

Annex 1 Organic Law⁽¹⁾

Art. 1. – This Law shall govern a matter referred to in Article 78 of the Constitution.

Chapter I – Nature and objectives

Art. 2. – The National Bank of Belgium, in Dutch “Nationale Bank van België”, in French “Banque Nationale de Belgique”, in German “Belgische Nationalbank”, established by the Law of 5 May 1850, shall form an integral part of the European System of Central Banks, hereinafter referred to as ESCB, whose Statute has been established by the Protocol relating to it and annexed to the Treaty establishing the European Community.

Furthermore, the Bank shall be governed by this Law, its own Statutes and, additionally, by the provisions relating to limited liability companies by shares [*sociétés anonymes – naamloze vennootschappen*]⁽²⁾.

Art. 3. – The Bank’s registered office shall be in Brussels.

The Bank shall establish outside offices in locations on Belgian territory where the need for them exists.

Art. 4. – The Bank’s share capital, which shall amount to ten million euro, shall be represented by four hundred thousand shares, of which two hundred thousand – registered and non-transferable – shall be subscribed by the Belgian State and two hundred thousand shall

be registered, bearer or dematerialised shares. The share capital shall be fully paid up.

Bearer shares, which have already been issued and held on securities accounts as at 1 January 2008, shall be converted into dematerialised shares on this date. Other bearer shares shall be automatically converted into dematerialised shares as they are booked onto securities accounts from 1 January 2008 onwards.

Except for those belonging to the State, the shares may be converted into registered or dematerialised shares, free of charge, as the owner wishes.

Chapter II – Tasks and transactions

Art. 5. – 1. In order to achieve the objectives of the ESCB and to carry out its tasks, the Bank may:

- operate in the financial markets, by buying and selling outright (spot and forward), or under repurchase agreement or by lending or borrowing claims and marketable instruments expressed in Community or in non-Community currencies, as well as precious metals;

- conduct credit operations with credit institutions and other money market or capital market participants, with lending being based on adequate collateral.

2. The Bank shall comply with the general principles defined by the ECB for open market and credit operations, including those relating to announcement of the conditions under which such transactions are carried out.

(1) Law of 22 February 1998 establishing the Organic Statute of the National Bank of Belgium (unofficial coordinated translation dated 1 December 2012).

(2) The provisions on limited liability companies by shares do not apply to the National Bank of Belgium except:

1. in regard to matters which are not governed either by the provisions of Title VII of Part Three of the Treaty establishing the European Community and the Protocol on the Statute of the European System of Central Banks and of the European Central Bank, or by the above-mentioned Law of 22 February 1998 or the Statutes of the National Bank of Belgium; and

2. insofar as they are not in conflict with the provisions referred to in 1.

(Article 141 § 1 of the Law of 2 August 2002 on the supervision of the financial sector and on financial services).

Art. 6. – Within the limits and in accordance with the detailed terms and conditions adopted by the ECB, the Bank may also carry out, *inter alia*, the following transactions:

1. issue and redeem its own loan instruments;
2. accept deposits of securities and precious metals, undertake the redemption of securities and act on behalf of other parties in transactions in securities, other financial instruments and precious metals;
3. carry out transactions in interest-rate instruments;
4. carry out transactions in foreign currencies, gold or other precious metals;
5. carry out transactions with a view to the investment and financial management of its holdings of foreign currencies and of other external reserve elements;
6. obtain credit from foreign sources and provide guarantees for that purpose;
7. carry out transactions relating to European or international monetary cooperation.

Art. 7. – The Bank's claims arising from credit transactions shall entail a preferential claim on all securities which the debtor holds in an account with the Bank or in its securities clearing system as his own assets.

This preferential claim shall have the same rank as the preferential claim of the creditor secured with a pledge. It takes precedence over the rights set out in Article 8, paragraph 3, of the Law of 2 January 1991 on the market in public debt securities and monetary policy instruments, Articles 12, paragraph 4, and 13, paragraph 4, of Royal Decree No 62 on the deposit of fungible financial instruments and the settlement of transactions involving such instruments, as coordinated by the Royal Decree of 27 January 2004, and 471, paragraph 4, of the Company Code.

In the event of default on payment of the Bank's claims referred to in the first paragraph, the Bank may, after notifying the debtor in writing that he is in default, take action automatically, without a prior court decision, to realise the securities on which it has a preferential claim, notwithstanding the possible bankruptcy of the debtor or any other situation in which there is concurrence as between his creditors. The Bank must endeavour to convert the securities into cash at the most advantageous price and as quickly as possible, account being

taken of the volume of the transactions. The proceeds from this conversion into cash shall be allocated to the Bank's claim in respect of principal, interest and costs, any balance remaining after settlement reverting to the debtor.

When the Bank accepts claims as a pledge, as soon as the pledge agreement has been entered into, it is noted in a register kept at the National Bank of Belgium or with a third party appointed for this purpose.

By being recorded in this register, which is not subject to any specific formalities, the National Bank of Belgium's pledge is given a firm date and becomes opposable *erga omnes*, with the exception of the debtor of the pledged claim.

The register may only be consulted by third parties who are considering acceptance of an *in rem* (collateral) right over claims which may be taken as a pledge by the National Bank of Belgium. Consultation of the register is governed by terms to be stipulated by the National Bank of Belgium.

In the event of insolvency proceedings being instituted, as set out in Article 3, paragraph 5 of the Law of 15 December 2004 relating to financial collateral and various tax provisions in relation to *in rem* collateral arrangements and loans relating to financial instruments, to the account of a credit institution having pledged claims to the National Bank of Belgium, the following provisions will apply:

a) the registered lien of the National Bank of Belgium on claims takes precedence of all other *in rem* collateral subsequently arranged or granted to third parties over the same claims, irrespective of whether or not the debtor of the pledged claims has been notified of the above-mentioned liens and whether or not the above-mentioned liens have been recognised by the debtor of the pledged claims; in the event that the National Bank of Belgium brings the pledge to the attention of the debtor of the pledged claim, the latter may now only make payment in full discharge to the National Bank of Belgium.

b) third parties acquiring a lien concurrent with that of the National Bank of Belgium, as described in the preceding paragraph, are obliged, in any event, to transfer to the National Bank of Belgium, without delay, the amounts which they have received from the debtor of the pledged claim upon insolvency proceedings being instituted. The National Bank of Belgium is entitled to demand payment of these amounts, without prejudice to its right to damages and interest.

c) notwithstanding any provisions to the contrary, set-off that might result in the cancellation of all or part of the claims pledged to the National Bank of Belgium is not authorised under any circumstances.

d) Article 8 of the Law of 15 December 2004 relating to financial collateral and various tax provisions in relation to *in rem* collateral arrangements and loans relating to financial instruments, shall apply by analogy to the taking of claims as a pledge by the National Bank of Belgium, the words “financial instruments” being replaced by “claims”.

e) the combined provisions of Articles 5 and 40 of the Law relating to mortgages (*loi hypothécaire*) do not apply.

Art. 8. – The Bank shall ensure that the clearing and payment systems operate properly and shall make certain that they are efficient and sound.

It may carry out all transactions or provide facilities for these purposes.

It shall provide for the enforcement of the regulations adopted by the ECB in order to ensure the efficiency and soundness of the clearing and payment systems within the European Community and with other countries.

Art. 9. – Without prejudice to the powers of the institutions and organs of the European Communities, the Bank shall implement the international monetary cooperation agreements by which Belgium is bound in accordance with the procedures laid down by agreements concluded between the Minister of Finance and the Bank. It shall provide and receive the means of payment and credits required for the implementation of these agreements.

The State shall guarantee the Bank against any loss and shall guarantee the repayment of any credit granted by the Bank as a result of the implementation of the agreements referred to in the preceding paragraph or as a result of its participation in international monetary cooperation agreements or transactions to which, subject to approval by the Council of Ministers, the Bank is a party. The State shall also guarantee the Bank the repayment of any credit granted in the context of its contribution to the stability of the financial system and guarantee the Bank against any loss incurred as a result of any transaction necessary in this regard.

Art. 9bis. – Within the framework set by Article 105 (2) of the Treaty establishing the European Community and Articles 30 and 31 of the Protocol on the Statute of the European System of Central Banks and of the European

Central Bank, the Bank shall hold and manage the official foreign reserves of the Belgian State. Those holdings shall constitute assets allocated to the tasks and transactions coming under this chapter and the other tasks of public interest entrusted to the Bank by the State. The Bank shall record these assets and the income and charges relating thereto in its accounts in accordance with the rules referred to in Article 33.

Art. 10. – The Bank may, on the conditions laid down by, or by virtue of, law, and subject to their compatibility with the tasks within the domain of the ESCB, be entrusted with the performance of tasks of public interest.

Art. 11. – The Bank shall act as State Cashier on the conditions determined by law.

In regard to currencies borrowed by the State, it shall be entrusted, to the exclusion of all other Belgian or foreign bodies, with the conversion into euro of the currencies of States not participating in Monetary Union or of States which are not members of the European Community.

The Bank shall be informed of all plans for the contracting of foreign currency loans by the State, the Communities and the Regions. At the request of the Bank, the Minister of Finance and the Bank shall consult together whenever the latter considers that these loans are liable to prejudice the effectiveness of monetary or foreign exchange policy. The terms and conditions of this giving of information and this consultation shall be laid down in an agreement to be concluded between the Minister of Finance and the Bank, subject to approval of this agreement by the ECB.

Art. 12. – The Bank shall contribute to the stability of the financial system. For all decisions and transactions made in the context of its contribution to the stability of the financial system, the Bank shall enjoy the same degree of independence as that determined by Article 108 of the Treaty establishing the European Community.

The Bank may further be charged with the gathering of statistical information or with the international cooperation relating to any task referred to in Article 10.

Art. 12bis. – § 1. The Bank shall exercise supervision of financial institutions in accordance with this Law and specific laws governing the supervision of these establishments.

§ 2. Within the areas of supervision pertaining to its competence, the Bank may lay down regulations supplementing the legal or regulatory provisions on points of a technical nature.

Without prejudice to any consultation provided for in other laws or regulations, the Bank may, in accordance with the procedure of open consultation, explain, in a consultative memorandum, the content of any regulation it is considering adopting, and publish this on its website with a view to obtaining any comments by those concerned.

These regulations shall come into force only after their approval by the King and their publication in the *Moniteur belge / Belgisch Staatsblad* (Belgian Official Gazette). The King may amend those regulations or establish any rules Himself that He shall determine if the Bank has not laid down those regulations.

§ 3. The Bank shall carry out its supervisory tasks exclusively in the general interest. The Bank, the members of its bodies and the members of its staff shall not bear any civil liability for their decisions, non-intervention, acts or conduct in the exercise of the legal supervisory tasks of the Bank, save in the event of fraud or gross negligence.

§ 4. The Bank's operating costs relating to the supervision referred to in paragraph 1 are borne by the institutions subject to its supervision, according to the terms and conditions laid down by the King.

The Bank may make the administration of the Land Registry, Public Records and Crown Lands Office responsible for recovery of unpaid taxes.

Art. 13. – The Bank may carry out all transactions and provide all services which are ancillary to or follow from the tasks referred to in this Law.

Art. 14. – The Bank may entrust the performance of tasks not within the domain of the ESCB with which it is charged or for which it takes the initiative, to one or more distinct legal entities specially set up for this purpose and in which the Bank holds a significant interest; one or more members of the Bank's Board of Directors shall participate in directing such entities.

If the task is entrusted by law to the Bank, the prior consent of the King, on the proposal of the competent minister, shall be required.

Art. 15. – *Repealed.*

Art. 16. – The legal entities referred to in Article 14 and controlled exclusively by the Bank shall be subject to auditing by the Court of Auditors [*Cour des Comptes – Rekenhof*].

Chapter III – Organs – Composition – Incompatibilities

Art. 17. – The organs of the Bank shall be the Governor, the Board of Directors, the Council of Regency, the Board of Censors and the Sanctions Committee.

Art. 18. – 1. The Governor shall direct the Bank and preside over the Board of Directors and the Council of Regency.

2. If he is unable to attend, he shall be replaced by the Vice-Governor without prejudice to the application of Article 10.2 of the Statute of the ESCB.

Art. 19. – 1. In addition to the Governor, who presides, the Board of Directors shall be composed of at least five but not more than seven directors, one of whom shall bear the title of Vice-Governor, conferred on him by the King. The Board of Directors shall include an equal number of French and Dutch speakers, with, possibly, the exception of the Governor.

2. The Board shall be responsible for the administration and management of the Bank and shall decide on the direction of its policy.

3. It shall exercise regulatory power in the cases laid down by law. In circulars or recommendations, it shall lay down all measures with a view to clarifying the application of the legal or regulatory provisions whose application the Bank supervises.

4. It shall decide on the investment of the capital, reserves and depreciation accounts after consultation with the Council of Regency and without prejudice to the rules adopted by the ECB.

5. It shall pronounce upon all matters which are not expressly reserved for another organ by law, the Statutes or the Rules of Procedure.

6. It shall provide opinions to the various authorities that exercise legal or regulatory power on all draft legislative or regulatory acts relating to the supervisory tasks with which the Bank is or may be charged.

7. In urgent cases determined by the Governor, except for adopting regulations, it may take decisions by written procedure or by using a voice telecommunications system, in accordance with the specific rules laid down in the Bank's Rules of Procedure.

Art. 20. – 1. The Council of Regency shall be composed of the Governor, the Directors and ten Regents. It shall include an equal number of French- and Dutch-speaking Regents.

2. The Council shall exchange views on general issues relating to the Bank, monetary policy and the economic situation of the country and the European Community, supervisory policy with regard to each of the sectors subject to the Bank's supervision, Belgian, European and international developments in the field of supervision, as well as, in general, any development concerning the financial system subject to the Bank's supervision; without however having any competence to intervene at operational level or take cognisance of individual dossiers. It shall take cognisance every month of the situation of the institution.

On a proposal from the Board of Directors it shall lay down the Rules of Procedure, containing the basic rules for the operation of the Bank's organs and the organisation of its departments, services and outside offices.

3. The Council shall fix the individual salaries and pensions of the members of the Board of Directors. These salaries and pensions may not include a share in the profits and no remuneration whatsoever may be added thereto by the Bank, either directly or indirectly.

