

Reports Regulation (*Anzeigenverordnung*)

Regulation Concerning Reports and the Submission of Records under the Banking Act

of December 29, 1997

- The reporting forms (Annexes 1 to 8 of the Regulation) are not reproduced -

By virtue of section 24 (4) and section 31 (1) sentence 1 number 1 of the Banking Act (*Gesetz über das Kreditwesen*) in the wording of the Announcement of January 22, 1996 (Federal Law Gazette I, page 64), as last amended by article 1 of the Act of December 19, 1998 (Federal Law Gazette I, page 3838, read in conjunction with section 1 of the Regulation Transferring the Authority to Issue Regulations to the Federal Banking Supervisory Office (*Verordnung zur Übertragung der Befugnis zum Erlaß von Rechtsverordnungen auf das Bundesaufsichtsamt für das Kreditwesen*) of December 19, 1997 (Federal Law Gazette I, page 3165), the following Regulation is hereby issued by the Federal Banking Supervisory Office, in agreement with the Deutsche Bundesbank and after having consulted the central associations of the institutions:

1. Reports pursuant to section 2b (1) and (4) of the Banking Act (holders of qualified participating interest)

(1) Reports pursuant to section 2b (1) sentence 1 of the Banking Act shall be submitted in duplicate to the Federal Banking Supervisory Office and in triplicate to the Main Office of the Land Central Bank appropriate for the respective institution on the form "*Anzeige nach § 2b Abs. 1 oder 4 KWG*" (Report pursuant to section 2b (1) or (4) of the Banking Act) (Annex 1). The person required to report shall submit a statement of the facts germane to assessing his trustworthiness in accordance with the specimen attached to the form. At the request of the Federal Banking Supervisory Office, he shall also submit, in particular, a complete, signed curriculum vitae, which must contain all his first names, his name at birth, his date and place of birth, the birth-names of his parents, his home address and nationality and an outline of his professional career; moreover, if his trustworthiness has been assessed by another authority, evidence of this assessment and its outcome shall be furnished to the extent necessary for determining whether he is trustworthy or whether facts are known which entitle the Federal Banking Supervisory Office to prohibit the acquisition of the participating interest in accordance with section 2b (1) sentence 8, read in conjunction with section 33 (1) sentence 1 number 3 or (3) numbers 1 to 3, of the Banking Act. If the entity required to report is a legal person or a partnership, sentences 2 and 3 apply as appropriate to the legal representatives or general partners; the statement provided for in sentence 2 may be dispensed with if the entity required to report is among the authorities or special funds referred to in section 20 (2) sentence 1 number 1 (a) of the Banking Act, or if a corresponding statement has already been submitted in accordance with section 8 sentence 2 number 2 or section 23 (4). The person or entity required to report shall attach to the report a complete list of the

appointed legal representatives or general partners. At the request of the Federal Banking Supervisory Office, the organisation chart and the partnership agreements, in particular, shall be submitted, and data shall be supplied on enterprises which hold participating interests in the reporting enterprise to the extent that this is necessary for determining whether facts are known which entitle the Federal Banking Supervisory Office to prohibit the acquisition of the participating interest in accordance with section 2b (1) sentence 8, read in conjunction with section 33 (1) sentence 1 number 3 or (3) numbers 1 to 3, of the Banking Act.

(2) Reports pursuant to section 2b (1) sentence 5 of the Banking Act shall be submitted in a single copy to the Banking Supervisory Office and in triplicate to the Main Office of the Land Central Bank appropriate for the respective institution on the form "*Anzeige nach § 2b Abs. 1 oder 4 KWG*" (Report pursuant to section 2b (1) or (4) of the Banking Act) (Annex 1). As long as a qualified participating interest is held, the facts germane to assessing the trustworthiness of each newly appointed legal representative or new general partner shall be reported in accordance with subsection (1) sentences 1 to 3. The report may be dispensed with if the relevant facts have already been reported pursuant to section 24 (1) 1 of the Banking Act or if the conditions of subsection (1) sentence 4 clause 2 are met.

(3) As long as a qualified participating interest is held, its holder shall report the following developments in a single copy to the Federal Banking Supervisory Office and in triplicate to the Main Office of the Land Central Bank appropriate for the respective institution: if he is granted a licence to operate as a deposit-taking credit institution or securities trading firm in another state of the European Economic Area, if he becomes the parent enterprise of a deposit-taking credit institution or securities trading firm licensed to operate in another state or if he assumes the control of a deposit-taking credit institution or securities trading firm licensed to operate in another member state.

