

# Bank of Finland Legal Provisions 2011



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# CONTENTS

## A National legislation

The Constitution of Finland (Section 91 §).....	7
Rules of Procedure of the Parliamentary Supervisory Council .....	8
Act on the Bank of Finland.....	12
Act on Certain Conditions of Securities and Currency Trading as well as Settlement Systems (Section 10 §).....	23
Act on Officials of the Bank of Finland.....	24
Rules of Procedure of the Bank of Finland.....	52
Rules of Procedure of the Board of the Bank of Finland.....	54
Currency Act .....	58
Act on Repeal of the Currency Act .....	59
Coins Act.....	60
Act on the Rounding of Eurodenominated Payments.....	62
Act on the Approval of Certain Amendments to the Articles of Agreement of the International Monetary Fund .....	63
Decree on the Entry into Force of Certain Amendments to the Articles of Agreement of the International Monetary Fund.....	64

## B European Unions legislation

The Treaty on European Union (Title I, Article 3(4) and Title III, Article 13) .....	67
The Treaty on the Functioning of the European Union (excerpts from Part Three and Part Three, Chapters 2–5 and excerpts from Part Six, Title 1, Chapter 1, Section 6) .....	68
Statute of the European System of Central Banks and of the European Central Bank .....	83
Council Regulation (EC) on certain provisions relating to the introduction of the euro.....	108
Council Regulation (EC) on the introduction of the euro.....	114
Rules of the Procedure of the European Central Bank .....	127
Public Access to European Central Bank Documents .....	139



**A**

**NATIONAL LEGISLATION**



**No. 731/1999**

# **THE CONSTITUTION OF FINLAND**

Issued in Helsinki on 11 June 1999

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## **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.

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# 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 auditors approved by the Central Chamber of Commerce or must have passed the Chartered Public Finance Auditor's examination.

The auditors shall elect a chairman from among themselves and appoint as secretary a person who is an auditor approved by the Central Chamber of Commerce.

## 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 pol-

icy 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.** *The right to obtain and provide information*

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.

The Bank of Finland shall forthwith notify the European Banking Authority, the Financial Supervisory Authority and any foreign EEA supervisory authority as referred to in section 90, subsection 2 of the Credit Institutions Act, when the Bank

of Finland is made aware of a 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. (9.12.2011/1243).

**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 Supreme Administrative Court as prescribed in the Act on Application of Administrative Law (586/1996). A decision that has been appealed may be enforced despite the appeal, unless the appeal authority orders otherwise.

**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 1091 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.** *Collateral provided to a central bank*

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 officials in its service equally to ensure that no-one is unjustifiably treated differently because of his origin, citizenship, gender, religion, age, political or union activities, or on other comparable bases.

The Bank of Finland shall not forbid an official 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 ag-

reed 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 entit-

led 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 December 2004/1231)

The general retirement age for officials is 68 years.

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 suspen-

ded 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 December 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.

## 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.

# **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 3 October 2007, 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 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. However, the meeting venue shall be the Kultakanta meeting room, when addressing seminar-type issues or the large number of participants requires so.

## **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.

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, and the stance proposal is recorded in the minutes

## **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 15 October 2007 and repeal the Rules of procedure adopted on 18 August 2004.

# 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.

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\* 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 109l 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\*

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## *Article 3*

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

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## *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.

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\* 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\*

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## *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.

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\* 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 accor-

dance 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 Euro-

pean 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 pro-

vided 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 Commis-

sion 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 Union as laid down in Article 3 of the Treaty on European Union. The ESCB shall act in accordance with

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\* 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.

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  $\frac{5}{6}$  and  $\frac{1}{6}$ , 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,<sup>1</sup>

Having regard to the opinion of the European Parliament

,<sup>2</sup>

Having regard to the opinion of the European Monetary Institute,<sup>3</sup>

(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

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

<sup>1</sup> OJ C 369, 7 December 1996, p. 8.

<sup>2</sup> OJ C 380, 16 December 1996, p. 49.

<sup>3</sup> Opinion delivered on 29 November 1996.

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 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 109l(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 <sup>\*</sup>

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,<sup>1</sup>

Having regard to the opinion of the European Monetary Institute,<sup>2</sup>

Having regard to the opinion of the European Parliament,<sup>3</sup>

(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 1997<sup>4</sup> 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

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<sup>\*</sup> 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.

<sup>1</sup> OJ C 369, 7.12.1996, p. 10.