4. The Council shall approve the expenditure budget and the annual accounts submitted by the Board of Directors. It shall finally determine the distribution of profits proposed by the Board.

5. *Repealed.*

Art. 21. – 1. The Board of Censors shall be composed of ten members. It shall include an equal number of French and Dutch speakers. At least one member of the Board of Censors shall be independent as defined by Article 526ter of the Company Code.

2. The Board of Censors shall supervise the preparation and implementation of the budget. It is the Audit Committee of the Bank and shall exercise in this capacity the tasks laid down by Article 21bis.

3. The Censors shall receive an allowance, the amount of which shall be set by the Council of Regency.

Art. 21bis. – 1. Without prejudice to the responsibilities of the organs of the Bank and without prejudice to the execution of the tasks and transactions within the domain of the ESCB and their review by the statutory auditor, the Audit Committee shall, at least:

a) monitor the financial reporting process;

b) monitor the effectiveness of the internal control and risk management systems, and of the Bank's internal audit;

c) monitor the statutory audit of the annual accounts, including the compliance with the questions and recommendations formulated by the statutory auditor;

d) review and monitor the independence of the statutory auditor, and in particular the provision of additional services to the Bank.

2. Without prejudice to Article 27.1 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank, and without prejudice to the competence of the Works Council with respect to the nomination, the proposal of the Board of Directors for the appointment of the statutory auditor shall be given on proposal of the Audit Committee. The Works Council shall be informed of this proposal. The Audit Committee shall also advise on the tender procedure for the appointment of the statutory auditor.

3. Without prejudice to any reports and notices of the statutory auditor to the organs of the Bank, he shall report to the Audit Committee on key matters arising from the statutory audit, and in particular on material weaknesses in internal control in relation to the financial reporting process.

4. The statutory auditor shall:

a) confirm annually in writing to the Audit Committee his independence from the Bank;

b) disclose annually to the Audit Committee any additional services provided to the Bank;

c) discuss with the Audit Committee the threats to his independence and the safeguards applied to mitigate those threats and that have been documented by him in the audit working papers.

5. The Rules of Procedure shall specify the Audit Committee Regulations.

Art. 22. – 1. Except as regards the tasks and transactions within the domain of the ESCB, the Minister of Finance, through his representative, shall have the right to supervise the Bank's transactions and to oppose the implementation of any measure which is contrary to the law, the Statutes or the interests of the State.

2. The representative of the Minister of Finance shall, *ex officio*, attend the meetings of the Council of Regency and the Board of Censors. Except as regards the functions and transactions within the domain of the ESCB, he shall supervise the Bank's transactions and suspend and bring to the attention of the Minister of Finance any decision which is contrary to the law, the Statutes or the interests of the State.

If the Minister of Finance has not given a decision within eight days on the suspension, the decision may be implemented.

3. The salary of the representative of the Minister of Finance shall be fixed by the Minister of Finance in consultation with the management of the Bank and shall be borne by the latter.

The representative of the Minister shall report to the Minister of Finance each year on the performance of his task.

Art. 23. – 1. The Governor shall be appointed by the King for a renewable term of five years. He may be relieved from office by the King only if he no longer fulfils the conditions required for the performance of his duties or if he has been guilty of serious misconduct. With regard to this decision, he shall have the right of appeal as provided in Article 14.2 of the Statute of the ESCB.

2. The other members of the Board of Directors shall be appointed by the King, on the proposal of the Council of Regency, for a renewable term of six years. They may be relieved from office by the King only if they no longer fulfil the conditions required for the performance of their duties or if they have been guilty of serious misconduct.

3. The Regents shall be elected for a three-year term by the General Meeting. Their term may be renewed. Two Regents shall be chosen on the proposal of the most representative labour organisations. Three Regents shall be chosen on the proposal of the most representative organisations from industry and commerce, from agriculture and from small firms and traders. Five Regents shall be chosen on the proposal of the Minister of Finance. The methods of proposing candidates for these appointments shall be laid down by the King, after deliberation in the Council of Ministers.

4. The Censors shall be elected for a three-year term by the General Meeting of Shareholders. They shall be chosen from among persons with special qualifications in the field of supervisory procedures. Their term may be renewed.

Art. 24. – The Regents shall receive attendance fees and, if appropriate, a travel allowance. The amount of such remunerations shall be fixed by the Council of Regency.

Art. 25. – Members of the Legislative Chambers, the European Parliament, the Councils of the Communities and the Regions, persons who hold the position of minister or secretary of state or of member of the Government of a Community or Region and members of the staff of a member of the Federal Government or of the Government of a Community or Region may not hold the office of Governor, Vice-Governor, member of the Board of Directors, member of the Sanctions Committee, regent or censor. The last-mentioned functions shall automatically cease when their holder takes the oath of office for exercise of the above-mentioned offices or performs such functions.

Art. 26. – § 1. The Governor, the Vice-Governor and the other members of the Board of Directors may not hold any office in a commercial company or a company which is commercial in form or in any public body which carries on an industrial, commercial or financial activity. Subject to the approval of the Minister of Finance, they may however hold office in:

1. international financial institutions established under agreements to which Belgium is party;

2. the Securities Regulation Fund (*Fonds des Rentes – Rentenfonds*), the Deposit and Financial Instrument Protection Fund (*Fonds de protection des dépôts et des instruments financiers – Beschermingsfonds voor deposito's en financiële instrumenten*), the Rediscount and Guarantee Institute (*Institut de Réescompte et de Garantie – Herdiscontering- en Waarborginstituut*) and the National Delcredere Office (*Office National du Ducreire – Nationale Delcrededienst*);

3. the legal entities referred to in Article 14.

For duties and mandates in an institution subject to the Bank's supervision pursuant to Articles 8, 12 or 12*bis*, the prohibitions referred to in the first paragraph shall continue to apply for one year after the Governor, Vice-Governor and other members of the Board of Directors have relinquished their office.

The Council of Regency shall determine the conditions relating to the relinquishment of office. It may, on the recommendation of the Board of Directors, waive the prohibition laid down for the period concerned after the relinquishment of office if it finds that the activity envisaged has no significant influence on the independence of the person in question.

§ 2. The Regents and the majority of Censors may not be a member of the administrative, management or supervisory bodies of an institution subject to the supervision of the Bank pursuant to Articles 8, or 12*bis*, nor may they perform management duties in such an institution.

§ 3. On a proposal from the Board of Directors, the Council of Regency shall lay down the code of conduct which must be respected by the members of the Board of Directors and the staff, as well as the monitoring measures concerning respect for this code. Persons responsible for supervising compliance with that code must maintain professional secrecy as provided for in Article 458 of the Penal Code.

Art. 27. – The terms of office of the members of the Board of Directors, the Council of Regency and the Board of Censors shall expire no later than when they reach the age of sixty-seven years.

However, subject to authorisation by the Minister of Finance, they may complete their current term. The terms of the members of the Board of Directors may afterwards still be extended by one year, which term may be renewed. In the case of the Governor's term of office, the authorisation to complete the current term or its extension shall be granted by Royal Decree deliberated in the Council of Ministers.

On no account may the office-holders referred to above remain in office beyond the age of seventy years.

Art. 28. – The Governor shall send to the Chairmen of the Chamber of Representatives and the Senate the annual report referred to in Article 109 B (3) of the Treaty establishing the European Community, as well as a yearly report on the activities of the Bank in the field of prudential supervision. The Governor may be heard by the competent committees of the Chamber of Representatives and the Senate at the request of these committees or on his own initiative.

(1) The right of issue shall include the right which the Bank may exercise pursuant to Article 106 (1) of the Treaty establishing the European Community (Art. 141 § 9 of the Law of 2 August 2002 on the supervision of the financial sector and on financial services).

Chapter IV – Financial provisions and revision of the statutes

Art. 29. – *Repealed.*

Art. 30. – Any capital gain realised by the Bank through arbitrage transactions of gold assets against other external reserve components shall be entered in a special unavailable reserve account. This capital gain shall be exempt from all taxation. However, where some external reserve components have been arbitrated against gold, the difference between the purchase price of that gold and the average purchase price of the existing gold stock shall be deducted from the amount of that special account.

The net income from the assets which form the counterpart to the capital gain referred to in the first paragraph shall be allocated to the State.

External reserve components acquired as a result of the transactions referred to in the first paragraph shall be covered by the State guarantee as provided in Article 9 (2) of this Law.

The terms and conditions for application of the provisions contained in the preceding paragraphs shall be fixed by agreements to be concluded between the State and the Bank. These agreements shall be published in the Belgian Gazette (*Moniteur belge / Belgisch Staatsblad*).

Art. 31. – The reserve fund is intended for:

1. compensating for losses in capital stock;
2. supplementing any shortfall in the annual profit up to a dividend of six per cent of the capital.

Upon expiration of the Bank's right of issue⁽¹⁾, the State shall have a priority claim to one-fifth of the reserve fund. The remaining four-fifths shall be distributed among all the shareholders.

Art. 32. – The annual profits shall be distributed as follows:

1. a first dividend of 6 % of the capital shall be allocated to the shareholders;
2. from the excess, an amount proposed by the Board of Directors and established by the Council of Regency shall be independently allocated to the reserve fund or to the available reserves;

3. from the second excess, a second dividend, established by the Council of Regency, forming a minimum of 50 % of the net proceeds from the assets forming the counterpart to the reserve fund and available reserves shall be allocated to the shareholders;

4. the balance shall be allocated to the State; it shall be exempt from company tax.

Art. 33. – The accounts and, if appropriate, the consolidated accounts of the Bank shall be drawn up:

1. in accordance with this Law and the mandatory rules drawn up pursuant to Article 26.4 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank;

2. and otherwise in accordance with the rules laid down by the Council of Regency.

Articles 2 to 4, 6 to 9 and 16 of the Law of 17 July 1975 on business accounting and their implementing decrees shall apply to the Bank with the exception of the decrees implementing Articles 4 (6) and 9, § 2.

Art. 34. – The Bank and its outside offices shall comply with the statutory provisions on the use of languages in administrative matters.

Art. 35. – Except when called upon to give evidence in court in a criminal case, the Bank and members and former members of its organs and its staff shall be subject to professional secrecy and may not divulge to any person or authority whatsoever confidential information of which they have had knowledge on account of their duties.

Paragraph 1 shall not preclude the communication of confidential information to third parties in cases laid down by or by virtue of the law.

The Bank, members of its organs and its staff shall be exempt from the obligation contained in Article 29 of the Code of Criminal Procedure.

Contraventions of this article shall incur the penalties laid down by Article 458 of the Penal Code. The provisions of Book 1 of the Penal Code, including Chapter VII and Article 85, shall be applicable to contraventions of this article.

This article does not prevent the observance, by the Bank, the members of its organs and its staff, of specific legal provisions as to professional secrecy, whether more restrictive or not, notably when the Bank is charged with collecting statistical data or information on prudential supervision.

Art. 36. – The Council of Regency shall amend the Statutes in order to bring them into conformity with this Law and with the international obligations which are binding on Belgium.

Other amendments to the Statutes shall be adopted, on the proposal of the Council of Regency, by a majority of three-quarters of the votes pertaining to the total number of shares present or represented at the General Meeting of Shareholders.

Amendments to the Statutes shall require the approval of the King.

Chapter IV/1 – Provisions concerning the supervision of financial institutions

Section 1 – General provisions

Art. 36/1. – Definitions: For the purpose of this chapter and chapter IV/2, the following definitions shall apply:

1° “the Law of 2 August 2002”: the Law of 2 August 2002 on the supervision of the financial sector and on financial services;

2° “financial instrument”: an instrument as defined in Article 2, 1° of the Law of 2 August;

3° “credit institution”: any institution referred to in Titles II to IV of the Law of 22 March 1993 on the legal status and supervision of credit institutions;

4° “electronic money institution”: any institution referred to in Article 4, 31° of the Law of 21 December 2009 on the legal status of payment institutions and electronic money institutions, access to the activity of payment service provider, access to the activity of issuing electronic money, and access to payment systems;

5° “investment firm with the status of stockbroking firm”: any investment undertaking referred to in Book II of the Law of 6 April 1995 on the legal status and supervision of investment firms that is recognised as a stockbroking firm or authorised to provide investment services which would require authorisation to operate as a stockbroking firm to be obtained if they were being provided by a Belgian investment firm;

6° “insurance company”: any undertaking referred to in the Law of 9 July 1975 on the supervision of insurance companies;

7° “reinsurance company”: any undertaking referred to in the Law of 16 February 2009 on reinsurance activities;

8° “mutual insurance association”: any undertaking referred to in Article 57 of the Programme Law of 10 February 1998 on the promotion of the independent company;

9° “payment institution”: any undertaking referred to in the Law of 21 December 2009 on the legal status of payment institutions and electronic money institutions, access to the activity of payment service provider, to the activity of issuing electronic money, and to payment systems;

10° “regulated market”: any Belgian or foreign regulated market;

11° “Belgian regulated market”: a multilateral system, run and/or managed by a market operator, which ensures or facilitates the matching – even within the system itself and according to its non-discretionary rules – of manifold interest expressed by third parties in buying and selling financial instruments, in a way that leads to making contracts in financial instruments admitted to trading under its rules and/or its systems, and that is recognised and operates regularly in accordance with the provisions of Chapter II of the Law of 2 August;

12° “foreign regulated market”: any market for financial instruments that is organised by a market operator whose home State is a Member State of the European Economic Area other than Belgium and that has been recognised in this Member State as a regulated market pursuant to Title III of Directive 2004/39/EC;

13° “clearing institution”: any institution that undertakes conversion into net debt by means of novation or of the clearing of mutual claims arising from transactions on financial instruments or forward exchange transactions;

14° “settlement institution”: any institution that undertakes the settlement of orders to transfer financial instruments, or rights in respect of those financial instruments or of forward exchange transactions, whether or not settlement is in cash;

15° “FSMA”: the Financial Services and Markets Authority (“*Autorité des services et marchés financiers*”/“*Autoriteit*

voor Financiële Diensten en Markten”, in German “*Autorität Finanzielle Dienste und Märkte*”);

16° “competent authority”: the Bank, the FSMA or the authority indicated by each Member State pursuant to Article 48 of Directive 2004/39/EC, unless otherwise mentioned in the Directive;

17° “Directive 2004/39/EC”: Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments, amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC;

18° “CSRSFI”: the Committee for Systemic Risks and System-relevant Financial Institutions.