(4) Reports in accordance with section 2b (1) sentence 6 and (4) of the Banking Act shall be submitted in duplicate to the Federal Banking Supervisory Office and in triplicate to the Main Office of the Land Central Bank appropriate for the respective institution on the form "*Anzeige nach § 2b Abs. 1 oder 4 KWG*" (Report pursuant to section 2b (1) or (4) of the Banking Act) (Annex 1).

(5) Reports pursuant to section 2b (1) sentence 10 or (4) sentence 4 of the Banking Act shall be submitted in a single copy to the Federal Banking Supervisory Office and in triplicate to the Main Office of the Land Central Bank appropriate for the respective institution.

2. Reports pursuant to section 10 (3) sentences 5 and 6 of the Banking Act (interim accounts)

The documents specified in section 10 (3) sentences 5 and 6 of the Banking Act shall be submitted in a single copy to the Federal Banking Supervisory Office and in duplicate to the appropriate branch office of the Land Central Bank.

3. Reports pursuant to section 10 (4a) sentence 4, (4b) sentence 4 of the Banking Act, read in conjunction with section 32 (3) of the Act on Investment Companies (*Gesetz über Kapitalanlagegesellschaften*) (unrealised reserves, committee of experts)

(1) Reports pursuant to section 10 (4a) sentence 4 of the Banking Act shall be submitted in a single copy to the Federal Banking Supervisory Office and in triplicate to the appropriate branch office of the Land Central Bank on the form "*Anzeige nach § 10 Abs. 4a Satz 4 KWG*" (Report pursuant to section 10 (4a) sentence 4 of the Banking Act) (Annex 2). At the request of the Federal Banking Supervisory Office, the valuation records shall be submitted.

(2) Reports on the appointment of members of committees of experts pursuant to section 10 (4b) sentence 4 of the Banking Act, read in conjunction with section 32 (3) of the Act on Investment Companies, or the withdrawal of an expert or changes in the data pursuant to sentence 2 shall be reported in triplicate to the Federal Banking Supervisory Office. The reports on the appointment of members of committees of experts shall be accompanied by the following documents:

1. a complete, signed curriculum vitae of the expert, which must contain all his first names, his name at birth, his date and place of birth, the birth-names of his parents, his home address and nationality, a detailed account of his professional training with evidence of due theoretical and practical knowledge of real property business and in the field of determining the loan value of land;
2. a statement by the expert as to whether criminal proceedings are pending against him, whether criminal proceedings have been instituted against him on account of a crime or other offence, or whether he or an enterprise managed by him has been or is involved as a debtor in insolvency proceedings, or in proceedings for making a statutory declaration, or in any comparable proceedings;
3. a statement by the expert as to whether he is an employee of the institution or of an enterprise affiliated with it, a member of a supervisory body of the institution or of an enterprise affiliated with it, or is economically dependent on the institution or on an enterprise affiliated with it for other reasons, whether he has close personal or family ties with employees of the institution or of an enterprise affiliated with it which might involve the danger of the expert being improperly influenced, or whether he holds capital shares in the institution or an enterprise affiliated with it, and, if so, what the value of these capital shares is.

4. Reports pursuant to section 10 (5) sentence 7, (5a) sentence 7 and (7) sentence 6 of the Banking Act (market smoothing)

Reports pursuant to section 10 (5) sentence 7, (5a) sentence 7 and (7) sentence 6 of the Banking Act shall be submitted in a single copy to the Federal Banking Supervisory Office and in duplicate to the appropriate branch office of the Land Central Bank.

5. Reports pursuant to section 10 (8) sentences 1 and 3 of the Banking Act (deducted loans)

(1) Reports pursuant to section 10 (8) sentences 1 and 3 of the Banking Act shall be submitted in a single copy to the Federal Banking Supervisory Office and in duplicate to the appropriate branch office of the Land Central Bank. The reports must contain particulars of the level and the method of calculation of the key percentage computed pursuant to section 10 (2a) sentence 2 number 4 or 5 of the Banking Act, of the terms of the loan and of the collateral provided. Reports pursuant to section 10 (8) sentence 3 of the Banking Act are to be marked as reports on changes.

