 *Capital of the ECB*

28.1. The capital of the ECB shall be euro 5 000 million. The capital may be increased by such amounts as may be decided by the Governing Council acting by the qualified majority provided for in Article 10.3, within the limits and under the conditions set by the Council under the procedure laid down in Article 41.

28.2. The national central banks shall be the sole subscribers to and holders of the capital of the ECB. The subscription of capital shall be according to the key established in accordance with Article 29.

28.3. The Governing Council, acting by the qualified majority provided for in Article 10.3, shall determine the extent to which and the form in which the capital shall be paid up.

28.4. Subject to Article 28.5, the shares of the national central banks in the subscribed capital of the ECB may not be transferred, pledged or attached.

28.5. If the key referred to in Article 29 is adjusted, the national central banks shall transfer among themselves capital shares to the extent necessary to ensure that the distribution of capital shares corresponds to the adjusted key. The Governing Council shall determine the terms and conditions of such transfers.

Article 29 *Key for capital subscription*

29.1. The key for subscription of the ECB's capital, fixed for the first time in 1998 when the ESCB was established, shall be determined by assigning to each national central bank a weighting in this key equal to the sum of:

- 50 % of the share of its respective Member State in the population of the Union in the penultimate year preceding the establishment of the ESCB;
- 50 % of the share of its respective Member State in the gross domestic product at market prices of the Union as recorded in the last five years preceding the penultimate year before the establishment of the ESCB.

The percentages shall be rounded up or down to the nearest multiple of 0,0001 percentage points.

29.2. The statistical data to be used for the application of this Article shall be provided by the Commission in accordance with the rules adopted by the Council under the procedure provided for in Article 41.

29.3. The weightings assigned to the national central banks shall be adjusted every five years after the establishment of the ESCB by analogy with the provisions laid down in Article 29.1. The adjusted key shall apply with effect from the first day of the following year.

29.4. The Governing Council shall take all other measures necessary for the application of this Article.

Article 30 *Transfer of foreign reserve assets to the ECB*

30.1. Without prejudice to Article 28, the ECB shall be provided by the national central banks with foreign reserve assets, other than Member States' currencies, euro, IMF reserve positions and SDRs, up to an amount equivalent to euro 50 000 million. The Governing Council shall decide upon the proportion to be called up by the ECB following its establishment and the amounts called up at later dates. The ECB shall have the full right to hold and manage the foreign reserves that are transferred to it and to use them for the purposes set out in this Statute.

30.2. The contributions of each national central bank shall be fixed in proportion to its share in the subscribed capital of the ECB.

30.3. Each national central bank shall be credited by the ECB with a claim equivalent to its contribution. The Governing Council shall determine the denomination and remuneration of such claims.

30.4. Further calls of foreign reserve assets beyond the limit set in Article 30.1 may be effected by the ECB, in accordance with Article 30.2, within the limits and under the conditions set by the Council in accordance with the procedure laid down in Article 41.

30.5. The ECB may hold and manage IMF reserve positions and SDRs and provide for the pooling of such assets.

30.6. The Governing Council shall take all other measures necessary for the application of this Article.

Article 31 *Foreign reserve assets held by national central banks*

31.1. The national central banks shall be allowed to perform transactions in fulfilment of their obligations towards international organisations in accordance with Article 23.

31.2. All other operations in foreign reserve assets remaining with the national central banks after the transfers referred to in Article 30, and Member States' transactions with their foreign exchange working balances shall, above a certain limit to be established within the framework of Article 31.3, be subject to approval by the ECB in order to ensure consistency with the exchange rate and monetary policies of the Union.

31.3. The Governing Council shall issue guidelines with a view to facilitating such operations.

Article 32 *Allocation of monetary income of national central banks*

32.1. The income accruing to the national central banks in the performance of the ESCB's monetary policy function (hereinafter referred to as 'monetary income') shall be allocated at the end of each financial year in accordance with the provisions of this Article.

32.2. The amount of each national central bank's monetary income shall be equal to its annual income derived from its assets held against notes in circulation and deposit liabilities to credit institutions. These assets shall be earmarked by national central banks in accordance with guidelines to be established by the Governing Council.

32.3. If, after the introduction of the euro, the balance sheet structures of the national central banks do not, in the judgment of the Governing Council, permit the application of Article 32.2, the Governing Council, acting by a qualified majority, may decide that, by way of derogation from Article 32.2, monetary income shall be measured according to an alternative method for a period of not more than five years.

32.4. The amount of each national central bank's monetary income shall be reduced by an amount equivalent to any interest paid by that central bank on its deposit liabilities to credit institutions in accordance with Article 19.

The Governing Council may decide that national central banks shall be indemnified against costs incurred in connection with the issue of banknotes or in exceptional circumstances for specific losses arising from monetary policy operations undertaken for the ESCB. Indemnification shall be in a form deemed appropriate in the judgment of the Governing Council; these amounts may be offset against the national central banks' monetary income.

32.5. The sum of the national central banks' monetary income shall be allocated to the national central banks in proportion to their paid up shares in the capital of the ECB,

subject to any decision taken by the Governing Council pursuant to Article 33.2.

32.6. The clearing and settlement of the balances arising from the allocation of monetary income shall be carried out by the ECB in accordance with guidelines established by the Governing Council.

32.7. The Governing Council shall take all other measures necessary for the application of this Article.

Article 33 *Allocation of net profits and losses of the ECB*

33.1. The net profit of the ECB shall be transferred in the following order:

(a) an amount to be determined by the Governing Council, which may not exceed 20 % of the net profit, shall be transferred to the general reserve fund subject to a limit equal to 100 % of the capital;

(b) the remaining net profit shall be distributed to the shareholders of the ECB in proportion to their paid-up shares.

33.2. In the event of a loss incurred by the ECB, the shortfall may be offset against the general reserve fund of the ECB and, if necessary, following a decision by the Governing Council, against the monetary income of the relevant financial year in proportion and up to the amounts allocated to the national central banks in accordance with Article 32.5.

CHAPTER VII **GENERAL PROVISIONS**

Article 34 *Legal acts*

34.1. In accordance with Article 132 of the Treaty on the Functioning of the European Union, the ECB shall:

– make regulations to the extent necessary to implement the tasks defined in Article 3.1, first indent, Articles 19.1, 22 or 25.2 and in cases which shall be laid down in the acts of the Council referred to in Article 41;

– take decisions necessary for carrying out the tasks entrusted to the ESCB under these Treaties and this Statute;

– make recommendations and deliver opinions.

34.2. The ECB may decide to publish its decisions, recommendations and opinions.

34.3. Within the limits and under the conditions adopted by the Council under the procedure laid down in Article 41, the

ECB shall be entitled to impose fines or periodic penalty payments on undertakings for failure to comply with obligations under its regulations and decisions.

Article 35 *Judicial control and related matters*

35.1. The acts or omissions of the ECB shall be open to review or interpretation by the Court of Justice of the European Union in the cases and under the conditions laid down in the Treaty on the Functioning of the European Union. The ECB may institute proceedings in the cases and under the conditions laid down in the Treaties.

35.2. Disputes between the ECB, on the one hand, and its creditors, debtors or any other person, on the other, shall be decided by the competent national courts, save where jurisdiction has been conferred upon the Court of Justice of the European Union.

35.3. The ECB shall be subject to the liability regime provided for in Article 340 of the Treaty on the Functioning of the European Union. The national central banks shall be liable according to their respective national laws.

35.4. The Court of Justice of the European Union shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by or on behalf of the ECB, whether that contract be governed by public or private law.

35.5. A decision of the ECB to bring an action before the Court of Justice of the European Union shall be taken by the Governing Council.

35.6. The Court of Justice of the European Union shall have jurisdiction in disputes concerning the fulfilment by a national central bank of obligations under the Treaties and this Statute. If the ECB considers that a national central bank has failed to fulfil an obligation under the Treaties and this Statute, it shall deliver a reasoned opinion on the matter after giving the national central bank concerned the opportunity to submit its observations. If the national central bank concerned does not comply with the opinion within the period laid down by the ECB, the latter may bring the matter before the Court of Justice of the European Union.

Article 36 *Staff*

36.1. The Governing Council, on a proposal from the Executive Board, shall lay down the conditions of employment of the staff of the ECB.

36.2. The Court of Justice of the European Union shall have jurisdiction in any dispute between the ECB and its servants

within the limits and under the conditions laid down in the conditions of employment.

Article 37 Professional secrecy

37.1. Members of the governing bodies and the staff of the ECB and the national central banks shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy.

37.2. Persons having access to data covered by Union legislation imposing an obligation of secrecy shall be subject to such legislation.

Article 38 Signatories

The ECB shall be legally committed to third parties by the President or by two members of the Executive Board or by the signatures of two members of the staff of the ECB who have been duly authorised by the President to sign on behalf of the ECB.

Article 39 Privileges and immunities

The ECB shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of its tasks, under the conditions laid down in the Protocol on the privileges and immunities of the European Union.

CHAPTER VIII

AMENDMENT OF THE STATUTE AND COMPLEMENTARY LEGISLATION

Article 40 Simplified amendment procedure

40.1. In accordance with Article 129(3) of the Treaty on the Functioning of the European Union, Articles 5.1, 5.2, 5.3, 17, 18, 19.1, 22, 23, 24, 26, 32.2, 32.3, 32.4, 32.6, 33.1(a) and 36 of this Statute may be amended by the European Parliament and the Council, acting in accordance with the ordinary legislative procedure either on a recommendation from the ECB and after consulting the Commission, or on a proposal from the Commission and after consulting the ECB.

40.2. Article 10.2 may be amended by a decision of the European Council, acting unanimously, either on a recommendation from the European Central Bank and after

consulting the European Parliament and the Commission, or on a recommendation from the Commission and after consulting the European Parliament and the European Central Bank. These amendments shall not enter into force until they are approved by the Member States in accordance with their respective constitutional requirements.

40.3. A recommendation made by the ECB under this Article shall require a unanimous decision by the Governing Council.

Article 41 Complementary legislation

In accordance with Article 129(4) of the Treaty on the Functioning of the European Union, the Council, either on a proposal from the Commission and after consulting the European Parliament and the ECB or on a recommendation from the ECB and after consulting the European Parliament and the Commission, shall adopt the provisions referred to in Articles 4, 5.4, 19.2, 20, 28.1, 29.2, 30.4 and 34.3 of this Statute.

CHAPTER IX TRANSITIONAL AND OTHER PROVISIONS FOR THE ESCB

Article 42 General provisions

42.1. A derogation as referred to in Article 139 of the Treaty on the Functioning of the European Union shall entail that the following Articles of this Statute shall not confer any rights or impose any obligations on the Member State concerned: 3, 6, 9.2, 12.1, 14.3, 16, 18, 19, 20, 22, 23, 26.2, 27, 30, 31, 32, 33, 34, and 49.

42.2. The central banks of Member States with a derogation as specified in Article 139(1) of the Treaty on the Functioning of the European Union shall retain their powers in the field of monetary policy according to national law.

42.3. In accordance with Article 139 of the Treaty on the Functioning of the European Union, 'Member States' shall be read as 'Member States whose currency is the euro' in the following Articles of this Statute: 3, 11.2 and 19.

42.4. 'National central banks' shall be read as 'central banks of Member States whose currency is the euro' in the following Articles of this Statute: 9.2, 10.2, 10.3, 12.1, 16, 17, 18, 22, 23, 27, 30, 31, 32, 33.2 and 49.

42.5. 'Shareholders' shall be read as 'central banks of Member States whose currency is the euro' in Articles 10.3 and 33.1.

42.6. 'Subscribed capital of the ECB' shall be read as 'capital of the ECB subscribed by the central banks of Member States whose currency is the euro' in Articles 10.3 and 30.2.

Article 43 *Transitional tasks of the ECB*

The ECB shall take over the former tasks of the EMI referred to in Article 141(2) of the Treaty on the Functioning of the European Union which, because of the derogations of one or more Member States, still have to be performed after the introduction of the euro.

The ECB shall give advice in the preparations for the abrogation of the derogations specified in Article 140 of the Treaty on the Functioning of the European Union.

Article 44 *The General Council of the ECB*

44.1. Without prejudice to Article 129(3) of the Treaty on the Functioning of the European Union, the General Council shall be constituted as a third decision-making body of the ECB.

44.2. The General Council shall comprise the President and Vice-President of the ECB and the Governors of the national central banks. The other members of the Executive Board may participate, without having the right to vote, in meetings of the General Council.

44.3. The responsibilities of the General Council are listed in full in Article 46 of this Statute.

Article 45 *Rules of Procedure of the General Council*

45.1. The President or, in his absence, the Vice-President of the ECB shall chair the General Council of the ECB.

45.2. The President of the Council and a Member of the Commission may participate, without having the right to vote, in meetings of the General Council.

45.3. The President shall prepare the meetings of the General Council.

45.4. By way of derogation from Article 12.3, the General Council shall adopt its Rules of Procedure.

45.5. The Secretariat of the General Council shall be provided by the ECB.

Article 46 *Responsibilities of the General Council*

46.1. The General Council shall:

- perform the tasks referred to in Article 43;

– contribute to the advisory functions referred to in Articles 4 and 25.1.

46.2. The General Council shall contribute to:

– the collection of statistical information as referred to in Article 5;

– the reporting activities of the ECB as referred to in Article 15;

– the establishment of the necessary rules for the application of Article 26 as referred to in Article 26.4;

– the taking of all other measures necessary for the application of Article 29 as referred to in Article 29.4;

– the laying down of the conditions of employment of the staff of the ECB as referred to in Article 36.

46.3. The General Council shall contribute to the necessary preparations for irrevocably fixing the exchange rates of the currencies of Member States with a derogation against the euro as referred to in Article 140(3) of the Treaty on the Functioning of the European Union.

46.4. The General Council shall be informed by the President of the ECB of decisions of the Governing Council.

Article 47 *Transitional provisions for the capital of the ECB*

In accordance with Article 29.1, each national central bank shall be assigned a weighting in the key for subscription of the ECB's capital. By way of derogation from Article 28.3, central banks of Member States with a derogation shall not pay up their subscribed capital unless the General Council, acting by a majority representing at least two thirds of the subscribed capital of the ECB and at least half of the shareholders, decides that a minimal percentage has to be paid up as a contribution to the operational costs of the ECB.

Article 48 *Deferred payment of capital, reserves and provisions of the ECB*

48.1. The central bank of a Member State whose derogation has been abrogated shall pay up its subscribed share of the capital of the ECB to the same extent as the central banks of other Member States without a derogation, and shall transfer to the ECB foreign reserve assets in accordance with Article 30.1. The sum to be transferred shall be determined by multiplying the euro value at current exchange rates of the foreign reserve assets which have already been transferred to the ECB in accordance with Article 30.1, by the ratio between the number of shares subscribed by the national central bank concerned and the number of shares already paid up by the other national central banks.

48.2. In addition to the payment to be made in accordance with Article 48.1, the central bank concerned shall contribute to the reserves of the ECB, to those provisions equivalent to reserves, and to the amount still to be appropriated to the reserves and provisions corresponding to the balance of the profit and loss account as at 31 December of the year prior to the abrogation of the derogation. The sum to be contributed shall be determined by multiplying the amount of the reserves, as defined above and as stated in the approved balance sheet of the ECB, by the ratio between the number of shares subscribed by the central bank concerned and the number of shares already paid up by the other central banks.

48.3. Upon one or more countries becoming Member States and their respective national central banks becoming part of the ESCB, the subscribed capital of the ECB and the limit on the amount of foreign reserve assets that may be transferred to the ECB shall be automatically increased. The increase shall be determined by multiplying the respective amounts then prevailing by the ratio, within the expanded capital key, between the weighting of the entering national central banks concerned and the weighting of the national central banks already members of the ESCB. Each national central bank's weighting in the capital key shall be calculated by analogy with Article 29.1 and in compliance with Article 29.2. The reference periods to be used for the statistical data shall be identical to those applied for the latest quinquennial adjustment of the weightings under Article 29.3.

Article 49 *Exchange of banknotes in the currencies of the Member States*

Following the irrevocable fixing of exchange rates in accordance with Article 140 of the Treaty on the Functioning of the European Union, the Governing Council shall take the necessary measures to ensure that banknotes denominated in currencies with irrevocably fixed exchange rates are exchanged by the national central banks at their respective par values.

Article 50 *Applicability of the transitional provisions*

If and as long as there are Member States with a derogation, Articles 42 to 47 shall be applicable.

COUNCIL REGULATION (EC)

No 1103/97

of 17 June 1997

ON CERTAIN PROVISIONS RELATING TO THE INTRODUCTION OF THE EURO *

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 235 thereof,

Having regard to the proposal of the Commission,¹

Having regard to the opinion of the European Parliament,²

Having regard to the opinion of the European Monetary Institute,³

(1) Whereas, at its meeting held in Madrid on 15 and 16 December 1995, the European Council confirmed that the third stage of Economic and Monetary Union will start on 1 January 1999 as laid down in Article 109j(4) of the Treaty; whereas the Member States which will adopt the euro as the single currency in accordance with the Treaty will be defined for the purposes of this Regulation as the 'participating Member States';

(2) Whereas, at the meeting of the European Council in Madrid, the decision was taken that the term 'ECU' used by the Treaty to refer to the European currency unit is a generic term; whereas the Governments of the fifteen Member States have achieved the common agreement that this decision is the agreed and definitive interpretation of the relevant Treaty provisions; whereas the name given to the European currency shall be the 'euro'; whereas the euro as the currency of the participating Member States will be divided into one hundred sub-units with the name 'cent'; whereas the European Council furthermore considered that the name of the single currency must be the same in all the official languages of the European Union, taking into account the existence of different alphabets;

* As amended by Council Regulation (EC) No 2595/2000 (OJ L 300 29.11.2000) – unofficial consolidated version.

¹ OJ C 369, 7 December 1996, p. 8.

² OJ C 380, 16 December 1996, p. 49.

³ Opinion delivered on 29 November 1996.