Art. 36/2. – In accordance with Article 12*bis*, with the provisions of this chapter and the specific laws governing the supervision of financial institutions, the Bank’s mission shall be to undertake prudential supervision of credit institutions, investment firms with the status of stockbroking firm, insurance companies, reinsurance companies, mutual insurance associations, clearing institutions, settlement institutions, institutions equivalent to settlement institutions, payment institutions and electronic money institutions.

By derogation from the preceding paragraph, supervision of mutual insurance companies referred to in Articles 43*bis*, § 5, and 70, §§ 6, 7 and 8, of the Law of 6 August 1990 on mutual insurance companies and national unions of mutual insurance companies, as well as their operations, falls within the competence of the Control Office of mutual health funds and national unions of mutual health funds.

In carrying out its tasks, the Bank shall take account, in its capacity as competent prudential authority, of the convergence, in terms of supervision instruments and practices, of the implementation of the legislative, regulatory and administrative obligations imposed under the applicable European Directives.

To this end, it is required to:

a) take part in the work of the European Banking Authority;

b) comply with the guidelines, recommendations, standards and other measures agreed by the European Banking Authority and, if it fails to do so, shall explain the reasons.

In its capacity as competent prudential authority, when carrying out its general interest duties, the Bank shall take due account of the potential impact of its decisions on the stability of the financial system in all the other Member States concerned and, particularly, in emergency situations, on the strength of information available at the time.

Art. 36/3. – § 1. Without prejudice to Article 36/2, and in accordance with Articles 12 and 12*bis* and the specific laws that govern the supervision of financial institutions, the Bank's mission shall also be:

1° to intervene in the detection of any threats to the stability of the financial system, in particular by following up and assessing strategic developments in and the risk profile of systemic financial institutions;

2° to submit recommendations to the federal government and federal parliament on measures that are necessary or useful for the stability, the smooth running and the efficiency of the country's financial system;

3° to coordinate financial crisis management;

4° to contribute to the missions of the European and international institutions, organisations and organs in the areas described in 1° to 3° and to collaborate in particular with the European Systemic Risk Board.

§ 2. The Bank shall determine, among the financial institutions referred to in Article 36/2, those that must be considered as system-relevant and shall inform each one of these institutions. From this moment onwards, these institutions are required to send the Bank their proposals for strategic decisions. Within two months of receipt of a complete file supporting the strategic decision, the Bank may oppose these decisions if it feels that they go against sound and prudent management of the system-relevant financial institution or are liable to have a significant effect on the stability of the financial system. It may use all the powers conferred on it by this Law and the specific laws governing the supervision of the financial institutions concerned.

Strategic decisions shall be understood to mean decisions, once they assume a certain degree of importance, that concern any investment, disinvestment, participation or strategic cooperation relationship on the part of the system-relevant financial institution, notably decisions to acquire or establish another institution, to set up a joint venture established in another State, to conclude cooperation agreements or agreements on capital investment or acquisition of a branch of activity, merger or demerger. The

Bank shall specify the decisions that are to be considered as strategic and of a certain importance for the application of this article. It shall publish these stipulations.

§ 3. When the Bank considers that a system-relevant financial institution has an inadequate risk profile or that its policy is liable to have a negative impact on the stability of the financial system, it may impose specific measures on the institution in question, notably particular requirements in respect of solvency, liquidity, risk concentration and risk positions.

§ 4. To enable the Bank to exercise the competences laid down by the preceding paragraphs, each system-relevant financial institution shall send it a report on developments in its business activities, its risk position and its financial situation.

The Bank shall determine the content of the information that must be sent to it as well as the frequency and the arrangements for this reporting.

§ 5. Failure to respect the provisions of this article may give rise to the imposition of administrative fines, penalties and penal sanctions provided for by this Law and the specific laws applicable to the financial institutions in question.

§ 6. The FSMA shall provide the Bank with the information it possesses and which the latter has requested for the purposes of carrying out the tasks referred to in this article.

Art. 36/4. – In carrying out its tasks referred to in Article 12*bis*, the Bank shall have no competence in respect of fiscal matters. However, it shall notify the judicial authorities of any special mechanisms set up by an institution falling within the scope of its prudential supervision, the aim or result of which mechanisms is to promote fraud by third parties, where it is aware of the fact that those special mechanisms constitute a fiscal offence under the Penal Code, punishable by penal sanctions for the institutions themselves as author, co-author or accessory.

Art. 36/5. – § 1. In the instances stipulated by the law regulating the task in question, the Bank may give prior written consent on an operation. The Bank make its consent dependent on the conditions that it deems appropriate.

§ 2. The consent referred to in § 1 shall be binding on the Bank, save:

1° where it appears that the operations to which it refers are incompletely or incorrectly described in the request for consent;

2° where those operations are not performed in the manner proposed to the Bank;

3° where the effects of those operations are modified by one or more subsequent operations, with the result that the operations to which the consent refers no longer conform to the definition given of them in the request for consent;

4° where the conditions upon which the consent is dependent are not or no longer fulfilled.

§ 3. Upon the recommendation of the Bank, the King determines the terms and conditions for application of the present article.

Art. 36/6. – The Bank shall organise a website and keep it up to date. This website shall contain all regulations, proceedings and resolutions that are required to be published in the context of its legal tasks pursuant to Article 12*bis*, as well as any other information that the Bank deems appropriate to disseminate in the interest of these same tasks.

Without prejudice to the means of publication prescribed by the appropriate legal or regulatory provisions, the Bank shall specify other possible means of publishing the regulations, resolutions, opinions, reports and other proceedings it makes public.

Art. 36/7. – All notifications that the Bank or the Minister are required to make by registered letter or recorded delivery in accordance with the laws and regulations whose application is supervised by the Bank may be made by writ of execution or by any other method determined by the King.

Section 2 – Sanctions Committee

Art. 36/8. – § 1. The Sanctions Committee shall pronounce on the imposition by the Bank of administrative fines and penalties laid down by the laws applicable to the institutions that it supervises.

§ 2. The Sanctions Committee shall comprise six members appointed by the King:

1° a State counsellor or honorary State counsellor, appointed on a proposal from the First President of the Council of State;

2° a counsellor at the Court of Cassation or honorary counsellor at the Court of Cassation, appointed on a proposal from the First President of the Court of Cassation;

3° two magistrates who are neither members of the Court of Cassation, nor of the Brussels Court of Appeal;

4° two other members.

§ 3. The chairman is elected by the members of the Sanctions Committee from among the persons mentioned in § 2, 1°, 2° and 3.

§ 4. For the three years preceding their appointment, the members of the Sanctions Committee may not have been on either the Board of Directors of the Bank, or a member of the Bank's staff, or of the CSRSFI.

During the course of their mandate, members may not carry out any duties whatsoever or any mandate whatsoever in an institution subject to the supervision of the Bank or in a professional association representing institutions subject to the supervision of the Bank, nor may they provide services for a professional association representing institutions subject to the supervision of the Bank.

§ 5. The mandate of the members of the Sanctions Committee is six years and renewable. Members may be removed from office by the King only if they no longer fulfil the conditions for the performance of their duties or if they have been guilty of serious misconduct.

Should a member of the Sanctions Committee's seat fall vacant, whatever the reason, a replacement for that member shall be found for the remaining term of office.

§ 6. The Sanctions Committee may take valid decisions when two of its members and its chairman are present and in a position to deliberate. If its chairman is unable to attend, it may take valid decisions when three of its members are present and in a position to deliberate.

Members of the Sanctions Committee may not deliberate in a case in which they have a personal interest that may influence their opinion.

§ 7. The King shall determine, in consultation with the management of the Bank, the amount of compensation allocated to the chairman and to the members of the Sanctions Committee in accordance with the cases on which they have deliberated.

§ 8. The Sanctions Committee shall lay down its rules of procedure and its rules of conduct.

Section 3 – Rules of procedure for the imposition of administrative fines and penalties

Art. 36/9. – § 1. Where, in carrying out its legal tasks pursuant to Article 12*bis*, the Bank determines that there are serious indications of the existence of a practice liable to give rise to the imposition of an administrative fine or a penalty or where, following a complaint, it is made aware of such a practice, the Board of Directors shall decide to open an investigation and entrust the auditor with it. The auditor shall investigate the charges and the defence.

The auditor is designated by the Council of Regency from among the members of staff of the Bank. He shall enjoy total independence in the performance of his duties as auditor.

In order to carry out his task, the auditor may exercise all the powers of investigation vested in the Bank by the legal and regulatory provisions governing the matter concerned. He shall be assisted in the conduct of each inquiry by one or more members of the Bank's staff that he chooses from among the members of staff designated to this end by the Board of Directors.

§ 2. At the end of the investigation, once the persons concerned have been heard or at least duly summoned, the auditor shall draw up a report and send it to the Board of Directors.

Art. 36/10. – § 1. On the basis of the auditor's report, the Board of Directors shall decide to close the case, propose a compromise settlement or refer it to the Sanctions Committee.

§ 2. If the Board of Directors decides to close a case, it shall inform the persons concerned of this decision. It may make the decision public.

§ 3. If the Board of Directors puts forward a proposal for a compromise settlement, and its proposal is accepted, the compromise settlement shall be published on the Bank's website without specifying any names.

The amount of the compromise settlements shall be recovered in favour of the Treasury by the Land Registry, Public Records and Crown Lands Office.

§ 4. If the Board of Directors decides to refer the case to the Sanctions Committee, it shall send a notification of grievance together with the investigation report to the persons concerned and the chairman of the Sanctions Committee. If the Board of Directors considers that the

grievances can lead to the imposition of a penalty, this shall be expressly mentioned.

§ 5. In the event that one of the grievances is liable to constitute a criminal offence, the Board of Directors shall inform the Crown prosecutor. The Board of Directors can decide to make its decision public.

When the Crown prosecutor decides to set criminal proceedings in motion for the charges to which the notification of grievances refers, he shall immediately inform the Bank. The Crown prosecutor can give the Bank, automatically or upon request from the latter, a copy of any material from the procedure relating to the charges that are the subject of the transmission.

Decisions taken by the Board of Directors pursuant to this article are not open to appeal.

Art. 36/11. – § 1. Persons to whom a notification of grievances has been addressed have two months in which to submit their written observations on the charges to the chairman of the Sanctions Committee. If the notification made by the Board of Directors mentions that the charges could give rise to the imposition of a penalty, this period shall be reduced to eight calendar days. In exceptional circumstances, the chairman of the Sanctions Committee may extend these periods.

§ 2. Persons implicated may obtain copies of case documents from the Sanctions Committee and may be assisted or represented by a lawyer of their choice.

They may request an objection to a member of the Sanctions Committee if they have any doubts about the independence or impartiality of this member. The Sanctions Committee shall pronounce on this request by a reasoned decision.

§ 3. Following an adversary procedure and after the auditor has been heard, the Sanctions Committee may impose an administrative fine or penalties on the persons in question. The Sanctions Committee shall pronounce by a reasoned decision. No sanctions may be decided without the person or his/her representative first having been heard or at least duly summoned. At the hearing, the Board of Directors shall be represented by the person of its choice and may have its observations heard.

§ 4. The amount of the fine or the extent of the penalties shall be set in accordance with the seriousness of the breaches committed and in relation to any benefits or profits that may have been drawn from these breaches.

§ 5. The Sanctions Committee's decision shall be sent by registered letter to the persons concerned. The letter of notification shall indicate the legal remedies, the competent authorities in order for cognisance to be taken of them, as well as the form and terms that are required to be respected, failing which the period of limitation for bringing an appeal shall not come into effect.

§ 6. The Sanctions Committee shall publish its decisions nominatively on the Bank's website, unless such publication risks threatening financial stability or being disproportionately detrimental to the interests of those concerned or the institutions to which they belong, in which case the decision shall be published on the Bank's website non-nominatively. In the event of an appeal against the sanction decision, this shall be published non-nominatively pending the outcome of the legal proceedings.

The Board of Directors shall be notified of the Sanctions Committee's decisions before they are published.

Art. 36/12. – The administrative fines and penalties imposed by the Sanctions Committee and that have become definitive, as well as the compromise settlements made before the criminal judge has made a definite pronouncement on the same facts, shall be imputed to the amount of any penal fine that is imposed for those facts in respect of the same person.

Section 4 – Professional secrecy, exchange of information and cooperation with other authorities

Art. 36/13. – Notwithstanding Article 35, paragraph 1, the Bank may communicate confidential information:

1° where the communication of such information is stipulated or authorised by or pursuant to this Law and the laws regulating the tasks entrusted to the Bank;

2° to expose criminal offences to the judicial authorities;

3° within the framework of administrative or judicial appeal proceedings against acts or decisions of the Bank and in any other proceedings to which the Bank is a party;

4° in abridged or summary form, in order that individual natural or legal persons cannot be identified.

The Bank may publish the decision to expose criminal offences to the judicial authorities.

Art. 36/14. – § 1. By derogation from Article 35, the Bank may also communicate confidential information:

1° to the European Central Bank and the other central banks and institutions with a similar mission in their capacity as monetary authorities when such information is relevant for carrying out their respective legal duties, notably conduct of monetary policy and provision of liquidity connected with it, oversight of payment, clearing and settlement systems, as well as preserving the stability of the financial system, and also to other public authorities in charge of overseeing payment systems.

Whenever an emergency situation arises, including unfavourable developments on the financial markets, that is likely to threaten market liquidity and the stability of the financial system in one of the Member States in which entities of a group comprising credit institutions or investment firms have been authorised or in which branches of significant importance are established within the meaning of Article 49, §§ 5*bis* and 5*ter*, of the Law of 22 March 1993 on the legal status and supervision of credit institutions or of Article 95, §§ 5*bis* and 5*ter*, of the Law of 6 April 1995 on the legal status and supervision of investment firms, the Bank may pass on information to the central banks in the European System of Central Banks when this information is relevant for carrying out their respective legal duties, notably conduct of monetary policy and provision of liquidity connected with it, oversight of payment, clearing and settlement systems, as well as preserving the stability of the financial system.

