

Bundesbank Act*

* *Gesetz über die Deutsche Bundesbank*, in the wording of the announcement of 22 October 1992 (Federal Law Gazette I (*Bundesgesetzblatt I*), page 1782), as last amended by article 23 of the Act implementing Directive 2011/61/EU on Alternative Investment Fund Managers (*Gesetz zur Umsetzung der Richtlinie 2011/61/EU über die Verwalter alternativer Investmentfonds (AIFM-Umsetzungsgesetz – AIFM-UmsG)*) of 4 July 2013 (Federal Law Gazette I, page 1981). This (revised) translation has been prepared by the Deutsche Bundesbank for the convenience of English-speaking readers. It is not official; the only authentic text is the German one as published in the Federal Law Gazette.

Part I

Legal form and tasks

1 (repealed)

2 Legal form, capital and domicile

The Deutsche Bundesbank is a federal institution with legal personality under public law. Its capital, amounting to 2.5 billion euro, is owned by the Federal Republic of Germany. The Bank is domiciled in Frankfurt am Main.

3 Tasks

The Deutsche Bundesbank, being the central bank of the Federal Republic of Germany, is an integral part of the European System of Central Banks (ESCB). It shall participate in the performance of the ESCB's tasks with the primary objective of maintaining price stability, shall hold and manage the foreign reserves of the Federal Republic of Germany, shall arrange for the execution of domestic and cross-border payments and shall contribute to the stability of payment and clearing systems. In addition, it shall fulfil the tasks assigned to it under this Act or other legislation.

4 Participating interests

Without prejudice to Article 6 (2) of the Statute of the European System of Central Banks and of the European Central Bank, the Deutsche Bundesbank shall be entitled to participate in the Bank for International Settlements and, subject to the approval of the Federal Government, in other institutions which serve the purposes of supranational monetary policy or international payment and lending operations, or are otherwise suited to assist it in fulfilling its tasks.

Part II

Organisation

5 (repealed)

6 (repealed)

7 Executive Board

(1) The governing body of the Deutsche Bundesbank shall be the Executive Board (*Vorstand*). It shall govern and manage the Bank. It shall adopt an organisational statute which establishes the responsibilities of the members of the Executive Board and the tasks which may be delegated to the Regional Offices (*Hauptverwaltungen*). The Executive Board may allocate responsibility for dealing with specific matters to one of its members.

(2) The Executive Board shall comprise the President, the Deputy President and four other members. Members of the Executive Board must have relevant professional qualifications.

(3) The members of the Executive Board shall be appointed by the President of the Federal Republic of Germany. The President, the Deputy President and one other member shall be

nominated by the Federal Government; the other three members shall be nominated by the Bundesrat (the upper house of Parliament representing the federal states) in agreement with the Federal Government. The Bundesrat may forward a proposal for the nomination of the Deputy President to the Federal Government. The Federal Government and the Bundesrat shall consult the Executive Board with regard to their nominations. Members shall be appointed for eight years or in exceptional cases for a shorter term of office, but not for less than five years. Appointments and retirements shall be published in the Federal Gazette (*Bundesanzeiger*).

(4) Members of the Executive Board shall hold office under public law. Their legal relationships with the Bank, and particularly their salaries, retirement pensions and surviving dependants' pensions, shall be regulated by contracts with the Executive Board. These contracts shall be subject to the approval of the Federal Government.

(5) The Executive Board shall deliberate under the chairmanship of the President or Deputy President. It shall take its decisions by a simple majority of the votes cast. In the event of a tie, the chairman shall have the casting vote. When distributing responsibilities among the members of the Executive Board, no decision may be taken without the President's approval.

8 Regional Offices

(1) The Deutsche Bundesbank maintains a Regional Office (*Hauptverwaltung*) in each of the following areas:

- 1 the Federal State of Baden-Württemberg
- 2 the Free State of Bavaria
- 3 the Federal States of Berlin and Brandenburg
- 4 the Free Hanseatic City of Bremen and the Federal States of Lower Saxony and Saxony-Anhalt
- 5 the Free and Hanseatic City of Hamburg and the Federal States of Mecklenburg-West Pomerania and Schleswig-Holstein
- 6 the Federal State of Hesse
- 7 the Federal State of North Rhine-Westphalia
- 8 the Federal States of Rhineland-Palatinate and Saarland
- 9 the Free States of Saxony and Thuringia

(2) Each Regional Office is headed by a President, who is subject to the authority of the Executive Board of the Deutsche Bundesbank. His/her official designation is President of the Regional Office.

9 Advisory Boards at the Regional Offices

(1) At every Regional Office there shall be an Advisory Board (*Beirat*), which shall meet regularly with the President of the Regional Office and shall confer with him/her on the execution of the tasks in his/her area.

(2) The Advisory Board shall be composed of not more than 14 members, who should have special expertise in the field of banking. Not more than half of its members should be chosen from the various areas of the banking sector, while the other members should be selected from trade and industry, commerce, the insurance sector, the liberal professions, agriculture and from among wage and salary earners. The Advisory Board should meet twice a year.