(3) Whereas a Regulation on the introduction of the euro will be adopted by the Council on the basis of the third sentence of Article 109l(4) of the Treaty as soon as the participating Member States are known in order to define the legal framework of the euro; whereas the Council, when acting at the starting date of the third stage in accordance with the first sentence of Article 109l(4) of the Treaty, shall adopt the irrevocably fixed conversion rates;

(4) Whereas it is necessary, in the course of the operation of the common market and for the changeover to the single currency, to provide legal certainty for citizens and firms in all Member States on certain provisions relating to the introduction of the euro well before the entry into the third stage; whereas this legal certainty at an early stage will allow preparations by citizens and firms to proceed under good conditions;

(5) Whereas the third sentence of Article 109l(4) of the Treaty, which allows the Council, acting with the unanimity of participating Member States, to take other measures necessary for the rapid introduction of the single currency is available as a legal basis only when it has been confirmed, in accordance with Article 109j(4) of the Treaty, which Member States fulfil the necessary conditions for the adoption of a single currency; whereas it is therefore necessary to have recourse to Article 235 of the Treaty as a legal basis for those provisions where there is an urgent need for legal certainty; whereas therefore this Regulation and the aforesaid Regulation on the introduction of the euro will together provide the legal framework for the euro, the principles of which legal framework were agreed by the European Council in Madrid; whereas the introduction of the euro concerns day-to-day operations of the whole population in participating Member States; whereas measures other than those in this Regulation and in the Regulation which will be adopted under the third sentence of Article 109l(4) of the Treaty should be examined to ensure a balanced changeover, in particular for consumers;

(6) Whereas the ECU as referred to in Article 109g of the Treaty and as defined in Council Regulation (EC) No 3320/94 of 22 December 1994 on the consolidation of the existing Community legislation on the definition of the ECU following the entry into force of the Treaty on European Union (OJ L 350, 31 December 1994, p. 27) will cease to be defined as a basket of component currencies on 1 January 1999 and the euro will become a currency in its own right; whereas the decision of the

Council regarding the adoption of the conversion rates shall not in itself modify the external value of the ECU; whereas this means that one ECU in its composition as a basket of component currencies will become one euro; whereas Regulation (EC) No 3320/94 therefore becomes obsolete and should be repealed; whereas for references in legal instruments to the ECU, parties shall be presumed to have agreed to refer to the ECU as referred to in Article 109g of the Treaty and as defined in the aforesaid Regulation; whereas such presumption should be rebuttable taking into account the intentions of the parties;

(7) Whereas it is a generally accepted principle of law that the continuity of contracts and other legal instruments is not affected by the introduction of a new currency; whereas the principle of freedom of contract has to be respected; whereas the principle of continuity should be compatible with anything which parties might have agreed with reference to the introduction of the euro; whereas, in order to reinforce legal certainty and clarity, it is appropriate explicitly to confirm that the principle of continuity of contracts and other legal instruments shall apply between the former national currencies and the euro and between the ECU as referred to in Article 109g of the Treaty and as defined in Regulation (EC) No 3320/94 and the euro; whereas this implies, in particular, that in the case of fixed interest rate instruments the introduction of the euro does not alter the nominal interest rate payable by the debtor; whereas the provisions on continuity can fulfil their objective to provide legal certainty and transparency to economic agents, in particular for consumers, only if they enter into force as soon as possible;

(8) Whereas the introduction of the euro constitutes a change in the monetary law of each participating Member State; whereas the recognition of the monetary law of a State is a universally accepted principle; whereas the explicit confirmation of the principle of continuity should lead to the recognition of continuity of contracts and other legal instruments in the jurisdictions of third countries;

(9) Whereas the term 'contract' used for the definition of legal instruments is meant to include all types of contracts, irrespective of the way in which they are concluded;

(10) Whereas the Council, when acting in accordance with the first sentence of Article 109l(4) of the Treaty, shall define the conversion rates of the euro in terms of each of the national currencies of the participating Member States; whereas these conversion rates should be used for any conversion between the

euro and the national currency units or between the national currency units; whereas for any conversion between national currency units, a fixed algorithm should define the result; whereas the use of inverse rates for conversion would imply rounding of rates and could result in significant inaccuracies, notably if large amounts are involved;

(11) Whereas the introduction of the euro requires the rounding of monetary amounts; whereas an early indication of rules for rounding is necessary in the course of the operation of the common market and to allow a timely preparation and a smooth transition to Economic and Monetary Union; whereas these rules do not affect any rounding practice, convention or national provisions providing a higher degree of accuracy for intermediate computations;

(12) Whereas, in order to achieve a high degree of accuracy in conversion operations, the conversion rates should be defined with six significant figures; whereas a rate with six significant figures means a rate which, counted from the left and starting by the first non-zero figure, has six figures,

HAS ADOPTED THIS REGULATION:

Article 1

For the purpose of this Regulation:

– ‘legal instruments’ shall mean legislative and statutory provisions, acts of administration, judicial decisions, contracts, unilateral legal acts, payment instruments other than banknotes and coins, and other instruments with legal effect,

– ‘participating Member States’ shall mean those Member States which adopt the single currency in accordance with the Treaty,

– ‘conversion rates’ shall mean the irrevocably fixed conversion rates which the Council adopts in accordance with the first sentence of Article 109I(4) of the Treaty,

– ‘national currency units’ shall mean the units of the currencies of participating Member States, as those units are defined on the day before the start of the third stage of Economic and Monetary Union,

– ‘euro unit’ shall mean the unit of the single currency as defined in the Regulation on the introduction of the euro which will enter into force at the starting date of the third stage of Economic and Monetary Union.

Article 2

1. Every reference in a legal instrument to the ECU, as

referred to in Article 109g of the Treaty and as defined in Regulation (EC) No 3320/94, shall be replaced by a reference to the euro at a rate of one euro to one ECU. References in a legal instrument to the ECU without such a definition shall be presumed, such presumption being rebuttable taking into account the intentions of the parties, to be references to the ECU as referred to in Article 109g of the Treaty and as defined in Regulation (EC) No 3320/94.

2. Regulation (EC) No 3320/94 is hereby repealed.

3. This Article shall apply as from 1 January 1999 in accordance with the decision pursuant to Article 109j(4) of the Treaty.

Article 3

The introduction of the euro shall not have the effect of altering any term of a legal instrument or of discharging or excusing performance under any legal instrument, nor give a party the right unilaterally to alter or terminate such an instrument. This provision is subject to anything which parties may have agreed.

Article 4

1. The conversion rates shall be adopted as one euro expressed in terms of each of the national currencies of the participating Member States. They shall be adopted with six significant figures.

2. The conversion rates shall not be rounded or truncated when making conversions.

3. The conversion rates shall be used for conversions either way between the euro unit and the national currency units. Inverse rates derived from the conversion rates shall not be used.

4. Monetary amounts to be converted from one national currency unit into another shall first be converted into a monetary amount expressed in the euro unit, which amount may be rounded to not less than three decimals and shall then be converted into the other national currency unit. No alternative method of calculation may be used unless it produces the same results.

Article 5

Monetary amounts to be paid or accounted for when a rounding takes place after a conversion into the euro unit pursuant to Article 4 shall be rounded up or down to the nearest

cent. Monetary amounts to be paid or accounted for which are converted into a national currency unit shall be rounded up or down to the nearest sub-unit or in the absence of a sub-unit to the nearest unit, or according to national law or practice to a multiple or fraction of the sub-unit or unit of the national currency unit. If the application of the conversion rate gives a result which is exactly half-way, the sum shall be rounded up.

Article 6

This Regulation shall enter into force on the day following that of its publication in *the Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

COUNCIL REGULATION (EC)

No 974/98

of 3 May 1998

ON THE INTRODUCTION OF THE EURO*

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 109I(4), third sentence thereof,

Having regard to the proposal from the Commission,¹

Having regard to the opinion of the European Monetary Institute,²

Having regard to the opinion of the European Parliament,³

(1) Whereas this Regulation defines monetary law provisions of the Member States which have adopted the euro; whereas provisions on continuity of contracts, the replacement of references to the ecu in legal instruments by references to the euro and rounding have already been laid down in Council Regulation (EC) No 1103/97 of 17 June 1997⁴ on certain provisions relating to the introduction of the euro; whereas the introduction of the euro concerns day-to-day operations of the whole population in participating Member States; whereas measures other than those in this Regulation and in Regulation (EC) No 1103/97 should be examined to ensure a balanced changeover, in particular for consumers;

(2) Whereas, at the meeting of the European Council in Madrid on 15 and 16 December 1995, the decision was taken that the term 'ecu' used by the Treaty to refer to the European currency unit is a generic term; whereas the Governments of the 15 Member States have reached the common agreement that this decision is the agreed and definitive interpretation of the relevant Treaty provisions; whereas the name given to the European currency shall be the 'euro'; whereas the euro as the

* As amended by Council Regulation (EC) No 2596/2000 (OJ L 300, 29 November 2000) and Council Regulation (EC) No 2169/2005 (OJ L 346/2005) – unofficial consolidated version.

¹ OJ C 369, 7.12.1996, p. 10.

² OJ C 205, 5.7.1997, p. 18.

³ OJ C 380, 16.12.1996, p. 50.

⁴ OJ L 162, 19.6.1997, p. 1.

currency of the participating Member States shall be divided into one hundred sub-units with the name 'cent'; whereas the definition of the name 'cent' does not prevent the use of variants of this term in common usage in the Member States; whereas the European Council furthermore considered that the name of the single currency must be the same in all the official languages of the European Union, taking into account the existence of different alphabets;

(3) Whereas the Council when acting in accordance with the third sentence of Article 109l(4) of the Treaty shall take the measures necessary for the rapid introduction of the euro other than the adoption of the conversion rates;

(4) Whereas whenever under Article 109k(2) of the Treaty a Member State becomes a participating Member State, the Council shall according to Article 109l(5) of the Treaty take the other measures necessary for the rapid introduction of the euro as the single currency of this Member State;

(5) Whereas according to the first sentence of Article 109l(4) of the Treaty the Council shall at the starting date of the third stage adopt the conversion rates at which the currencies of the participating Member States shall be irrevocably fixed and at which irrevocably fixed rate the euro shall be substituted for these currencies;

(6) Whereas given the absence of exchange rate risk either between the euro unit and the national currency units or between these national currency units, legislative provisions should be interpreted accordingly;

(7) Whereas the term 'contract' used for the definition of legal instruments is meant to include all types of contracts, irrespective of the way in which they are concluded;

(8) Whereas in order to prepare a smooth changeover to the euro a transitional period is needed between the substitution of the euro for the currencies of the participating Member States and the introduction of euro banknotes and coins; whereas during this period the national currency units will be defined as sub-divisions of the euro; whereas thereby a legal equivalence is established between the euro unit and the national currency units;

(9) Whereas in accordance with Article 109g of the Treaty and with Regulation (EC) No 1103/97, the euro will replace the ECU as from 1 January 1999 as the unit of account of the institutions of the European Communities; whereas the euro should also be the unit of account of the European Central Bank (ECB) and of the central banks of the participating Member States; whereas, in line with the Madrid conclusions, monetary policy operations will be carried out

in the euro unit by the European System of Central Banks (ESCB); whereas this does not prevent national central banks from keeping accounts in their national currency unit during the transitional period, in particular for their staff and for public administrations;

(10) Whereas each participating Member State may allow the full use of the euro unit in its territory during the transitional period;

(11) Whereas during the transitional period contracts, national laws and other legal instruments can be drawn up validly in the euro unit or in the national currency unit; whereas during this period, nothing in this Regulation should affect the validity of any reference to a national currency unit in any legal instrument;

(12) Whereas, unless agreed otherwise, economic agents have to respect the denomination of a legal instrument in the performance of all acts to be carried out under that instrument;

(13) Whereas the euro unit and the national currency units are units of the same currency; whereas it should be ensured that payments inside a participating Member State by crediting an account can be made either in the euro unit or the respective national currency unit; whereas the provisions on payments by crediting an account should also apply to those cross-border payments, which are denominated in the euro unit or the national currency unit of the account of the creditor; whereas it is necessary to ensure the smooth functioning of payment systems by laying down provisions dealing with the crediting of accounts by payment instruments credited through those systems; whereas the provisions on payments by crediting an account should not imply that financial intermediaries are obliged to make available either other payment facilities or products denominated in any particular unit of the euro; whereas the provisions on payments by crediting an account do not prohibit financial intermediaries from coordinating the introduction of payment facilities denominated in the euro unit which rely on a common technical infrastructure during the transitional period;

(14) Whereas in accordance with the conclusions reached by the European Council at its meeting held in Madrid, new tradeable public debt will be issued in the euro unit by the participating Member States as from 1 January 1999; whereas it is desirable to allow issuers of debt to redenominate outstanding debt in the euro unit; whereas the provisions on redenomination should be such that they can also be applied in the jurisdictions of third countries; whereas issuers should be enabled to redenominate outstanding debt if the debt is denominated in a national currency unit of a Member State which has redenominated part or all of the outstanding debt of its general government;

whereas these provisions do not address the introduction of additional measures to amend the terms of outstanding debt to alter, among other things, the nominal amount of outstanding debt, these being matters subject to relevant national law; whereas it is desirable to allow Member States to take appropriate measures for changing the unit of account of the operating procedures of organised markets;

(15) Whereas further action at the Community level may also be necessary to clarify the effect of the introduction of the euro on the application of existing provisions of Community law, in particular concerning netting, set-off and techniques of similar effect;

(16) Whereas any obligation to use the euro unit can only be imposed on the basis of Community legislation; whereas in transactions with the public sector participating Member States may allow the use of the euro unit; whereas in accordance with the reference scenario decided by the European Council at its meeting held in Madrid, the Community legislation laying down the time frame for the generalisation of the use of the euro unit might leave some freedom to individual Member States;

(17) Whereas in accordance with Article 105a of the Treaty the Council may adopt measures to harmonise the denominations and technical specifications of all coins;

(18) Whereas banknotes and coins need adequate protection against counterfeiting;

(19) Whereas banknotes and coins denominated in the national currency units lose their status of legal tender at the latest six months after the end of the transitional period; whereas limitations on payments in notes and coins, established by Member States for public reasons, are not incompatible with the status of legal tender of euro banknotes and coins, provided that other lawful means for the settlement of monetary debts are available;

(20) Whereas as from the end of the transitional period references in legal instruments existing at the end of the transitional period will have to be read as references to the euro unit according to the respective conversion rates; whereas a physical redenomination of existing legal instruments is therefore not necessary to achieve this result; whereas the rounding rules defined in Regulation (EC) No 1103/97 shall also apply to the conversions to be made at the end of the transitional period or after the transitional period; whereas for reasons of clarity it may be desirable that the physical redenomination will take place as soon as appropriate;

(21) Whereas paragraph 2 of Protocol 11 on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland stipulates that, inter alia, paragraph 5 of that Protocol shall have effect if the United Kingdom notifies the

Council that it does not intend to move to the third stage; whereas the United Kingdom gave notice to the Council on 30 October 1997 that it does not intend to move to the third stage; whereas paragraph 5 stipulates that, inter alia, Article 109l(4) of the Treaty shall not apply to the United Kingdom;

(22) Whereas Denmark, referring to paragraph 1 of Protocol 12 on certain provisions relating to Denmark has notified, in the context of the Edinburgh decision of 12 December 1992, that it will not participate in the third stage; whereas, therefore, in accordance with paragraph 2 of the said Protocol, all Articles and provisions of the Treaty and the Statute of the ESCB referring to a derogation shall be applicable to Denmark;

(23) Whereas, in accordance with Article 109l(4) of the Treaty, the single currency will be introduced only in the Member States without a derogation;

(24) Whereas this Regulation, therefore, shall be applicable pursuant to Article 189 of the Treaty, subject to Protocols 11 and 12 and Article 109k(1),

HAS ADOPTED THIS REGULATION:

PART I

DEFINITIONS

Article 1

For the purpose of this Regulation:

(a) 'participating Member States' shall mean the Member States listed in the table in the Annex;

(b) 'legal instruments' shall mean legislative and statutory provisions, acts of administration, judicial decisions, contracts, unilateral legal acts, payment instruments other than banknotes and coins, and other instruments with legal effect;

(c) 'conversion rate' shall mean the irrevocably fixed conversion rate adopted for the currency of each participating Member State by the Council in accordance with the first sentence of Article 123(4) of the Treaty or with paragraph 5 of that Article;

(d) 'euro adoption date' shall mean either the date on which the respective Member State enters the third stage under Article 121(3) of the Treaty or the date on which the abrogation of the respective Member State's derogation under Article 122(2) of the Treaty enters into force, as the case may be;

(e) 'cash changeover date' shall mean the date on which euro banknotes and coins acquire the status of legal tender in a given participating Member State;

(f) 'euro unit' shall mean the currency unit as referred to in the second sentence of Article 2;

(g) 'national currency units' shall mean the units of the currency of a participating Member State, as those units are defined on the day before the adoption of the euro in that Member State;

(h) 'transitional period' shall mean a period of three years at the most beginning at 00.00 hours on the euro adoption date and ending at 00.00 hours on the cash changeover date;

(i) 'phasing-out period' shall mean a period of one year at the most beginning on the euro adoption date, which can only apply to Member States where the euro adoption date and the cash changeover date fall on the same day;

(j) 'redenominate' shall mean changing the unit in which the amount of outstanding debt is stated from a national currency unit to the euro unit, but which does not have through the act of redenomination the effect of altering any other term of the debt, this being a matter subject to relevant national law;

(k) 'credit institutions' shall mean credit institutions as defined in Article 1(1) of Directive 2000/12/EC⁵ of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions. For the purpose of this Regulation, the institutions listed in Article 2(3) of that Directive with the exception of post office giro institutions shall not be considered as credit institutions.

Article 1a

The euro adoption date, the cash changeover date, and the phasing-out period, if applicable, for each participating Member State shall be as set out in the Annex.

PART II

SUBSTITUTION OF THE EURO FOR THE CURRENCIES OF THE PARTICIPATING MEMBER STATES

Article 2

With effect from the respective euro adoption dates, the currency of the participating Member States shall be the euro. The currency unit shall be one euro. One euro shall be divided into one hundred cent.

Article 3

The euro shall be substituted for the currency of each participating Member State at the conversion rate.

Article 4

The euro shall be the unit of account of the European Central Bank (ECB) and of the central banks of the participating Member States.

⁵ 1 OJ L 126, 26.5.2000, p. 1. Directive as last amended by Directive 2005/1/EC (OJ L 79, 24.3.2005, p. 9).

PART III

TRANSITIONAL PROVISIONS

Article 5

Articles 6, 7, 8 and 9 shall apply during the transitional period.

Article 6

1. The euro shall also be divided into the national currency units according to the conversion rates. Any subdivision thereof shall be maintained. Subject to the provisions of this Regulation the monetary law of the participating Member States shall continue to apply.

2. Where in a legal instrument reference is made to a national currency unit, this reference shall be as valid as if reference were made to the euro unit according to the conversion rates.

Article 7

The substitution of the euro for the currency of each participating Member State shall not in itself have the effect of altering the denomination of legal instruments in existence on the date of substitution.

Article 8

1. Acts to be performed under legal instruments stipulating the use of or denominated in a national currency unit shall be performed in that national currency unit. Acts to be performed under legal instruments stipulating the use of or denominated in the euro unit shall be performed in that unit.

2. The provisions of paragraph 1 are subject to anything which parties may have agreed.

3. Notwithstanding the provisions of paragraph 1, any amount denominated either in the euro unit or in the national currency unit of a given participating Member State and payable within that Member State by crediting an account of the creditor, can be paid by the debtor either in the euro unit or in that national currency unit. The amount shall be credited to the account of the creditor in the denomination of his account, with any conversion being effected at the conversion rates.

4. Notwithstanding the provisions of paragraph 1, each participating Member State may take measures which may be necessary in order to:

– redenominate in the euro unit outstanding debt issued by that Member State's general government, as defined in the European system of integrated accounts, denominated in its national currency unit and issued under its own law. If a Member State has taken such a measure, issuers may redenominate in the euro unit debt denominated in that Member State's national currency unit unless redenomination is expressly excluded by the terms of the contract; this provision shall apply to debt issued by the general government of a Member State as well as to bonds and other forms of securitised debt negotiable in the capital markets, and to money market instruments, issued by other debtors,

– enable the change of the unit of account of their operating procedures from a national currency unit to the euro unit by:

(a) markets for the regular exchange, clearing and settlement of any instrument listed in section B of the Annex to Council Directive 93/22/EEC⁶ and of commodities; and

(b) systems for the regular exchange, clearing and settlement of payments.

5. Provisions other than those of paragraph 4 imposing the use of the euro unit may only be adopted by the participating Member States in accordance with any time-frame laid down by Community legislation.