In the event of an emergency situation as referred to above, the Bank may disclose, in all the Member States concerned, any information that may be of interest for central government departments responsible for legislation governing the supervision of credit institutions, financial institutions, investment services and insurance companies;

2° within the limits of European Directives, to the competent authorities of the European Union and of other Member States of the European Economic Area that exercise one or more competences comparable to those referred to in Articles 36/2 and 36/3;

3° in compliance with European Directives, to the competent authorities of third countries that exercise one or more competences comparable to those referred to in Articles 36/2 and 36/3 and with which the Bank has concluded a cooperation agreement providing for the exchange of information;

4° to the FSMA;

5° to Belgian institutions or to institutions of other Member States of the European Economic Area that manage a system for the protection of deposits or investors;

6° to institutions for the clearing or settlement of financial instruments that are authorised to provide services for transactions in financial instruments conducted on a Belgian organised market, where the Bank deems that communication of the information concerned is necessary for the orderly operation of those institutions to be protected against any shortcomings – even potential – of participants on the market in question;

7° within the limits of European Directives, to market operators for the orderly operation, control and supervision of the markets that they organise;

8° during civil or commercial proceedings, to the authorities and legal representatives involved in bankruptcy or composition proceedings or analogous collective proceedings concerning companies subject to the Bank's supervision, with the exception of confidential information in respect of the participation of third parties in rescue attempts prior to such proceedings;

9° to statutory auditors, to company auditors and to other persons charged with the legal examination of the accounts of companies subject to the supervision of the Bank, of the accounts of other Belgian financial institutions or of the accounts of similar foreign companies;

10° to sequestrators for the exercise of their task as envisaged in the laws regulating the tasks entrusted to the Bank;

11° to the authorities supervising the persons charged with the legal examination of the annual accounts of companies subject to the supervision of the Bank;

12° within the limits of European Directives, to rapporteurs and to the officers of the Competition Office charged with the examination as referred to in the Law of 10 June 2006 on the protection of economic competition;

13° within the limits of European Directives, to the stockbroker approval board as referred to in Article 21 of the Law of 2 August 2002;

14° within the limits of European Directives, to the Treasury Administration, in accordance with the legal and regulatory provisions laid down for the implementation of measures in respect of financial embargos;

15° within the limits of European Directives, to actuaries independent of enterprises who, by virtue of the law, carry out an assignment whereby they supervise those enterprises, and to the bodies in charge of supervising these actuaries;

16° to the Industrial Accidents Fund;

17° to agents commissioned by the minister whose portfolio includes Economic Affairs, with authority to investigate and report infringements committed against the provisions of Articles 58/1, 58/2 and 58/3 of the Law of 10 December 2009, under the responsibilities assigned to them under Article 72 of that Law.

§ 2. The Bank may communicate confidential information in accordance with § 1 only on condition that the recipient authorities or institutions use that information to carry out their tasks and that, as regards that information, they are subject to an obligation of professional secrecy equivalent to that referred to in Article 35. Furthermore, information communicated by an authority of another Member State of the European Economic Area may be divulged in the instances as referred to in 7°, 9°, 10°, 12° and 16° of § 1 and to the authorities or bodies of third countries as referred to in 4°, 6°, 10° of § 1 only with the express agreement of that authority and, as the case may be, only for the purposes for which that authority has given its consent.

§ 3. Without prejudice to the more stringent provisions of the specific laws governing them, the Belgian authorities and bodies referred to in § 1 shall be bound by professional secrecy as referred to in Article 35 as regards the confidential information they receive from the Bank in application of § 1.

Art. 36/15. – Article 35 shall apply to statutory auditors, to company auditors and to experts as regards the information of which they have become cognisant by virtue of the tasks of the Bank or by virtue of the verifications, expert appraisals or reports that the Bank, within the framework of its tasks as referred to in Articles 36/2 and 36/3, has charged them with carrying out or producing.

Paragraph 1 and Article 78 of the Law of 22 July 1953 establishing an *Institut des réviseurs d'entreprises / Instituut der Bedrijfsrevisoren* shall not apply to the communication of information to the Bank that is stipulated or authorised by the legal or regulatory provisions governing the tasks of the Bank.

Art. 36/16. – § 1. Without prejudice to Articles 35 and 36/13 to 36/15 and to the provisions of specific laws, the

Bank shall, in matters pertaining to its competence, cooperate with foreign competent authorities that exercise one or more competences comparable to those referred to in Articles 36/2 and 36/3.

§ 2. Without prejudice to the obligations arising for Belgium from the law of the European Union, the Bank may, on the basis of reciprocity, conclude agreements with competent authorities, as referred to in § 1, with a view to establishing the terms and conditions of that cooperation, including the method of any distribution of supervisory tasks, the designation of a competent authority as supervision coordinator and the method of supervision through on-the-spot inspections or otherwise, what cooperation procedures shall apply, as well as the terms and conditions governing the collection and exchange of information.

Art. 36/17. – § 1. Without prejudice to the relevant provisions of Article 36/19, the following provisions shall apply in the context of the competences referred to in Articles 36/2 and 36/3 with regard to mutual cooperation between the Bank and the other competent authorities referred to in Article 4, paragraph 1, 2) of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments and in Article 4, 4) of Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions, for the purposes of meeting the obligations arising from the said Directive 2004/39/EC :

1° The Bank shall collaborate with the other competent authorities whenever that is necessary in order to fulfil their duties, by making use of the powers conferred upon it either by the above-mentioned Directives, or by national legislation. To this end, the Bank shall notably have the powers that are attributed to it by this Law. The Bank shall offer its assistance to the competent authorities of the other Member States. In particular, it shall exchange information and cooperate with the other competent authorities in enquiries or supervisory activities including on-the-spot checks, even if the practices that are subject to an investigation or verification do not constitute a violation of any rules in Belgium.

2° The Bank shall immediately notify any information required for the purposes referred to in 1°. To this end, apart from the appropriate organisational measures for facilitating the correct execution of the cooperation referred to in 1°, the Bank shall immediately take the necessary measures to collect the information requested. As regards the competences referred to in this paragraph, when the Bank receives a request for an on-the-spot

verification or for an enquiry, it shall follow this up within the limits of its powers :

- by inspecting or investigating itself ;
- by permitting the authority submitting the request or auditors or experts to carry out the inspection or investigation directly.

3° The information exchanged in the context of the cooperation is covered by the professional secrecy obligation referred to in Article 35. When it passes on information in the framework of such cooperation, the Bank may specify that this information cannot be disclosed without its express consent or can only be disclosed for purposes for which it has given its agreement. Likewise, when it receives information, the Bank must, by derogation from Article 36/14, respect any restrictions that may be set out to it by the foreign authority as to the possibility of passing on the information thus received.

4° Where the Bank believes that the acts infringing the provisions of the aforementioned Directives are being or have been committed on the territory of another Member State, or that the acts are damaging to financial instruments traded on a regulated market in another Member State, it shall inform the competent authority of this other Member State, and also the FSMA, about these acts in as detailed a manner as possible. If the Bank has been informed by an authority of another Member State that such acts have been committed in Belgium, it shall inform the FSMA about this, take appropriate measures and send the authority that informed it, as well as the FSMA, the results of its intervention and notably, in so far as possible, the main provisional outcome of its action.

§ 2. In the execution of § 1, the Bank may refuse to follow up a request for information, investigation, on-the-spot verification or monitoring if :

- following up such a request is liable to threaten Belgium's sovereignty, security or public order, or
- legal proceedings have already been initiated for the same charges against the same persons in Belgium, or
- these persons have already been tried irrevocably for the same charges in Belgium.

In such cases, it shall inform the competent authority which presented the request, if necessary, by providing it with as detailed information as possible on the proceedings or judgment in question.

§ 3. As regards the competences referred to in § 1, without prejudice to the obligations that rest on it in legal proceedings of a penal nature, the Bank may only use the information that it has received from a competent authority or from the FSMA for the purposes of monitoring respect for the conditions of access to the business of the institutions subject to its supervision pursuant to Article 36/2 and in order to facilitate supervision, on an individual or consolidated basis, of the conditions for carrying out this business, impose sanctions, in the context of an administrative appeal or legal action taken against a decision by the Bank, in the framework of the extrajudicial mechanism for settling investors' complaints. However, if the competent authority transmitting the information agrees to this, the Bank may use this information for other purposes or pass it on to the competent authorities of other States.

§ 4. Paragraphs 1 and 2 shall also apply, according to the conditions determined in the cooperation agreements, in the context of cooperation with the authorities of third States.

§ 5. The Bank is the authority that acts as point of contact in charge of receiving requests for exchange of information or cooperation in execution of § 1 for matters that come under its remit.

The Minister shall notify the European Commission as well as the other Member States of the European Economic Area of this.

Art. 36/18. – Without prejudice to Articles 35 and 36/13 to 36/15, and to the provisions of specific laws, the Bank and the FSMA shall conclude cooperation agreements with the Control Office of mutual health funds and national unions of mutual health funds on the subject of supplementary health insurance practised by the mutual insurance companies referred to in Articles 43*bis*, § 5, and 70, §§ 6, 7 and 8, of the Law of 6 August 1990 on mutual insurance companies and national unions of mutual insurance companies. The cooperation agreements shall govern, inter alia, exchange of information and the uniform application of the legislation concerned.

Section 5 – Powers of investigation, penal provisions and means of appeal

Art. 36/19. – Without prejudice to the powers of investigation conferred upon it by the legal and regulatory provisions governing its tasks, the Bank may, in order to verify whether an operation or an activity is envisaged by the laws and regulations whose application it is responsible

for supervising, demand all necessary information from those carrying out the operation or activity in question and from all third parties permitting that operation or activity to take place.

The Bank shall have the same power of investigation in order to verify whether, within the framework of a cooperation agreement concluded with a foreign authority and in respect of the substantive points indicated in the written request from that authority, an operation or activity carried out in Belgium is envisaged by the laws and regulations whose application that foreign authority is responsible for supervising.

The person or institution concerned shall communicate that information within the deadline and in the form specified by the Bank.

The Bank may verify or have verified in the books and documents of interested parties the accuracy of the information communicated to it.

If the person or institution in question has not sent the information requested upon expiry of the deadline set by the Bank, once the person or institution concerned have been heard, and without prejudice to the other measures provided for by law, the Bank may impose the payment of a fine which may not be less than € 250 nor higher than € 50 000 per calendar day, nor exceed € 2 500 000 in total.

The penalties and fines imposed in application of this article shall be recovered in favour of the Treasury by the Land Registry, Public Records and Crown Lands Office.

Art. 36/20. – § 1. The following shall be punishable by a prison term of between one month and one year and by a fine of between € 250 and € 2 500 000 or by one of these penalties alone:

– those who hamper the Bank's investigations pursuant to the present Chapter or who knowingly provide it with inaccurate or incomplete information;

– those who knowingly, through declarations or otherwise, intimate or allow it to be believed that the operation or operations that they carry out or intend to carry out are conducted under the conditions stipulated by the laws and regulations whose application is supervised by the Bank, whereas those laws and regulations either do not apply to them or have not been respected by them.

§ 2. The provisions of Book I of the Penal Code shall, without the exception of Chapter VII and Article 85, be applicable to the infringements referred to in § 1.

Art. 36/21. – § 1. An appeal with the Brussels Court of Appeal may be lodged against any decision by the Bank imposing a penalty or an administrative fine.

§ 2. Without prejudice to the special provisions laid down by or pursuant to the law, the term for appeal shall, on pain of extinction, be 30 days.

The term for appeal shall commence from notification of the decision in dispute.

§ 3. On pain of inadmissibility, pronounced officially, the appeal as referred to in § 1 shall be lodged by signed petition delivered to the Registry of the Brussels Court of Appeal in as many copies as there are parties.

On pain of inadmissibility, the petition shall contain:

1° mention of the date, month and year;

2° where the petitioner is a natural person, his or her name, first names and address; where the petitioner is a legal entity, its name, legal form, registered office and the body that is representing it;

3° mention of the decision that is the subject of the appeal;

4° statement of the arguments;

5° indication of the place, day and hour of the court appearance fixed by the Registry of the Court of Appeal;

6° inventory of the supporting documents lodged together with the petition with the Registry.

Notification of the petition shall be given by the Registry of the Brussels Court of Appeal to all parties summoned in the suit by the petitioner.

The Brussels Court of Appeal may at any time officially summon to appear in the suit all other persons whose situation threatens to be affected by the ruling on the appeal.

The Brussels Court of Appeal shall determine the term within which the parties are required to exchange their written comments and to lodge a copy of those comments with the Registry. It shall likewise determine the date of the hearing.

Each of the parties may lodge their written comments with the Registry of the Brussels Court of Appeal and consult the dossier there on the spot.

The Brussels Court of Appeal shall determine the term within which the comments are required to be produced. The Registry shall notify the parties of them.

§ 4. Within five days after registration of the petition, the Registry of the Brussels Court of Appeal shall request the Bank to forward the procedure dossier. The dossier shall be forwarded within five days after receipt of the request.

§ 5. The appeal as referred to in § 1 shall serve to suspend the decision of the Bank.