(3) The members of the Advisory Board shall be nominated by the governments of the federal states (*Landesregierungen*) concerned and appointed by the President of the Deutsche Bundesbank for a term of office of three years.

(4) Meetings of the Advisory Board shall be chaired by the President of the Regional Office. If the subject under discussion is of a confidential nature or if the chairperson has expressly designated it as confidential, those participating in the meetings of the Advisory Board shall be bound to secrecy.

10 Branches

The Deutsche Bundesbank shall be entitled to maintain branches (*Filialen*); these shall report to the Regional Office concerned.

11 Representation

(1) The Deutsche Bundesbank shall be represented in and out of court by the Executive Board. The provisions of section 31 (2) and section 41 (4) shall be unaffected.

(2) Declarations of intent shall be binding upon the Deutsche Bundesbank if they are made by two members of the Executive Board or by two authorised representatives. For a declaration of intent made to the Bank to have full legal effect, it shall suffice for it to be made to one person authorised to represent the Bank.

(3) Proof of authority to represent the Bank may be given by a certificate signed by a notarial official (*Urkundsbeamter*) of the Deutsche Bundesbank.

(4) Legal proceedings against the Deutsche Bundesbank relating to the business operations of a Regional Office or a branch may also be instituted at the court having jurisdiction at the domicile of that Regional Office.

Part III

Federal Government and Bundesbank

12 Relations between the Bank and the Federal Government

In exercising the powers conferred on it by this Act, the Deutsche Bundesbank shall be independent of and not subject to instructions from the Federal Government. As far as is possible without prejudice to its tasks as part of the European System of Central Banks, it shall support the general economic policy of the Federal Government.

13 Cooperation

(1) The Deutsche Bundesbank shall advise the Federal Government on monetary policy issues of major importance and shall furnish it with information on request.

(2) The Federal Government should invite the President of the Deutsche Bundesbank to attend its deliberations on important monetary policy issues.

Part IV

Monetary powers

14 Banknote issue

(1) Without prejudice to Article 128 (1) of the Treaty on the Functioning of the European Union, the Deutsche Bundesbank shall have the sole right to issue banknotes in the area in which this Act is law. Banknotes denominated in euro shall be the sole unrestricted legal tender. The Deutsche Bundesbank shall announce publicly the denominations and distinguishing features of the banknotes it issues.

(2) Without prejudice to Article 128 (1) of the Treaty on the Functioning of the European Union, the Deutsche Bundesbank may recall banknotes. Recalled notes become invalid on the expiry of the exchange period announced at the time of recall.

15 (repealed)

16 (repealed)

17 (repealed)

18 Collection of statistics

In order to fulfil its tasks, the Deutsche Bundesbank shall be entitled to order and collect statistics in the fields of banking and the monetary system from all credit institutions, German financial investment management companies (*Kapitalverwaltungsgesellschaften*) and externally administered investment corporations (*extern verwaltete Investmentgesellschaften*). Sections 9, 15 and 16 of the Federal Statistics Act (*Bundesstatistikgesetz*) shall apply as appropriate. The Deutsche Bundesbank may publish these statistics for general purposes. Data relating to individual persons or institutions may not be disclosed in such publications. Persons entitled to information under section 13 (1) above may be supplied with data on individual persons or institutions only if, and insofar as, this is provided for in the order under which the statistics are collected.

Part V

Scope of business

19 Transactions with credit institutions and other market participants

Without prejudice to Chapter IV of the Statute of the European System of Central Banks and of the European Central Bank (Federal Law Gazette 1992 II, pages 1251, 1297), the Deutsche Bundesbank shall be entitled to conduct the following transactions with credit institutions and other market participants:

- 1 grant loans backed by collateral and trade in the open market by buying and selling claims, marketable securities and precious metals outright (spot or forward) or under repurchase agreements; when the debt falls due, the Bank is entitled to sell pledged assets by auction through one of its employees or through a person authorised to sell by auction or, if the pledged asset has a stock market or market price, to sell it at the

current price through one of the aforementioned persons or through a broker and to indemnify itself for expenses, interest and principal out of the proceeds or to acquire the pledged asset, in which case the claims of the Bank in the amount of the stock market or market price lapse; the Bank also has these rights relative to other creditors, relative to the estate of an insolvent debtor and in the event of a previous protective measure taken in respect of the debtor; this also applies if the Bank is acting on behalf of another member of the European System of Central Banks;

- 2 accept giro account deposits and other deposits;
- 3 accept assets, in particular securities, for safe custody and management; the Bank is debarred from exercising any voting rights in respect of the securities in its safe custody or under its management;
- 4 accept cheques, direct debit instructions, bills of exchange, payment orders, securities and interest coupons for collection and, if sufficient cover has been provided, to make payment, except as the Bank may otherwise provide regarding the crediting of the countervalue of cheques, direct debit instructions and payment orders;
- 5 execute other banking transactions on behalf of third parties if sufficient cover has been provided;
- 6 buy and sell payment media denominated in currencies other than euro, including bills of exchange and cheques, claims and securities, and gold, silver and platinum;
- 7 carry out all banking transactions with non-residents.