6. National legal provisions of participating Member States which permit or impose netting, set-off or techniques with similar effects shall apply to monetary obligations, irrespective of their currency denomination, if that denomination is in the euro unit or in a national currency unit, with any conversion being effected at the conversion rates.

Article 9

Banknotes and coins denominated in a national currency unit shall retain their status as legal tender within their

territorial limits as from the day before the euro adoption date in the participating Member State concerned.

Article 9a

The following shall apply in a Member State with a "phasing-out" period. In legal instruments created during the phas-

⁶ of 10 May 1993 on investment services in the securities field OJ L 141, 11 June 1993, p. 27; Directive as amended by Directive 95/26/EC of the European Parliament and of the Council (OJ L 168, 18 July 1995, p. 7).

ing-out period and to be performed in that Member State, reference may continue to be made to the national currency unit. These references shall be read as references to the euro unit according to the respective conversion rates. Without prejudice to Article 15, the acts performed under these legal instruments shall be performed only in the euro unit. The rounding rules laid down in Regulation (EC) No 1103/97 shall apply.

The Member State concerned shall limit the application of the first subparagraph to certain types of legal instrument, or to legal instruments adopted in certain fields.

The Member State concerned may shorten the period.

PART IV

EURO BANKNOTES AND COINS

Article 10

With effect from the respective cash changeover dates, the ECB and the central banks of the participating Member States shall put into circulation banknotes denominated in euro in the participating Member States.

Without prejudice to Article 15, these banknotes denominated in euro shall be the only banknotes which have the status of legal tender in participating Member States.

Article 11

With effect from the respective cash changeover date, the participating Member States shall issue coins denominated in euro or in cent and complying with the denominations and technical specifications which the Council may lay down in accordance with the second sentence of Article 106(2) of the Treaty. Without prejudice to Article 15 and to the provisions of any agreement under Article 111(3) of the Treaty concerning monetary matters, those coins shall be the only coins which have the status of legal tender in participating Member States. Except for the issuing authority and for those persons specifically designated by the national legislation of the issuing Member State, no party shall be obliged to accept more than 50 coins in any single payment.

Article 12

Participating Member States shall ensure adequate sanctions against counterfeiting and falsification of euro banknotes and coins.

PART V

FINAL PROVISIONS

Article 13

Articles 10, 11, 14, 15 and 16 shall apply with effect from the respective cash changeover date in each participating Member State.

Article 14

Where, in legal instruments existing on the day before the cash changeover date, reference is made to the national currency units, these references shall be read as references to the euro unit according to the respective conversion rates. The rounding rules laid down in Regulation (EC) No 1103/97 shall apply.

Article 15

1. Banknotes and coins denominated in a national currency unit as referred to in Article 6(1) shall remain legal tender within their territorial limits until six months from the respective cash changeover date at the latest; this period may be shortened by national law.

2. Each participating Member State may, for a period of up to six months after the end of the transitional period, lay down rules for the use of the banknotes and coins denominated in its national currency unit as referred to in Article 6(1) and take any measures necessary to facilitate their withdrawal.

3. During the period referred to in paragraph 1, credit institutions in participating Member States adopting the euro after 1 January 2002 shall exchange their customers' banknotes and coins denominated in the national currency unit of that Member State for banknotes and coins in euro, free of charge, up to a ceiling which may be set by national law. Credit institutions may require that notice be given if the amount to be exchanged exceeds a ceiling set by national law or, in the absence of such provisions, by themselves and corresponding to a household amount.

The credit institutions referred to in the first subparagraph shall exchange banknotes and coins denominated in the national currency unit of that Member State of persons other than their customers, free of charge up to a ceiling set by national law or, in the absence of such provisions, by themselves.

National law may limit the obligation under the preceding

two subparagraphs to specific types of credit institutions. National law may also extend this obligation upon other persons.

Article 16

In accordance with the laws or practices of participating Member States, the respective issuers of banknotes and coins shall continue to accept, against euro at the conversion rate, the banknotes and coins previously issued by them.

PART VI
ENTRY INTO FORCE

Article 17

This Regulation shall enter into force on 1 January 1999.

This Regulation shall be binding in its entirety and directly applicable in all Member States, in accordance with the Treaty, subject to Protocols 11 and 12 and Article 109k(1).

ANNEX

Member State	Date of adoption of the euro	Date of cash changeover	Member state applying gradual removal from use
Belgium	1 January 1999	1 January 2002	Not applicable
Germany	1 January 1999	1 January 2002	Not applicable
Estonia	1 January 2011	1 January 2011	Not applicable
Greece	1 January 1999	1 January 2002	Not applicable
Spain	1 January 1999	1 January 2002	Not applicable
France	1 January 1999	1 January 2002	Not applicable
Ireland	1 January 1999	1 January 2002	Not applicable
Italy	1 January 1999	1 January 2002	Not applicable
Cyprus	1 January 2008	1 January 2008	Not applicable
Latvia	1 January 2014	1 January 2014	Not applicable
Lithuania	1 January 2015	1 January 2015	Not applicable
Luxembourg	1 January 1999	1 January 2002	Not applicable
Malta	1 January 2008	1 January 2008	Not applicable
Netherlands	1 January 1999	1 January 2002	Not applicable
Austria	1 January 1999	1 January 2002	Not applicable
Portugal	1 January 1999	1 January 2002	Not applicable
Slovenia	1 January 2007	1 January 2007	Not applicable
Slovakia	1 January 2009	1 January 2009	Not applicable
Finland	1 January 1999	1 January 2002	Not applicable

EUROPEAN CENTRAL BANK DECISION OF THE EUROPEAN CENTRAL BANK

of 19 February 2004

ADOPTING THE RULES OF PROCEDURE OF THE EUROPEAN CENTRAL BANK

(ECB/2004/2)

(ECB/2009/5), (ECB/2014/1), (ECB/2015/8),

(ECB/2016/27)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL
BANK,

Having regard to the Statute of the European System of
Central Banks and of the European Central Bank, and in
particular to Article 12.3 thereof;

HAS DECIDED AS FOLLOWS:

Sole Article

The Rules of Procedure of the European Central Bank as
amended on 22 April 1999, as further amended by Decision
ECB/1999/6 of 7 October 1999 amending the Rules of Procedure
of the European Central Bank¹, shall be replaced by the following
which shall enter into force on 1 March 2004.

RULES OF PROCEDURE OF THE EUROPEAN CENTRAL BANK PRELIMINARY CHAPTER

Article 1. Definitions

1.1 These Rules of Procedure shall supplement the Treaty on
the Functioning of the European Union and the Statute of the

¹ OJ L 314, 8.12.1999, p. 32.

European System of Central Banks and of the European Central Bank. Without prejudice to the provisions in Article 1.2, the terms in these Rules of Procedure shall have the same meaning as in the Treaty and the Statute.

1.2 The terms ‘participating Member State’, ‘national competent authority’ and ‘national designated authority’ shall have the same meaning as defined in Council Regulation (EU) No 1024/2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions².

CHAPTER I

THE GOVERNING COUNCIL

Article 2. *Date and place of Governing Council meetings*

2.1. The Governing Council shall decide on the dates of its meetings on a proposal from the President. The Governing Council shall, in principle, meet regularly following a schedule that it shall determine in good time before the start of each calendar year.

2.2. The President shall convene a meeting of the Governing Council if a request for a meeting is submitted by at least three members of the Governing Council.

2.3. The President may also convene meetings of the Governing Council whenever he/she deems it necessary.

2.4. The Governing Council shall normally hold its meetings on the premises of the ECB.

2.5. Meetings may also be held by means of teleconferencing, unless at least three Governors object.

Article 3. *Attendance at Governing Council meetings*

3.1. Except as provided herein, attendance at meetings of the Governing Council shall be restricted to its members, the President of the Council of the European Union and a member of the Commission of the European Communities.

3.2. Each Governor may normally be accompanied by one person.

3.3. If a Governor is unable to attend, he/she may appoint, in writing, an alternate without prejudice to Article 4. This written communication shall be sent to the President in due time

² OJ L 287, 29.10.2013, p. 63.

before the meeting. Such an alternate may normally be accompanied by one person.

3.4. The President shall appoint a member of staff of the ECB as Secretary. The Secretary shall assist the Executive Board in preparing the meetings of the Governing Council and shall draft the minutes thereof.

3.5. The Governing Council may also invite other persons to attend its meetings if it deems it appropriate to do so.

Article 3a Rotation system

1. Governors shall be allocated to groups as set out in the first and second indents of Article 10.2 of the Statute.

2. Governors shall be ordered in each group, following EU convention, in accordance with a list of their national central banks which follows the alphabetical order of the names of the Member States in the national languages. The rotation of voting rights within each group shall follow this order. The rotation shall start at a random point in the list.

3. The voting rights within each group shall rotate every month, starting on the first day of the first month of the implementation of the rotation system.

4. For the first group, the number of voting rights that rotate in each one month period shall be one; for the second and third groups, the number of voting rights that rotate in each one month period shall be equal to the difference between the number of governors allocated to the group and the number of voting rights assigned to it, minus two.

5. Whenever the composition of the groups is adjusted in accordance with the fifth indent of Article 10.2 of the Statute, the rotation of voting rights within each group shall continue to follow the list referred to in paragraph 2. From the date on which the number of governors reaches 22, the rotation within the third group shall start at a random point in the list. The Governing Council may decide to change the order of rotation for the second and third groups to avoid the situation that certain governors are always without a voting right at the same periods of the year.

6. The ECB shall publish in advance a list of the members of the Governing Council with a voting right on the ECB's website.

7. The share of each national central bank's Member State in the total aggregated balance sheet of the monetary financial institutions shall be calculated on the basis of the annual average of monthly average data over the most recent calendar year for which data are available. Whenever the aggregate gross domestic product at market prices is adjusted in accordance with Article 29.3 of the Statute or whenever a country becomes a Member State and its national central bank becomes part of the European System of Central Banks, the total aggregated balance sheet of

the monetary financial institutions of the Member States which have adopted the euro shall be recalculated on the basis of the data relating to the most recent calendar year for which data are available.

Article 4 Voting

4.1 In order for the Governing Council to vote, there shall be a quorum of two-thirds of the members with a voting right. If the quorum is not met, the President may convene an extraordinary meeting at which decisions may be taken without regard to the quorum.

4.2 The Governing Council shall proceed to vote at the request of the President. The President shall also initiate a voting procedure upon request from any member of the Governing Council.

4.3 Abstentions shall not prevent the adoption by the Governing Council of decisions under Article 41.2 of the Statute.

4.4 If a member of the Governing Council is prevented from voting for a prolonged period (i.e. more than one month), he/she may appoint an alternate as a member of the Governing Council.

4.5 In accordance with Article 10.3 of the Statute, if a Governor is unable to vote on a decision to be taken under Articles 28, 29, 30, 32, 33 and 51 of the Statute, his/her appointed alternate may cast his/her weighted vote.

4.6 The President may initiate a secret ballot if requested to do so by at least three members of the Governing Council. If members of the Governing Council are personally affected by a proposal for a decision under Articles 11.1, 11.3 or 11.4 of the Statute, a secret ballot shall be held. In such cases the members of the Governing Council concerned shall not participate in the vote.

4.7 Unless specifically provided for in Article 4.8, decisions may also be taken by written procedure, unless at least three members of the Governing Council object. A written procedure shall require: (i) normally not less than 5 working days for consideration by every member of the Governing Council; (ii) the express or tacit personal approval of each member of the Governing Council (or his/her alternate in accordance with Article 4.4); and (iii) a record of any such decision in the minutes of the subsequent meeting of the Governing Council. Decisions to be taken by written procedure shall be approved by the members of the Governing Council with a voting right at the time of approval.

4.8 Within the scope of Articles 13g to 13i, decisions may also be taken by written procedure, unless at least five members of the Governing Council object. A written procedure shall require a maximum of 5, or in the case of Article 13h, 2 working days for consideration by every member of the Governing Council.

4.9 For any written procedure, a member of the Governing Council (or their alternate in accordance with Article 4.4) may expressly authorise another person to sign their vote or comment on substance as approved by them in person.

Article 5 Organisation of Governing Council meetings

5.1 The Governing Council shall adopt the agenda for each meeting. A provisional agenda shall be drawn up by the Executive Board and shall be sent, together with the related documents, to the members of the Governing Council and other authorised participants at least eight days before the relevant meeting, except in emergencies, in which case the Executive Board shall act appropriately having regard to the circumstances. The Governing Council may decide to remove items from or add items to the provisional agenda on a proposal from the President or from any other member of the Governing Council. An item shall be removed from the agenda at the request of at least three of the members of the Governing Council with a voting right if the related documents were not submitted to the members of the Governing Council in due time.

5.2 The minutes of the proceedings of the Governing Council shall be approved at the subsequent meeting (or if necessary earlier by written procedure) by the members of the Governing Council who had a voting right at the meeting to which the minutes refer and shall be signed by the President.

5.3 The Governing Council may lay down internal rules on decision-making in emergency situations.

Article 5a Code of Conduct for the members of the Governing Council

5a.1. The Governing Council shall adopt and update a Code of Conduct for the guidance of its members, which shall be published on the ECB's website.

5a.2. Each Governor shall ensure that his/her accompanying persons within the meaning of Article 3.2 and his/her alternates within the meaning of Article 3.3 sign a declaration of compliance with the Code of Conduct prior to any participation in the meetings of the Governing Council.

CHAPTER II

THE EXECUTIVE BOARD

Article 6 *Date and place of Executive Board meetings*

6.1. The date of the meetings shall be decided by the Executive Board on a proposal from the President.

6.2. The President may also convene meetings of the Executive Board whenever he/she deems it necessary.

Article 7. *Voting*

7.1. In order for the Executive Board to vote, in accordance with Article 11.5 of the Statute, there shall be a quorum of two-thirds of the members. If the quorum is not met, the President may convene an extraordinary meeting at which decisions may be taken without regard to the quorum.

7.2. Decisions may also be taken by written procedure, unless at least two members of the Executive Board object.

7.3. Members of the Executive Board personally affected by a prospective decision under Articles 11.1, 11.3 or 11.4 of the Statute shall not participate in the vote.

Article 8. *Organisation of Executive Board meetings*

The Executive Board shall decide on the organisation of its meetings.

CHAPTER III

THE ORGANISATION OF THE EUROPEAN CENTRAL BANK

Article 9 *Eurosystem/ESCB committees*

9.1 The Governing Council shall establish and dissolve committees. They shall assist in the work of the decision-making bodies of the ECB and shall report to the Governing Council via the Executive Board.

9.2 In respect of policy issues relating to the prudential supervision of credit institutions, the committees assisting in the work of the ECB regarding the tasks conferred on the ECB by Regulation (EU) No 1024/2013 shall report to the Supervisory Board and, where appropriate, to the Governing Council. In accordance with its own procedures, the Supervisory Board shall mandate the Vice-Chair to report via

the Executive Board to the Governing Council on all such activity.

9.3 Committees shall be composed of up to two members from each of the Eurosystem NCBs and the ECB, appointed by each Governor and the Executive Board respectively.

9.4 When assisting in the work of the ECB's decision-making bodies with the tasks conferred on the ECB by Regulation (EU) No 1024/2013, the committees shall include one member from the central bank and one member from the national competent authority in each participating Member State, appointed by each Governor following consultation with the respective national competent authority where the national competent authority is not a central bank.

9.5 The Governing Council shall lay down the mandates of the committees and appoint their chairpersons. As a rule, the chairperson shall be a staff member from the ECB. Both the Governing Council and the Executive Board shall have the right to request studies of specific topics by committees. The ECB shall provide secretarial assistance to the committees.

9.6 Each non-Eurosystem national central bank may also appoint up to two staff members to take part in the meetings of a committee whenever it deals with matters falling within the field of competence of the General Council and whenever the chairperson of a committee and the Executive Board deems this participation appropriate.

9.7 Representatives of other Union institutions and bodies and any other third party may also be invited to take part in the meetings of a committee whenever the chairperson of a committee and the Executive Board deem this appropriate.

Article 9a

The Governing Council may decide to establish ad hoc committees in charge of specific advisory tasks.

Article 9b Audit Committee

In order to strengthen the internal and external layers of control already in place and to further enhance the corporate governance of the ECB and the Eurosystem, the Governing Council shall establish an audit committee and lay down its mandate and composition.

Article 10. Internal structure

10.1. Having consulted the Governing Council, the Executive Board shall decide upon the number, name and respective competence of each of the work units of the ECB. This decision shall be made public.

10.2. All work units of the ECB shall be placed under the managing direction of the Executive Board. The Executive Board shall decide upon the individual responsibilities of its members with respect to the work units of the ECB, and shall inform the Governing Council, the General Council and the staff of the ECB thereof. Any such decision shall be taken only in the presence of all the members of the Executive Board, and may not be taken against the vote of the President.

Article 11. Staff of the ECB

11.1. Each member of the staff of the ECB shall be informed of his/her position within the structure of the ECB, his/her reporting line and his/her professional responsibilities.

11.2. Without prejudice to Articles 36 and 47 of the Statute, the Executive Board shall enact organisational rules (hereinafter referred to as Administrative Circulars) which are binding on the staff of the ECB.

11.3 The Executive Board shall adopt and up-date a Code of Conduct for the guidance of its members and of the members of staff of the ECB, which shall be published on the ECB's website.

CHAPTER IV

INVOLVEMENT OF THE GENERAL COUNCIL IN THE TASKS OF THE EUROPEAN SYSTEM OF CENTRAL BANKS

Article 12

Relationship between the Governing Council and the General Council

12.1. The General Council of the ECB shall be given the opportunity to submit observations before the Governing Council adopts:

- opinions under Articles 4 and 25.1 of the Statute,
- recommendations in the statistical field, under Article 42 of the Statute,
- the annual report,
- the rules on the standardisation of accounting rules and reporting of operations,
- the measures for the application of Article 29 of the Statute,
- the conditions of employment of the staff of the ECB,
- in the context of the preparations for the irrevocable fixing of exchange rates, an ECB opinion either under Article 123(5) of the Treaty or concerning Community legal acts to be adopted when a derogation is abrogated.

12.2. Whenever the General Council is requested to submit observations under the first paragraph of this Article, it shall be given a reasonable period of time within which to do so, which may not be less than ten working days. In a case of urgency to be justified in the request, the period may be reduced to five working days. The President may decide to use the written procedure.

12.3. The President shall inform the General Council, in accordance with Article 47.4 of the Statute, of decisions adopted by the Governing Council.

Article 13. *Relationship between the Executive Board and the General Council*

13.1. The General Council of the ECB shall be given the opportunity to submit observations before the Executive Board:

– implements legal acts of the Governing Council for which, in accordance with Article 12.1 above, the contribution of the General Council is required,

– adopts, by virtue of powers delegated by the Governing Council in accordance with Article 12.1 of the Statute, legal acts for which, in accordance with Article 12.1 of these Rules, the contribution of the General Council is required.

13.2. Whenever the General Council is requested to submit observations under the first paragraph of this Article, it shall be given a reasonable period of time within which to do so, which may not be less than ten working days. In a case of urgency to be justified in the request, the period may be reduced to five working days. The President may decide to use written procedure.