Art. 36/22. – According to an accelerated procedure determined by the King, an appeal may be lodged with the Council of State:

1° by the applicant for an authorisation, against decisions taken by the Bank in respect of authorisation pursuant to Articles 10 and 11 of the Law of 22 March 1993 on the legal status and supervision of credit institutions. A like appeal may be lodged where the Bank has made no ruling within the periods laid down in paragraph 1 of the aforementioned Article 10; in the latter case, the appeal shall be handled as if the request had been rejected;

2° by the credit institution, against decisions taken by the Bank pursuant to Article 34, paragraph 3, of the aforementioned Law of 22 March 1993;

3° by the credit institution, against decisions taken by the Bank pursuant to Article 57, § 1, paragraph 2, 1°, 1°bis, 2°, 3° and 4°, and against similar decisions taken pursuant to Article 75, § 2, and Article 84 of the aforementioned Law of 22 March 1993. The appeal shall serve to suspend the decision and its publication save where the Bank, for reasons of serious threat to savers, has declared its decision executory notwithstanding any appeal;

4° by the applicant, against decisions taken by the Bank regarding authorisation pursuant to Articles 50 and 51 of the Law of 6 April 1995 on the legal status and supervision of investment firms. A like appeal may be lodged by the applicant where the Bank has made no ruling within the periods laid down in paragraph 1 of the aforementioned Article 50. In the latter case, the appeal shall be handled as if the request had been rejected;

5° by the investment firm, against decisions taken by the Bank pursuant to Article 104, § 1, 1°, 1°bis, 2°, 3° and 4°, of the aforementioned Law of 6 April 1995 or decrees

referring to it. The appeal shall serve to suspend the decision and its publication, save where the Bank, for reasons of serious threat to investors, has declared its decision executory notwithstanding any appeal;

6° by the applicant for registration and by the company concerned, against decisions taken by the Bank to refuse, suspend or withdraw the registration, pursuant to Article 139 of the aforementioned Law of 6 April 1995 and pursuant to its implementing measures; the appeal shall serve to suspend the decision, save where the Bank, for serious reasons, has declared its decision executory notwithstanding any appeal;

7° by the applicant for an authorisation, against decisions taken by the Bank pursuant to Article 4 of the Law of 9 July 1975 on the supervision of insurance undertakings; a like appeal may be lodged where the Bank has made no ruling within the periods laid down in paragraph 4 of the aforementioned Article 4; in the latter case, the appeal shall be handled as if the request had been rejected;

8° by the insurance undertaking, against decisions to extend the request for information taken by the Bank pursuant to Article 21, § 1^{ter}, of the aforementioned Law of 9 July 1975;

9° by the insurance undertaking, against decisions to raise tariffs taken by the Bank pursuant to Article 21^{octies}, § 2, of the aforementioned Law of 9 July 1975;

10° by the insurance undertaking, against decisions taken by the Bank pursuant to Article 26, § 1, paragraph 2, 1°, 2°, 3°, and 4°, and §§ 5, 8 and 9 of the aforementioned Law of 9 July 1975;

11° by the insurance undertaking, against decisions to withdraw the authorisation taken by the Bank pursuant to Article 43 of the aforementioned Law of 9 July 1975;

12° by the insurance undertaking, against decisions to protest taken by the Bank pursuant to Articles 51, 55 and 58 of the aforementioned Law of 9 July 1975, or where the Bank has not ruled within the period laid down in Article 51, paragraph 2, of the same Law;

13° by the applicant for authorisation and by the authorised institution, against the decision by the Bank to refuse, suspend or revoke the authorisation pursuant to Articles 3, 12 and 13 of the Law of 2 January 1991 on the national debt securities market and monetary policy instruments, and its implementing decrees. The appeal shall serve to suspend the decision unless the Bank, for

serious reasons, has declared its decision executory notwithstanding any appeal;

14° by the applicant for an authorisation, against decisions taken by the Bank pursuant to Articles 9 and 15, and against similar decisions taken pursuant to Article 59 of the Law of 16 February 2009 on reinsurance. A like appeal may be lodged where the Bank has made no ruling within the periods laid down in paragraph 1 of the aforementioned Article 9 and in paragraph 2 of the aforementioned Article 59. In these cases, the appeal shall be handled as if the request had been rejected;

15° by the reinsurance undertaking, against decisions to protest taken by the Bank pursuant to Article 32 of the aforementioned Law of 16 February 2009;

16° by the reinsurance undertaking, against decisions taken by the Bank pursuant to Articles 47, § 1, paragraph 2, 1°, 2°, 3° and 4°, 48, §§ 1, 4 and 5, and 50, paragraph 2, and against similar decisions taken pursuant to Articles 58, paragraph 2, and 67 of the aforementioned Law of 16 February 2009;

17° by the reinsurance undertaking, against decisions revoking the authorisation taken by the Bank pursuant to Article 53, and against similar decisions taken pursuant to Article 67 of the aforementioned Law of 16 February 2009;

18° by the reinsurance undertaking, against decisions taken by the Bank pursuant to Article 72, paragraphs 3 and 4, of the aforementioned Law of 16 February 2009;

19° by the applicant for an authorisation, against decisions taken by the Bank in respect of authorisation pursuant to Article 8 of the Law of 21 December 2009 on the legal status of payment institutions, access to the activity of payment service provider and access to payment systems. A like appeal may be lodged where the Bank has made no ruling within the periods laid down in paragraph 2 of the aforementioned Article 8. In the latter case, the appeal shall be handled as if the request had been rejected;

20° by the payment institution, against decisions taken by the Bank pursuant to Article 19, paragraph 3, of the Law of 21 December 2009 on the legal status of payment institutions, access to the activity of payment service provider and access to payment systems;

21° by the payment institution, against decisions taken by the Bank pursuant to Article 35, § 1, paragraph 2, 1°, 2°, 3°, 4° and 5° and against similar decisions taken pursuant to Article 44 of the Law of 21 December 2009

on the legal status of payment institutions, access to the activity of payment service provider and access to payment systems. The appeal shall serve to suspend the decision and its publication, save where the Bank, for reasons of serious threat to users of payment services, the Bank has declared its decision executory notwithstanding any appeal;

22° by the institution concerned, against decisions taken by the Bank pursuant to Article 26, § 1, paragraph 4, of the Law of 9 July 1975 on the supervision of insurance companies, Article 57, § 4, of the Law of 22 March 1993 on the legal status and supervision of credit institutions, and Article 104, § 1, last paragraph, of the Law of 6 April 1995 on the legal status and supervision of investment firms; 18° by the applicant for an authorisation, against decisions taken by the Bank pursuant to Article 36/25, § 2;

23° by the applicant for an authorisation, against decisions taken by the Bank pursuant to Article 36/25, § 2;

24° by the applicant for an authorisation, against decisions taken by the Bank in respect of authorisation pursuant to Article 4 of the Royal Decree of 26 September 2005 on the legal status of settlement institutions and assimilated institutions. A like appeal may be lodged where the Bank has made no ruling within the periods laid down in paragraph 1 of the aforementioned Article 4. In the latter case, the appeal shall be handled as if the request had been rejected;

25° by the settlement institution or assimilated institution, against decisions taken by the Bank pursuant to Article 17 of the aforementioned Royal Decree of 26 September 2005;

26° by the settlement institution or assimilated institution, against decisions taken by the Bank pursuant to Article 33, § 1, paragraph two, 1°, 1°*bis*, 2° and 3°, of the aforementioned Royal Decree of 26 September 2005 and against similar decisions taken by the Bank pursuant to Article 36 of the aforementioned Royal Decree of 26 September 2005. The appeal shall serve to suspend the decision and its publication, save where the Bank, for reasons of serious threat to clients or financial markets, has declared its decision executory notwithstanding any appeal;

[...]

32° by the applicant for an authorisation, against decisions taken by the Bank in respect of authorisation pursuant to Article 63 of the Law of 21 December 2009 on the legal status of payment institutions and electronic

money institutions, and access to the activity of payment service provider, to the activity of issuing electronic money, and to payment systems. A like appeal may be lodged where the Bank has made no ruling within the periods laid down in paragraph 2 of the aforementioned Article 63. In the latter case, the appeal shall be handled as if the request had been rejected;

33° by the payment institution, against decisions taken by the Bank pursuant to Article 75, paragraph 3, of the Law of 21 December 2009 on the legal status of payment institutions and electronic money institutions, and access to the activity of payment service provider, to the activity of issuing electronic money, and to payment systems;

34° by the electronic money institution, against decisions taken by the Bank pursuant to Article 87, § 1, paragraph 2, 1°, 2°, 3°, 4° and 5° and against similar decisions taken pursuant to Article 96 of the Law of 21 December 2009 on the legal status of payment institutions and electronic money institutions, access to the activity of payment service provider, the activity of issuing electronic money, and to payment systems. The appeal shall serve to suspend the decision and its publication, save where the Bank, for reasons of serious threat to holders of electronic money, the Bank has declared its decision executory notwithstanding any appeal.

Art. 36/23. – With a view to requesting enforcement of the criminal law, the Bank is authorised to intervene, at any stage of the proceedings, before the criminal court to which an infraction punishable by this Law or by a law charging the Bank with supervision of its provisions has been referred, without the Bank thereby being required to demonstrate the existence of any prejudice. The intervention shall be according to the rules applying to the plaintiff.

Section 6 – Anti-crisis measures

Art. 36/24. – § 1. Upon the recommendation of the Bank, the King may, in the event of a sudden crisis on the financial markets or in the event of a serious threat of a systemic crisis, with a view to limiting the extent or the consequences of this crisis:

1° determine regulations supplementing or derogating from the Law of 9 July 1975 on the supervision of insurance companies, the Law of 2 January 1991 on the national debt securities market and monetary policy instruments, the Law of 22 March 1993 on the legal status and supervision of credit institutions, the Law of 6 April 1995 on the legal status and supervision of investment

firms, the Law of 2 August 2002 on the supervision of the financial sector and on financial services, Book VIII, Title III, chapter II, section III, of the Company Code, and Royal Decree 62 on the deposit of fungible financial instruments and the settlement of transactions in these instruments, coordinated by Royal Decree of 27 January 2004;

2° put in place a system for granting a State guarantee for commitments entered into by institutions supervised pursuant to the aforementioned laws that He shall determine, or for granting the State guarantee to certain claims held by these institutions;

3° put in place, if necessary by means of regulations laid down in accordance with 1°, a system for granting a State guarantee for the reimbursement of associates who are natural persons of their share of the capital of cooperative societies, authorised in accordance with the Royal Decree of 8 January 1962 on the license requirements for the national groups of cooperative societies and for cooperative societies, which are institutions supervised pursuant to the aforementioned laws or at least half of whose capital is invested in such institutions ;

4° put in place a system for granting State cover for losses incurred on certain assets or financial instruments by institutions supervised pursuant to the aforementioned laws;

5° put in place a system for granting a State guarantee for commitments entered into by entities whose activity consists of acquiring and managing certain assets held by institutions supervised pursuant to the aforementioned laws;

6° as well as grant the State guarantee for commitments entered into by Holding Communal SA.

The Royal Decrees taken under the terms of paragraph 1, 1°, shall cease to have effect if they have not been confirmed by law within twelve months from their date of entry into force. The confirmation shall be retroactive to the date of entry into force of the Royal Decrees. The Royal Decrees taken pursuant to paragraph 1, 2° to 6°, shall be deliberated in the Council of Ministers.

§ 2. As regards the application of paragraph 1, first indent, 2° to 5°, institutions supervised pursuant to the laws referred to in paragraph 1, first indent, 1° are financial companies included on the list referred to in Article 13, paragraph 4, of the Law of 22 March 1993 on the legal status and supervision of credit institutions, mixed financial companies, credit establishments, investment firms and insurance undertakings, as well as their direct or indirect subsidiaries.

Chapter IV/2 – Provisions concerning the supervision of clearing institutions and settlement institutions and institutions equivalent to settlement institutions

Art. 36/25. – § 1. As clearing institutions, the following may provide clearing services in respect of transactions on a Belgian regulated market or, on Belgian territory, provide such services in respect of transactions on a foreign regulated market:

1° institutions with registered office in Belgium that are authorised as credit institutions;

2° the branches established in Belgium of foreign credit institutions;

3° institutions not established in Belgium that, in their home country, are subject to a legal status and supervision deemed equivalent by the FSMA and the Bank.

§ 2. Clearing institutions with registered office in Belgium and which are not authorised as credit institutions, and which desire to provide clearing services in respect of transactions on a Belgian or foreign regulated market, are required to be authorised in advance by the Bank. Branches established in Belgium of a foreign clearing institution that is not authorised as a credit institution and which desire to provide clearing services in respect of transactions on a Belgian or foreign regulated market are likewise required to be authorised in advance by the Bank.

§ 3. The initial rules for clearing, applying within the framework of §§ 1 and 2, as well as amendments to those rules, shall be subject to prior approval by the Bank, upon the recommendation of the FSMA. The approval of the Bank, the initial rules and amendments to those rules shall be published in the *Moniteur belge / Belgisch Staatsblad* (Belgian Official Gazette).

§ 4. The Bank is charged with the prudential supervision of clearing institutions.

§ 5. Upon the recommendation of the Bank and the FSMA, each within their field of competence, the King determines:

1° the conditions and procedures for the granting of authorisation and approval as referred to in §§ 2 and 3, the cases where that authorisation may be reviewed or withdrawn and the procedures to apply, as well as the

fate of the authorisation should there be a change in control, a merger, splitting or other form of restructuring of the clearing institution;

2° the rules regarding supervision by the Bank of clearing institutions that are not credit institutions as referred to in § 1, 1°;

3° the minimum requirements in respect of organisation, operation, financial position, internal control and risk management applicable to clearing institutions that are not credit institutions as referred to in § 1, 1°, as well as the rules regarding incompatibility with other activities;

§ 6. The provisions of the present article and of the decrees issued implementing them shall not impair the competence of the Bank as laid down in Article 8 of the Law of 22 February 1998 establishing the Organic Statute of the National Bank of Belgium.

§ 7. With the agreement of the Minister, the Bank may conclude agreements with competent foreign supervisory authorities, on the basis of reciprocity, on more detailed rules for cooperation in respect of supervision and the mutual exchange of information.

§ 8. The King may extend the application of the present article to the clearing of transactions on other organised markets.

§ 9. The present article shall not apply to the Eurosystem central banks, nor to the clearing institutions that they manage.

Art. 36/26. – § 1. As settlement institutions, the following may provide clearing services in respect of transactions on a Belgian regulated market or, on Belgian territory, provide such services in respect of transactions on a foreign regulated market:

1° institutions with registered office in Belgium that are authorised as credit institutions;

2° the branches established in Belgium of foreign credit institutions

3° institutions recognised as central depositaries pursuant to Royal Decree 62 of 10 November 1967 on promotion of the circulation of securities;

4° institutions designated by the King to provide settlement services for transactions in dematerialised securities pursuant to Article 468 of the Company Code;

5° institutions not established in Belgium that, in their home country, are subject to a legal status and supervision deemed equivalent by the FSMA and the Bank.