(2) Loans reported pursuant to section 10 (8) sentence 1 of the Banking Act shall not be reported anew pursuant to section 10 (8) sentence 3 of that Act if the terms of the loan are changed by a legal transaction which is restricted to an adjustment of the interest rate in accordance with the development of the market interest rate.

6. Reports pursuant to section 12a (1) sentence 3 of the Banking Act (establishment, modification or discontinuance of certain participating interests or corporate ties)

Reports pursuant to section 12a (1) sentence 3 of the Banking Act shall be submitted in a single copy to the Federal Banking Supervisory Office and in triplicate to the appropriate branch office of the Land Central Bank on the form "*Anzeige nach § 12a Abs. 1 Satz 3 und § 24 Abs. 3a KWG*" (Report pursuant to section 12a (1) sentence 3 and section 24 (3a) of the Banking Act) (Annex 3).

7. Reports pursuant to section 15 (4) sentence 5 of the Banking Act (subsequent approval of loans to managers, etc.)

Reports pursuant to section 15 (4) sentence 5 of the Banking Act shall be submitted in triplicate to the Federal Banking Supervisory Office.

8. Reports pursuant to section 24 (1) 1 and 2 of the Banking Act (personnel changes)

(1) Reports in accordance with section 24 (1) 1 and 2 of the Banking Act shall be submitted in a single copy to the Federal Banking Supervisory Office and in triplicate to the appropriate branch office of the Land Central Bank. Reports on the intention to appoint a manager and to authorise a person to represent the institution in all aspects of its business pursuant to section 24 (1) 1 of the Banking Act shall be accompanied by the following documents:

1. a complete, signed curriculum vitae, which must contain all his first names, his name at birth, the date and place of birth, the birth-names of his parents, his home address and nationality, a detailed account of his professional training, the names of all enterprises for which the person has worked and data on the nature of the functions he performed there, including spare-time activities, with the exception of honorary ones; the data on the nature of the person's functions should specifically include details of his representational authority, his internal decision-making powers and the areas of operations under his control within the enterprise;

2. a statement by the person as to whether criminal proceedings are pending against him, whether criminal proceedings have been instituted against him on account of a crime or other offence, or whether he or an enterprise managed by him has been or is involved as a debtor in insolvency proceedings, or in proceedings for making a statutory declaration, or in any comparable proceedings.

The above provisions also apply to the appointment of a deputy manager who is to perform the functions of the manager in the event of the latter being unable to do so.

9. Reports pursuant to section 24 (1) 3 of the Banking Act (direct participating interests)

(1) Reports pursuant to section 24 (1) 3 of the Banking Act shall be submitted in a single copy to the Federal Banking Supervisory Office and in triplicate to the appropriate branch office of the Land Central Bank in respect of each direct participating interest on the form "*Anzeige nach § 24 Abs. 1 Nr. 3 KWG*" (Report pursuant to section 24 (1) 3 of the Banking Act) (Annex 4). The summary reports on direct participating interests shall be submitted in a single copy to the Federal Banking Supervisory Office and in triplicate to the appropriate Land Central Bank on the form "*Anzeige nach § 24 Abs. 1 Nr. 3 KWG*" (Report pursuant to section 24 (1) 3 of the Banking Act) (Annex 4) by June 15 of the following year, showing the position as at December 31 of the previous year. If appropriate, a nil report shall be submitted.

(2) A report on changes shall only be submitted if, as a result of the changes, the participating interests amount to, exceed or fall below twenty per cent, thirty-three per cent or fifty per cent of the capital or the voting rights of the enterprise or if the enterprise becomes or ceases to be a subsidiary.

10. Reports pursuant to section 24 (1) 4 to 8, 10 and 12 of the Banking Act (change in the legal form or firm-name; loss; relocation of the office or domicile; establishment, relocation or closure of a branch in a non-EEA state; termination of business; fall in the initial capital or discontinuance of an appropriate insurance; irregularities with regard to securities repurchase agreements and stock lending transactions)

Reports pursuant to section 24 (1) 4 to 8, 10 and 12 of the Banking Act shall be submitted in a single copy to the Federal Banking Supervisory Office and in triplicate to the appropriate branch office of the Land Central Bank.