CHAPTER IV *a*

SUPERVISORY TASKS

Article 13a *Supervisory Board*

Pursuant to Article 26(1) of Regulation (EU) (No) 1024/2013, a Supervisory Board established as an internal body of the ECB shall fully undertake the planning and execution of the tasks conferred on the ECB relating to the prudential supervision of credit institutions (here inafter ‘supervisory tasks’). Any tasks of the Supervisory Board shall be without prejudice to the competences of the ECB decision-making bodies.

Article 13b *Composition of the Supervisory Board*

13b.1. The Supervisory Board is composed of a Chair, a Vice-Chair, four representatives of the ECB and one representative of

the national competent authority in each participating Member State. All members of the Supervisory Board act in the interest of the Union as a whole.

13b.2. Where the national competent authority of a participating Member State is not a central bank, the respective member of the Supervisory Board may bring a representative from the central bank of its Member State. For the purpose of voting, the representatives of one Member State shall be considered as one member.

13b.3. After hearing the Supervisory Board, the Governing Council shall adopt the proposal for the appointment of the Chair and the Vice-Chair of the Supervisory Board to be submitted to the European Parliament for approval.

13b.4. The terms and conditions of employment of the Chair of the Supervisory Board, in particular his/her salary, pension and other social security benefits, shall be the subject of a contract with the ECB and shall be fixed by the Governing Council.

13b.5. The term of office of the Vice-Chair of the Supervisory Board shall be five years and shall not be renewable. It shall not extend beyond the end of his/her mandate as member of the Executive Board.

13b.6. The Governing Council shall appoint the four representatives of the ECB to the Supervisory Board, who shall not perform duties directly related to the monetary policy function, on a proposal by the Executive Board.

Article 13c Voting pursuant to Article 26(7) of Regulation (EU) No 1024/2013

For the purpose of adopting draft decisions pursuant to Article 26(7) of Regulation (EU) No 1024/2013 and on the basis of Article 16 of the Treaty on European Union, Article 238(3) of the Treaty on the Functioning of the European Union, and Protocol (No 36) on transitional provisions, the following rules shall apply:

(i) Until 31 October 2014, decisions shall be deemed adopted when at least 50 % of Supervisory Board members representing at least 74 % of the total number of weighted votes and 62 % of the total population, cast a vote in favour.

(ii) From 1 November 2014, decisions shall be deemed adopted when at least 55 % of the Supervisory Board members representing at least 65 % of the total population, cast a vote in favour. A blocking minority must include at least the minimum number of Supervisory Board members representing 35 % of the total population, plus one member, failing which the qualified majority shall be deemed attained.

(iii) Between 1 November 2014 and 31 March 2017, upon request of a representative of a national competent authority or

upon request of a representative of the ECB in the Supervisory Board, decisions shall be deemed adopted when at least 50 % of Supervisory Board members representing at least 74 % of the total number of weighted votes and 62 % of the total population, cast a vote in favour.

(iv) Each of the four ECB representatives appointed by the Governing Council shall have a weighting equal to the median weighting of those of the representatives of the national competent authorities of participating Member States, as calculated on the basis of the method laid down in the Annex.

(v) The votes of the Chair and the Vice-Chair shall be weighted zero and shall count only towards the definition of the majority as far as the number of the members of the Supervisory Board is concerned.

Article 13d Rules of Procedure of the Supervisory Board

The Supervisory Board shall adopt its Rules of Procedure after having consulted the Governing Council. The Rules of Procedure shall ensure the equal treatment of all participating Member States.

Article 13e Code of Conduct for the members of the Supervisory Board

13e.1. The Supervisory Board shall adopt and update a Code of Conduct for the guidance of its members, which shall be published on the ECB's website.

13e.2. Each member shall ensure that any accompanying persons, alternates and the representatives of its national central bank, if the national competent authority is not the central bank, sign a declaration of compliance with the Code of Conduct prior to any participation in the meetings of the Supervisory Board.

Article 13f Supervisory Board meetings

The Supervisory Board shall normally hold its meetings on the premises of the ECB. The proceedings of the Supervisory Board meetings shall be provided to the Governing Council, as soon as adopted, for information.

Article 13g Adoption of decisions for the purpose of carrying out the tasks referred to in Article 4 of Regulation (EU) No 1024/2013

13g.1. The Supervisory Board shall propose to the Governing Council complete draft decisions for the purpose of carrying out the tasks referred to in Article 4 of Regulation (EU) No 1024/2013 together with explanatory notes outlining the background to and the main reasons underlying the draft

decision. Such draft decisions shall be simultaneously transmitted to the national competent authorities of the participating Member States concerned together with information on the deadline given to the Governing Council in line with Article 13g.2.

13g.2. A draft decision within the meaning of Article 13g.1 shall be deemed adopted unless the Governing Council objects to it within ten working days. In emergency situations a reasonable time period shall be defined by the Supervisory Board and shall not exceed 48 hours. The Governing Council shall state the reasons for any objections in writing. The decision shall be transmitted to the Supervisory Board and to the national competent authorities of the Member States concerned.

13g.3. A non-euro area participating Member State shall notify the ECB of any reasoned disagreement with a draft decision of the Supervisory Board within five working days of receiving the draft decision pursuant to Article 13g.1. The ECB President shall transmit the reasoned disagreement to the Governing Council and the Supervisory Board without delay. The Governing Council shall take fully into account the reasons contained in an assessment prepared by the Supervisory Board when deciding on the matter within five working days of the information of the reasoned disagreement. This decision, together with a written explanation, shall be transmitted to the Supervisory Board and to the national competent authority of the Member State concerned.

13g.4. A non-euro area participating Member State shall notify the ECB of any reasoned disagreement with a Governing Council objection to a draft decision of the Supervisory Board within five working days of receiving such objection pursuant to Article 13g.2. The ECB President shall transmit the reasoned disagreement to the Governing Council and the Supervisory Board without delay. The Governing Council shall give its opinion on the reasoned disagreement expressed by the Member State within 30 days, and, stating its reasons, shall confirm or withdraw its objection. This decision on the confirmation or withdrawal of its objection shall be transmitted to the national competent authority of the Member State concerned. If the Governing Council withdraws the objection, the draft decision of the Supervisory Board shall be deemed adopted on the date of withdrawal of the objection.

Article 13h Adoption of decisions for the purpose of carrying out the tasks referred to in Article 5 of Regulation (EU)

No 1024/2013

13h.1. If a national competent or designated authority

notifies the ECB of its intention to apply requirements for capital buffers or any other measures aimed at addressing systemic or macro-prudential risks pursuant to Article 5(1) of Regulation (EU) No 1024/2013, the notification, upon receipt by the Secretary of the Supervisory Board, shall be transmitted to the Governing Council and the Supervisory Board without delay. Upon a proposal prepared by the Supervisory Board based on the initiative and taking into account the input of the relevant committee and of the relevant internal structure, the Governing Council shall decide about the matter within three working days. Where the Governing Council objects to the notified measure, it shall explain its reasons in writing to the national competent or designated authority concerned within five working days of the notification to the ECB.

13h.2. If the Governing Council, upon a proposal prepared by the Supervisory Board based on the initiative and taking into account the input of the relevant committee and of the relevant internal structure, intends to apply higher requirements for capital buffers or to apply more stringent measures aimed at addressing systemic or macro-prudential risks pursuant to Article 5(2) of Regulation (EU) No 1024/2013, such intention shall be notified to the concerned national competent or designated authority at least ten working days prior to taking such a decision. If the concerned national competent or designated authority notifies the ECB in writing of its reasoned objection within five working days of the receipt of the notification, this objection, upon receipt by the Secretary of the Supervisory Board, shall be transmitted to the Governing Council and the Supervisory Board without delay. The Governing Council shall decide on the matter on the basis of a proposal prepared by the Supervisory Board based on the initiative and taking into account the input of the relevant committee and of the relevant internal structure. This decision shall be transmitted to the national competent or designated authority concerned.

13h.3. The Governing Council shall have the right to endorse, object to or amend proposals of the Supervisory Board within the meaning of Article 13h.1 and Article 13h.2. The Governing Council shall also have the right to request the Supervisory Board to submit a proposal within the meaning of Article 13h.1 and Article 13h.2 or to undertake specific analysis. If the Supervisory Board submits no proposals addressing such requests, the Governing Council, taking into account the input of the relevant committee and of the relevant internal structure, may take a decision in the absence of a proposal from the Supervisory Board.

Article 13i Adoption of decisions pursuant to Article 14(2) to (4) of Regulation (EU) No 1024/2013

If a national competent authority notifies the ECB of its draft

decision pursuant to Article 14(2) of Regulation (EU) No 1024/2013, the Supervisory Board shall transmit the draft decision, together with its assessment, within five working days to the Governing Council. The draft decision shall be deemed adopted unless the Governing Council objects within 10 working days of the notification to the ECB, extendable once for the same period in duly justified cases.

Article 13j General framework referred to in Article 6(7) of Regulation (EU) No 1024/2013

The Governing Council shall adopt decisions establishing the general framework to organise the practical arrangements for the implementation of Article 6 of Regulation (EU) No 1024/2013, in consultation with national competent authorities and on the basis of a proposal from the Supervisory Board outside the scope of the non-objection procedure.

Article 13k Separation of monetary policy and supervisory tasks

13k.1. The ECB shall carry out the tasks conferred on it by Regulation (EU) No 1024/2013 without prejudice to and separately from its tasks relating to monetary policy and from any other tasks.

13k.2. The ECB shall take all necessary measures to ensure separation between the monetary policy and the supervisory functions.

13k.3. The separation of monetary policy and the supervisory function shall not exclude the exchange between these two functional areas of the information necessary for the achievement of ECB and ESCB tasks.

Article 13l Organisation of Governing Council meetings regarding the supervisory tasks

13l.1. The Governing Council meetings regarding the supervisory tasks shall take place separately from regular Governing Council meetings and shall have separate agendas.

13l.2. On a proposal from the Supervisory Board, the Executive Board shall draw up a provisional agenda and send it, together with the relevant documents prepared by the Supervisory Board, to the members of the Governing Council and other authorised participants at least eight days before the relevant meeting. This shall not apply to emergencies, in which the Executive Board shall act appropriately having regard to the circumstances.

13l.3. The Governing Council of the ECB shall consult with the Governors of the non-Eurosystem NCBs of the participating

Member States before objecting to any draft decision prepared by the Supervisory Board that is addressed to the national competent authorities in respect of credit institutions established in non-euro area participating Member States. The same shall apply where the concerned national competent authorities inform the Governing Council of their reasoned disagreement with such a draft decision of the Supervisory Board.

13l.4. Unless otherwise provided for in this Chapter, the general provisions of Governing Council meetings laid down in Chapter I shall also apply to Governing Council meetings regarding the supervisory tasks.

Article 13m Internal structure regarding the supervisory tasks

13m.1. The competence of the Executive Board in respect of the ECB's internal structure and the staff of the ECB shall encompass the supervisory tasks. The Executive Board shall consult the Chair and the Vice Chair of the Supervisory Board on such internal structure. Articles 10 and 11 shall apply accordingly.

13m.2. The Supervisory Board, in agreement with the Executive Board, may establish and dissolve substructures of a temporary nature, such as working groups or task forces. They shall assist in the work regarding the supervisory tasks and report to the Supervisory Board.

13m.3. The President of the ECB, after having consulted the Chair of the Supervisory Board, shall appoint a member of the staff of the ECB as Secretary of the Supervisory Board and the Steering Committee. The Secretary shall assist the Chair or, in his/her absence, the Vice-Chair in preparing the Supervisory Board meetings and shall be responsible for drafting the proceedings of these meetings.

13m.4. The Secretary shall liaise with the Secretary of the Governing Council for preparing the meetings of the Governing Council regarding supervisory tasks and shall be responsible for drafting the proceedings of these meetings.

Article 13n Report under Article 20(2) of Regulation (EU)

No 1024/2013

Upon a proposal from the Supervisory Board submitted by the Executive Board, the Governing Council shall adopt the annual reports addressed to the European Parliament, the Council, the Commission and the Eurogroup as required under Article 20(2) of Regulation (EU) No 1024/2013.

Article 13o Representatives of the ECB at the European Banking Authority

13o.1. On a proposal by the Supervisory Board, the President

of the ECB shall appoint or recall the ECB's representative to the Board of Supervisors of the European Banking Authority as provided for by Article 40(1)(d) of Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC³.

130.2. The President shall nominate the accompanying second representative with expertise on central banking tasks to the Board of Super- visors of the European Banking Authority.

CHAPTER V

SPECIFIC PROCEDURAL PROVISIONS

Article 14. *Delegation of powers*

14.1. The delegation of powers of the Governing Council to the Executive Board under the last sentence of the second paragraph of Article 12.1 of the Statute shall be notified to the parties concerned, or published if appropriate, where decisions taken by means of delegation have legal effects on third parties. The Governing Council shall be promptly informed of any act adopted by way of delegation.

14.2. The Book of Authorised Signatories of the ECB, established pursuant to decisions adopted under Article 39 of the Statute, shall be circulated to interested parties.

Article 15 *Budgetary procedure*

5.1 Before the end of each financial year the Governing Council, acting upon a proposal from the Executive Board in accordance with any principles laid down by the former, shall adopt the budget of the ECB for the subsequent financial year. The expenditure for the supervisory tasks shall be separately identifiable within the budget and shall be consulted with the Chair and the Vice Chair of the Supervisory Board.

5.2 For assistance in matters related to the budget of the ECB, the Governing Council shall establish a Budget Committee and lay down its mandate and composition.

Article 16. *Reporting and annual accounts*

16.1. The Governing Council shall adopt the annual report

³ OJ L 331, 15.12.2010, p. 12.

required under Article 15.3 of the Statute.

16.2. The competence to adopt and publish the quarterly reports under Article 15.1 of the Statute, the weekly consolidated financial statements under Article 15.2 of the Statute, the consolidated balance sheets under Article 26.3 of the Statute and other reports shall be delegated to the Executive Board.

16.3. The Executive Board shall, in accordance with the principles established by the Governing Council, prepare the annual accounts of the ECB within the first month of the subsequent financial year. These shall be submitted to the external auditor.

16.4. The Governing Council shall adopt the annual accounts of the ECB within the first quarter of the subsequent year. The external auditor's report shall be submitted to the Governing Council before their adoption.

Article 17. *Legal instruments of the ECB*

17.1. ECB Regulations shall be adopted by the Governing Council and signed on its behalf by the President.

17.2. ECB Guidelines shall be adopted by the Governing Council, and thereafter notified, in one of the official languages of the Union, and signed on the Governing Council's behalf by the President. They shall state the reasons on which they are based. Notification of the national central banks may take place electronically, by means of telefax or in paper form. Any ECB Guideline that is to be officially published shall be translated into the official languages of the Union.

17.3. The Governing Council may delegate its normative powers to the Executive Board for the purpose of implementing its regulations and guidelines. The regulation or guideline concerned shall specify the issues to be implemented as well as the limits and scope of the delegated powers.

17.4. ECB Decisions and Recommendations shall be adopted by the Governing Council or the Executive Board in their respective domains of competence, and shall be signed by the President. ECB Decisions imposing sanctions on third parties shall be signed by the Secretary of the Governing Council in order to certify them. ECB Decisions and Recommendations shall state the reasons on which they are based. Recommendations for secondary Union legislation under Article 41 of the Statute shall be adopted by the Governing Council.

17.5. Without prejudice to the second paragraph of Article 43 and the first indent of Article 46.1 of the Statute, ECB Opinions shall be adopted by the Governing Council. However, in exceptional circumstances and unless not less than three Governors state their wish to retain the competence of the Governing Council for the adoption of specific opinions, ECB Opinions may be adopted by the Executive Board, in line with

comments provided by the Governing Council and taking into account the contribution of the General Council. The Executive Board shall be competent to finalise ECB Opinions on very technical matters and to incorporate factual changes or corrections. ECB Opinions shall be signed by the President. For ECB Opinions to be adopted in relation to the prudential supervision of credit institutions, the Governing Council may consult the Supervisory Board.

17.6. ECB Instructions shall be adopted by the Executive Board, and thereafter notified, in one of the official languages of the Union, and signed on the Executive Board's behalf by the President or any two Executive Board members. Notification of the national central banks may take place electronically, by means of telefax or in paper form. Any ECB Instruction that is to be officially published shall be translated into the official languages of the Union.

17.7. All ECB legal instruments shall be numbered sequentially for ease of identification. The Executive Board shall take steps to ensure the safe custody of the originals, the notification of the addressees or consulting authorities, and the publication in all the official languages of the European Union in the Official Journal of the European Union in the case of ECB Regulations, ECB opinions on draft Community legislation and those ECB legal instruments whose publication has been expressly decided.

17.8 Regulation No 1 determining the languages to be used by the European Economic Community⁴ shall apply to the legal acts specified in Article 34 of the Statute.

Article 17a Legal instruments of the ECB related to supervisory tasks

17a.1. Unless otherwise provided for in regulations adopted by the ECB pursuant to Regulation (EU) No 1024/2013 and in this Article, Article 17 shall apply to the legal instruments of the ECB related to supervisory tasks.

17a.2. ECB guidelines related to supervisory tasks pursuant to Article 4(3) and Article 6(5)(a) of Regulation (EU) No 1024/2013 shall be adopted by the Governing Council, and thereafter notified and signed on behalf of the Governing Council by the President. Notification of the national competent authorities may take place electronically, by means of telefax or in paper form.

17a.3. ECB instructions related to supervisory tasks pursuant

⁴ OJ 17, 6.10.1958, p. 385/58.

to Article 6(3), Article 6(5)(a) and Articles 7(1), 7(4), 9(1) and 30(5) of Regulation (EU) No 1024/2013 shall be adopted by the Governing Council, and thereafter notified and signed on behalf of the Governing Council by the President. They shall state the reasons on which they are based. Notification of the national authorities competent for the supervision of credit institutions may take place electronically, by means of telefax or in paper form.

17a.4. ECB decisions with regard to supervised entities and entities which have applied for authorisation to take up the business of a credit institution shall be adopted by the Governing Council and signed by the Secretary of the Governing Council in order to certify them. They shall be thereafter notified to the persons to whom they are addressed.

Article 18. *Procedure under Article 106(2) of the Treaty*

The approval provided for in Article 106(2) of the Treaty shall be adopted for the following year by the Governing Council in a single decision for all participating Member States within the final quarter of every year.

Article 19 *Procurement*

19.1. Procurement of goods and services for the ECB shall give due regard to the principles of publicity, transparency, equal access, non-discrimination and efficient administration.

19.2. Except for the principle of efficient administration, derogations may be made from the above principles in cases of urgency; for reasons of security or secrecy; where there is a sole supplier; for supplies from the national central banks to the ECB; to ensure the continuity of a supplier.

Article 21. *Conditions of Employment*

21.1. The Conditions of Employment and the Staff Rules shall determine the employment relationship between the ECB and its staff.

21.2. The Governing Council, upon a proposal from the Executive Board and following consultation of the General Council shall adopt the Conditions of Employment.

21.3. The Executive Board shall adopt the Staff Rules, that shall implement the Conditions of Employment.

21.4. The Staff Committee shall be consulted before the adoption of new Conditions of Employment or Staff Rules. Its opinion shall be submitted to the Governing Council or the Executive Board respectively.

Article 22. *Communications and announcements*

General communications and announcements of decisions taken by the decision-making bodies of the ECB may be published on the ECB website, in *the Official Journal of the European Union*, or by means of wire services common to financial markets or any other media.