§ 2. The Bank is charged with the prudential supervision of the settlement institution designated in Article 4 of the Law of 2 January 1991 on the national debt securities market and monetary policy instruments, and its implementing decrees, of settlement institutions that are recognised as central depositaries pursuant to the aforementioned Royal Decree 62 of 10 November 1967 as well as of those designated by the King to provide settlement services in respect of transactions in dematerialised securities pursuant to Article 468 of the Company Code. Upon recommendation of the Bank, the King may determine:

1° the rules, as well as the corrective measures, regarding prudential supervision by the Bank of institutions as referred to in § 1 that are not credit institutions established in Belgium;

2° the minimum requirements in respect of organisation, operation, financial position, internal control and risk management applicable to institutions as referred to in § 1 that are not credit institutions established in Belgium.

§ 3. The provisions of the present article and of the decrees issued implementing them shall not impair the competence of the Bank as laid down in Article 8. Upon recommendation of the Bank, the King may determine:

1° the standards regarding the supervision of settlement systems;

2° the obligation on the settlement institution to disclose information requested by the Bank;

3° coercive measures where the settlement institution no longer satisfies the standards laid down or where the obligation to disclose has not been observed.

§ 4. With the agreement of the Minister, the Bank may conclude agreements with competent foreign supervisory authorities, on the basis of reciprocity, on more detailed rules for cooperation in respect of supervision and the mutual exchange of information.

§ 5. The King may extend the application of the present article to the settlement of transactions on other organised markets.

§ 6. Before any decision is taken on the opening of bankruptcy proceedings or on a provisional removal of a case within the meaning of Article 8 of the Law of 8 August

on bankruptcies with respect to a settlement institution as referred to in § 1, 3° or 4°, the president of the Commercial Court shall submit to the Bank a request for an opinion. The clerk of the court shall transmit this request immediately. He shall inform the Crown prosecutor.

The Bank shall submit the case to the court in writing. This request shall include the items necessary for information.

The Bank shall hand down its opinion with fifteen days from the date of receipt of the request for an opinion. In the event of a procedure relating to a settlement institution that it deems liable to have major systemic implications or which requires prior coordination with foreign authorities, the Bank may hand down its opinion within a longer timeframe, on condition however that the total period does not exceed thirty days. When it considers that it must make use of this exceptional period, the Bank shall inform the court called upon to decide. The period that the Bank has in which to hand down its opinion shall serve to suspend the period in which the court must rule. If the Bank has not responded within the period specified, the court may decide on the request.

The opinion of the Bank shall be in writing. It shall be transmitted by any means to the clerk, who shall hand it over to the president of the Commercial Court and the Crown prosecutor. The opinion shall be annexed to the dossier.

§ 7. As regards the application of §§ 2 to 6, shall be deemed equivalent to settlement institutions any institutions established in Belgium whose business consists in providing full or partial operational management of services provided by settlement institutions as referred to in § 1, including when the latter are credit institutions established in Belgium. The Bank shall designate the institutions that fall within the scope of this paragraph.

The institutions referred to in paragraph 1 are required to be authorised by the Bank. Upon the recommendation of the Bank and the FSMA, the King shall notably regulate, both on a consolidated and non-consolidated basis, the conditions and procedures for the granting of the authorisation and for maintaining the authorisation of these institutions by the Bank, including the conditions that persons who are in charge of the actual management and persons who hold a major stake, must meet.

Upon the recommendation of the Bank, the King may, in compliance with Belgium's international obligations, apply totally or partially the rules referred to in paragraphs 1 and 2 to institutions established abroad whose business consists in providing full or partial operational management

of services provided by settlement institutions as referred to in § 1 which are established in Belgium, including when the latter are credit institutions established in Belgium.

§ 8. The present article shall not apply to the Eurosystem central banks, nor to the settlement institutions or to institutions equivalent to settlement institutions that they manage.

Art. 36/27. – § 1. When an institution as referred to in Article 36/26, § 1, 3°, or an equivalent institution as referred to in Article 36/26, § 7, is not operating in accordance with the provisions of this law and of the decrees issued implementing them, when its management or financial position are of a nature to call into question the performance of its obligations or do not offer sufficient guarantees for its solvency, liquidity or profitability, or when its management structures, its administrative or accounting organisation or its internal audit reveal serious shortcomings such that the stability of the Belgian or international financial system is likely to be affected, the King may, by Decree deliberated in the Council of Ministers, either upon the Bank's request, or on own initiative, after receiving the Bank's opinion, lay down any act of disposal, in favour of the State or any other person, Belgian or foreign, a public or private legal entity, notably any act of transfer, sale or capital investment with regard to:

1° assets, liabilities or one or more branches of activity and, more generally, all or part of the rights and obligations of the institution concerned, including proceeding to transfer client assets consisting of financial instruments governed by coordinated Royal Decree 62 on the deposit of fungible financial instruments and the settlement of transactions in these instruments, as well as underlying securities held with depositories in the name of the institution concerned, just as proceeding with the transfer of resources, notably information technology resources, necessary for processing transactions concerning these assets and the rights and obligations relating to such processing;

2° securities or shares, representative or not of the capital, with or without voting rights, issued by the institution concerned.

§ 2. The Royal Decree taken in application of paragraph 1 shall fix the compensation to be paid to the owners of the property or to the right-holders subject to the transfer specified by the Decree. If the transferee designated by the Royal Decree is a person other than the State, the price payable by the transferee under the terms of the contract concluded with the State shall pass to the said

owners or right-holders as compensation, according to the distribution formula defined by the same Decree.

Part of the compensation may be variable as long as this part is determinable.

§ 3. The institution concerned shall be notified of the Royal Decree taken in application of paragraph 1. Furthermore, the measures provided for in this Decree shall be announced by publication of a notice in the *Moniteur belge / Belgisch Staatsblad*.

As soon as it has received the notification referred to in paragraph 1, the organisation shall lose the right to dispose of the assets referred to in the acts of disposal provided for by the Royal Decree.

§ 4. The acts referred to in paragraph 1 may not be subject to non-invocability pursuant to Articles 17, 18 or 20 of the Law of 8 August 1997 on bankruptcies.

Notwithstanding any conventional provision to the contrary, the measures determined by the King in application of the first paragraph may not have the effect of modifying the terms of a contract concluded between the institution and one or more third parties, or of terminating such a contract, nor of giving any of the parties concerned the right to terminate it unilaterally.

As regards the measures decreed by the King in application of paragraph 1, any statutory or contractual authorisation clause or pre-emption clause, any option to buy from a third party, as well as any statutory or contractual clause preventing a change in the supervision of the institution concerned, shall be ineffective.

The King has the power to make any other rules that are necessary for the proper execution of the measures taken in application of paragraph 1.

§ 5. The civil liability of persons, acting in the name of the State or upon its request, intervening in the framework of the measures referred to in this article, incurred as a result of or in relation to their decisions, acts or conduct in the context of these measures is limited to cases of fraud or gross negligence concerning them. The existence of gross negligence must be assessed taking account of the concrete circumstances of the case, and in particular the urgency with which these persons were confronted, the practices on the financial markets, the complexity of the case, threats for the protection of savings and the risk of damage to the national economy due to the failure of the institution concerned.

§ 6. All disputes that might arise as a result of the measures referred to in this article, as well as the liability referred to in paragraph 5, are subject to the exclusive jurisdiction of the Belgian courts, which only apply Belgian law.

§ 7. For the purposes of applying collective labour agreement 32*bis* concluded on 7 June 1985 within the National Labour Council, concerning the safeguarding of employees' rights in the event of a change of employer as a result of a conventional company transfer and governing the rights of employees taken on in the event of a takeover of assets following bankruptcy, acts committed pursuant to paragraph 1, 1°, are considered as acts committed by the settlement institution or equivalent institution itself.

§ 8. Without prejudice to the general principles of law that it could invoke, the board of directors of the institution concerned may derogate from the statutory restrictions to its management powers when one of the specific circumstances laid down in paragraph 1 is liable to affect the stability of the Belgian or international financial system. The board of directors shall draw up a special report justifying the use of this provision and setting out the decisions taken; this report shall be sent to the general meeting within two months.

Art. 36/28. – § 1. For the purposes of this article, the following definitions shall apply:

1° Royal Decree: the Royal Decree deliberated in the Council of Ministers that shall apply to the extent of Article 36/27, § 1;

2° act of disposal: the transfer or other ownership transfer act provided for in the Royal Decree;

3° the court: the Brussels Court of First Instance;

4° the owners: the natural persons or legal entities that, on the date of the Royal Decree, are the owners, or the right-holders, of the assets or shares subject to the act of disposal;

5° the third-party transferee: the natural person or legal entity other than the Belgian State that, according to the Royal Decree, is called on to acquire the assets or shares, or rights, subject to the act of disposal;

6° the compensation: the indemnification that the Royal Decree fixes in favour of the owners in compensation for the act of disposal.

§ 2. The Royal Decree shall enter into force on the day of publication in the *Moniteur belge / Belgisch Staatsblad* of the judgment referred to in paragraph 8.

§ 3. The Belgian State shall lodge with the office of the clerk of the court a petition with the purpose of stating that the act of disposal is in conformity with the law and that the compensation is deemed to be fair, taking account notably of the criteria referred to in paragraph 7, 4th indent.

On pain of extinction, the petition shall contain :

1° the identity of the settlement institution or equivalent institution concerned (hereafter “the institution concerned”);

2° if necessary, the identity of the third-party transferee;

3° justification for the transfer from the point of view of the criteria laid down in Article 36/27, § 1;

4° the compensation, the bases on which this has been determined, notably as regards the variable part from which it is composed and, if necessary, the key for distribution of the capital between the owners;

5° if necessary, the authorisations required from the public authorities and all the other suspensive conditions to which the act of disposal is subject;

6° if necessary, the price agreed with the third-party transferee for the assets or shares subject to the act of disposal and the mechanisms for revising or adjusting this price;

7° indication of the day, month and year;

8° the signature of the person representing the Belgian State or the State’s lawyer.

A copy of the Royal Decree shall be attached to the petition.

The provisions of Part IV, Book II, Title *Vbis* of the Legal Code, including Articles 1034*bis* to 1034*sexies* are not applicable to the petition.

§ 4. The proceedings introduced by the petition referred to in paragraph 3 exclude all other simultaneous or future appeals or actions against the Royal Decree or against the transfer, with the exception of the request referred to in paragraph 11. By virtue of the filing of the petition, there shall be no grounds for any other proceedings, directed

against the Royal Decree or the act of disposal, that may have been previously introduced and still pending before another legal or administrative jurisdiction.

§ 5. Within seventy-two hours of the filing of the petition referred to in paragraph 3, the president of the court shall fix, by court order, the day and time for the hearing referred to in paragraph 7, which must take place within seven days following the filing of the petition. This order shall reproduce the entire wording specified in paragraph 3, second indent.

The order shall be notified by the clerk’s office by judicial letter to the Belgian State, the institution concerned as well as the third-party transferee, as the case may be. It shall be published simultaneously in the *Moniteur belge / Belgisch Staatsblad*. This publication shall qualify as notification to any possible owners other than the institution concerned.

Within twenty-four hours of the notification, the institution concerned shall also publish the order on its website.

§ 6. Until the pronouncement of the judgment referred to in paragraph 8, the persons referred to in paragraph 5, second indent, may consult the petition referred to in paragraph 3 as well as its appendices, free of charge, at the clerk’s office.

§ 7. During the hearing set by the president of the court and at any later hearings that the court may deem useful to arrange, the court shall hear the Belgian State, the institution concerned, as the case may be, the third-party transferee as well as the owners who intervene voluntarily in the proceedings.

By derogation from the provisions of Chapter II of Title III of Book II of the fourth Part of the Legal Code, no person other than those referred to in the previous paragraph may intervene in the proceedings.

After having heard the observations of the parties, the court shall verify whether the act of disposal is in conformity with the law and whether the compensation is deemed to be fair.

The court shall take account of the actual situation of the institution concerned at the time of the act of disposal and notably of its financial situation such as it was or would have been had the public aid from which it benefited, either directly or indirectly, not been granted. For the purposes of application of this paragraph, advances of emergency liquidity and guarantees granted by a statutory corporate body shall be deemed similar to public aid.

The court shall pronounce by one and the same judgment that shall be handed down within twenty days following the hearing fixed by the president of the court.

§ 8. The judgment with which the court rules that the act of disposal is in conformity with the law and that the compensation is deemed to be fair, shall convey ownership of the assets or shares that are subject to the act of disposal, albeit subject to the suspensive conditions referred to in paragraph 3, second indent, 5°.

§ 9. The judgment referred to in paragraph 8 is neither susceptible of appeal nor opposition nor third-party opposition.

It shall be notified by judicial letter to the Belgian State, the institution concerned as well as the third-party transferee, as the case may be, and shall be published simultaneously by extract in the *Moniteur belge / Belgisch Staatsblad*.

This publication shall qualify as notification to any possible owners other than the institution concerned, and makes the act of disposal valid with regard to third parties, without further formalities.

Within twenty-four hours of the notification, the institution concerned shall also publish the judgment on its website.

§ 10. Following notification of the judgment referred to in paragraph 8, the Belgian State or, as the case may be, the third-party transferee shall deposit the compensation at the *Caisse des dépôts et consignations / Deposito- en Consignatiekas* (Deposit and Consignment Office), without any formalities being required in this respect.

The Belgian State shall take steps to have a notice confirming the fulfilment of the suspensive conditions referred to in paragraph 3, second indent, 5°, published in the *Moniteur belge / Belgisch Staatsblad*.

As soon as the notice referred to in paragraph 2 has been published, the Deposit and Consignment Office is required to hand over to the owners, according to the terms and conditions laid down by the King, the amount of compensation consigned, without prejudice to any possible distraints or oppositions regularly made on the sum consigned.

§ 11. On pain of extinction, the owners may lodge with the court a request for review of the compensation, within a period of two months from the publication in the *Moniteur belge / Belgisch Staatsblad* of the judgment

referred to in paragraph 8. This request shall have no effect on the transfer of ownership of the assets or shares that are subject to the act of disposal.

For the rest, the request for review is provided for by the Legal Code. Paragraph 7, fourth indent, shall apply.