11. Reports pursuant to section 24 (1) 9 of the Banking Act (commencement or termination of business other than banking business or financial services)

(1) Reports pursuant to section 24 (1) 9 of the Banking Act shall be submitted in a single copy to the Federal Banking Supervisory Office and in triplicate to the appropriate branch office of the Land Central Bank.

(2) The commencement of business other than banking business or financial services shall not be reported if it is anticipated that the respective business will not generate an annual turnover exceeding five hundred thousand Deutsche Mark; the commencement

shall be reported retrospectively in accordance with subsection (1) if the annual turnover, contrary to anticipations, does exceed five hundred thousand Deutsche Mark. The termination of business other than banking business or financial services shall not be reported if the commencement of the respective business did not have to be reported pursuant to sentence 1. The following types of business or services are exempt from the reporting requirement pursuant to section 24 (1) 9 of the Banking Act:

1. collection of bills of exchange, cheques, direct debits, instructions and similar documents and the selling of traveller's cheques;
2. buying and selling of coins, medals and unprocessed precious metals;
3. renting out of safe deposit boxes and lockers and the custody of customers' sealed assets;
4. issuing of bearer debt securities or order bonds;
5. the incurrence of liabilities arising from loans, as long as this does not constitute deposit business as defined in section 1 (1) sentence 2 number 1 of the Banking Act, and of liabilities arising from the rediscounting of bills of exchange and negotiation of cheques;
6. marketing of savings and loan contracts, insurance policies and contracts for loans, guarantees and other warranties, credit cards and advising on portfolio investment questions;
7. the administration of loans and collateral for other institutions;
8. selling of food and beverages to staff.

12. Reports pursuant to section 24 (1) 11 of the Banking Act and summary reports pursuant to section 24 (1a) sentence 1 number 2 of the Banking Act (participating interests in the reporting institution)

(1) Reports pursuant to section 24 (1) 11 of the Banking Act shall be submitted in a single copy to the Federal Banking Supervisory Office and in triplicate to the appropriate branch office of the Land Central Bank on the form "*Anzeige nach § 24 Abs. 1 Nr. 11 und Abs. 1a Satz 1 Nr. 2 KWG*" (Report pursuant to section 24 (1) 11 and (1a) sentence 1 number 2 of the Banking Act) (Annex 5).

(2) Summary reports pursuant to section 24 (1a) sentence 1 number 2 of the Banking Act shall be submitted in a single copy to the Federal Banking Supervisory Office and in triplicate to the appropriate branch office of the Land Central Bank on the form "*Anzeige nach § 24 Abs. 1 Nr. 11 oder Abs. 1a Satz 1 Nr. 2 KWG*" (Report pursuant to section 24 (1) 11 or (1a) sentence 1 number 2 of the Banking Act) (Annex 5) by October 15 each year, showing the position as at August 31. If appropriate, a nil report shall be submitted.

13. Reports pursuant to section 24 (1) 13 of the Banking Act (close association)

(1) Reports pursuant to section 24 (1) 13 concerning a close association within the meaning of section 1 (10) of the Banking Act shall be submitted in a single copy to the Federal Banking Supervisory Office and in triplicate to the branch office of the Land Central Bank appropriate for the institution on the form "*Anzeige nach § 24 Abs. 1 Nr. 13 KWG*" ("Report pursuant to section 24 (1) 13 of the Banking Act") (Annex 6).

(2) A report on changes shall only be submitted if the participating interest reaches, exceeds or falls below twenty per cent, thirty-three per cent or fifty per cent of the capital or the voting rights of the enterprise or if the enterprise becomes or ceases to be a parent company, subsidiary or affiliated enterprise. The indirect capital shares or voting rights shall be ascribed in full to the enterprises holding the indirect participating interests.

14. Summary reports pursuant to section 24 (1a) sentence 1 number 1 of the Banking Act (indirect participating interests)

(1) Summary reports pursuant to section 24 (1a) sentence 1 number 1 of the Banking Act shall be submitted in a single copy to the Federal Banking Supervisory Office and in triplicate to the appropriate branch office of the Land Central Bank by June 15 of the following year, showing the position as at December 31 of the previous year. If appropriate, a nil report shall be submitted. The summary reports shall be submitted on or on the basis of the form "*Anzeige nach § 24 Abs. 1a Satz 1 Nr. 1 KWG*" (Report pursuant to section 24 (1a) sentence 1 number 1 of the Banking Act) (Annex 7). If an institution uses its own forms for making the summary reports or, in the case of numerous indirect participating interests of the same type, its own lists, the content and structure of these forms or lists shall be based on the form in accordance with Annex 7.