20 Transactions with public authorities

The Deutsche Bundesbank shall be entitled to conduct the transactions specified in section 19 numbers 2 to 7 with the Federal Republic of Germany, the special funds of the Federal Republic of Germany, the federal states (*Länder*) and other public authorities; for this purpose, the Bank may grant intraday credit. With regard to such transactions the Bank may not charge the Federal Republic of Germany, the special funds of the Federal Republic of Germany or the federal states for any expenses incurred or levy any fees.

21 (repealed)

22 Transactions with the general public

The Deutsche Bundesbank shall be entitled to conduct the transactions specified in section 19, numbers 2 to 7, with natural and legal persons in Germany and abroad.

23 Certification of cheques

(1) The Deutsche Bundesbank may certify cheques drawn on it only if sufficient cover has been provided. Such certification shall make it liable to the bearer for payment; it shall also be liable to the drawer and the endorser for payment.

(2) Payment of a certified cheque may not be refused, even if insolvency proceedings have been initiated against the drawer in the meantime.

(3) The liability arising from the certification shall lapse if the cheque is not presented for payment within eight days of the date of drawing. As regards proof of presentation, Article 40 of the Cheque Act (*Scheckgesetz*) applies.

(4) The claim arising from the certification shall lapse two years after the end of the period allowed for presentation.

(5) The jurisdictional and procedural provisions applicable to bills of exchange shall apply as appropriate to the assertion in court of claims arising from the certification.

24 (repealed)

25 Other transactions

The Deutsche Bundesbank should conduct transactions other than those authorised by sections 19, 20, 22 and 23 or on the basis of the Statute of the European System of Central Banks and of the European Central Bank only for the purpose of carrying out and completing authorised transactions, or for its own operations or for its staff.

Part VI

Annual accounts, cost accounting, distribution of profit

26 Annual accounts, cost accounting

(1) The financial year of the Deutsche Bundesbank shall be the calendar year.

(2) The accounting system of the Deutsche Bundesbank shall comply with generally accepted accounting principles. The annual accounts shall be drawn up with due regard to the tasks of the Deutsche Bundesbank, in particular those deriving from its being an integral part of the European System of Central Banks, and shall be published with appropriate notes thereon; the liability structure need not be disclosed. Unless the provisions of the second sentence above require otherwise, valuation shall be governed accordingly by the provisions of the Commercial Code (*Handelsgesetzbuch*) relating to incorporated enterprises. In the course of establishing the profit or loss, the creation of liability items for general risks associated with domestic and foreign business, such as is considered warranted in the light of reasonable commercial judgement and after due consideration of the tasks of the Deutsche Bundesbank, shall remain unaffected.

(3) The Executive Board shall draw up the annual accounts as soon as possible. The accounts shall be audited by one or more independent external auditors appointed by the Executive Board in agreement with the Federal Court of Auditors (*Bundesrechnungshof*) and subsequently published. The external auditors' report serves as the basis for the audit carried out by the Federal Court of Auditors.

(4) To assist it in its management and administrative tasks, the Deutsche Bundesbank shall prepare a cost account. Before the start of a financial year, the Deutsche Bundesbank shall draw up a standard cost account and an investment plan. At the end of the financial year, it shall make a comparative analysis of the budgeted figures and the actual costs and investment. This analysis shall be reviewed separately by the external auditors.

(5) The annual accounts, the standard cost account, the investment plan, the analysis of the budgeted figures compared with actual costs and investment, and the external auditors' reports shall be forwarded to the Federal Ministry of Finance (*Bundesministerium der Finanzen*) and the Federal Court of Auditors. The annual accounts, the analysis of the budgeted figures compared with actual costs and investment and the external auditors' reports shall be presented to the Bundestag (the lower house of Parliament).

(6) The Federal Court of Auditors shall report its findings under subsection (3) above to the Bundestag.

27 Distribution of profit

The net profit shall be distributed in the following order:

- 1 20% of the profit, but at least 250 million euro, shall be transferred to the statutory reserves until they equal 2.5 billion euro; the statutory reserves may only be used to offset falls in value and to cover other losses;
- 2 the balance shall be paid over to the Federal Republic of Germany.

28 (repealed)

Part VII

General provisions

29 Special status of the Deutsche Bundesbank

(1) The Executive Board with the Central Office (*Zentrale*) located at the Bank's legal domicile shall have the status of a supreme federal authority (*oberste Bundesbehörde*). The Regional Offices and branches shall have the status of federal authorities (*Bundesbehörden*).