Article 23 *Confidentiality of and access to ECB documents*

23.1 The proceedings of the decision-making bodies of the ECB, or any committee or group established by them, of the Supervisory Board, its Steering Committee and of any its substructures of a temporary nature shall be confidential unless the Governing Council authorises the President to make the outcome of their deliberations public. The President shall consult the Chair of the Supervisory Board prior to making any such decision in relation to the proceedings of the Supervisory Board, its Steering Committee and of any its substructures of a temporary nature.

23.2 Public access to documents drawn up or held by the ECB shall be governed by a decision of the Governing Council.

23.3 Documents drawn up or held by the ECB shall be classified and handled in accordance with the organisational rules regarding professional secrecy and management and confidentiality of information. They shall be freely accessible after a period of 30 years unless decided otherwise by the decision making bodies.

Article 23a *Confidentiality and professional secrecy regarding the supervisory tasks*

23a.1. Members of the Supervisory Board, of the Steering Committee and of any substructures established by the Supervisory Board shall be subject to the professional secrecy requirements laid down in Article 37 of the Statute even after their duties have ceased.

23a.2. Observers shall not have access to confidential information relating to individual institutions.

23a.3. Documents drawn up by the Supervisory Board, the Steering Committee and any substructures of a temporary nature established by the Supervisory Board shall be ECB documents and shall therefore be classified and handled in accordance with Article 23.3.

CHAPTER VI FINAL PROVISION

Article 24. *Amendments to these Rules of Procedure*

The Governing Council may amend these Rules of Procedure. The General Council may propose amendments and the Executive Board may adopt supplementary rules within its field of competence.

ANNEX

(as referred to in Article 13c(iv))

1. For the purposes of the voting pursuant to Article 13c, the four ECB representatives must be assigned as defined in the following paragraphs, the median weighted votes of the participating Member States under the weighted votes criterion, the median population of the participating Member States under the population criterion and, by virtue of their membership in the Supervisory Board, a vote under the number of members criterion.
2. Ranking, in ascending order, the weighted votes assigned to the participating Member States by Article 3 of the Protocol (No 36) on transitional provisions for the members representing the participating Member States, the median weighted vote is defined as the middle weighted vote if there is an odd number of participating Member States, and as the average of the two middle numbers, rounded up to the nearest whole number, if their number is even. Four times the median weighted vote must be added to the overall number of weighted votes of the participating Member States. The resulting number of weighted votes shall constitute the 'total number of weighted votes'.
3. The median population is defined in accordance with the same principle. For this purpose, recourse will be made to the figures published by the Council of the European Union as per Annex III, Article 1 and 2 of Council Decision 2009/937/EU of 1 December 2009 adopting the Council's Rules of Procedure⁵. Four times the median population of the participating Member States must be added to the combined population in all participating Member States. The resulting population number shall constitute 'the total population'.

⁵ OJ L 325, 11.12.2009, p. 35.

DECISION OF THE EUROPEAN CENTRAL BANK

of 4 March 2004

ON PUBLIC ACCESS TO EUROPEAN CENTRAL BANK DOCUMENTS

(ECB/2004/3), (2004/258/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular to Article 12.3 thereof,

Having regard to the Rules of Procedure of the European Central Bank¹, and in particular to Article 23 thereof,

Whereas:

(1) The second subparagraph of Article 1 of the Treaty on European Union enshrines the concept of openness, stating that the Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen. Openness enhances the administration's legitimacy, effectiveness and accountability, thus strengthening the principles of democracy.

(2) In the Joint Declaration² relating to Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents³, the European Parliament, the Council and the Commission call on the other institutions and bodies of the Union to adopt internal rules on public access to documents which take account of the principles and limits set out in the Regulation. The regime on public access to ECB documents as laid down in Decision ECB/1998/12 of 3 November 1998 concerning public access to documentation and the archives of the European Central Bank⁴ should be revised accordingly.

¹ Decision ECB/2004/2 of 19 February 2004 adopting the Rules of Procedure of the European Central Bank. See page 33 of this Official Journal.

² OJ L 173, 27.6.2001, p. 5.

³ OJ L 145, 31.5.2001, p. 43.

⁴ OJ L 110, 28.4.1999, p. 30.

(3) Wider access should be granted to ECB documents, while at the same time protecting the independence of the ECB and of the national central banks (NCBs) foreseen by Article 108 of the Treaty and Article 7 of the Statute, and the confidentiality of certain matters specific to the performance of the ECB's tasks. In order to safeguard the effectiveness of its decision-making process, including its internal consultations and preparations, the proceedings of the meetings of the ECB's decision-making bodies are confidential, unless the relevant body decides to make the outcome of its deliberations public.

(4) However, certain public and private interests should be protected by way of exceptions. Furthermore, the ECB needs to protect the integrity of euro banknotes as a means of payment including, without limitation, the security features against counterfeiting, the technical production specifications, the physical security of stocks and the transportation of euro banknotes.

(5) When NCBs handle requests for ECB documents that are in their possession, they should consult the ECB in order to ensure the full application of this Decision unless it is clear whether or not the document may be disclosed.

(6) In order to bring about greater openness, the ECB should grant access not only to documents drawn up by it, but also to documents received by it while at the same time preserving the right for the third parties concerned to express their positions with regard to access to documents originating from those parties.

(7) In order to ensure that good administrative practice is respected, the ECB should apply a two-stage procedure,

HAS DECIDED AS FOLLOWS:

Article 1. Purpose

The purpose of this Decision is to define the conditions and limits according to which the ECB shall give public access to ECB documents and to promote good administrative practice on public access to such documents.

Article 2. Beneficiaries and scope

1. Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access to ECB documents, subject to the conditions and limits defined in this Decision.

2. The ECB may, subject to the same conditions and limits, grant access to ECB documents to any natural or legal person

not residing or not having its registered office in a Member State.

3. This Decision shall be without prejudice to rights of public access to ECB documents which might follow from instruments of international law or acts which implement them.

Article 3. Definitions

For the purpose of this Decision:

(a) 'document' and 'ECB document' shall mean any content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording) drawn up or held by the ECB and relating to its policies, activities or decisions, as well as documents originating from the European Monetary Institute (EMI) and from the Committee of Governors of the central banks of the Member States of the European Economic Community (Committee of Governors);

(b) 'third party' shall mean any natural or legal person, or any entity outside the ECB;

(c) 'national competent authority' (NCA) and 'national designated authority' (NDA) have the meaning given to them by Council Regulation (EU) No 1024/2013⁵ ;

(d) 'other relevant authorities and bodies' means relevant national authorities and bodies, Union institutions, bodies, offices and agencies, relevant international organisations, supervisory authorities and administrations of third countries.

Article 4. Exceptions

1. The ECB shall refuse access to a document where disclosure would undermine the protection of:

- (a) the public interest as regards:
- the confidentiality of the proceedings of the ECB's decision-making bodies, the Supervisory Board or other bodies established pursuant to Regulation (EU) No 1024/2013,
 - the financial, monetary or economic policy of the Union or a Member State,
 - the internal finances of the ECB or of the NCBs,
 - protecting the integrity of euro banknotes,
 - public security,
 - international financial, monetary or economic relations,

⁵ Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).

– the stability of the financial system in the Union or in a Member State,

– the Union's or a Member State's policy relating to the prudential supervision of credit institutions and other financial institutions,

– the purpose of supervisory inspections,

– the soundness and security of financial market infrastructures, payment schemes or payment service providers;

(b) the privacy and the integrity of the individual, in particular in accordance with Union legislation regarding the protection of personal data;

(c) the confidentiality of information that is protected as such under Union law.

2. The ECB shall refuse access to a document where disclosure would undermine the protection of:

– the commercial interests of a natural or legal person, including intellectual property,

– court proceedings and legal advice,

– the purpose of inspections, investigations and audits, unless there is an overriding public interest in disclosure.

3. Access to a document drafted or received by the ECB for internal use as part of deliberations and preliminary consultations within the ECB, or for exchanges of views between the ECB and NCBs, NCAs or NDAs, shall be refused even after the decision has been taken, unless there is an overriding public interest in disclosure.

Access to documents reflecting exchanges of views between the ECB and other relevant authorities and bodies shall be refused even after the decision has been taken, if disclosure of the document would seriously undermine the ECB's effectiveness in carrying out its tasks, unless there is an overriding public interest in disclosure.

4. As regards third-party documents, the ECB shall consult the third party concerned with a view to assessing whether an exception in this Article is applicable, unless it is clear that the document shall or shall not be disclosed.

As regards requests for access to European Systemic Risk Board documents,

Decision ESRB/2011/5 of the European Systemic Risk Board of

3 June 2011 on public access to European Systemic Risk Board documents⁶, adopted on the basis of Article 7 of Council

⁶ OJ C 176, 16.6.2011, p. 3.

Regulation (EU) No 1096/2010 of 17 November 2010 conferring specific tasks upon the European Central Bank concerning the functioning of the European Systemic Risk Board⁷, shall apply.

5. If only parts of the requested document are covered by any of the exceptions, the remaining parts of the document shall be released.

6. The exceptions as laid down in this Article shall only apply for the period during which protection is justified on the basis of the content of the document. The exceptions may apply for a maximum period of 30 years unless specifically provided otherwise by the ECB's Governing Council. In the case of documents covered by the exceptions relating to privacy or commercial interests, the exceptions may continue to apply after this period.

Article 5. Documents at the NCBs

Documents that are in the possession of an NCB and have been drawn up by the ECB as well as documents originating from the EMI or the Committee of Governors may be disclosed by the NCB only subject to prior consultation of the ECB concerning the scope of access, unless it is clear that the document shall or shall not be disclosed.

Alternatively the NCB may refer the request to the ECB.

Article 6. Applications

1. An application for access to a document shall be made to the ECB⁸ in any written form, including electronic form, in one of the official languages of the Union and in a sufficiently precise manner to enable the ECB to identify the document. The applicant is not obliged to state the reasons for the application.

2. If an application is not sufficiently precise, the ECB shall ask the applicant to clarify the application and shall assist the applicant in doing so.

3. In the event of an application relating to a very long document or to a very large number of documents, the ECB may confer with the applicant informally, with a view to finding a fair solution.

Article 7. Processing of initial applications

1. An application for access to a document shall be handled promptly. An acknowledgement of receipt shall be sent to the

⁷ OJ L 331, 15.12.2010, p. 162.

⁸ Addressed to the European Central Bank, Secretariat Division, Kaiserstrasse 29, D-60311 Frankfurt am Main. Fax: + 49 (69) 1344 6170. E-mail: ecb.secretariat@ecb.int.

applicant. Within 20 working days from the receipt of the application, or on receipt of the clarifications requested in accordance with Article 6(2), the Director-General Secretariat of the ECB shall either grant access to the document requested and provide access in accordance with Article 9 or, in a written reply, state the reasons for total or partial refusal and inform the applicant of their right to make a confirmatory application in accordance with paragraph 2.

2. In the event of total or partial refusal, the applicant may, within 20 working days of receiving the ECB's reply, make a confirmatory application asking the ECB's Executive Board to reconsider its position. Furthermore, failure by the ECB to reply within the prescribed 20 working days' time limit for handling the initial application shall entitle the applicant to make a confirmatory application.

3. In exceptional cases, for example in the event of an application relating to a very long document or to a very large number of documents, or if the consultation of a third party is required, the ECB may extend the time limit provided for in paragraph 1 by 20 working days, provided that the applicant is notified in advance and that detailed reasons are given.

4. Paragraph 1 shall not apply in case of excessive or unreasonable applications, in particular when they are of a repetitive nature.

Article 8. Processing of confirmatory applications

1. A confirmatory application shall be handled promptly. Within 20 working days from the receipt of such application, the Executive Board shall either grant access to the document requested and provide access in accordance with Article 9 or, in a written reply, state the reasons for the total or partial refusal. In the event of a total or partial refusal, the ECB shall inform the applicant of the remedies open to them in accordance with Articles 263 and 228 of the Treaty.

2. In exceptional cases, for example in the event of an application relating to a very long document or to a very large number of documents, the ECB may extend the time limit provided for in paragraph 1 by 20 working days, provided that the applicant is notified in advance and that detailed reasons are given.

3. Failure by the ECB to reply within the prescribed time limit shall be considered to be a negative reply and shall entitle the applicant to institute court proceedings and/or submit a complaint to the European Ombudsman, under Articles 263 and 228 of the Treaty, respectively.

Article 9. Access following an application

1. Applicants may consult documents to which the ECB has granted access either at its premises or by receiving a copy, including, where available, an electronic copy. The costs of producing and sending copies may be charged to the applicant. This charge shall not exceed the real cost of producing and sending the copies. Consultation on the spot, copies of less than 20 A4 pages and direct access in electronic form shall be free of charge.

2. If a document has already been released by the ECB and is easily accessible, the ECB may fulfil its obligation of granting access to it by informing the applicant how to obtain the requested document.

3. Documents shall be supplied in an existing version and format (including electronically or in an alternative format) as requested by the applicant.

Article 10. Reproduction of documents

1. Documents released in accordance with this Decision shall not be reproduced or exploited for commercial purposes without the ECB's prior specific authorisation. The ECB may withhold such authorisation without stating reasons.

2. This Decision shall be without prejudice to any existing rules on copyright which may limit a third party's right to reproduce or exploit released documents.

Article 11. Final provisions

This Decision shall enter into force on the day following its publication in the *Official Journal of the European Union*.

Decision ECB/1998/12 shall be repealed.

COUNCIL REGULATION (EU) No 1024/2013

of 15 October 2013

CONFERRING SPECIFIC TASKS ON THE EUROPEAN CENTRAL BANK CONCERNING POLICIES RELATING TO THE PRUDENTIAL SUPERVISION OF CREDIT INSTITUTIONS

CHAPTER I

SUBJECT MATTER AND DEFINITIONS

Article 1 Subject matter and scope

This Regulation confers on the ECB specific tasks concerning policies relating to the prudential supervision of credit institutions, with a view to contributing to the safety and soundness of credit institutions and the stability of the financial system within the Union and each Member State, with full regard and duty of care for the unity and integrity of the internal market based on equal treatment of credit institutions with a view to preventing regulatory arbitrage.

The institutions referred to in Article 2(5) of the Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms¹ are excluded from the supervisory tasks conferred on ECB in accordance with Article 4 of this Regulation. The scope of the ECB's supervisory tasks is limited to the prudential supervision of credit institutions pursuant to this Regulation. This Regulation shall not confer on the ECB any other supervisory tasks, such as tasks relating to the prudential supervision of central counterparties.

When carrying out its tasks according to this Regulation, and without prejudice to the objective to ensure the safety and

¹ OJ L 176, 27.6.2013, p. 338.

soundness of credit institutions, the ECB shall have full regard to the different types, business models and sizes of credit institutions.

No action, proposal or policy of the ECB shall, directly or indirectly, discriminate against any Member State or group of Member States as a venue for the provision of banking or financial services in any currency.

This Regulation is without prejudice to the responsibilities and related powers of the competent authorities of the participating Member States to carry out supervisory tasks not conferred on the ECB by this Regulation.

This Regulation is also without prejudice to the responsibilities and related powers of the competent or designated authorities of the participating Member States to apply macroprudential tools not provided for in relevant acts of Union law.

Article 2 *Definitions*

For the purposes of this Regulation, the following definitions shall apply:

(1) ‘participating Member State’ means a Member State whose currency is the euro or a Member State whose currency is not the euro which has established a close cooperation in accordance with Article 7;

(2) ‘national competent authority’ means a national competent authority designated by a participating Member State in accordance with Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms² and Directive 2013/36/EU;

(3) ‘credit institution’ means a credit institution as defined in point 1 of Article 4(1) of Regulation (EU) No 575/2013;

(4) ‘financial holding company’ means a financial holding company as defined in point 20 of Article 4(1) of Regulation (EU) No 575/2013;

(5) ‘mixed financial holding company’ means a mixed financial holding company as defined in point 15 of Article 2 of Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate³;

² OJ L 176, 27.6.2013, p. 1.

³ OJ L 35, 11.2.2013, p. 1.

(6) ‘financial conglomerate’ means a financial conglomerate as defined in point 14 of Article 2 of Directive 2002/87/EC;

(7) ‘national designated authority’ means a designated authority of a participating Member State, within the meaning of the relevant Union law;

(8) ‘qualifying holding’ means a qualifying holding as defined in point 36 of Article 4(1) of Regulation (EU) No 575/2013;

(9) ‘Single supervisory mechanism’ (SSM) means the system of financial supervision composed by the ECB and national competent authorities of participating Member States as described in Article 6 of this Regulation.

CHAPTER II

COOPERATION AND TASKS

Article 3 *Cooperation*

1. The ECB shall cooperate closely with EBA, ESMA, EIOPA and the European Systemic Risk Board (ESRB), and the other authorities which form part of the ESFS, which ensure an adequate level of regulation and supervision in the Union.

Where necessary the ECB shall enter into memoranda of understanding with competent authorities of Member States responsible for markets in financial instruments. Such memoranda shall be made available to the European Parliament, to the Council and to competent authorities of all Member States.

2. For the purposes of this Regulation, the ECB shall participate in the Board of Supervisors of EBA under the conditions set out in Article 40 of Regulation (EU) No 1093/2010.

3. The ECB shall carry out its tasks in accordance with this Regulation and without prejudice to the competence and the tasks of EBA, ESMA, EIOPA and the ESRB.

4. The ECB shall cooperate closely with the authorities empowered to resolve credit institutions, including in the preparation of resolution plans.

5. Subject to Articles 1, 4 and 6, the ECB shall cooperate closely with any public financial assistance facility including the European Financial Stability Facility (EFSF) and the ESM, in particular where such a facility has granted or is likely to grant, direct or indirect financial assistance to a credit institution which is subject to Article 4.

6. The ECB and the competent authorities of non-

participating Member States shall conclude a memorandum of understanding describing in general terms how they will cooperate with one another in the performance of their supervisory tasks under Union law in relation to the financial institutions referred to in Article 2. The memorandum shall be reviewed on a regular basis.

Without prejudice to the first subparagraph the ECB shall conclude a memorandum of understanding with the competent authority of each non-participating Member State that is home to at least one global systemically important institution, as defined in Union law.

Each memorandum shall be reviewed on a regular basis and shall be published subject to appropriate treatment of confidential information.