(2) Indirect participating interests within the meaning of section 24 (1a) sentence 1 number 1 of the Banking Act are shares of at least ten per cent in the capital or voting rights, obtained at each stage through the intermediation of

1. a subsidiary (section 1 (7) of the Banking Act, or
2. a participating interest of twenty per cent or more each in the capital or the voting rights of the intermediate enterprise.

The indirect capital shares or voting rights shall be ascribed in full to the enterprises holding the indirect participating interests.

(3) For the purposes of the report pursuant to subsection (1), only the indirect participating interests within the meaning of subsection (2) sentence 1 number 1 shall be listed. At the request of the Federal Banking Supervisory Office or the branch office of the Land Central Bank appropriate for the institution, an institution shall also submit a list of the indirect participating interests within the meaning of subsection (2) sentence 1 number 2.

15. Summary reports pursuant to section 24 (1a) sentence 1 number 3 of the Banking Act (establishment, relocation or closure of domestic branches)

(1) Pursuant to section 24 (1a) sentence 1 number 3 of the Banking Act, a list of branches, including their addresses, shall be submitted in triplicate to the appropriate branch office of the Land Central Bank by the end of January each year, for the first time by January 31, 1999, showing the position as at December 31 of the previous year. If appropriate, a nil report shall be submitted. The list shall only be submitted to the Federal Banking Supervisory Office at the Office's request. The Land Central Banks will send prepared lists to the institutions to this end. Any branches which do not appear on the prepared list shall be added by the institution. In the case of closures or relocations, the prepared list shall be corrected accordingly.

(2) The establishment, relocation or closure of a branch shall not be reported if the branch

1. is only established, relocated or closed temporarily for a period of up to twelve months,
2. only provides automated banking or financial services, or
3. exclusively serves to conduct business other than banking business or financial services.

16. Reports pursuant to section 24 (2) of the Banking Act (mergers of institutions)

Reports pursuant to section 24 (2) of the Banking Act shall be submitted in a single copy to the Federal Banking Supervisory Office and in triplicate to the appropriate branch office of the Land Central Bank. Institutions' intention to merge shall be reported by the institutions concerned as soon as it appears likely, in the light of negotiations being held, that the merger will take place. The outcome of the negotiations as well as the legal execution of the merger shall be reported immediately.

17. Reports pursuant to section 24 (3) sentence 1 of the Banking Act (managers)

(1) Reports pursuant to section 24 (3) sentence 1 of the Banking Act shall be reported in a single copy to the Federal Banking Supervisory Office and in triplicate to the appropriate branch office of the Land Central Bank on the form "*Anzeige nach § 24 Abs. 3 Satz 1 KWG*" (Report pursuant to section 24 (3) sentence 1 of the Banking Act) (Annex 8).

(2) A report on changes shall only be submitted if the participating interest reaches, exceeds or falls below thirty-three per cent or fifty per cent of the enterprise's capital.

18. Reports pursuant to section 24a (1) and (4) of the Banking Act (establishment of a branch in another state of the European Economic Area)

(1) Reports pursuant to section 24a (1) and (4) of the Banking Act shall be submitted, separately for each state of the European Economic Area, in triplicate to the Federal Banking Supervisory Office and in duplicate to the appropriate branch office of the Land

Central Bank. The report to the Federal Banking Supervisory Office shall be accompanied by an officially certified translation, in duplicate, into an official language of the host country.

(2) The business plan must show the types of business operations envisaged, in accordance with the categories of the Annex appended to the Second Banking Coordination Directive and the Annex appended to the Investment Services Directive. Types of business not specified in the above-mentioned Annexes shall be listed separately and described in detail. All business operations envisaged shall be explained in detail. If it is planned to establish several operating units in the host country, the relevant particulars shall be given. The business plan must also describe the organisational structure of the branch. For this purpose, the internal decision-making powers and the mode of integration of the branch into the institution's internal monitoring procedure shall be described.