(2) The Deutsche Bundesbank and its staff shall enjoy the privileges granted to the Federal Government and its staff in the fields of construction, housing and rent.

(3) The provisions of the Commercial Code concerning entries in the Commercial Register and the provisions concerning membership of Chambers of Industry and Commerce shall not be applicable to the Deutsche Bundesbank.

30 Notarial officials

The President of the Deutsche Bundesbank may appoint notarial officials for the purposes of section 11 (3). They must be qualified to hold the office of judge.

31 Legal relationships of the civil servants, other salaried staff and wage earners of the Deutsche Bundesbank

(1) The Deutsche Bundesbank shall employ civil servants (*Beamte*), other salaried staff (*Angestellte*) and wage earners (*Arbeiter*).

(2) The President of the Deutsche Bundesbank shall appoint the Bank's civil servants. He/she is the supreme institutional authority (*oberste Dienstbehörde*) and in this capacity shall represent the Bank in and out of court. As the supreme institutional authority, he/she shall have full disciplinary powers; he/she shall impose disciplinary measures, unless their imposition is the remit of the relevant courts. The President may delegate his/her powers provided for in this subsection to a member of the Executive Board, who may then delegate them further.

(3) The civil servants of the Deutsche Bundesbank shall be federal civil servants. Except as otherwise provided by this Act, the regulations generally applicable to federal civil servants shall apply to them. The entry into force of this Act shall supersede the entry into force of the Federal Civil Servants Act (*Bundesbeamtengesetz*).

(4) The Federal Government shall be authorised to set provisions – by way of a regulation not requiring the consent of the Bundesrat – on the legal relationships of the civil servants, other salaried staff and wage earners of the Deutsche Bundesbank if this is required to ensure orderly and efficient banking operations. The regulation pursuant to the first sentence of this subsection may provide only

- 1 that for civil servants of the Deutsche Bundesbank, the following provisions of the legislation relating to federal civil servants be departed from:
 - a) section 19, section 22 (6), section 28 (1) and (2), section 33 (2), section 99 (1), second sentence, number 3, and section 100 (1), number 2, of the Federal Civil Servants Act and section 11, number 3 (a), of the Civil Servants' Benefits Act (*Beamtenversorgungsgesetz*);
 - b) sections 42 to 49 of the Federal Civil Servants' Pay Act (*Bundesbesoldungsgesetz*) as amended, insofar as a revocable, non-pensionable bank allowance is granted which does not exceed 9% of the basic salary for staff at the Central Office and 5% for staff at the Regional Offices, and a bonus for exceptional performance is granted as an allowance or a one-off payment at the Central Office, the Regional Offices and the branches;
 - c) the provisions on the granting of maintenance allowances to civil servants undergoing preparatory training;
- 2 that, insofar as the bank allowance pursuant to number 1 (b) has been abolished or cut with effect from 1 August 2006 by means of the Act Accompanying the 2006 Federal Budget (*Haushaltsbegleitgesetz 2006*), a compensatory allowance shall be paid in the amount of the difference between the former and the new bank allowance or, in the event of abolition, the full amount of the former bank allowance. The basis for the compensatory allowance shall be the amount of the bank allowance granted on 31 July 2006. For staff on leave of absence on this date, the basis for the compensatory allowance shall be the bank allowance to which they would have been entitled had they not been on leave on this date. The compensatory allowance shall be paid insofar as and for as long as the former entitlement criteria remain fulfilled. With each increase in remuneration, the compensatory allowance shall decrease by half the amount of the increase; this does not apply to increases to adjust remuneration to remuneration paid in the previous federal territory (ie federal territory before reunification on 3 October 1990). Remuneration in this sense shall mean the basic

salary as well as post and job-based allowances (*Amts- und Stellenzulage*). Transitional and compensatory allowances shall also be counted as remuneration insofar as they are granted on account of the discontinuation or reduction of such remuneration;

- 3 that the other salaried staff of the Deutsche Bundesbank
 - a) shall require prior permission to engage in any of the secondary occupations specified in section 99 (1), second sentence, number 3, and section 100 (1), number 2, of the Federal Civil Servants Act,
 - b) accordingly receive the payments specified under number 1 (b) and the compensatory allowance pursuant to number 2 above;
- 4 that the wage earners shall receive the bonus for exceptional performance specified under number 1 (b) above.

The Federal Government may delegate the power pursuant to the first sentence of this subsection to the Executive Board of the Deutsche Bundesbank by way of a regulation not requiring the consent of the Bundesrat. Regulations issued by the Executive Board of the Deutsche Bundesbank shall require the consent of the Federal Ministry of the Interior (*Bundesministerium des Innern*) and the Federal Ministry of Finance.

(5) The aggregated bonuses for exceptional performance specified in subsection (4), second sentence, number 1 (b) above may not exceed one-twentieth of the expenditure on the remuneration of the civil servants, other salaried staff and wage earners of the Deutsche Bundesbank. From 1 August 2006, the Bank allowance will not be adjusted in line with general increases in pay.

