

Act on Monitoring Financial Stability (Financial Stability Act)*

Revised read-only version
Unofficial text

Gesetz zur Überwachung der Finanzstabilität (Finanzstabilitätsgesetz) in the wording of the announcement of 28 November 2012 (Federal Law Gazette I, page 2369)

- as last amended by Article 4 paragraph 9 of the Act of 10 July 2020 (Federal Law Gazette I, page 1633).

* This translation is provided by the Deutsche Bundesbank and is for information purposes only. This translation is not official; the only authentic text is the German one as published in the Federal Law Gazette I (Bundesgesetzblatt I).

Table of contents

Section 1 – Safeguarding financial stability..... 1

Section 2 – Financial Stability Committee..... 1

Section 3 – Warnings and recommendations 3

Section 4 – Cooperation with the European Systemic Risk Board..... 3

Section 5 – Cooperation between the Deutsche Bundesbank and BaFin 4

Section 6 – Reporting requirements; power to issue statutory orders 5

Section 7 – Confidentiality requirement 5

Section 1 – Safeguarding financial stability

- (1) The Deutsche Bundesbank shall contribute to safeguarding the stability of the financial system (financial stability) in Germany, in particular by
 1. analysing factors that are key to financial stability and identifying risks which may impair financial stability,
 2. preparing a report once a year on the situation regarding and developments in financial stability, and making this report available to the Financial Stability Committee (*Ausschuss für Finanzstabilität*) for the purposes of fulfilling its reporting obligation pursuant to section 2 (9),
 3. making proposals to the Financial Stability Committee regarding the issuing of warnings pursuant to section 3 (1) and recommendations pursuant to section 3 (2), and
 4. evaluating the implementation measures pursuant to section 3 (4) sentence 2 and informing the Financial Stability Committee of its assessment.
- (2) This is without prejudice to the Deutsche Bundesbank's powers pursuant to other provisions. Section 12 of the Bundesbank Act (*Gesetz über die Deutsche Bundesbank*) shall apply *mutatis mutandis*.

Section 2 – Financial Stability Committee

- (1) The Financial Stability Committee shall be set up at the Federal Ministry of Finance (*Bundesministerium der Finanzen*) in order to strengthen cooperation in the area of financial stability.
- (2) The Financial Stability Committee's tasks shall include, in particular,
 1. discussing the factors that are key to financial stability,
 2. strengthening cooperation between the institutions represented on the Financial Stability Committee in the event of a financial crisis,
 3. advising on the handling of warnings and recommendations issued by the European Systemic Risk Board,
 4. reporting annually to the lower house of Parliament, the Bundestag, in accordance with subsection (9), and
 5. issuing warnings and recommendations pursuant to section 3 (1) and (2), and publishing the same pursuant to section 3 (6).
- (3) The Financial Stability Committee shall consist of
 1. three representatives of the Federal Ministry of Finance, one of whom shall be delegated as the chair and one as the deputy chair of the Committee,
 2. three representatives of the Deutsche Bundesbank, and
 3. three representatives of the Federal Financial Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht*, hereinafter referred to as BaFin).

The member of the Executive Board of the BaFin responsible for the Directorate of Resolution shall be a non-voting advisory member of the Committee. The aforementioned institutions shall also nominate an alternate for each representative.

- (4) The Financial Stability Committee shall be convened by the chair once every quarter. Every member may, for good cause, request that the Committee be convened at short notice. Third parties may be called to attend meetings by the chair. The Committee shall adopt its rules of procedure by mutual consent.
- (5) Unless otherwise stipulated, the Financial Stability Committee's decisions shall require a simple majority. Decisions regarding warnings and recommendations and the publication thereof pursuant to section 3 (6) should be taken unanimously; decisions regarding the submission of the report pursuant to subsection (9) should be taken unanimously. Decisions pursuant to sentence 2 may not be taken contrary to the votes of the Deutsche Bundesbank representatives in attendance.
- (6) The deliberations of the Financial Stability Committee shall be confidential. This shall not entail a restriction on the general reporting activities of the Committee and its members concerning the meetings and the work of the Committee.
- (7) The persons specified in section 9 (1) sentence 1 of the Banking Act (*Kreditwesengesetz*), section 21 (1) of the Securities Trading Act (*Wertpapierhandelsgesetz*), section 19 (1) of the Securities Prospectus Act (*Wertpapierprospektgesetz*), section 9 (1) of the Securities Acquisition and Takeover Act (*Wertpapiererwerbs- und Übernahmegesetz*), section 4 (1) of the Capital Investments Act (*Vermögensanlagengesetz*), section 309 (1) sentences 1 and 2 of the Insurance Supervision Act (*Versicherungsaufsichtsgesetz*), section 6 of the Payment Services Oversight Act (*Zahlungsdiensteaufsichtsgesetz*), section 8 of the Investment Code (*Kapitalanlagegesetzbuch*), section 32 of the Bundesbank Act and section 3b (1) of the Stabilisation Fund Act (*Stabilisierungsfondsgesetz*) shall be exempt from their respective confidentiality requirements for the purposes of performing tasks on the Financial Stability Committee.
- (8) The Federal Ministry of Finance shall brief the Steering Committee (*Lenkungsausschuss*) within the meaning of section 4 (1) sentence 2 of the Stabilisation Fund Act; in particular, the Federal Ministry of Finance shall regularly inform the Steering Committee about developments in financial stability, and about the decisions and other resolutions of the Financial Stability Committee.
- (9) The Financial Stability Committee shall report at least annually to the Bundestag on the situation regarding and developments in financial stability as well as on its activities pursuant to this Act.
- (10) The Financial Stability Committee shall be represented by the chair or, in his/her absence, by the deputy chair.