Art. 36/29. – With regard to clearing or settlement institutions or equivalent institutions, the Bank shall have the following powers of investigation for the execution of its task of supervision, as referred to in Articles 36/25 and 36/26 or for responding to requests for cooperation from competent authorities within the meaning of Article 36/14, § 1, 2° and 3°:

a) it may have forwarded to it all information and documents, in any form whatsoever;

b) it may undertake on-the-spot investigations and expert appraisals, take cognisance of and copy, on the spot, any document, file, and recording, and have access to any IT system;

c) it may demand the statutory auditors or persons in charge of supervising the financial statements of these entities, to send it special reports, at these entities' expense, on subjects that it shall determine;

d) when these entities are established in Belgium, it may require them to forward to it all useful information and documentation regarding the companies that form part of the same group and are established abroad.

Art. 36/30. – § 1. The Bank may order any clearing or settlement institution or equivalent institution to comply with the provisions of Articles 36/25 and 36/26 or with the implementing decrees thereof, within a period the Bank specifies.

Without prejudice to the other measures provided for by law, if the clearing or settlement institution or equivalent institution to which it has addressed an order in application of paragraph 1 remains in default at the end of the period specified, and provided that that person has been heard, the Bank may:

1° make public its opinion with regard to the infringement or shortcoming concerned;

2° impose the payment of a fine which may not be less than € 250 nor higher than € 50 000 per calendar day, nor exceed € 2 500 000 in total;

3° appoint a special auditor to a clearing or settlement institution or equivalent institution with registered office established in Belgium whose authorisation shall be required for the acts and decisions that the Bank determines.

In urgent cases, the Bank may take the measures as referred to in paragraph 2, 1° and 3°, without prior order in application of paragraph 1, provided that the institution has been heard.

§ 2. Without prejudice to other measures laid down by law, the Bank may, where, pursuant to Articles 36/9 to 36/11, it establishes an infringement of the provisions of Articles 36/25 and 36/26 or the implementing decrees thereof, impose an administrative fine on the offender that, for the same offence or same totality of offences, shall not be less than € 2 500 and not more than € 2 500 000. Where the infringement has resulted in the offender obtaining a capital gain, that maximum shall be raised to twice the capital gain and, in the event of a repeat offence, to three times the capital gain.

§ 3. The penalties and fines imposed in application of §§ 1 or 2, shall be recovered in favour of the Treasury by the Land Registry, Public Records and Crown Lands Office.

Art. 36/31. – § 1. The following shall be punishable by a prison term of between one month and one year and by a fine of between € 50 and € 10 000 or by one of these penalties alone:

1° those that, in Belgium, carry out clearing or settlement activities in respect of financial instruments, without being authorised to do so pursuant to Articles 36/25 and 36/26 or where that authorisation has been withdrawn;

2° those that contravene the provisions laid down in application of Articles 36/25 and 36/26, and indicated by the King in the relevant decrees;

3° those that hamper the investigations and expert appraisals of the FSMA pursuant to the present chapter, or knowingly provide it with incorrect or incomplete information.

§ 2. The provisions of Book I of the Penal Code shall, without the exception of Chapter VII and Article 85, be applicable to the infringements referred to in § 1.

Chapter V – Transitional and repealing provisions – entry into force

Art. 37. – The capital gain made from the transfer of assets in gold with regard to the issuing by the State of numismatic or commemorative coins, shall be allotted to the State to the extent of the unused balance of the 2.75 % of the weight of gold which appeared in the Bank's assets on 1 January 1987, and which could be used by the State, particularly for issuing coins, by virtue of Article 20bis (2) of the Law of 24 August 1939 on the National Bank of Belgium.

Art. 38. – *p.m.*

Annex 2 Statutes ⁽¹⁾

Chapter I – Constitution

Section 1 – Name, rules applicable and establishments.

Art. 1. – The National Bank of Belgium, hereinafter referred to as the Bank, in Dutch “Nationale Bank van België”, in French “Banque Nationale de Belgique”, in German “Belgische Nationalbank”, established by the Law of 5 May 1850, shall form an integral part of the European System of Central Banks, hereinafter referred to as ESCB, whose Statute has been established by the Protocol relating to it and annexed to the Treaty establishing the European Community.

Furthermore, the Bank shall be governed by the Law of 22 February 1998 establishing the Organic Statute of the National Bank of Belgium, by these Statutes and, additionally, by the provisions relating to public limited liability companies [*sociétés anonymes – naamloze vennootschappen*].

Pursuant to Article 141 § 1 of the Law of 2 August 2002 on the supervision of the financial sector and on financial services, the words “and, additionally, by the provisions relating to public limited liability companies” are to be interpreted as meaning that the provisions on public limited liability companies do apply to the National Bank of Belgium only:

1° as regards matters which are not governed either by the provisions of Title VII of Part Three of the Treaty

establishing the European Community and the Protocol on the Statute of the European System of Central Banks and of the European Central Bank, or by the abovementioned Law of 22 February 1998 or the present Statutes; and

2° in so far as they are not in conflict with the provisions referred to in 1°.

Notwithstanding the first and second paragraphs, the Bank is a public limited liability company which arranges or has arranged issues for general subscription.

Art. 2. – The Bank’s registered office shall be in Brussels, boulevard de Berlaimont, number 14.

The Bank shall establish outside offices in locations on Belgian territory where the need for them exists.

Section 2 – Share capital and rights relating to shares.

Art. 3. – The Bank’s share capital, which shall amount to ten million euro, shall be represented by four hundred thousand shares, of which two hundred thousand – registered and non-transferable – shall be subscribed by the Belgian State and two hundred thousand shall be registered, bearer or dematerialised shares. The share capital shall be fully paid up.

Bearer shares, which have already been issued and held on securities accounts as at 1 January 2008, shall be converted into dematerialised shares on this date. Other bearer shares shall be automatically converted into dematerialised shares as they are booked onto securities accounts from 1 January 2008 onwards.

The shares shall have no nominal value.

(1) Statutes of the National Bank of Belgium adopted by the General Council on 23 December 1998 and amended for the last time by the Council of Regency on 7 September 2011.

Art. 4. – Each share shall confer the right to a proportional and equal part in the ownership of the Bank's assets and in the sharing out of the profits.

Art. 5. – The rights and obligations attached to a share shall follow the title of ownership, into whatever hands it may pass.

The share shall be indivisible vis-à-vis the Bank; the Bank shall recognise only one owner for each share.

Owners in joint ownership, usufructuaries and naked owners, and all other persons who are jointly entitled under a same share, should be represented by one and the same person. So long as this requirement is not met, the Bank may suspend the exercise of the rights pertaining to these shares. This right of suspension shall be exercised by the chairman of the General Meeting.

Art. 6. – Possession of a share shall signify acceptance of the Bank's statutes and of the decisions regularly taken by the General Meeting.

Art. 7. – The shareholders, their heirs or creditors may neither cause the Bank's assets and valuables to be put under seal nor request apportionment or sale by auction or interfere in the Bank's administration.

They must rely, for the exercise of their rights, on the inventory of the Bank's assets and on the resolutions of the General Meeting.

Art. 8. – Except for those belonging to the State, the shares may be converted into registered or dematerialised shares, free of charge, as the owner wishes.

Art. 9. – Ownership of a registered share shall be established by entry in the Bank's registers.

The registered owner shall receive a certificate which does not constitute a transferable title.

The register of nominative shareholders can be kept in electronic form.

Art. 10. – Shareholders shall be liable for losses only to the extent of their interest in the Bank.

Section 3 – Dissolution.

Art. 11. – The dissolution may not take place other than by means of a law.

Chapter II – Objectives, tasks and operations

Section 1 – Objectives and prohibition of monetary financing.

Art. 12. – The Bank shall participate in achieving the objectives of the ESCB, which shall be:

- primarily, to maintain price stability;
- without prejudice to the objective of price stability to support the general economic policies in the European Community with a view to contributing to the achievement of the objectives of the Community as laid down in Article 2 of the Treaty establishing the European Community.

In order to achieve these objectives, the Bank shall act in accordance with the principles laid down in Article 3a of the Treaty establishing the European Community.

Art. 13. – The Bank shall be prohibited from granting overdrafts or any other type of credit facility to European Community institutions or bodies, central governments, regional, local or other public authorities, other bodies governed by public law or public undertakings of Member States of the European Community, and also from purchasing their debt instruments directly from them.

The first paragraph shall not apply to publicly owned credit institutions which, in the context of the provision of liquidity by the Bank, receive from it the same treatment as private credit institutions.

Section 2 – Tasks and transactions.

Art. 14. – The Bank shall participate in the basic tasks to be carried out through the ESCB, which shall be:

- to define and implement the monetary policy of the European Community;
- to conduct foreign exchange operations consistent with Article 109 of the Treaty establishing the European Community;
- to hold and manage the official foreign exchange reserves of the Member States;
- to promote the smooth operation of the payment systems.

Art. 15. – When carrying out the tasks and duties referred to in this section, neither the Bank nor any members of its decision-making bodies shall seek or take instructions from institutions or bodies of the European Community, from any government of a Member State of the Community or from any other body.

Art. 16. – 1. In order to achieve the objectives of the ESCB and to carry out its tasks, the Bank may:

– operate in the financial markets, outright by buying and selling (spot and forward), or under repurchase agreement or by lending or borrowing claims and marketable instruments expressed in Community or in non-Community currencies, as well as precious metals;

– conduct credit operations with credit institutions and other money market or capital market participants, with lending being based on adequate collateral.

2. The Bank shall comply with the general principles defined by the European Central Bank, hereinafter referred to as the ECB, for open market and credit operations, including those relating to announcement of the conditions under which such transactions are carried out.

Art. 17. – Within the limits and in accordance with the detailed terms and conditions adopted by the ECB, the Bank may also carry out, *inter alia*, the following transactions:

1° issue and redeem its own loan instruments;

2° accept deposits of securities and precious metals, undertake the redemption of securities and act on behalf of other parties in transactions in securities, other financial instruments and precious metals;

3° carry out transactions in interest-rate instruments;

4° carry out transactions in foreign currencies, gold or other precious metals;

5° carry out transactions with a view to the investment and financial management of its holdings of foreign currencies and of other external reserve elements;

6° obtain credit from foreign sources and provide guarantees for that purpose;

7° carry out transactions relating to European or international monetary cooperation.

Art. 18. – On being authorised to do so by the ECB, the Bank shall issue banknotes in euro intended to circulate as means of payment constituting legal tender in the territory of the States participating in Stage Three of Monetary Union.

The Bank shall comply, with regard to the issuance and design of the banknotes, with the rules laid down by the ECB.

Art. 19. – The Bank shall ensure that the clearing and payment systems operate properly and shall make certain that they are efficient and sound.

It may carry out all transactions or provide facilities for these purposes.

It shall provide for the enforcement of the regulations adopted by the ECB in order to ensure the efficiency and soundness of the clearing and payment systems within the European Community and with other countries.

Art. 20. – Without prejudice to the powers of the institutions and organs of the European Communities, the Bank shall implement the international monetary cooperation agreements by which Belgium is bound in accordance with the procedures laid down by agreements concluded between the Minister of Finance and the Bank. It shall provide and receive the means of payment and credits required for the implementation of these agreements.

The State shall guarantee the Bank against any loss and shall guarantee the repayment of any credit granted by the Bank as a result of the implementation of the agreements referred to in the preceding paragraph or as a result of its participation in international monetary cooperation agreements or transactions to which, subject to approval by the Council of Ministers, the Bank is a party. The State shall also guarantee the Bank the repayment of any credit granted in the context of its contribution to the stability of the financial system and guarantee the Bank against any loss incurred as a result of any transaction necessary in this regard.

Art. 20bis. – Within the framework set by Article 105 (2) of the Treaty establishing the European Community and Articles 30 and 31 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank, the Bank shall hold and manage the official foreign reserves of the Belgian State. Those holdings shall constitute assets allocated to the tasks and transactions coming under this section and the other tasks of public interest entrusted to the Bank by the State. The Bank shall record these assets and the income and charges

relating thereto in its accounts in accordance with the rules referred to in Article 52.

Art. 21. – The Bank may, on the conditions laid down by, or by virtue of, law, and subject to their compatibility with the tasks within the domain of the ESCB, be entrusted with the performance of tasks of public interest.

Art. 22. – The Bank shall act as State Cashier on the conditions determined by law.

It shall be entrusted, to the exclusion of all other Belgian or foreign bodies, with the conversion into euros of the currencies of States not participating in Monetary Union or of States which are not members of the European Community borrowed by the State.

The Bank shall be informed of all plans for the contracting of foreign currency loans by the State, the Communities and the Regions. At the request of the Bank, the Minister of Finance and the Bank shall consult together whenever the latter considers that these loans are liable to prejudice the effectiveness of monetary or foreign exchange policy. The terms and conditions of this giving of information and this consultation shall be laid down in an agreement to be concluded between the Minister of Finance and the Bank, subject to approval of this agreement by the ECB.

Art. 23. – The Bank shall contribute to the stability of the financial system. For all decisions and transactions made in the context of its contribution to the stability of the financial system, the Bank shall enjoy the same degree of independence as that determined by Article 108 of the Treaty establishing the European Community.

The Bank may further be charged with the gathering of statistical information or with the international cooperation relating to any task referred to in Article 21.

Art. 23bis. – § 1. The Bank shall exercise supervision of financial institutions in accordance with the Law of 22 February 1998 establishing the Organic Statute of the National Bank of Belgium and specific laws governing the supervision of these establishments.

§ 2. Within the areas of supervision pertaining to its competence, the Bank may lay down regulations supplementing the legal or regulatory provisions on points of a technical nature.

Without prejudice to any consultation provided for in other laws or regulations, the Bank may, in accordance with the procedure of open consultation, explain, in a consultative memorandum, the content of any regulation

it is considering adopting, and publish this on its website with a view to obtaining any comments by those concerned.

These regulations shall come into force only after their approval by the King and their publication in the *Moniteur belge / Belgisch Staatsblad* (Belgian Official Gazette). The King may amend those regulations or establish any rules Himself that He shall determine if the Bank has not laid down those regulations.

§ 3. The Bank shall carry out its supervisory tasks exclusively in the general interest. The Bank, the members of its bodies and the members of its staff shall not bear any civil liability for their decisions, non-intervention, acts or conduct in the exercise of the legal supervisory tasks of the Bank, save in the event of fraud or gross negligence.