(3) Changes in the conditions reported pursuant to section 24a (1) sentence 2 number 2, 3 or 4 of the Banking Act (business plan of the branch, address of the branch, manager of the branch,) or the membership in a deposit guarantee or investor compensation scheme within the meaning of section 23a of the Banking Act shall be reported in duplicate to the Federal Banking Supervisory Office and the appropriate branch office of the Land Central Bank and in a single copy to the appropriate authorities of the host country at least one month before the changes are made. If the report on the changes to the appropriate authority of the host country is not drafted in an official language of that country, it shall be accompanied by an officially certified translation into an official language.

19. Reports pursuant to section 24a (3) and (4) of the Banking Act (cross-border services)

Reports pursuant to section 24a (3) and (4) of the Banking Act shall be submitted in triplicate, separately for each state of the European Economic Area, to the Federal Banking Supervisory Office and the appropriate branch office of the Land Central Bank. The types of services shall be indicated in accordance with the categories of the Annex appended to the Second Banking Coordination Directive and the Annex appended to the Investment Services Directive. The report to the Federal Banking Supervisory Office shall be accompanied by an officially certified translation, in triplicate, into an official language of the host country.

20. Reports pursuant to section 25a (2) sentence 3 of the Banking Act (outsourcing of operational areas)

Reports pursuant to section 25a (2) sentence 3 of the Banking Act shall be submitted in duplicate both to the Federal Banking Supervisory Office and to the appropriate branch office of the Land Central Bank. Institutions shall report by February 28, 1998, in a single copy to the Federal Banking Supervisory Office and in duplicate to the appropriate branch office of the Land Central Bank, the operational areas within the meaning of section 25a (2) sentence 1 of the Banking Act which they have outsourced to another enterprise, showing the position as at January 1, 1998. The reports in accordance with sentence 1 shall be accompanied by the following documents:

1. photocopies of the contract by which it is ensured that the institution has the required powers to give instructions to the enterprise in question and that the outsourced areas are included in the institution's internal monitoring procedures;
2. a statement by the service provider addressed to the institution that it will tolerate audits of the outsourced areas in connection with audits of the institution's annual accounts or with audits of the institution ordered by the Federal Banking Supervisory Office.

For reports in accordance with sentence 2, the documents specified in sentence 3 shall be submitted subsequently at the request of the Federal Banking Supervisory Office.

21. Reports pursuant to section 28 (1) sentence 1 of the Banking Act (auditor)

Reports pursuant to section 28 (1) sentence 1 of the Banking Act shall be submitted in a single copy to the Federal Banking Supervisory Office and in duplicate to the appropriate branch office of the Land Central Bank.

22. Reports pursuant to section 29 (3) sentence 1 of the Banking Act (important facts which come to the auditor's attention)

Reports pursuant to section 29 (3) sentence 1 of the Banking Act shall be submitted in a single copy to the Federal Banking Supervisory Office and in duplicate to the Main Office of the appropriate Land Central Bank.

23. Reports and documents pursuant to section 32 (1) of the Banking Act (applications for a licence)

(1) Applications and documents pursuant to section 32 (1) of the Banking Act shall be submitted in triplicate to the Federal Banking Supervisory Office.

(2) The applications shall indicate for which of the banking transactions specified in section 1 (1) sentence 2 of the Banking Act or for which of the financial services specified in section 1 (1a) sentence 2 of the Banking Act a licence is being sought. The applications shall be accompanied by certified copies of the formation records, the partnership agreement or the articles of association, as well as by the rules of procedure envisaged for the management. Furthermore, the names of the envisaged managers shall be indicated.

(3) To furnish evidence of the resources required for business operations (section 32 (1) sentence 2 number 1 of the Banking Act), a certificate issued by a deposit-taking credit institution domiciled in a state of the European Economic Area shall be provided confirming that the initial capital has been paid up and is freely available to the managers, unencumbered by rights of third parties.

(4) For the purposes of assessing the trustworthiness of the managers, the statements provided for in section 8 sentence 2 number 2 shall be submitted.

(5) For the purposes of assessing the trustworthiness of the applicants and of the holders of qualified participating interests, the statements provided for in section 1 (1) sentence 2 shall be submitted. At the request of the Federal Banking Supervisory Office, the documents provided for in section 1 (1) sentence 3 shall be submitted, and information shall be provided. If the applicant or the holder of a qualified participating interest is a legal person or a partnership, section 1 (1) sentences 2 and 3 applies as appropriate to the legal representatives or the general partners; the statement pursuant to section 1 (1) sentence 2 need not be submitted, however, if the applicant or the holder of a qualified participating interest is among the authorities or special funds referred to in section 20 (2) sentence 1 number 1 (a) of the Banking Act. Section 1 (1) sentences 5 and 6 applies as appropriate. If the applicants or holders of qualified participating interests belong to groups, the structure of the group, accompanied by an organisation chart of the group, shall be described. The documents provided for in section 32 (1) sentence 2 number 6 (d) and (e) of the Banking Act shall be elucidated at the request of the Federal Banking Supervisory Office.