Article 4 *Tasks conferred on the ECB*

1. Within the framework of Article 6, the ECB shall, in accordance with paragraph 3 of this Article, be exclusively competent to carry out, for prudential supervisory purposes, the following tasks in relation to all credit institutions established in the participating Member States:

(a) to authorise credit institutions and to withdraw authorisations of credit institutions subject to Article 14;

(b) for credit institutions established in a participating Member State, which wish to establish a branch or provide cross-border services in a non participating Member State, to carry out the tasks which the competent authority of the home Member State shall have under the relevant Union law;

(c) to assess notifications of the acquisition and disposal of qualifying holdings in credit institutions, except in the case of a bank resolution, and subject to Article 15;

(d) to ensure compliance with the acts referred to in the first subparagraph of Article 4(3), which impose prudential requirements on credit institutions in the areas of own funds requirements, securitisation, large exposure limits, liquidity, leverage, and reporting and public disclosure of information on those matters;

(e) to ensure compliance with the acts referred to in the first subparagraph of Article 4(3), which impose requirements on credit institutions to have in place robust governance arrangements, including the fit and proper requirements for the persons responsible for the management of credit institutions, risk management processes, internal control mechanisms, remuneration policies and practices and effective internal capital adequacy assessment processes, including Internal Ratings Based models;

(f) to carry out supervisory reviews, including where appropriate in coordination with EBA, stress tests and their possible publication, in order to determine whether the arrangements, strategies, processes and mechanisms put in place by credit institutions and the own funds held by these institutions ensure a sound management and coverage of their risks, and on the basis of that supervisory review to impose on credit institutions specific additional own funds requirements, specific publication requirements, specific liquidity requirements and other measures, where specifically made available to competent authorities by relevant Union law;

(g) to carry out supervision on a consolidated basis over credit institutions' parents established in one of the participating Member States, including over financial holding companies and mixed financial holding companies, and to participate in supervision on a consolidated basis, including in colleges of supervisors without prejudice to the participation of national competent authorities in those colleges as observers, in relation to parents not established in one of the participating Member State;

(h) to participate in supplementary supervision of a financial conglomerate in relation to the credit institutions included in it and to assume the tasks of a coordinator where the ECB is appointed as the coordinator for a financial conglomerate in accordance with the criteria set out in relevant Union law;

(i) to carry out supervisory tasks in relation to recovery plans, and early intervention where a credit institution or group in relation to which the ECB is the consolidating supervisor, does not meet or is likely to breach the applicable prudential requirements, and, only in the cases explicitly stipulated by relevant Union law for competent authorities, structural changes required from credit institutions to prevent financial stress or failure, excluding any resolution powers.

2. For credit institutions established in a non-participating Member State, which establish a branch or provide cross-border services in a participating Member State, the ECB shall carry out, within the scope of paragraph 1, the tasks for which the national competent authorities are competent in accordance with relevant Union law.

3. For the purpose of carrying out the tasks conferred on it by this Regulation, and with the objective of ensuring high standards of supervision, the ECB shall apply all relevant Union law, and where this Union law is composed of Directives, the national legislation transposing those Directives. Where the

relevant Union law is composed of Regulations and where currently those Regulations explicitly grant options for Member States, the ECB shall apply also the national legislation exercising those options.

To that effect, the ECB shall adopt guidelines and recommendations, and take decisions subject to and in compliance with the relevant Union law and in particular any legislative and non-legislative act, including those referred to in Articles 290 and 291 TFEU. It shall in particular be subject to binding regulatory and implementing technical standards developed by EBA and adopted by the Commission in accordance with Article 10 to 15 of Regulation (EU) No 1093/2010, to Article 16 of that Regulation, and to the provisions of that Regulation on the European supervisory handbook developed by EBA in accordance with that Regulation. The ECB may also adopt regulations only to the extent necessary to organise or specify the arrangements for the carrying out of the tasks conferred on it by this Regulation.

Before adopting a regulation, the ECB shall conduct open public consultations and analyse the potential related costs and benefits, unless such consultations and analyses are disproportionate in relation to the scope and impact of the regulations concerned or in relation to the particular urgency of the matter, in which case the ECB shall justify that urgency.

Where necessary the ECB shall contribute in any participating role to the development of draft regulatory technical standards or implementing technical standards by EBA in accordance with Regulation (EU) No 1093/2010 or shall draw the attention of EBA to a potential need to submit to the Commission draft standards amending existing regulatory or implementing technical standards.

Article 5 *Macroprudential tasks and tools*

1. Whenever appropriate or deemed required, and without prejudice to paragraph 2 of this Article, the national competent authorities or national designated authorities of the participating Member States shall apply requirements for capital buffers to be held by credit institutions at the relevant level in accordance with relevant Union law in addition to own funds requirements referred to in point (d) of Article 4(1) of this Regulation, including countercyclical buffer rates, and any other measures aimed at addressing systemic or macro-prudential risks provided for, and subject to the procedures set out, in the Regulation (EU) No 575/2013 and Directive 2013/36/EU in the cases specifically set out in relevant Union law. Ten working days prior to taking such

a decision, the concerned authority shall duly notify its intention to the ECB. Where the ECB objects, it shall state its reasons in writing within five working days. The concerned authority shall duly consider the ECB's reasons prior to proceeding with the decision as appropriate.

2. The ECB may, if deemed necessary, instead of the national competent authorities or national designated authorities of the participating Member State, apply higher requirements for capital buffers than applied by the national competent authorities or national designated authorities of participating Member States to be held by credit institutions at the relevant level in accordance with relevant Union law in addition to own funds requirements referred to in point (d) of Article 4(1) of this Regulation, including countercyclical buffer rates, subject to the conditions set out in paragraphs 4 and 5 of this Article, and apply more stringent measures aimed at addressing systemic or macroprudential risks at the level of credit institutions subject to the procedures set out in the Regulation (EU) No 575/2013 and Directive 2013/36/EU in the cases specifically set out in relevant Union law.

3. Any national competent authority or a national designated authority may propose to the ECB to act under paragraph 2, in order to address the specific situation of the financial system and the economy in its Member State.

4. Where the ECB intends to act in accordance with paragraph 2, it shall cooperate closely with the national designated authorities in the Member States concerned. It shall in particular notify its intention to the concerned national competent authorities or national designated authorities ten working days prior to taking such a decision. Where any of the concerned authorities objects, it shall state its reasons in writing within five working days. The ECB shall duly consider those reasons prior to proceeding with the decision as appropriate.

5. When carrying out the tasks referred to in paragraph 2, the ECB shall take into account the specific situation of the financial system, economic situation and the economic cycle in individual Member States or parts thereof.

Article 6 *Cooperation within the SSM*

1. The ECB shall carry out its tasks within a single supervisory mechanism composed of the ECB and national competent authorities. The ECB shall be responsible for the effective and consistent functioning of the SSM.

2. Both the ECB and national competent authorities shall be

subject to a duty of cooperation in good faith, and an obligation to exchange information.

Without prejudice to the ECB's power to receive directly, or have direct access to information reported, on an ongoing basis, by credit institutions, the national competent authorities shall in particular provide the ECB with all information necessary for the purposes of carrying out the tasks conferred on the ECB by this Regulation.

3. Where appropriate and without prejudice to the responsibility and accountability of the ECB for the tasks conferred on it by this Regulation, national competent authorities shall be responsible for assisting the ECB, under the conditions set out in the framework mentioned in paragraph 7 of this Article, with the preparation and implementation of any acts relating to the tasks referred to in Article 4 related to all credit institutions, including assistance in verification activities. They shall follow the instructions given by the ECB when performing the tasks mentioned in Article 4.

4. In relation to the tasks defined in Article 4 except for points (a) and (c) of paragraph 1 thereof, the ECB shall have the responsibilities set out in paragraph 5 of this Article and the national competent authorities shall have the responsibilities set out in paragraph 6 of this Article, within the framework and subject to the procedures referred to in paragraph 7 of this Article, for the supervision of the following credit institutions, financial holding companies or mixed financial holding companies, or branches, which are established in participating Member States, of credit institutions established in non-participating Member States:

– those that are less significant on a consolidated basis, at the highest level of consolidation within the participating Member States, or individually in the specific case of branches, which are established in participating Member States, of credit institutions established in non-participating Member States. The significance shall be assessed based on the following criteria:

- (i) size;
- (ii) importance for the economy of the Union or any participating Member State;
- (iii) significance of cross-border activities.

With respect to the first subparagraph above, a credit institution or financial holding company or mixed financial holding company shall not be considered less significant, unless justified by particular circumstances to be specified in the methodology, if any of the following conditions is met:

- (i) the total value of its assets exceeds EUR 30 billion;

(ii) the ratio of its total assets over the GDP of the participating Member State of establishment exceeds 20 %, unless the total value of its assets is below EUR 5 billion;

(iii) following a notification by its national competent authority that it considers such an institution of significant relevance with regard to the domestic economy, the ECB takes a decision confirming such significance following a comprehensive assessment by the ECB, including a balance-sheet assessment, of that credit institution.

The ECB may also, on its own initiative, consider an institution to be of significant relevance where it has established banking subsidiaries in more than one participating Member States and its cross-border assets or liabilities represent a significant part of its total assets or liabilities subject to the conditions laid down in the methodology.

Those for which public financial assistance has been requested or received directly from the EFSF or the ESM shall not be considered less significant.

Notwithstanding the previous subparagraphs, the ECB shall carry out the tasks conferred on it by this Regulation in respect of the three most significant credit institutions in each of the participating Member States, unless justified by particular circumstances.

5. With regard to the credit institutions referred to in paragraph 4, and within the framework defined in paragraph 7:

(a) the ECB shall issue regulations, guidelines or general instructions to national competent authorities, according to which the tasks defined in Article 4 excluding points (a) and (c) of paragraph 1 thereof are performed and supervisory decisions are adopted by national competent authorities.

Such instructions may refer to the specific powers in Article 16(2) for groups or categories of credit institutions for the purposes of ensuring the consistency of supervisory outcomes within the SSM;

(b) when necessary to ensure consistent application of high supervisory standards, the ECB may at any time, on its own initiative after consulting with national competent authorities or upon request by a national competent authority, decide to exercise directly itself all the relevant powers for one or more credit institutions referred to in paragraph 4, including in the case where financial assistance has been requested or received indirectly from the EFSF or the ESM;

(c) the ECB shall exercise oversight over the functioning of the system, based on the responsibilities and procedures set out

in this Article, and in particular point (c) of paragraph 7;

(d) the ECB may at any time make use of the powers referred to in Articles 10 to 13;

(e) the ECB may also request, on an ad hoc or continuous basis, information from the national competent authorities on the performance of the tasks carried out by them under this Article.

6. Without prejudice to paragraph 5 of this Article, national competent authorities shall carry out and be responsible for the tasks referred to in points (b), (d) to (g) and (i) of Article 4(1) and adopting all relevant supervisory decisions with regard to the credit institutions referred to in the first subparagraph of paragraph 4 of this Article, within the framework and subject to the procedures referred to in paragraph 7 of this Article.

Without prejudice to Articles 10 to 13, the national competent authorities and national designated authorities shall maintain the powers, in accordance with national law, to obtain information from credit institutions, holding companies, mixed holding companies and undertakings included in the consolidated financial situation of a credit institution and to perform on site inspections at those credit institutions, holding companies, mixed holding companies and undertakings. The national competent authorities shall inform the ECB, in accordance with the framework set out in paragraph 7 of this Article, of the measures taken pursuant to this paragraph and closely coordinate those measures with the ECB.

The national competent authorities shall report to the ECB on a regular basis on the performance of the activities performed under this Article.

7. The ECB shall, in consultation with national competent authorities, and on the basis of a proposal from the Supervisory Board, adopt and make public a framework to organise the practical arrangements for the implementation of this Article. The framework shall include, at least, the following:

(a) the specific methodology for the assessment of the criteria referred to in the first, second and third subparagraph of paragraph 4 and the criteria under which the fourth subparagraph of paragraph 4 ceases to apply to a specific credit institution and the resulting arrangements for the purposes of implementing paragraphs 5 and 6. Those arrangements and the methodology for the assessment of the criteria referred to in the first, second and third subparagraph of paragraph 4 shall be reviewed to reflect any relevant changes, and shall ensure that where a credit institution has been considered significant or less significant that assessment shall only be modified in case of substantial and non-transitory changes of circumstances, in

particular those circumstances relating to the situation of the credit institution which are relevant for that assessment.

(b) the definition of the procedures, including time-limits, and the possibility to prepare draft decisions to be sent to the ECB for consideration, for the relation between the ECB and the national competent authorities regarding the supervision of credit institutions not considered as less significant in accordance with paragraph 4;

(c) the definition of the procedures, including time-limits, for the relation between the ECB and the national competent authorities regarding the supervision of credit institutions considered as less significant in accordance with paragraph 4. Such procedures shall in particular require national competent authorities, depending on the cases defined in the framework, to:

(i) notify the ECB of any material supervisory procedure;

(ii) further assess, on the request of the ECB, specific aspects of the procedure;

(iii) transmit to the ECB material draft supervisory decisions on which the ECB may express its views.

8. Wherever the ECB is assisted by national competent authorities or national designated authorities for the purpose of exercising the tasks conferred on it by this Regulation, the ECB and the national competent authorities shall comply with the provisions set out in the relevant Union acts in relation to the allocation of responsibilities and cooperation between competent authorities from different Member States.

Article 7 *Close cooperation with the competent authorities of participating Member States whose currency is not the euro*

1. Within the limits set out in this Article, the ECB shall carry out the tasks in the areas referred to in Articles 4(1), 4(2) and 5 in relation to credit institutions established in a Member State whose currency is not the euro, where close cooperation has been established between the ECB and the national competent authority of such Member State in accordance with this Article.

To that end, the ECB may address instructions to the national competent authority or to the national designated authority of the participating Member State whose currency is not the euro.

2. Close cooperation between the ECB and the national competent authority of a participating Member State whose currency is not the euro shall be established, by a decision adopted by the ECB, where the following conditions are met:

(a) the Member State concerned notifies the other Member States, the Commission, the ECB and EBA the request to enter

into a close cooperation with the ECB in relation to the exercise of the tasks referred to in Articles 4 and 5 with regard to all credit institutions established in the Member State concerned, in accordance with Article 6;

(b) in the notification, the Member State concerned undertakes:

– to ensure that its national competent authority or national designated authority will abide by any guidelines or requests issued by the ECB, and

– to provide all information on the credit institutions established in that Member State that the ECB may require for the purpose of carrying out a comprehensive assessment of those credit institutions;

(c) the Member State concerned has adopted relevant national legislation to ensure that its national competent authority will be obliged to adopt any measure in relation to credit institutions requested by the ECB, in accordance with paragraph 4.

3. The decision referred to in paragraph 2 shall be published in the *Official Journal of the European Union*. The decision shall apply 14 days after its publication.

4. Where the ECB considers that a measure relating to the tasks referred to in paragraph 1 should be adopted by the national competent authority of a concerned Member State in relation to a credit institution, financial holding company or mixed-financial holding company, it shall address instructions to that authority, specifying a relevant timeframe.

That timeframe shall be no less than 48 hours unless earlier adoption is indispensable to prevent irreparable damage. The national competent authority of the concerned Member State shall take all the necessary measures in accordance with the obligation referred to in point (c) of paragraph 2.

5. The ECB may decide to issue a warning to the Member State concerned that the close cooperation will be suspended or terminated if no decisive corrective action is undertaken in the following cases:

(a) where, in the opinion of the ECB, the conditions set out in points (a) to (c) of paragraph 2 are no longer met by the Member State concerned; or

(b) where, in the opinion of the ECB, the national competent authority of the Member State concerned does not act in accordance with the obligation referred to in point (c) of paragraph 2.

If no such action has been undertaken within 15 days of notification of such a warning, the ECB may suspend or terminate the close cooperation with that Member State.

The decision to suspend or terminate the close cooperation shall be notified to the Member State concerned and shall be published in the *Official Journal of the European Union*. The decision shall indicate the date from which it applies, taking due consideration of supervisory effectiveness and legitimate interests of credit institutions.

6. The Member State may request the ECB to terminate the close cooperation at any time after a lapse of three years from the date of the publication in the *Official Journal of the European Union* of the decision adopted by the ECB for the establishment of the close cooperation. The request shall explain the reasons for the termination, including, when relevant, potential significant adverse consequences as regards the fiscal responsibilities of the Member State. In this case, the ECB shall immediately proceed to adopt a decision terminating the close cooperation and indicate the date from which it applies within a maximum period of three months, taking due consideration of supervisory effectiveness and legitimate interests of credit institutions. The decision shall be published in the *Official Journal of the European Union*.

7. If a participating Member State whose currency is not the euro notifies the ECB in accordance with Article 26(8) of its reasoned disagreement with an objection of the Governing Council to a draft decision of the Supervisory Board, the Governing Council shall, within a period of 30 days, give its opinion on the reasoned disagreement expressed by the Member State and, stating its reasons to do so, confirm or withdraw its objection.

Where the Governing Council confirms its objection, the participating Member State whose currency is not the euro may notify the ECB that it will not be bound by the potential decision related to a possible amended draft decision by the Supervisory Board.

The ECB shall then consider the possible suspension or termination of the close cooperation with that Member State, taking due consideration of supervisory effectiveness, and take a decision in that respect.

The ECB shall take into account, in particular, the following considerations:

(a) whether the absence of such suspension or termination could jeopardize the integrity of the SSM or have significant adverse consequences as regards the fiscal responsibilities of the Member States;

(b) whether such suspension or termination could have significant adverse consequences as regards the fiscal responsibilities in the Member State which has notified a reasoned disagreement in accordance with Article 26(8);

(c) whether or not it is satisfied that the national competent authority concerned has adopted measures which, in the ECB's opinion:

- ensure that credit institutions in the Member State which notified its reasoned disagreement pursuant to the previous subparagraph are not subject to a more favourable treatment than credit institutions in the other participating Member States, and

- are equally effective as the decision of the Governing Council under the second subparagraph of this paragraph in achieving the objectives referred to in Article 1 and in ensuring compliance with relevant Union law.

The ECB shall include these considerations in its decision and communicate them to the Member State in question.

8. If a participating Member State whose currency is not the euro disagrees with a draft decision of the Supervisory Board, it shall inform the Governing Council of its reasoned disagreement within five working days of receiving the draft decision. The Governing Council shall then decide about the matter within five working days, taking fully into account those reasons, and explain in writing its decision to the Member State concerned. The Member State concerned may request the ECB to terminate the close cooperation with immediate effect and will not be bound by the ensuing decision.

9. A Member State which has terminated the close cooperation with the ECB may not enter into a new close cooperation before a lapse of three years from the date of the publication in the *Official Journal of the European Union* of the ECB decision terminating the close cooperation.

Article 8 *International relations*

Without prejudice to the respective competences of the Member States and institutions and bodies of the Union, other than the ECB, including EBA, in relation to the tasks conferred on the ECB by this Regulation, the ECB may develop contacts and enter into administrative arrangements with supervisory authorities, international organisations and the administrations of third countries, subject to appropriate coordination with EBA. Those arrangements shall not create legal obligations in respect of the Union and its Member States.

CHAPTER III

POWERS OF THE ECB

Article 9 *Supervisory and investigatory powers*

1. For the exclusive purpose of carrying out the tasks conferred on it by Articles 4(1), 4(2) and 5(2), the ECB shall be considered, as appropriate, the competent authority or the designated authority in the participating Member States as established by the relevant Union law.

For the same exclusive purpose, the ECB shall have all the powers and obligations set out in this Regulation. It shall also have all the powers and obligations, which competent and designated authorities shall have under the relevant Union law, unless otherwise provided for by this Regulation. In particular, the ECB shall have the powers listed in Sections 1 and 2 of this Chapter.

To the extent necessary to carry out the tasks conferred on it by this Regulation, the ECB may require, by way of instructions, those national authorities to make use of their powers, under and in accordance with the conditions set out in national law, where this Regulation does not confer such powers on the ECB. Those national authorities shall fully inform the ECB about the exercise of those powers.

2. The ECB shall exercise the powers referred to in paragraph 1 of this Article in accordance with the acts referred to in the first subparagraph of Article 4(3). In the exercise of their respective supervisory and investigatory powers, the ECB and national competent authorities shall cooperate closely.

3. By derogation from paragraph 1 of this Article, with regard to credit institutions established in participating Member States whose currency is not the euro, the ECB shall exercise its powers in accordance with Article 7.