(6) The Federal Government shall be authorised, for the purposes of orderly and efficient banking operations, to issue provisions – by way of a regulation – on the educational background and careers of civil servants of the Deutsche Bundesbank as well as provisions for specific career paths (regulations governing career paths, training and examination) of civil servants of the Deutsche Bundesbank. The regulation pursuant to the first sentence of this subsection may depart from the provisions of the legislation relating to federal civil servants with respect to the duration of the preparatory training, the duration of the probationary period and the duration of the proficiency period for achieving promotion in the Upper Intermediate Service and for qualifying for admission to the Higher Service. The Federal Government may delegate the power pursuant to the first sentence of this subsection to the Executive Board of the Deutsche Bundesbank by way of a regulation. Regulations issued by the Executive Board of the Deutsche Bundesbank regarding educational background and careers shall require the consent of the Federal Ministry of the Interior and the Federal Ministry of Finance; regulations regarding specific career paths (regulations governing career paths, training and examination) shall require the consent of the Federal Ministry of the Interior.

32 Pledge of secrecy

All persons in the service of the Deutsche Bundesbank shall be pledged to secrecy about the affairs and facilities of the Bank, as well as its business operations. Without permission, they may not testify or make statements in or out of court about such matters of which they have become aware in the course of their work, even after they have left the service of the Bank.

Where the interests of the Bank are involved, such permission shall be granted to members of the Executive Board by that Board, and to other members of the Bank's staff by the President who may delegate this power to a member of the Executive Board, who may delegate it further; in respect of a court hearing, permission may be refused only if this is necessary for the good of the Federal Republic of Germany or in the public interest.

33 Public announcements

The Deutsche Bundesbank shall publish announcements intended for the general public, particularly the recall of banknotes and the ordering of statistics, in the Federal Gazette.

34 (repealed)

Part VIII

Provisions relating to punitive measures and to the detention of counterfeit money

35 Unauthorised uttering and use of monetary tokens

(1) A term of imprisonment not exceeding five years or a fine will be imposed on anyone who

- 1 utters without authority monetary tokens (stamps, coins, notes or other instruments capable of being used for payment purposes instead of the coins or banknotes authorised by law) or non-interest-bearing bearer debt securities, even if they are not denominated in euro;
- 2 uses for payment purposes items of the type specified in number 1 above that have been uttered without authority.

(2) An attempt shall be punishable.

(3) If the offence described in subsection (1) number 2 above has been committed through negligence, it shall be punishable by a term of imprisonment not exceeding six months or a fine not exceeding 180 daily rates.

36 Detention of counterfeit currency and of monetary tokens that have been uttered without authority

(1) The Deutsche Bundesbank as well as those entities and their employees referred to in Article 6 (1) of Council Regulation (EC) No 1338/2001 of 28 June 2001 laying down measures necessary for the protection of the euro against counterfeiting (OJ L 181/6 of 4 July 2001), as amended, shall be obliged to detain without undue delay counterfeit or falsified banknotes or coins (counterfeit currency), banknotes and coins which are suspected of being counterfeit and items within the meaning of section 35 which have been uttered without authority. An acknowledgement of receipt is to be given to the party concerned.

(2) The obligated parties shall without undue delay transmit counterfeit currency or items such as those listed in section 35 together with a report to the competent police authority .

(3) The obligated parties shall without undue delay transmit banknotes and coins which are suspected of being counterfeit together with a report to the Deutsche Bundesbank . If it finds

the banknotes or coins to be counterfeit, it shall send an expert report to the competent police authority and shall inform the entity which transmitted the banknotes or coins.

(4) An administrative offence shall be deemed to have been committed by any party which, intentionally or negligently,

- 1 in contravention of subsection (1) first sentence does not detain counterfeit currency or an item of the type listed there,
- 2 in contravention of subsection (2) or subsection (3) first sentence, in each case also in conjunction with a regulation pursuant to section 36a first sentence, does not transmit counterfeit currency or an item of the type listed there or does not do so in time,
- 3 in contravention of section 37a (1), first sentence, does not provide information or does not do so correctly, in full or in time,
- 4 in contravention of section 37a (2), second sentence, does not acquiesce to a measure mentioned there, or
- 5 contravenes an enforceable order pursuant to section 37a (3).

(4a) An administrative offence shall be deemed to have been committed by any party which, in contravention of Article 6 (1) of Council Regulation (EC) No 1338/2001 of 28 June 2001 laying down measures necessary for the protection of the euro against counterfeiting (OJ L 181/6 of 4 July 2001), as amended by Council Regulation (EC) No 44/2009 (OJ L 17/1 of 22 January 2009), does not ensure that euro banknotes and coins referred to in that provision are checked for authenticity and that counterfeits are detected.

(5) An administrative offence may lead to the imposition of a fine of up to 100,000 euro.