(6) For the purposes of assessing the professional qualifications for managing the institution required of proprietors and managers, the documents specified in section 8 sentence 2 number 1 shall be submitted. At the request of the Federal Banking Supervisory Office, further information shall be provided.

(7) The business plan to be attached to the application in accordance with section 32 (1) sentence 2 number 5 of the Banking Act shall include the following particulars:

1. the nature of the planned business, with a substantiated indication of its future course; for this purpose, projected balance sheets and projected profit and loss accounts for the first three full financial years after the commencement of business operations shall be submitted;
2. a description of the organisational structure of the institution, accompanied by an organisation chart indicating, in particular, the responsibilities of the managers; it shall be indicated whether and, if so, where branches are to be established;
3. a description of the institution's planned internal monitoring procedures.

24. Reports pursuant to section 53a sentences 2 and 5 of the Banking Act (representative offices of institutions domiciled abroad)

(1) Reports pursuant to section 53a sentences 2 and 5 of the Banking Act shall be submitted in a single copy to the Federal Banking Supervisory Office and in duplicate to the appropriate branch office of the Land Central Bank.

(2) Reports on the establishment of a representative office must include the following particulars:

1. the precise designation and address of the representative office;
2. the names of the manager or managers of the representative office;
3. the nature and scale of the activities of the representative office;

4. the date of commencement of the activities of the representative office;
5. the name or firm-name, registered office and address of the institution which has established the representative office;
6. the address of the head office of the institution;
7. the institution's object of business according to its articles of association;
8. the nature of the business actually carried on by the institution in its country of domicile and, if differing therefrom, in the country of domicile of its head office;
9. the name and address of the authority to whose supervision the institution is subject in its country of domicile and, if differing therefrom, in the country of domicile of its head office.

(3) The reports pursuant to subsection (2) shall be accompanied by the following documents:

1. a statement by the institution, signed with legally binding effect, that it has decided to establish the representative office and has entrusted the persons specified in accordance with subsection (2) 2 with the management of that office;
2. a statement that no banking business within the meaning of section 1 (1) sentence 2 of the Banking Act will be conducted, that no financial services within the meaning of section 1 (1a) sentence 2 of the Banking Act will be provided and that, in Germany, the name or the firm-name of the institution will only be used in conjunction with the denomination *Repräsentanz* (representative office);
3. the latest annual accounts and management report of the institution;
4. a certificate, authenticated by the German diplomatic or consular mission in the country of domicile of the enterprise, from the authority responsible for supervising the enterprise in its country of domicile and, if differing therefrom, also in the country of domicile of its head office, in which the authority confirms that
 - (a) the enterprise is subject to its solvency supervision or that, by virtue of a local statute, there is no solvency supervision of the enterprise,
 - (b) the enterprise holds a licence issued by the authority to conduct business in the country concerned to the extent that banking business within the meaning of section 1 (1) sentence 2 of the Banking Act or financial services within the meaning of section 1 (1a) sentence 2 of the Banking Act are involved, or that, by virtue of a local statute, a licence is not required,
 - (c) the authority supervises the enterprise with its subsidiaries, which are to be classified as credit institutions, financial institutions or ancillary banking services enterprises, on a consolidated basis or that, by virtue of a local statute, such supervision is not provided for,

(d) the enterprise has obtained a general or special licence to establish the representative office or that, by virtue of a local statute, such a licence is not provided for.

(4) All changes that occur during the existence of the representative office, as compared with the particulars given in the establishment report, shall be reported in a single copy to the Federal Banking Supervisory Office and in duplicate to the branch office of the Land Central Bank appropriate for the representative office.

25. Submission of records pursuant to section 26 of the Banking Act (annual accounts, management report and auditor's reports)

(1) The records specified in section 26 (1) sentence 1 of the Banking Act shall be submitted in a single copy to the Federal Banking Supervisory Office and in triplicate to the appropriate branch office of the Land Central Bank; when submitting the approved annual accounts, the date of approval shall be indicated.