SECTION 1

INVESTIGATORY POWERS

Article 10 *Request for information*

1. Without prejudice to the powers referred to in Article 9(1), and subject to the conditions set out in relevant Union law,

the ECB may require the following legal or natural persons, subject to Article 4, to provide all information that is necessary in order to carry out the tasks conferred on it by this Regulation, including information to be provided at recurring intervals and in specified formats for supervisory and related statistical purposes:

(a) credit institutions established in the participating Member States;

(b) financial holding companies established in the participating Member States;

(c) mixed financial holding companies established in the participating Member States;

(d) mixed-activity holding companies established in the participating Member States;

(e) persons belonging to the entities referred to in points (a) to (d);

(f) third parties to whom the entities referred to in points (a) to (d) have outsourced functions or activities.

2. The persons referred to in paragraph 1 shall supply the information requested. Professional secrecy provisions do not exempt those persons from the duty to supply that information. Supplying that information shall not be deemed to be in breach of professional secrecy.

3. Where the ECB obtains information directly from the legal or natural persons referred to in paragraph 1 it shall make that information available to the national competent authorities concerned.

Article 11 *General investigations*

1. In order to carry out the tasks conferred on it by this Regulation, and subject to other conditions set out in relevant Union law, the ECB may conduct all necessary investigations of any person referred to in Article 10(1) established or located in a participating Member State.

To that end, the ECB shall have the right to:

(a) require the submission of documents;

(b) examine the books and records of the persons referred to in Article 10(1) and take copies or extracts from such books and records;

(c) obtain written or oral explanations from any person referred to in Article 10(1) or their representatives or staff;

(d) interview any other person who consents to be interviewed for the purpose of collecting information relating to the subject matter of an investigation;

2. The persons referred to in Article 10(1) shall be subject to investigations launched on the basis of a decision of the ECB.

When a person obstructs the conduct of the investigation, the national competent authority of the participating Member State where the relevant premises are located shall afford, in compliance with national law, the necessary assistance including, in the cases referred to in Articles 12 and 13, facilitating the access by the ECB to the business premises of the legal persons referred to in Article 10(1), so that the aforementioned rights can be exercised.

Article 12 *On-site inspections*

1. In order to carry out the tasks conferred on it by this Regulation, and subject to other conditions set out in relevant Union law, the ECB may in accordance with Article 13 and subject to prior notification to the national competent authority concerned conduct all necessary on-site inspections at the business premises of the legal persons referred to in Article 10(1) and any other undertaking included in supervision on a consolidated basis where the ECB is the consolidating supervisor in accordance with point (g) of Article 4(1). Where the proper conduct and efficiency of the inspection so require, the ECB may carry out the on-site inspection without prior announcement to those legal persons.

2. The officials of and other persons authorised by the ECB to conduct an on-site inspection may enter any business premises and land of the legal persons subject to an investigation decision adopted by the ECB and shall have all the powers stipulated in Article 11(1).

3. The legal persons referred to in Article 10(1) shall be subject to on-site inspections on the basis of a decision of the ECB.

4. Officials and other accompanying persons authorised or appointed by the national competent authority of the Member State where the inspection is to be conducted shall, under the supervision and coordination of the ECB, actively assist the officials of and other persons authorised by the ECB. To that end, they shall enjoy the powers set out in paragraph 2. Officials of the national competent authority of the participating Member State concerned shall also have the right to participate in the on-site inspections.

5. Where the officials of and other accompanying persons authorised or appointed by the ECB find that a person opposes an inspection ordered pursuant to this Article, the national competent authority of the participating Member State concerned shall afford them the necessary assistance in accordance with national law. To

the extent necessary for the inspection, this assistance shall include the sealing of any business premises and books or records. Where that power is not available to the national competent authority concerned, it shall use its powers to request the necessary assistance of other national authorities.

Article 13 *Authorisation by a judicial authority*

1. If an on-site inspection provided for in Article 12(1) and (2) or the assistance provided for in Article 12(5) requires authorisation by a judicial authority according to national rules, such authorisation shall be applied for.

2. Where authorisation as referred to in paragraph 1 of this Article is applied for, the national judicial authority shall control that the decision of the ECB is authentic and that the coercive measures envisaged are neither arbitrary nor excessive having regard to the subject matter of the inspection. In its control of the proportionality of the coercive measures, the national judicial authority may ask the ECB for detailed explanations, in particular relating to the grounds the ECB has for suspecting that an infringement of the acts referred to in the first subparagraph of Article 4(3) has taken place and the seriousness of the suspected infringement and the nature of the involvement of the person subject to the coercive measures. However, the national judicial authority shall not review the necessity for the inspection or demand to be provided with the information on the ECB's file. The lawfulness of the ECB's decision shall be subject to review only by the CJEU.

SECTION 2

SPECIFIC SUPERVISORY POWERS

Article 14 *Authorisation*

1. Any application for an authorisation to take up the business of a credit institution to be established in a participating Member State shall be submitted to the national competent authorities of the Member State where the credit institution is to be established in accordance with the requirements set out in relevant national law.

2. If the applicant complies with all conditions of authorisation set out in the relevant national law of that Member State, the national competent authority shall take, within the period provided for by relevant national law, a draft decision to propose

to the ECB to grant the authorisation. The draft decision shall be notified to the ECB and the applicant for authorisation. In other cases, the national competent authority shall reject the application for authorisation.

3. The draft decision shall be deemed to be adopted by the ECB unless the ECB objects within a maximum period of ten working days, extendable once for the same period in duly justified cases. The ECB shall object to the draft decision only where the conditions for authorisation set out in relevant Union law are not met. It shall state the reasons for the rejection in writing.

4. The decision taken in accordance with paragraphs 2 and 3 shall be notified by the national competent authority to the applicant for authorisation.

5. Subject to paragraph 6, the ECB may withdraw the authorisation in the cases set out in relevant Union law on its own initiative, following consultations with the national competent authority of the participating Member State where the credit institution is established, or on a proposal from such national competent authority. These consultations shall in particular ensure that before taking decisions regarding withdrawal, the ECB allows sufficient time for the national authorities to decide on the necessary remedial actions, including possible resolution measures, and takes these into account.

Where the national competent authority which has proposed the authorisation in accordance with paragraph 1 considers that the authorisation must be withdrawn in accordance with the relevant national law, it shall submit a proposal to the ECB to that end. In that case, the ECB shall take a decision on the proposed withdrawal taking full account of the justification for withdrawal put forward by the national competent authority.

6. As long as national authorities remain competent to resolve credit institutions, in cases where they consider that the withdrawal of the authorisation would prejudice the adequate implementation of or actions necessary for resolution or to maintain financial stability, they shall duly notify their objection to the ECB explaining in detail the prejudice that a withdrawal would cause. In those cases, the ECB shall abstain from proceeding to the withdrawal for a period mutually agreed with the national authorities. The ECB may extend that period if it is of the opinion that sufficient progress has been made. If, however, the ECB determines in a reasoned decision that proper actions necessary to maintain financial stability have not been implemented by the national authorities, the withdrawal of the authorisations shall apply immediately.

Article 15 *Assessment of acquisitions of qualifying holdings*

1. Without prejudice to the exemptions provided for in point (c) of Article 4(1), any notification of an acquisition of a qualifying holding in a credit institution established in a participating Member State or any related information shall be introduced with the national competent authorities of the Member State where the credit institution is established in accordance with the requirements set out in relevant national law based on the acts referred to in the first subparagraph of Article 4(3).

2. The national competent authority shall assess the proposed acquisition, and shall forward the notification and a proposal for a decision to oppose or not to oppose the acquisition, based on the criteria set out in the acts referred to in the first subparagraph of Article 4(3), to the ECB, at least ten working days before the expiry of the relevant assessment period as defined by relevant Union law, and shall assist the ECB in accordance with Article 6.

3. The ECB shall decide whether to oppose the acquisition on the basis of the assessment criteria set out in relevant Union law and in accordance with the procedure and within the assessment periods set out therein.

Article 16 *Supervisory powers*

1. For the purpose of carrying out its tasks referred to in Article 4(1) and without prejudice to other powers conferred on the ECB, the ECB shall have the powers set out in paragraph 2 of this Article to require any credit institution, financial holding company or mixed financial holding company in participating Member States to take the necessary measures at an early stage to address relevant problems in any of the following circumstances:

(a) the credit institution does not meet the requirements of the acts referred to in the first subparagraph of Article 4(3);

(b) the ECB has evidence that the credit institution is likely to breach the requirements of the acts referred to in the first subparagraph of Article 4(3) within the next 12 months;

(c) based on a determination, in the framework of a supervisory review in accordance with point (f) of Article 4(1), that the arrangements, strategies, processes and mechanisms implemented by the credit institution and the own funds and liquidity held by it do not ensure a sound management and coverage of its risks.

2. For the purposes of Article 9(1), the ECB shall have, in particular, the following powers:

(a) to require institutions to hold own funds in excess of the

capital requirements laid down in the acts referred to in the first subparagraph of Article 4(3) related to elements of risks and risks not covered by the relevant Union acts;

(b) to require the reinforcement of the arrangements, processes, mechanisms and strategies;

(c) to require institutions to present a plan to restore compliance with supervisory requirements pursuant to the acts referred to in the first subparagraph of Article 4(3) and set a deadline for its implementation, including improvements to that plan regarding scope and deadline;

(d) to require institutions to apply a specific provisioning policy or treatment of assets in terms of own funds requirements;

(e) to restrict or limit the business, operations or network of institutions or to request the divestment of activities that pose excessive risks to the soundness of an institution;

(f) to require the reduction of the risk inherent in the activities, products and systems of institutions;

(g) to require institutions to limit variable remuneration as a percentage of net revenues when it is inconsistent with the maintenance of a sound capital base;

(h) to require institutions to use net profits to strengthen own funds;

(i) to restrict or prohibit distributions by the institution to shareholders, members or holders of Additional Tier 1 instruments where the prohibition does not constitute an event of default of the institution;

(j) to impose additional or more frequent reporting requirements, including reporting on capital and liquidity positions;

(k) to impose specific liquidity requirements, including restrictions on maturity mismatches between assets and liabilities;

(l) to require additional disclosures;

(m) to remove at any time members from the management body of credit institutions who do not fulfil the requirements set out in the acts referred to in the first subparagraph of Article 4(3).

Article 17 *Powers of host authorities and cooperation on supervision on a consolidated basis*

1. Between participating Member States the procedures set out in the relevant Union law for credit institutions wishing to establish a branch or to exercise the freedom to provide services by carrying on their activities within the territory of another Member State and the related competences of home and host

Member States shall apply only for the purposes of the tasks not conferred on the ECB by Article 4.

2. The provisions set out in the relevant Union law in relation to the cooperation between competent authorities from different Member States for conducting supervision on a consolidated basis shall not apply to the extent that the ECB is the only competent authority involved.

3. In fulfilling its tasks as defined in Articles 4 and 5 the ECB shall respect a fair balance between all participating Member States in accordance with Article 6(8) and shall, in its relationship with non-participating Member States, respect the balance between home and host Member States established in relevant Union law.

Article 18 *Administrative penalties*

1. For the purpose of carrying out the tasks conferred on it by this Regulation, where credit institutions, financial holding companies, or mixed financial holding companies, intentionally or negligently, breach a requirement under relevant directly applicable acts of Union law in relation to which administrative pecuniary penalties shall be made available to competent authorities under the relevant Union law, the ECB may impose administrative pecuniary penalties of up to twice the amount of the profits gained or losses avoided because of the breach where those can be determined, or up to 10 % of the total annual turnover, as defined in relevant Union law, of a legal person in the preceding business year or such other pecuniary penalties as may be provided for in relevant Union law.

2. Where the legal person is a subsidiary of a parent undertaking, the relevant total annual turnover referred to in paragraph 1 shall be the total annual turnover resulting from the consolidated account of the ultimate parent undertaking in the preceding business year.

3. The penalties applied shall be effective, proportionate and dissuasive. In determining whether to impose a penalty and in determining the appropriate penalty, the ECB shall act in accordance with Article 9(2).

4. The ECB shall apply this Article in accordance with the acts referred to in the first subparagraph of Article 4(3) of this Regulation, including the procedures contained in Regulation (EC) No 2532/98, as appropriate.

5. In the cases not covered by paragraph 1 of this Article, where necessary for the purpose of carrying out the tasks conferred on it by this Regulation, the ECB may require national competent authorities to open proceedings with a view to taking

action in order to ensure that appropriate penalties are imposed in accordance with the acts referred to in the first subparagraph of Article 4(3) and any relevant national legislation which confers specific powers which are currently not required by Union law. The penalties applied by national competent authorities shall be effective, proportionate and dissuasive.

The first subparagraph of this paragraph shall be applicable in particular to pecuniary penalties to be imposed on credit institutions, financial holding companies or mixed financial holding companies for breaches of national law transposing relevant Directives, and to any administrative penalties or measures to be imposed on members of the management board of a credit institution, financial holding company or mixed financial holding company or any other individuals who under national law are responsible for a breach by a credit institution, financial holding company or mixed financial holding company.

6. The ECB shall publish any penalty referred to paragraph 1, whether it has been appealed or not, in the cases and in accordance with the conditions set out in relevant Union law.

7. Without prejudice to paragraphs 1 to 6, for the purposes of carrying out the tasks conferred on it by this Regulation, in case of a breach of ECB regulations or decisions, the ECB may impose sanctions in accordance with Regulation (EC) No 2532/98.

CHAPTER IV

ORGANISATIONAL PRINCIPLES

Article 19 *Independence*

1. When carrying out the tasks conferred on it by this Regulation, the ECB and the national competent authorities acting within the SSM shall act independently. The members of the Supervisory Board and the steering committee shall act independently and objectively in the interest of the Union as a whole and shall neither seek nor take instructions from the institutions or bodies of the Union, from any government of a Member State or from any other public or private body.

2. The institutions, bodies, offices and agencies of the Union and the governments of the Member States and any other bodies shall respect that independence.

3. Following an examination of the need for a Code of Conduct by the Supervisory Board, the Governing Council shall

establish and publish a Code of Conduct for the ECB staff and management involved in banking supervision concerning in particular conflicts of interest.

Article 20 *Accountability and reporting*

1. The ECB shall be accountable to the European Parliament and to the Council for the implementation of this Regulation, in accordance with this Chapter.

2. The ECB shall submit on an annual basis to the European Parliament, to the Council, to the Commission and to the euro Group a report on the execution of the tasks conferred on it by this Regulation, including information on the envisaged evolution of the structure and amount of the supervisory fees mentioned in Article 30.

3. The Chair of the Supervisory Board of the ECB shall present that report in public to the European Parliament, and to the euro Group in the presence of representatives from any participating Member State whose currency is not the euro.

4. The Chair of the Supervisory Board of the ECB may, at the request of the euro Group, be heard on the execution of its supervisory tasks by the euro Group in the presence of representatives from any participating Member States whose currency is not the euro.

5. At the request of the European Parliament, the Chair of the Supervisory Board of the ECB shall participate in a hearing on the execution of its supervisory tasks by the competent committees of the European Parliament.

6. The ECB shall reply orally or in writing to questions put to it by the European Parliament, or by the euro Group in accordance with the its own procedures and in the presence of representatives from any participating Member States whose currency is not the euro.

7. When the European Court of Auditors examines the operational efficiency of the management of the ECB under Article 27.2 of the Statute of the ESCB and of the ECB, it shall also take into account the supervisory tasks conferred on the ECB by this Regulation.

8. Upon request the Chair of the Supervisory Board of the ECB shall hold confidential oral discussions behind closed doors with the Chair and Vice-Chairs of the competent committee of the European Parliament concerning its supervisory tasks where such discussions are required for the exercise of the European Parliament's powers under the TFEU. An agreement shall be concluded between the European Parliament and the ECB on the detailed arrangements for organising such discussions, with a

view to ensuring full confidentiality in accordance with the confidentiality obligations imposed on the ECB as a competent authority under relevant Union law.

9. The ECB shall cooperate sincerely with any investigations by the European Parliament, subject to the TFEU. The ECB and the European Parliament shall conclude appropriate arrangements on the practical modalities of the exercise of democratic accountability and oversight over the exercise of the tasks conferred on the ECB by this Regulation. Those arrangements shall cover, inter alia, access to information, cooperation in investigations and information on the selection procedure of the Chair of the Supervisory Board.

Article 21 *National parliaments*

1. When submitting the report provided for in Article 20(2), the ECB shall simultaneously forward that report directly to the national parliaments of the participating Member States.

National parliaments may address to the ECB their reasoned observations on that report.

2. National parliaments of the participating Member States, through their own procedures, may request the ECB to reply in writing to any observations or questions submitted by them to the ECB in respect of the tasks of the ECB under this Regulation.

3. The national parliament of a participating Member State may invite the Chair or a member of the Supervisory Board to participate in an exchange of views in relation to the supervision of credit institutions in that Member State together with a representative of the national competent authority.

4. This Regulation is without prejudice to the accountability of national competent authorities to national parliaments in accordance with national law for the performance of tasks not conferred on the ECB by this Regulation and for the performance of activities carried out by them in accordance with Article 6.

Article 22 *Due process for adopting supervisory decisions*

1. Before taking supervisory decisions in accordance with Article 4 and Section 2 of Chapter III, the ECB shall give the persons who are the subject of the proceedings the opportunity of being heard. The ECB shall base its decisions only on objections on which the parties concerned have been able to comment.

The first subparagraph shall not apply if urgent action is needed in order to prevent significant damage to the financial system. In such a case, the ECB may adopt a provisional decision

and shall give the persons concerned the opportunity to be heard as soon as possible after taking its decision.

2. The rights of defence of the persons concerned shall be fully respected in the proceedings. They shall be entitled to have access to the ECB's file, subject to the legitimate interest of other persons in the protection of their business secrets. The right of access to the file shall not extend to confidential information.

The decisions of the ECB shall state the reasons on which they are based.

Article 23 *Reporting of violations*

The ECB shall ensure that effective mechanisms are put in place for reporting of breaches by credit institutions, financial holding companies or mixed financial holding companies or competent authorities in the participating Member States of the legal acts referred to in Article 4(3), including specific procedures for the receipt of reports of breaches and their follow-up. Such procedures shall be consistent with relevant Union legislation and shall ensure that the following principles are applied: appropriate protection for persons who report breaches, protection of personal data, and appropriate protection for the accused person.

Article 24 *Administrative Board of Review*

1. The ECB shall establish an Administrative Board of Review for the purposes of carrying out an internal administrative review of the decisions taken by the ECB in the exercise of the powers conferred on it by this Regulation after a request for review submitted in accordance with paragraph 5. The scope of the internal administrative review shall pertain to the procedural and substantive conformity with this Regulation of such decisions.

2. The Administrative Board of Review shall be composed of five individuals of high repute, from Member States and having a proven record of relevant knowledge and professional experience, including supervisory experience, to a sufficiently high level in the fields of banking or other financial services, excluding current staff of the ECB, as well as current staff of competent authorities or other national or Union institutions, bodies, offices and agencies who are involved in the carrying out of the tasks conferred on the ECB by this Regulation. The Administrative Board of Review shall have sufficient resources and expertise to assess the exercise of the powers of the ECB under this Regulation. Members of the Administrative Board of Review and two alternates shall be appointed by the ECB for a

term of five years, which may be extended once, following a public call for expressions of interest published in the *Official Journal of the European Union*. They shall not be bound by any instructions.