(6) The administrative authority within the meaning of section 36 (1), number 1, of the Act on Breaches of Administrative Regulations (*Gesetz über Ordnungswidrigkeiten*) shall be the Deutsche Bundesbank.

36a Power to issue regulations

The Federal Ministry of Finance shall be authorised to lay down by way of a regulation that does not require the consent of the Bundesrat, in consultation with the Deutsche Bundesbank, more detailed provisions on the nature and scope of the transmission obligations pursuant to section 36 (2) and (3) and on the information to be transmitted in connection therewith. The regulation pursuant to the first sentence can, in particular, stipulate that obligated parties that put banknotes back into circulation shall inform the Deutsche Bundesbank of the putting into service or taking out of service of banknote processing systems as well as of the nature and scope of the transactions executed with these systems. The regulation pursuant to the first sentence can also specify that the Deutsche Bundesbank can remove samples of processed banknotes during the inspections pursuant to section 37a (2) provided that the obligated parties are reimbursed the equivalent amount. The Federal Ministry of Finance can delegate the power pursuant to the first to third sentences to the Executive Board of the Deutsche Bundesbank by way of a regulation that does not require the consent of the Bundesrat. Regulations issued by the Executive Board of the Deutsche Bundesbank require the approval of the Federal Ministry of Finance.

37 Confiscation

(1) Items of the type specified in section 35 that have been uttered without authority may be confiscated.

(2) Items confiscated under subsection (1) above and counterfeit currency confiscated under section 150 of the Penal Code (*Strafgesetzbuch*) shall be preserved by the Deutsche Bundesbank. If the offender has been identified, they may be destroyed ten years after the judgement ordering their confiscation becomes effective or, if the offender has not been identified, twenty years thereafter.

37a Information and inspections, prohibition of banknote recirculation

(1) Obligated parties pursuant to section 36 (1) that wish to put banknotes back into circulation shall, upon request, furnish the Deutsche Bundesbank with information about the origin of the banknotes, the processing thereof and the banknote handling machines used, and shall submit documentation. Disclosure of information can be refused if the furnishing thereof would place the obligated parties or one of their relatives as designated in section 383 (1), numbers 1 to 3, of the Code of Civil Procedure (*Zivilprozessordnung*) at risk of criminal prosecution or proceedings under the Act on Breaches of Administrative Regulations.

(2) The Deutsche Bundesbank can, with or without a special reason, carry out inspections at the obligated parties pursuant to section 36 (1) and can enter their business premises during ordinary office and business hours; this shall also apply to enterprises to which the obligated parties have outsourced their activities. The parties affected shall acquiesce to these measures.

(3) If an obligated party pursuant to section 36 (1) breaches the checking obligations to be fulfilled pursuant to the Decision of the European Central Bank of 16 September 2010 on the authenticity and fitness checking and recirculation of euro banknotes (ECB/2010/14) (OJ L 267/1 of 9 October 2010), the Deutsche Bundesbank shall prohibit the obligated parties from putting banknotes or certain denominations of banknotes back into circulation or from checking banknotes or certain denominations of banknotes using certain banknote processing systems.

Part IX

Transitional and final provisions

38 Transitional provision for members of the governing bodies of the Bank

With the exception of the President, the members of the Directorate (*Direktorium*) shall leave office upon the entry into force of the Act amending the Bundesbank Act¹; they shall receive their salaries as retirement pensions for the remainder of their contractual term of office, and thereafter the contractual standard retirement pension, unless a contract pursuant to section 7 (4), second sentence, of the Bundesbank Act, in the wording of the announcement of 22 October 1992 (Federal Law Gazette I, page 1782), contains a divergent provision relative to the consequences of leaving before the end of term of office due to an Act amending the Bundesbank Act. The Presidents of the Land Central Banks (*Landeszentralbanken*) shall

¹ Explanation: the term “Act amending the Bundesbank Act” refers to the Act of 23 March 2002 which entered into force on 30 April 2002.

become Presidents of the Regional Offices for the remainder of their contractual term of office, and the terms and conditions of their present contracts shall continue to apply. The Vice-Presidents and other members of the Executive Boards (*Vorstände*) of the Land Central Banks whose contracts provide for the termination of their contractual relationships in the event of their leaving office due to an Act amending the Bundesbank Act shall leave office upon the entry into force of the Act amending the Bundesbank Act; with due regard to section 8 of this Act the remaining Vice-Presidents and other members of the Executive Boards shall continue in service for the remainder of their contractual term of office, and the terms and conditions of their present contracts shall continue to apply.

39 Transitional provisions for the Executive Boards of the Land Central Banks and for the Advisory Boards

(1) The members of the Executive Boards of Land Central Banks existing on 1 November 1992, whose areas of operation will change pursuant to section 8 (1), numbers 4, 5, and 8, shall leave office on 1 November 1992. They shall receive their salaries as retirement pensions for the remainder of their contractual term of office, and thereafter the contractual standard retirement pension.