(2) In accordance with section 26 (1) sentence 3 of the Banking Act, after the completion of the audit, the auditors shall submit their reports, in a single copy to the Federal Banking Supervisory Office and in duplicate to the Main Office of the appropriate Land Central Bank; this also applies in the cases referred to in section 26 (2) of the Banking Act.

(3) Subsections (1) and (2) apply as appropriate to the records to be submitted in accordance with section 26 (3) of the Banking Act.

26. Submission route in the case of credit cooperatives and savings banks and credit institutions with centralised functions

(1) Credit institutions which are members of a cooperative society audit association, or are audited by the audit office of a savings bank and giro association, shall submit the reports and documents to be filed under this Regulation, other than the report pursuant to section 15, through their association, along with a further copy intended for the association, provided that the association has notified the Federal Banking Supervisory Office that it is agreeable to this procedure. The association immediately passes on the number of copies of the reports and documents specified in this Regulation, together with its comments thereon, and, in the case of savings banks, including the comments of the audit office, to the Federal Banking Supervisory Office and the Main Office of the Land Central Bank appropriate for the respective institution.

(2) The German Equalisation Bank (*Deutsche Ausgleichsbank*), the Agricultural Mortgage Bank (*Landwirtschaftliche Rentenbank*), the Export Credit Company (*AKA Ausfuhrkredit-GmbH*) and the Liquidity Consortium Bank (*Liquiditäts-Konsortialbank GmbH*) shall submit the reports and documents specified in this Regulation to the Central Office of the Deutsche Bundesbank, instead of to the appropriate Main Office or branch office of the Land Central Bank.

27. Reporting requirement for financial holding companies

(1) Reports pursuant to section 12a (1) sentence 3 and section 24 (3a) sentence 3 of the Banking Act shall be submitted by financial holding companies in a single copy to the Federal Banking Supervisory Office and in triplicate to the Main Office of the Land Central Bank in whose area the parent enterprise (section 10a (3) sentence 3 of the Banking Act) has its registered office on the form "*Anzeige nach § 12a Abs. 1 Satz 3 und § 24 Abs. 3a Satz 3 KWG*" (Report pursuant to section 12a (1) sentence 3 and section 24 (3a) sentence 3 of the Banking Act) (Annex 3). If the subordination relationship is brought about fully or partly via intermediary enterprises (possibly not belonging to the group), the report shall be accompanied by an outline of the participating interests which shows the intermediation of the subordination relationship, including the precise amount of the capital shares and voting right shares. The enterprises mediating the subordination relationship shall be classified, indicating the firm-name and the registered office, as "deposit-taking credit institutions", "securities trading firms", "other credit institutions", "financial services institutions", "financial enterprises", "ancillary banking services enterprises" or "other enterprises".

(2) Summary reports pursuant to section 24 (3a) sentence 1 of the Banking Act shall be submitted in triplicate both to the Federal Banking Supervisory Office and the Main Office of the Land Central Bank appropriate for the parent enterprise in the form of a collection of consecutively numbered partial reports by June 15 of the following year, showing the position as at December 31, on the form "*Anzeige nach § 12a Abs. 1 Satz 3 und § 24 Abs. 3a KWG*" (Report pursuant to section 12a (1) sentence 3 and section 24 (3a) of the Banking Act) (Annex 3). Subsection 1 sentences 2 and 3 applies as appropriate.

28. Transitional provisions

(1) In section 3 (2) 2 and section 8 number 2 the bankruptcy, composition or enforcement proceedings will take the place of the insolvency proceedings until the Insolvency Code enters into force.

(2) Credit institutions which make use of the transitional provision of section 64e (4) of the Banking Act shall continue to apply the provisions of sections 4 to 6 of the Reports Regulation in the version of March 19, 1996 (Federal Law Gazette I, page 514).

29. Rescission of Regulations

The Reports Regulation of July 6, 1993 (Federal Law Gazette I, page 1141), as amended by the Regulation of March 19, 1996 (Federal Law Gazette I, page 514) and the Exemptions Ordinance of August 20, 1985 (Federal Law Gazette I, page 1713), hereby cease to apply.

30. Entry into force

This Regulation enters into force on January 1, 1998.

Berlin, December 29, 1997

Federal Banking Supervisory Office

Artopoeus