3. The Administrative Board of Review shall decide on the basis of a majority of at least three of its five members.

4. The members of the Administrative Board of Review shall act independently and in the public interest. For that purpose, they shall make a public declaration of commitments and a public declaration of interests indicating any direct or indirect interest which might be considered prejudicial to their independence or the absence of any such interest.

5. Any natural or legal person may in the cases referred to in paragraph 1 request a review of a decision of the ECB under this Regulation which is addressed to that person, or is of a direct and individual concern to that person. A request for a review against a decision of the Governing Council as referred to in paragraph 7 shall not be admissible.

6. Any request for review shall be made in writing, including a statement of grounds, and shall be lodged at the ECB within one month of the date of notification of the decision to the person requesting the review, or, in the absence thereof, of the day on which it came to the knowledge of the latter as the case may be.

7. After ruling on the admissibility of the review, the Administrative Board of Review shall express an opinion within a period appropriate to the urgency of the matter and no later than two months from the receipt of the request and remit the case for preparation of a new draft decision to the Supervisory Board. The Supervisory Board shall take into account the opinion of the Administrative Board of Review and shall promptly submit a new draft decision to the Governing Council. The new draft decision shall abrogate the initial decision, replace it with a decision of identical content, or replace it with an amended decision. The new draft decision shall be deemed adopted unless the Governing Council objects within a maximum period of ten working days.

8. A request for review pursuant to paragraph 5 shall not have suspensory effect. However, the Governing Council, on a proposal by the Administrative Board of Review may, if it considers that circumstances so require, suspend the application of the contested decision.

9. The opinion expressed by the Administrative Board of Review, the new draft decision submitted by the Supervisory Board and the decision adopted by the Governing Council pursuant to

this Article shall be reasoned and notified to the parties.

10. The ECB shall adopt a decision establishing the Administrative Board of Review's operating rules.

11. This Article is without prejudice to the right to bring proceedings before the CJEU in accordance with the Treaties.

Article 25 *Separation from monetary policy function*

1. When carrying out the tasks conferred on it by this Regulation, the ECB shall pursue only the objectives set by this Regulation.

2. The ECB shall carry out the tasks conferred on it by this Regulation without prejudice to and separately from its tasks relating to monetary policy and any other tasks. The tasks conferred on the ECB by this Regulation shall neither interfere with, nor be determined by, its tasks relating to monetary policy. The tasks conferred on the ECB by this Regulation shall moreover not interfere with its tasks in relation to the ESRB or any other tasks. The ECB shall report to the European Parliament and to the Council as to how it has complied with this provision. The tasks conferred by this Regulation on the ECB shall not alter the ongoing monitoring of the solvency of its monetary policy counterparties.

The staff involved in carrying out the tasks conferred on the ECB by this Regulation shall be organisationally separated from, and subject to, separate reporting lines from the staff involved in carrying out other tasks conferred on the ECB.

3. For the purposes of paragraphs 1 and 2, the ECB shall adopt and make public any necessary internal rules, including rules regarding professional secrecy and information exchanges between the two functional areas.

4. The ECB shall ensure that the operation of the Governing Council is completely differentiated as regards monetary and supervisory functions. Such differentiation shall include strictly separated meetings and agendas.

5. With a view to ensuring separation between monetary policy and supervisory tasks, the ECB shall create a mediation panel. This panel shall resolve differences of views expressed by the competent authorities of participating Member States concerned regarding an objection of the Governing Council to a draft decision by the Supervisory Board. This panel shall include one member per participating Member State, chosen by each Member State among the members of the Governing Council and the Supervisory Board, and shall decide by simple majority, with each member having one vote. The ECB shall adopt and make public a regulation setting up such mediation panel and its rules of procedure.

Article 26 *Supervisory board*

1. The planning and execution of the tasks conferred on the ECB shall be fully undertaken by an internal body composed of its Chair and Vice Chair, appointed in accordance with paragraph 3, and four representatives of the ECB, appointed in accordance with paragraph 5, and one representative of the national competent authority in each participating Member State ('Supervisory Board'). All members of the Supervisory Board shall act in the interest of the Union as a whole.

Where the competent authority is not a central bank, the member of the Supervisory Board referred to in this paragraph may decide to bring a representative from the Member State's central bank. For the purposes of the voting procedure set out in paragraph 6, the representatives of the authorities of any one Member State shall together be considered as one member.

2. The appointments for the Supervisory Board in accordance with this Regulation shall respect the principles of gender balance, experience and qualification.

3. After hearing the Supervisory Board, the ECB shall submit a proposal for the appointment of the Chair and the Vice-Chair to the European Parliament for approval. Following the approval of this proposal, the Council shall adopt an implementing decision to appoint the Chair and the Vice-Chair of the Supervisory Board. The Chair shall be chosen on the basis of an open selection procedure, on which the European Parliament and the Council shall be kept duly informed, from among individuals of recognised standing and experience in banking and financial matters and who are not members of the Governing Council. The Vice Chair of the Supervisory Board shall be chosen from among the members of the Executive Board of the ECB. The Council shall act by qualified majority without taking into account the vote of the members of the Council which are not participating Member States.

Once appointed, the Chair shall be a full-time professional and shall not hold any offices at national competent authorities. The term of office shall be five years and shall not be renewable.

4. If the Chair of the Supervisory Board no longer fulfils the conditions required for the performance of his duties or has been guilty of serious misconduct, the Council may, following a proposal by the ECB, which has been approved by the European Parliament, adopt an implementing decision to remove the Chair from office. The Council shall act by qualified majority without taking into account the vote of the members of the Council which are not participating Member States.

Following a compulsory retirement of the Vice-Chair of the Supervisory Board as a member of the Executive Board, pronounced in accordance with the Statute of the ESCB and of the ECB, the Council may, following a proposal by the ECB, which has been approved by the European Parliament, adopt an implementing decision to remove the Vice-Chair from office. The Council shall act by qualified majority without taking into account the vote of the members of the Council which are not participating Member States.

For those purposes the European Parliament or the Council may inform the ECB that they consider that the conditions for the removal of the Chair or the Vice Chair of the Supervisory Board from office are fulfilled, to which the ECB shall respond.

5. The four representatives of the ECB appointed by the Governing Council shall not perform duties directly related to the monetary function of the ECB. All the ECB representatives shall have voting rights.

6. Decisions of the Supervisory Board shall be taken by a simple majority of its members. Each member shall have one vote. In case of a draw, the Chair shall have a casting vote.

7. By derogation from paragraph 6 of this Article, the Supervisory Board shall take decisions on the adoption of regulations pursuant to Article 4(3), on the basis of a qualified majority of its members, as defined in Article 16(4) TEU and in Article 3 of Protocol No 36 on transitional provisions attached to the TEU and to the TFEU, for the members representing the participating Member State's authorities. Each of the four representatives of the ECB appointed by the Governing Council shall have a vote equal to the median vote of the other members.

8. Without prejudice to Article 6, the Supervisory Board shall carry out preparatory works regarding the supervisory tasks conferred on the ECB and propose to the Governing Council of the ECB complete draft decisions to be adopted by the latter, pursuant to a procedure to be established by the ECB. The draft decisions shall be transmitted at the same time to the national competent authorities of the Member States concerned. A draft decision shall be deemed adopted unless the Governing Council objects within a period to be defined in the procedure mentioned above but not exceeding a maximum period of ten working days. However, if a participating Member State whose currency is not the euro disagrees with a draft decision of the Supervisory Board, the procedure set out in Article 7(8) shall apply. In emergency situations the aforementioned period shall not exceed 48 hours. If the Governing Council objects to a draft decision, it shall state the reasons for doing so in writing, in

particular stating monetary policy concerns. If a decision is changed following an objection by the Governing Council, a participating Member State whose currency is not the euro may notify the ECB of its reasoned disagreement with the objection and the procedure set out in Article 7(7) shall apply.

9. A secretariat shall support the activities of the Supervisory Board, including preparing the meetings on a full time basis.

10. The Supervisory Board, voting in accordance with the rule set out in paragraph 6, shall establish a steering committee from among its members with a more limited composition to support its activities, including preparing the meetings.

The steering committee of the Supervisory Board shall have no decision-making powers. The steering committee shall be chaired by the Chair or, in the exceptional absence of the Chair, the Vice-Chair of the Supervisory Board. The composition of the steering committee shall ensure a fair balance and rotation between national competent authorities. It shall consist of no more than ten members including the Chair, the Vice-Chair and one additional representative from the ECB. The steering committee shall execute its preparatory tasks in the interest of the Union as a whole and shall work in full transparency with the Supervisory Board.

11. A representative of the Commission may participate as an observer in the meetings of the Supervisory Board upon invitation. Observers shall not have access to confidential information relating to individual institutions.

12. The Governing Council shall adopt internal rules setting out in detail its relation with the Supervisory Board. The Supervisory Board shall also adopt its rules of procedure, voting in accordance with the rule set out in paragraph 6. Both sets of rules shall be made public. The rules of procedure of the Supervisory Board shall ensure equal treatment of all participating Member States.

Article 27 Professional secrecy and exchange of information

1. Members of the Supervisory Board, staff of the ECB and staff seconded by participating Member States carrying out supervisory duties, even after their duties are ceased, shall be subject to the professional secrecy requirements set out in Article 37 of the Statute of the ESCB and of the ECB and in the relevant acts of Union law.

The ECB shall ensure that individuals who provide any service, directly or indirectly, permanently or occasionally, related to the discharge of supervisory duties are subject to

equivalent professional secrecy requirements.

2. For the purpose of carrying out the tasks conferred on it by this Regulation, the ECB shall be authorised, within the limits and under the conditions set out in the relevant Union law, to exchange information with national or Union authorities and bodies in the cases where the relevant Union law allows national competent authorities to disclose information to those entities or where Member States may provide for such disclosure under the relevant Union law.

Article 28 *Resources*

The ECB shall be responsible for devoting the necessary financial and human resources to the exercise of the tasks conferred on it by this Regulation.

Article 29 *Budget and annual accounts*

1. The ECB's expenditure for carrying out the tasks conferred on it by this Regulation shall be separately identifiable within the budget of the ECB.

2. The ECB shall, as part of the report referred to in Article 20, report in detail on the budget for its supervisory tasks. The annual accounts of the ECB drawn up and published in accordance with Article 26.2 of the Statute of the ESCB and of the ECB shall include the income and expenses related to the supervisory tasks.

3. In line with Article 27.1 of the Statute of the ESCB and of the ECB the supervisory section of the annual accounts shall be audited.

Article 30 *Supervisory fees*

1. The ECB shall levy an annual supervisory fee on credit institutions established in the participating Member States and branches established in a participating Member State by a credit institution established in a non-participating Member State. The fees shall cover expenditure incurred by the ECB in relation to the tasks conferred on it under Articles 4 to 6 of this Regulation. These fees shall not exceed the expenditure relating to these tasks.

2. The amount of the fee levied on a credit institution or branch shall be calculated in accordance with the arrangements established, and published in advance, by the ECB.

Before establishing those arrangements, the ECB shall conduct open public consultations and analyse the potential related costs and benefits, and publish the results of both.

3. The fees shall be calculated at the highest level of

consolidation within participating Member States, and shall be based on objective criteria relating to the importance and risk profile of the credit institution concerned, including its risk weighted assets.

The basis for calculating the annual supervisory fee for a given calendar year shall be the expenditure relating to the supervision of credit institutions and branches in that year. The ECB may require advance payments in respect of the annual supervisory fee which shall be based on a reasonable estimate. The ECB shall communicate with the national competent authority before deciding on the final fee level so as to ensure that supervision remains cost-effective and reasonable for all credit institutions and branches concerned. The ECB shall communicate to credit institutions and branches the basis for the calculation of the annual supervisory fee.

4. The ECB shall report in accordance with Article 20.

5. This Article is without prejudice to the right of national competent authorities to levy fees in accordance with national law and, to the extent supervisory tasks have not been conferred on the ECB, or in respect of costs of cooperating with and assisting the ECB and acting on its instructions, in accordance with relevant Union law and subject to the arrangements made for the implementation of this Regulation, including Articles 6 and 12.

Article 31 Staff and staff exchange

1. The ECB shall establish, together with all national competent authorities, arrangements to ensure an appropriate exchange and secondment of staff with and among national competent authorities.

2. The ECB may require as appropriate that supervisory teams of national competent authorities taking supervisory actions regarding a credit institution, financial holding company or mixed financial holding company located in one participating Member State in accordance with this Regulation also involve staff from national competent authorities of other participating Member States.

3. The ECB shall establish and maintain comprehensive and formal procedures including ethics procedures and proportionate periods to assess in advance and prevent possible conflicts of interest resulting from subsequent employment within two years of members of the Supervisory Board and ECB staff members engaged in supervisory activities, and shall provide for appropriate disclosures subject to applicable data protection rules.

Those procedures shall be without prejudice to the application of stricter national rules. For members of the Supervisory Board who are representatives of national competent authorities, those procedures shall be established and implemented in cooperation with national competent authorities, without prejudice to applicable national law.

For the ECB staff members engaged in supervisory activities, those procedures shall determine categories of positions to which such assessment applies, as well as periods that are proportionate to the functions of those staff members in the supervisory activities during their employment at the ECB.

4. The procedures referred to in paragraph 3 shall provide that the ECB shall assess whether there are objections that members of the Supervisory Board take paid work in private sector institutions for which the ECB has supervisory responsibility after they have ceased to hold office.

The procedures referred to in paragraph 3 shall apply as a rule for two years after the members of the Supervisory Board have ceased to hold office and may be adjusted, on the basis of due justification, proportionate to the functions performed during that term of office and the length of time that office was held.

5. The Annual Report of the ECB in accordance with Article 20 shall include detailed information, including statistical data on the application of the procedures referred to in paragraphs 3 and 4 of this Article.

CHAPTER V

GENERAL AND FINAL PROVISIONS

Article 32 *Review*

By 31 December 2015, and subsequently every three years thereafter, the Commission shall publish a report on the application of this Regulation, with a special emphasis on monitoring the potential impact on the smooth functioning of the internal market. That report shall evaluate, inter alia:

(a) the functioning of the SSM within the ESFS and the impact of the supervisory activities of the ECB on the interests of the Union as a whole and on the coherence and integrity of the internal market in financial services, including its possible impact on the structures of the national banking systems within the Union, and regarding the effectiveness of cooperation and information sharing arrangements between the SSM and

competent authorities of non-participating Member States;

(b) the division of tasks between the ECB and the national competent authorities within the SSM, the effectiveness of the practical arrangements of organisation adopted by the ECB, and the impact of the SSM on the functioning of the remaining supervisory colleges;

(c) the effectiveness of the ECB's supervisory and sanctioning powers and the appropriateness of conferring on the ECB additional sanctioning powers, including in relation to persons other than credit institutions, financial holding companies or mixed financial holding companies;

(d) the appropriateness of the arrangements set out respectively for macroprudential tasks and tools under Article 5 and for the granting and withdrawal of authorisations under Article 14;

(e) the effectiveness of independence and accountability arrangements;

(f) the interaction between the ECB and the EBA;

(g) the appropriateness of governance arrangements, including the composition of, and voting arrangements in, the Supervisory Board and its relation with the Governing Council, as well as the collaboration in the Supervisory Board between Member States whose currency is the euro and the other participating Member States in the SSM;

(h) the interaction between the ECB and the competent authorities of non-participating Member States and the effects of the SSM on these Member States;

(i) the effectiveness of the recourse mechanism against decisions of the ECB;

(j) the cost effectiveness of the SSM;

(k) the possible impact of the application of Article 7(6), 7(7) and 7(8) on the functioning and integrity of the SSM;

(l) the effectiveness of the separation between supervisory and monetary policy functions within the ECB and of the separation of financial resources devoted to supervisory tasks from the budget of the ECB, taking into account any modifications of the relevant legal provisions including at the level of primary law;

(m) the fiscal effects that supervisory decisions taken by the SSM have on participating Member States and the impact of any developments in relation to resolution financing arrangements;

(n) the possibilities of developing further the SSM, taking into account any modifications of the relevant provisions,

including at the level of primary law, and taking into account whether the rationale of the institutional provisions in this Regulation is no longer present, including the possibility to fully align rights and obligations of Member States whose currency is the euro and other participating Member States.

The report shall be forwarded to the European Parliament and to the Council. The Commission shall make accompanying proposals, as appropriate.

Article 33 *Transitional provisions*

1. The ECB shall publish the framework referred to in Article 6(7) by 4 May 2014.

2. The ECB shall assume the tasks conferred on it by this Regulation on 4 November 2014 subject to the implementation arrangements and measures set out in this paragraph.

After 3 November 2013, the ECB shall publish by means of regulations and decisions the detailed operational arrangements for the implementation of the tasks conferred on it by this Regulation.

From 3 November 2013, the ECB shall send a quarterly report to the European Parliament, to the Council and to the Commission on progress in the operational implementation of this Regulation.

If on the basis of the reports referred to in the third subparagraph of this paragraph and following discussions of the reports in the European Parliament and in the Council, it is shown that the ECB will not be ready for exercising in full its tasks on 4 November 2014, the ECB may adopt a decision to set a date later than the one referred to in the first subparagraph of this paragraph to ensure continuity during the transition from national supervision to the SSM, and based on the availability of staff, the setting up of appropriate reporting procedures and arrangements for cooperation with national competent authorities pursuant to Article 6.

3. Notwithstanding paragraph 2, and without prejudice to the exercise of investigatory powers conferred on it under this Regulation, from 3 November 2013, the ECB may start carrying out the tasks conferred on it by this Regulation other than adopting supervisory decisions in respect of any credit institution, financial holding company or mixed financial holding company and following a decision addressed to the entities concerned and to the national competent authorities concerned.

Notwithstanding paragraph 2, if the ESM unanimously requests the ECB to take over direct supervision of a credit

institution, financial holding company or mixed financial holding company as a precondition for its direct recapitalisation, the ECB may immediately start carrying out the tasks conferred on it by this Regulation in respect of that credit institution, financial holding company or mixed financial holding company, and following a decision addressed to the entities concerned and to the national competent authorities concerned.

4. From 3 November 2013, in view of the assumption of its tasks, the ECB may require the national competent authorities and the persons referred to in Article 10(1) to provide all relevant information for the ECB to carry out a comprehensive assessment, including a balance-sheet assessment, of the credit institutions of the participating Member State. The ECB shall carry out such an assessment at least in relation to the credit institutions not covered by Article 6(4). The credit institution and the competent authority shall supply the information requested.

5. Credit institutions authorised by participating Member States on 3 November 2013 or, where relevant, on the dates referred to in paragraphs 2 and 3 of this Article shall be deemed to be authorised in accordance with Article 14 and may continue to carry out their business. National competent authorities shall communicate to the ECB before the date of application of this Regulation or, where relevant, before the dates referred to in paragraphs 2 and 3 of this Article, the identity of those credit institutions together with a report indicating the supervisory history and the risk profile of the institutions concerned, and any further information requested by the ECB. The information shall be submitted in the format requested by the ECB.

6. Notwithstanding Article 26(7), until 31 December 2015, qualified majority voting and simple majority voting shall be applied together for the adoption of the regulations referred to in Article 4(3).

Article 34 *Entry into force*

This Regulation shall enter into force on the fifth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