(2) The Advisory Boards of the Land Central Banks existing on 1 November 1992 will be dissolved.

40 Changes in the terms of service

(1) On the entry into force of this Act, the civil servants, other salaried staff and wage earners of the Bank deutscher Länder, the former Land Central Banks and the Berlin Central Bank (*Berliner Zentralbank*) shall become civil servants, other salaried staff and wage earners of the Deutsche Bundesbank. Permanent civil servants or civil servants on probation shall be given the legal status of permanent civil servants or civil servants on probation under the Federal Civil Servants Act; civil servants on revocable appointments shall be given the legal status of civil servants on revocable appointments under the Federal Civil Servants Act, unless, where the requirements of section 6 (3) of the Federal Civil Servants Act are satisfied, they are appointed as civil servants on probation; the difference between a higher previous remuneration and the remuneration due after this Act has entered into force shall be made good by a non-pensionable compensatory allowance payable until it has been offset by remuneration increases; increases due to changes in civil status or in locality category and general salary increases resulting from changes in economic conditions shall be disregarded.

(2) Otherwise, the provisions of part 11 of the Federal Civil Servants Act shall apply. In this connection, the pension of a civil servant of the Deutsche Bundesbank who has been temporarily retired may not, for a period of five years, amount to less than 50% of his/her pensionable remuneration, calculated on the basis of the top level of his/her salary band. This shall not apply to the calculation of surviving dependants' pensions.

(3) On the entry into force of this Act, the retired civil servants, widows, orphans and other pensioners of the Bank deutscher Länder, the former Land Central Banks and the Berlin Central Bank shall become pensioners of the Deutsche Bundesbank. Section 180 of the Federal Civil Servants Act shall apply as appropriate; the entry into force of this Act shall supersede the entry into force of the Federal Civil Servants Act. Section 180 (4) of the Federal Civil Servants Act shall apply to former civil servants of the Bank deutscher Länder, the former Land Central Banks and the Berlin Central Bank and their surviving dependants.

(4) Subsection (3) above shall apply as appropriate to the civil servants of the Deutsche Reichsbank who were re-employed in accordance with their former legal status at an office of the Deutsche Reichsbank in the federal territory after 8 May 1945 and who retired without having passed into the service of the Bank deutscher Länder, a former Land Central Bank or the Berlin Central Bank, and to their surviving dependants.

(5) Any claims under the Federal Act Regulating the Indemnification of Government Employees for National Socialist Injustice (*Bundesgesetz zur Regelung der Wiedergutmachung nationalsozialistischen Unrechts für Angehörige des öffentlichen Dienstes*) and the Federal Act Regulating the Indemnification of Government Employees Living Abroad for National Socialist Injustice (*Bundesgesetz zur Regelung der Wiedergutmachung nationalsozialistischen Unrechts für die im Ausland lebenden Angehörigen des öffentlichen Dienstes*) of persons

- 1 who were wronged in the area of the Deutsche Reichsbank or
- 2 who, being members or former members of the staff of the Bank deutscher Länder, the former Land Central Banks or the Berlin Central Bank, satisfy the requirements of section 22 (3) of the Act Regulating the Indemnification of Government Employees for National Socialist Injustice

shall become claims on the Deutsche Bundesbank. This does not apply to the cases under number 1 above if another employer is required to provide indemnification under section 22 (3) of the aforementioned Act.

(6) Section 41 of this Act shall apply to persons who received or could have received pensions under the Act Regulating the Legal Status of Persons Covered by the Provisions of Article 131 of the Basic Law (*Gesetz zur Regelung der Rechtsverhältnisse der unter Artikel 131 des Grundgesetzes fallenden Personen*).

(7) (Transitional provision no longer valid.)

41 Legal status of persons covered by the provisions of Article 131 of the Basic Law

(1) The Deutsche Bundesbank is an “entity” (*Einrichtung*) within the meaning of section 61 of the Act Regulating the Legal Status of Persons Covered by the Provisions of Article 131 of the Basic Law in relation to the Deutsche Reichsbank, the Nationalbank für Böhmen und Mähren and foreign central banks (number 19 of schedule A to section 2 (1) of the Act).

(2) Section 62 of the Act specified in subsection (1) above shall apply as appropriate to civil servants, other salaried staff and wage earners of the Deutsche Reichsbank who were employed at offices of the Deutsche Reichsbank in the federal territory and the Federal State of Berlin on 8 May 1945 and who

- 1 lost their post for reasons unconnected with legislation relating to civil servants or employment agreements relating to salaried staff and wage earners, and have not yet been re-employed in accordance with their former legal status or
- 2 reached the age of 65, or became unfit for work, before the Act specified in subsection (1) above entered into force, and are not receiving a corresponding, or any, pension for

reasons unconnected with legislation relating to civil servants or employment agreements relating to salaried staff and wage earners.