<sup>2</sup> OJ C 205, 5.7.1997, p. 18.

<sup>3</sup> OJ C 380, 16.12.1996, p. 50.

<sup>4</sup> OJ L 162, 19.6.1997, p. 1.

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 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/EC<sup>1</sup> 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.

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<sup>1</sup> 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/EEC<sup>1</sup> 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

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<sup>1</sup> 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).

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 phasing-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
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)

(2004/257/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 par-  
ticular 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 Proce-  
dure of the European Central Bank,<sup>1</sup> 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*

These Rules of Procedure shall supplement the Treaty es-  
tablishing the European Community and the Statute of the

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<sup>1</sup> L 080/33 (1) OJ L 314, 8.12.1999, p. 32.

European System of Central Banks and of the European Central Bank. The terms in these Rules of Procedure shall have the same meaning as in the Treaty and the Statute. The term ‘Eurosystem’ shall mean the European Central Bank (ECB) and the national central banks of those Member States whose currency is the euro.

## *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 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 4. Voting***

4.1. In order for the Governing Council to vote, 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.

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. 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 five working days for consideration by every member of the Governing Council; and (ii) the personal signature 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.

**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 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 submitted to its members for approval at the subsequent meeting (or where necessary earlier by written procedure) and shall be signed by the President.

5.3. The Governing Council may lay down internal rules on decision-making in emergency situations.

## **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. 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. 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.

9.3. The national central bank of each non-participating Member State 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 appropriate.

9.4. Representatives of other Community 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 deems this appropriate.

### ***Article 9a***

The Governing Council may decide to establish ad hoc committees in charge of specific advisory tasks.

### ***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.

## ***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 re-

duced to five working days. The President may decide to use written procedure.

## *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*

15.1. The Governing Council, acting upon a proposal from the Executive Board in accordance with any principles laid down by the former, shall adopt, before the end of each financial year, the budget of the ECB for the subsequent financial year.

15.2. 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 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 European Communities, 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 by means of telefax, electronic mail or telex or in paper form. Any ECB Guideline that is to be officially published shall be translated into the official languages of the European Communities.

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 domain of competence, and shall be signed by the President. ECB Decisions imposing sanctions on third parties shall be signed by the President, the Vice-President or any two other members of the Executive Board. ECB Decisions and Recommendations shall state the reasons on which they are based. The Recommendations for secondary Community legislation under Article 42 of the Statute shall be adopted by the Governing Council.

17.5. Without prejudice to the second paragraph of Article 44 and the first indent of Article 47.1 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. ECB opinions shall be signed by the President.

17.6. ECB Instructions shall be adopted by the Executive Board, and thereafter notified, in one of the official languages of the European Communities, 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 by means of telefax, electronic mail or telex or in paper form. Any ECB Instruction that is to be officially published shall be translated into the official languages of the European Communities.

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. The principles of Council Regulation (EC) No 1 determining the language to be used by the European Economic Community<sup>1</sup> of 15 April 1958 shall apply to the legal acts specified in Article 34 of the Statute.

#### ***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.

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<sup>1</sup> OJ 17, 6.10.1958, p. 385.

**Article 20.** *Selection, appointment and promotion of staff*

20.1. All members of staff of the ECB shall be selected, appointed and promoted by the Executive Board.

20.2. All members of staff of the ECB shall be selected, appointed and promoted with due regard to the principles of professional qualification, publicity, transparency, equal access and non-discrimination. The rules and procedures for recruitment and for internal promotion shall be further specified by means of Administrative Circulars.

**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 and of any committee or group established by them shall be confidential unless the Governing Council authorises the President to make the outcome of their deliberations public.

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 by the ECB shall be classified and handled in accordance with the rules laid down in an Administrative Circular. They shall be freely accessible after a

period of 30 years unless decided otherwise by the decision making bodies.

## *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.

# 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 par-  
ticular to Article 12.3 thereof,

Having regard to the Rules of Procedure of the Euro-  
pean Central Bank,<sup>1</sup> and in particular to Article 23 thereof,

Whereas:

(1) The second subparagraph of Article 1 of the Treaty on Eu-  
ropean 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. Open-  
ness enhances the administration's legitimacy, effectiveness and  
accountability, thus strengthening the principles of democracy.