Section 3 – Warnings and recommendations

- (1) In warnings to a specific addressee, the Financial Stability Committee may draw attention to risks which might impair financial stability. Detailed reasons shall be given for the warnings.
- (2) In recommendations to a specific addressee, the Financial Stability Committee may identify the measures that it considers to be suitable and necessary for the addressee to implement in order to avert risks to financial stability.
- (3) The addressee of a warning or recommendation may be the Federal Government, BaFin or another public body in Germany.
- (4) The addressee of a recommendation shall notify the Financial Stability Committee within a reasonable period of time of how it intends to implement the recommendation. It shall regularly inform the Committee of its implementation progress. If the addressee does not intend to implement a recommendation, it shall give detailed reasons therefor.
- (5) If the Financial Stability Committee establishes that its recommendation addressed to a federal state (Land) public body has not been followed or that the addressee has failed to provide adequate reasons for its inaction, it may, in keeping with strict confidentiality provisions, inform all of the federal state governments.
- (6) The Financial Stability Committee may publish the warnings and recommendations. It shall provide the respective addressee with advance notification of its intention to publish a recommendation and shall give the addressee the opportunity to comment.

Section 4 – Cooperation with the European Systemic Risk Board

- (1) The Financial Stability Committee shall work closely with the European Systemic Risk Board (ESRB) and, insofar as necessary, with the authorities charged with safeguarding financial stability in the other member states of the European Union.
- (2) The Financial Stability Committee may exchange information with the ESRB and, insofar as necessary, with the authorities charged with safeguarding financial stability in the other member states of the European Union insofar as this is required to safeguard financial stability.
- (3) The Financial Stability Committee shall inform the ESRB of its warnings and recommendations. Where warnings or recommendations may be expected to have a material cross-border impact, the Financial Stability Committee shall inform the ESRB prior to issuing its warning or recommendation.

Section 5 – Cooperation between the Deutsche Bundesbank and BaFin

- (1) The Deutsche Bundesbank and BaFin shall exchange all information, in particular observations, findings and assessments, required by BaFin for the purposes of performing its respective supervisory functions and by the Deutsche Bundesbank for the purposes of performing its functions as set out in this Act. BaFin and the Deutsche Bundesbank shall lay down the details regarding the transmission of this information by mutual consent. The persons specified in section 9 (1) sentence 1 of the Banking Act, section 21 (1) of the Securities Trading Act, section 19 (1) of the Securities Prospectus Act, section 9 (1) of the Securities Acquisition and Takeover Act, section 4 (1) of the Capital Investments Act, section 309 (1) sentences 1 and 2 of the Insurance Supervision Act, section 6 of the Payment Services Oversight Act, section 8 of the Investment Code, section 32 of the Bundesbank Act and in section 7 shall be exempt from their respective confidentiality requirements to this extent.
- (2) The exchange of information pursuant to subsection (1) shall include the transmission of the personal data that are needed imperatively for the performance of the recipient's functions specified in subsection (1) sentence 1. In order to perform their functions specified in subsection (1) sentence 1, BaFin and the Deutsche Bundesbank may agree that the data stored in each other's databases may be accessed by means of an automated procedure. In all other respects, section 7 (4) and (5) of the Banking Act shall apply *mutatis mutandis*.

**Section 6 – Reporting requirements;
power to issue statutory orders**

- (1) Financial corporations within the meaning of Annex A chapter 2 paragraphs 2.32 to 2.67 of Council Regulation (EC) No 2223/96 of 25 June 1996 on the European system of national and regional accounts in the Community (OJ L 310/1 of 30 November 1996) domiciled in Germany shall, upon request, provide the Deutsche Bundesbank with the economic and trade data which it needs to perform its functions specified in this Act. Economic and trade data within the meaning of sentence 1 shall mean all data which enable a deeper insight into the situation regarding and developments in the economic circumstances of financial corporations as well as their trading activities. Such data shall include, in particular, balance sheet figures, information about off-balance-sheet business activities at both single entity and group level, information about the group structure and structural data, information about bilateral interconnectedness and risk management, and solvency and liquidity figures. Such data may also include personal data insofar as these are needed imperatively for the performance of the functions specified in this Act. The Deutsche Bundesbank shall request the data only insofar as it is unable to obtain them through the exchange of information with other authorities. The request must be made in writing and shall state the legal basis, the data to be transmitted and the purpose of collecting the data, as well as an appropriate deadline for the transmission thereof.
- (2) The Federal Ministry of Finance, in agreement with the Deutsche Bundesbank, shall specify by way of a statutory order not requiring the consent of the upper house of Parliament, the Bundesrat, which data the Deutsche Bundesbank shall be able to collect pursuant to subsection (1). The statutory order shall, in particular, lay down more detailed provisions regarding
1. the reporting agents for the respective data,
 2. the nature, scope, timing and form of the data, the permissible data storage media, the transmission channels and data formats, as well as
 3. the detailed arrangements for collecting, processing and using personal data, as well as the deadline for deleting or anonymising personal data.

Section 7 – Confidentiality requirement

The members of the Financial Stability Committee and persons employed by the institutions represented on the Financial Stability Committee and acting to implement this Act, as well as persons pursuant to section 2 (4) sentence 3, may not disclose or use without authorisation facts which have come to their notice in the course of their activities and which should be kept secret in the interests of a third party, especially business and trade secrets, not even after they have left such employment, or their activities on or membership of the Financial Stability Committee have ended. This shall also apply to other persons who, by way of official reporting, obtain knowledge of the facts referred to in sentence 1. In all other respects, section 9 (1) sentences 4 to 8 and (2) of the Banking Act shall apply mutatis mutandis. This is without prejudice to section 2 (6) sentence 1.