(3) For retired civil servants of the Deutsche Reichsbank who retired before 1 September 1953 (section 5 (1), number 1, section 6 (2), section 35 (1) and section 48 of the Act specified in subsection (1) above), the previous basis of assessment in accordance with the Federal Civil Servants Act (pensionable remuneration, pension rates) shall be retained, subject to the modifications resulting from sections 7, 8, 29 (2) and (3) and sections 30, 31 and 35 (3) of the Act specified in subsection (1) above and sections 108, 112, 117 (1), section 140 (2) and the first and second sentences of (3), section 156 (1), sections 181a and 181b of the Federal Civil Servants Act; if the calculation of the pensionable period of service is based on a provision corresponding to section 117 (2) of the Federal Civil Servants Act or to section 181 (5) of the Federal Civil Servants Act in the wording applicable on 30 June 1975, section 117 (3) of the Federal Civil Servants Act shall apply as appropriate. The pension shall not exceed 75% of the pensionable remuneration. The same shall apply as appropriate to surviving dependants. Section 64 (1), sixth sentence, second clause, of the Act specified in subsection (1) above shall apply.

(4) The President of the Deutsche Bundesbank shall be the supreme institutional authority for the persons to whom the provisions of subsections (1) and (2) above apply. In this capacity he/she shall represent the Bank in and out of court. He/she shall be entitled to delegate his/her tasks and powers pursuant to the first and second sentences to a member of the Executive Board. In the cases under subsection (1) above, he/she shall take the place of the Federal Ministry of Finance insofar as the participation of that Ministry is prescribed in the Act specified therein and in the provisions of the legislation relating to civil servants applicable under that Act.

42 Issue of liquidity paper

(1) The Federal Republic of Germany shall supply the Deutsche Bundesbank on request with Treasury bills or Treasury discount paper in the denominations and on the terms of the Bank's choice (liquidity paper) up to the maximum amount of 25 billion euro. The liquidity paper is payable at the Bank. The Bank is liable to the Federal Republic of Germany for meeting all obligations arising from the liquidity paper.

(2) The par value of the liquidity paper issued shall be entered in a special account by the Deutsche Bundesbank. The funds may be used only to redeem liquidity paper that has fallen due or been repurchased by the Bank prior to maturity.

(3) The Federal Ministry of Finance shall be entitled to issue liquidity paper pursuant to subsection (1) above.

(4) The Deutsche Bundesbank shall be entitled to issue debt securities denominated in euro in the denominations and on the terms of its choice.

43 (Repeal of and amendments to legal provisions)

44 Dissolution

The Deutsche Bundesbank may be dissolved only by an Act of Parliament. The Dissolution Act shall determine how the assets are to be applied.

45 Other transitional provisions

(1) Section 2, second sentence, and section 27, number 1, both as amended by the Sixth Act Amending the Bundesbank Act (*Sechste Gesetz zur Änderung des Gesetzes über die Deutsche Bundesbank*), shall be applied to the annual accounts for the first time on the reference day immediately preceding the start of the first year of the Federal Republic of Germany's participation in the third stage of monetary union in accordance with Article 121 of the EC Treatyⁱ. Section 26 (2), second and third sentences, as amended by the Sixth Act Amending the Bundesbank Act, is to be applied for the first time to the following financial year.

(2) The reserves formed hitherto pursuant to section 27, number 2, as amended up to the day before the entry into force of the Sixth Act Amending the Bundesbank Act as specified in Article 2, second sentence, of the Act, and the statutory reserves exceeding the amount of 5 billion Deutsche Mark, shall be dissolved in the annual accounts on the reference date immediately preceding the start of the first year of the Federal Republic of Germany's participation in the third stage of monetary union pursuant to Article 121 of the EC Treatyⁱ. The funds arising from the dissolution of the reserves will be added to the capital until this amounts to 5 billion Deutsche Mark. The excess amount shall be transferred to the net profit.

(3) Section 2, second sentence, and section 27, number 1, both in the wording of the Seventh Act Amending the Bundesbank Act, shall be applied to the annual accounts for the first time as at the reference date immediately succeeding the entry into force of the said Act. The portion of the capital which is in excess of 2.5 billion euro shall be transferred to the statutory reserves. If, following a transfer from the annual accounts as at the reference date immediately succeeding the entry into force of the Seventh Act Amending the Bundesbank Act pursuant to the first sentence of this subsection, the statutory reserves exceed 2.5 billion euro, the excess amount shall be transferred to the net profit.

(4) Notwithstanding section 7 (2), first sentence, of the version applicable as of 20 July 2007, the Executive Board may comprise the President, the Deputy President and five other members until 30 April 2009.

(5) The staff regulations issued on the basis of section 31 (4) as revised on 11 February 2009 shall continue to apply until the regulation replacing the staff regulations pursuant to section 31 (4) enters into force, but no later than 30 June 2009.

46 (repealed)

47 (Entry into force)

ⁱ The reference corresponds to the numbering since the Treaty of Amsterdam (OJ C 340/1 of 10 November 1997) entered into force.