(2) In the Joint Declaration<sup>2</sup> relating to Regulation (EC)  
No 1049/2001 of the European Parliament and of the Council  
of 30 May 2001 regarding public access to European Parlia-  
ment, Council and Commission documents,<sup>3</sup> the European  
Parliament, the Council and the Commission call on the other

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<sup>1</sup> Decision ECB/2004/2 of 19 February 2004 adopting the Rules of Procedure of  
the European Central Bank.

<sup>2</sup> OJ L 173, 27.6.2001, p. 5.

<sup>3</sup> OJ L 145, 31.5.2001, p. 43.

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<sup>1</sup> of 3 November 1998 concerning public access to documentation and the archives of the European Central Bank<sup>1</sup> should be revised accordingly.

(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 decisionmaking 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:

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<sup>1</sup> OJ L 110, 28.4.1999, p. 30.

### ***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.

### ***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 financial, monetary or economic policy of the Community 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;

(b) the privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data;

(c) the confidentiality of information that is protected as such under Community 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 containing opinions for internal use as part of deliberations and preliminary consultations within the ECB or with NCBs shall be refused even after the decision has been taken, 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.

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 dis-

closed 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 ECB<sup>1</sup> 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 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 and Language Services 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

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<sup>1</sup> 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.

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 230 and 195 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 230 and 195 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.

# DECISION OF THE EUROPEAN CENTRAL BANK

of 9 May 2011

## AMENDING DECISION ECB/2004/3 ON PUBLIC ACCESS TO EUROPEAN CENTRAL BANK DOCUMENTS

(EKP/2011/6)

(2011/342/EU)

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 Article 12.3 thereof,

Having regard to Decision ECB/2004/2 of 19 February 2004 adopting the Rules of Procedure of the European Central Bank<sup>1</sup>, and in particular Article 23 thereof,

Whereas:

(1) Pursuant to Article 127(6) of the Treaty on the Functioning of the European Union, the Council may confer specific tasks upon the European Central Bank (ECB) concerning policies relating to the prudential supervision of credit institutions and other financial institutions with the exception of insurance undertakings. The Council has exercised this option and pursuant to Article 2 of Council 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 Board<sup>2</sup> has conferred on the ECB the task of ensuring the Secretariat to the European Systemic Risk Board (ESRB) thereby providing analytical, statistical, logistical and administrative support to the ESRB. In this context, the ECB will also draw up or hold documents relating to its ESRB-related activities and policies or decisions which will qualify as ECB documents within the meaning of Decision ECB/2004/3 of 4 March 2004 on public access to European Central Bank documents<sup>3</sup>.

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<sup>1</sup> OJ L 80, 18.3.2004, p. 33.

<sup>2</sup> OJ L 331, 15.12.2010, p. 162.

<sup>3</sup> OJ L 80, 18.3.2004, p. 42.

(2) While pursuant to Article 7(1) of Regulation (EU) No 1096/2010, the Secretariat of the ESRB ensures the application of Decision ECB/2004/3 which defines the conditions and limits according to which the ESRB must give access to ESRB documents, the ECB should adapt Decision ECB/2004/3 to reflect the fact that the ECB will draw up or hold documents relating to its ESRB-related activities and policies or decisions which will qualify as ECB documents within the meaning of Decision ECB/2004/3.

(3) There is a need to ensure that the ECB can refuse access to documents relating to its activities and policies or decisions pursuant to Article 127(5) and (6) of the Treaty drawn up or held by it in the field of financial stability, including those relating to its support to the ESRB, where their disclosure would undermine the protection of the public interest as regards the stability of the financial system in the Union.

(4) The necessary amendments should also be made to Decision ECB/2004/3 to reflect terminology changes and article re-numbering following the entry into force of the Treaty of Lisbon,

HAS ADOPTED THIS DECISION:

### ***Article 1***

Decision ECB/2004/3 is amended as follows:

(1) Article 4(1) is amended as follows:

(a) in point (a) the following indent is added:

‘— the stability of the financial system in the Union or in a Member State;’;

(b) the word ‘Community’ is replaced by ‘Union’;

(2) in Article 4(4) the following sentence is added:

‘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 documents<sup>\*</sup>, adopted on the basis of Article 7 of Council 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 Board<sup>\*\*</sup>, shall apply.

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<sup>\*</sup> OJ C 176, 16.6.2011, p. 3.

<sup>\*\*</sup> OJ L 331, 15.12.2010, p. 162.’;

(3) in Article 8 the references to Article 230 are replaced by references to Article 263 and references to Article 195 by references to Article 228 of the Treaty.

***Article 2***

This Decision shall enter into force on 18 June 2011.