§ 4. The Bank's operating costs relating to the supervision referred to in paragraph 1 are borne by the institutions subject to its supervision, according to the terms and conditions laid down by the King.

The Bank may make the administration of the Land Registry, Public Records and Crown Lands Office responsible for recovery of unpaid taxes.

Art. 24. – The Bank may carry out all transactions and provide all services which are ancillary to or follow from the tasks referred to in the Law of 22 February 1998 establishing the Organic Statute of the National Bank of Belgium.

Art. 25. – The Bank may entrust the performance of tasks not within the domain of the ESCB with which it is charged or for which it takes the initiative, to one or more distinct legal entities specially set up for this purpose and in which the Bank holds a significant interest; one or more members of the Bank's Board of Directors shall participate in directing such entities.

If the task is entrusted by law to the Bank, the prior consent of the King, on the proposal of the competent minister, shall be required.

Art. 26. – The legal entities referred to in Article 25 and controlled exclusively by the Bank shall be subject to auditing by the Court of Auditors [*Cour des Comptes – Rekenhof*].

Chapter III – Organs

Section 1 – Composition and powers.

Art. 27. – The organs of the Bank shall be the Governor, the Board of Directors, the Council of Regency, the Board of Censors and the Sanctions Committee, without prejudice to Chapter VIII.

Art. 28. – 1. The **Governor** shall direct the Bank; he shall preside over the Board of Directors and the Council of Regency. He shall have their decisions implemented.

2. If he is unable to attend, he shall be replaced by the Vice-Governor without prejudice to the application of Article 10.2 of the Statute of the ESCB.

3. He shall present to the General Meeting the annual accounts and the Annual Report which have been approved by the Council of Regency.

4. He shall represent the Bank in legal proceedings.

5. The Governor shall send to the Chairmen of the Chamber of Representatives and the Senate the annual report referred to in Article 109 B (3) of the Treaty establishing the European Community, as well as a yearly report on the activities of the Bank in the field of prudential supervision. The Governor may be heard by the competent committees of the Chamber of Representatives and the Senate at the request of these committees or on his own initiative.

6. The Governor may not, during his term of office, receive any pension payable by the State.

Art. 29. – 1. In addition to the Governor, who presides, the **Board of Directors** shall be composed of at least five but not more than seven Directors, one of whom shall bear the title of Vice-Governor, conferred on him by the King. The Board of Directors shall include an equal number of French and Dutch speakers, with, possibly, the exception of the Governor.

The members of the Board of Directors must be Belgian.

2. The Board shall be responsible for the administration and management of the Bank and shall decide on the direction of its policy.

It shall appoint and dismiss members of staff and fix their salaries.

It shall have the right to make settlements and compromises.

3. It shall exercise regulatory power in the cases laid down by law. In circulars or recommendations, it shall lay down all measures with a view to clarifying the application of the legal or regulatory provisions whose application the Bank supervises.

4. It shall decide on the investment of the capital, reserves and depreciation accounts after consultation with the Council of Regency and without prejudice to the rules adopted by the ECB.

5. It shall pronounce upon all matters which are not expressly reserved for another organ by law, the Statutes or the Rules of Procedure.

6. It shall provide opinions to the various authorities that exercise legal or regulatory power on all draft legislative or regulatory acts relating to the supervisory tasks with which the Bank is or may be charged.

7. In urgent cases determined by the Governor, except for adopting regulations, it may take decisions by written procedure or by using a voice telecommunications system, in accordance with the specific rules laid down in the Bank's Rules of Procedure.

Art. 30. – 1. The **Council of Regency** shall be composed of the Governor, the Directors and ten Regents. It shall include an equal number of French- and Dutch-speaking Regents.

The members of the Council must be Belgian.

2. The Council shall exchange views on general questions concerning the Bank, monetary policy and the economic situation of the country and the European Community, supervisory policy with regard to each of the sectors subject to the Bank's supervision, Belgian, European and international developments in the field of supervision, as well as, in general, any development concerning the financial system subject to the Bank's supervision; without however having any competence to intervene at operational level or take note of individual dossiers. It shall take note every month of the situation of the institution.

3. On a proposal from the Board of Directors, it shall lay down the Rules of Procedure, containing the basic rules for the operation of the Bank's organs and the organisation of its departments, services and outside offices.

4. *Repealed.*

5. It shall approve the Annual Report to be presented by the Governor to the General Meeting.

6. *Repealed.*

7. The Council shall fix the individual salaries and pensions of the members of the Board of Directors. These salaries and pensions may not include a share in the profits, and no remuneration whatsoever may be added thereto by the Bank, either directly or indirectly. The Bank shall, however, meet the Governor's housing and furniture expenses.

8. The Council shall approve the expenditure budget and the annual accounts submitted by the Board of Directors. It shall finally determine the distribution of profits proposed by the Board.

9. The Regents shall receive attendance fees and, if appropriate, a travel allowance. The amount of such remunerations shall be fixed by the Council of Regency.

Art. 31. – 1. The Council of Regency shall meet at least twenty times per year.

The Council may not deliberate unless the majority of its members is present.

Decisions shall be adopted by a majority of votes.

In the event of a tie, the chairman shall have the casting vote.

2. Minutes shall be kept of the deliberations of the Council of Regency.

They shall mention the nature of the deliberations, their object and, briefly, the grounds for the decisions.

The minutes shall be signed by all the members present and by the Secretary.

3. In urgent cases, determined by the Governor, the Council of Regency may decide by written procedure or via a voice telecommunications system, in accordance with the specific rules laid down in the Bank's Rules of Procedure.

Art. 32. – 1. The Board of Censors shall be composed of ten members. It shall include an equal number of French and Dutch speakers. At least one member of the Board of Censors shall be independent as defined by Article 526ter of the Company Code.

The members of the Board of Censors must be Belgian.

The Board shall choose its chairman and its secretary from among its members.

2. The Board of Censors shall supervise the preparation and implementation of the budget. It is the audit committee of the Bank and shall exercise in this capacity the tasks laid down by Article 32bis.

The Censors shall receive an allowance, the amount of which shall be set by the Council of Regency.

Art. 32bis. – 1. Without prejudice to the responsibilities of the organs of the Bank and without prejudice to the execution of the tasks and transactions within the domain of the ESCB and their review by the statutory auditor, the Audit Committee shall, at least:

- a) monitor the financial reporting process;
- b) monitor the effectiveness of the internal control and risk management systems, and of the Bank's internal audit;
- c) monitor the statutory audit of the annual accounts, including the compliance with the questions and recommendations formulated by the statutory auditor;
- d) review and monitor the independence of the statutory auditor, and in particular the provision of additional services to the Bank.

2. Without prejudice to Article 27.1 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank, and without prejudice to the competence of the Works Council with respect to the nomination, the proposal of the Board of Directors for the appointment of the statutory auditor shall be given on proposal of the Audit Committee. The Works Council shall be informed of this proposal. The audit committee shall also advise on the tender procedure for the appointment of the statutory auditor.

3. Without prejudice to any reports and notices of the statutory auditor to the organs of the Bank, he shall report to the Audit Committee on key matters arising from the statutory audit, and in particular on material weaknesses in internal control in relation to the financial reporting process.

4. The statutory auditor shall:

- a) confirm annually in writing to the Audit Committee his independence from the Bank;

b) disclose annually to the audit committee any additional services provided to the Bank;

c) discuss with the audit committee the threats to his independence and the safeguards applied to mitigate those threats and that have been documented by him in the audit working papers.

5. The Rules of Procedure shall specify the Audit Committee Regulations.

Art. 33. – The Board of Censors shall meet at least eight times per year.

It may not take decisions unless the majority of its members is present.

Decisions shall be adopted by a majority of the votes cast.

Section 2 – Method of designation of the members of the organs.

Art. 34. – 1. The **Governor** shall be appointed by the King for a renewable term of five years. He may be relieved from office by the King only if he no longer fulfils the conditions required for the performance of his duties or if he has been guilty of serious misconduct. With regard to this decision, he shall have the right of appeal as provided in Article 14.2 of the Statute of the ESCB.

2. The other members of the **Board of Directors** shall be appointed by the King, on the proposal of the Council of Regency, for a renewable term of six years. They may be relieved from office by the King only if they no longer fulfil the conditions required for the performance of their duties or if they have been guilty of serious misconduct.

Art. 35. – 1. The **Regents** shall be elected for a three-year term by the General Meeting. Their term may be renewed.

Two Regents shall be chosen on the proposal of the most representative labour organisations.

Three Regents shall be chosen on the proposal of the most representative organisations from industry and commerce, from agriculture and from small firms and traders.

Five Regents shall be chosen on the proposal of the Minister of Finance.

The methods of proposing candidates for these appointments shall be laid down by the King, after deliberation in the Council of Ministers.

2. The terms of office of the Regents shall end after the Ordinary General Meeting. They may be re-elected.

They shall leave office each year in groups, one of four members and the other two of three members. The order in which they leave office shall be initially determined by the drawing of lots.

The Regent elected to replace a member who has died or resigned shall complete the term of the one whom he replaces.

3. If a Regent's mandate becomes vacant, then, without prejudice to Article 62, second paragraph, 2°, this shall remain vacant until the next General Meeting.

Art. 36. – 1. The **Censors** shall be elected for a three-year term by the General Meeting of Shareholders. They shall be chosen from among persons with special qualifications in the field of supervisory procedures. Their term may be renewed.

2. The terms of office of the Censors shall end after the Ordinary General Meeting. They may be re-elected.

They shall leave office each year in groups, one of four members and the other two of three members. The order in which they leave office shall be initially determined by the drawing of lots.

The Censor elected to replace a member who has died or resigned shall complete the term of the one whom he replaces.

3. If a Censor's mandate becomes vacant, then, without prejudice to Article 62, second paragraph, 2°, this shall remain vacant until the next General Meeting.

Section 3 – Incompatibilities.

Art. 37. – Members of the Legislative Chambers, the European Parliament, the Councils of the Communities and the Regions, persons who hold the position of minister or secretary of state or of member of the Government of a Community or Region and members of the staff of a member of the Federal Government or of the Government of a Community or Region may not hold the office of Governor, Vice-Governor, member of the Board of Directors, Regent or Censor. The last-mentioned

functions shall automatically cease when their holder takes the oath of office for exercise of the abovementioned offices or performs such functions.

Art. 38. – 1. The Governor, the Vice-Governor and the other members of the Board of Directors may not hold any office in a commercial company or a company which is commercial in form or in any public body which carries on an industrial, commercial or financial activity. Subject to the approval of the Minister of Finance, they may however hold office in :

1° international financial institutions established under agreements to which Belgium is party;

2° the Securities Regulation Fund (*Fonds des Rentes – Rentenfonds*), the Deposit and Financial Instrument Protection Fund (*Fonds de protection des dépôts et des instruments financiers – Beschermingsfonds voor deposito's en financiële instrumenten instrumenten*), the Rediscount and Guarantee Institute (*Institut de Réescompte et de Garantie – Herdiscontering- en Waarborginstituut*) and the National Delcredere Office (*Office National du Ducroire – Nationale Delcrededienst*);

3° the legal entities referred to in Article 25.

For duties and mandates in an institution subject to the Bank's supervision pursuant to Articles 19, 23 or 23bis, the prohibitions referred to in the first paragraph shall continue to apply for one year after the Governor, Vice-Governor and other members of the Board of Directors have relinquished their office.

The Council of Regency shall determine the conditions relating to the relinquishment of office. It may, on the recommendation of the Board of Directors, waive the prohibition laid down for the period concerned after the relinquishment of office if it finds that the activity envisaged has no significant influence on the independence of the person in question.

2. The Regents and the majority of Censors may not be a member of the administrative, management or supervisory bodies of an institution subject to the supervision of the Bank pursuant to Articles 19, or 23bis, nor may they perform management duties in such an institution.

3. On a proposal from the Board of Directors, the Council of Regency shall lay down the code of conduct which must be respected by the members of the Board of Directors and the staff, as well as the monitoring measures concerning respect for this code. Persons responsible for supervising compliance with that code must maintain

professional secrecy as provided for in Article 458 of the Penal Code.

Section 4 – Responsibility of the members of the organs.

Art. 39. – The Governor, the Directors, the Regents and the Censors shall not contract any personal obligation by reason of the Bank's liabilities; they shall be responsible only for the performance of the duties of their office.

Section 5 – Expiry of terms of office.

Art. 40. – The terms of the members of the Board of Directors, the Council of Regency and the Board of Censors shall expire no later than when they reach the age of 67 years.

However, subject to authorisation by the Minister of Finance, they may complete their current term. The terms of the members of the Board of Directors may afterwards still be extended by one year, which term may be renewed. In the case of the Governor's term of office, the authorisation to complete the current term or its extension shall be granted by Royal Decree deliberated in the Council of Ministers.

On no account may the office-holders referred to in this article remain in office beyond the age of 70 years.

Chapter IV – Supervision by the Minister of Finance

Art. 41. – 1. Except as regards the tasks and transactions within the domain of the ESCB, the Minister of Finance, through his representative, shall have the right to supervise the Bank's transactions and to oppose the implementation of any measure which is contrary to the law, the Statutes or the interests of the State.

2. The representative of the Minister of Finance shall, *ex officio*, attend the meetings of the Council of Regency and the Board of Censors. He shall attend in an advisory capacity. Except as regards the tasks and transactions within the domain of the ESCB, he shall supervise the Bank's transactions and suspend and bring to the attention of the Minister of Finance any decision which is contrary to the law, the Statutes or the interests of the State.

If the Minister of Finance has not given a decision within eight days of the suspension, the decision may be implemented.

3. The salary of the representative of the Minister of Finance shall be fixed by the Minister of Finance in consultation with the management of the Bank and shall be borne by the latter.

The representative of the Minister shall report to the Minister of Finance each year on the performance of his task.

Art. 42. – Except as regards the transactions within the domain of the ESCB, the representative of the Minister of Finance shall have the right to take cognisance at any time of the state of business and to check the accounts and the cash holdings.

The Bank's administration shall be required to provide him, whenever he so requests, with a certified true copy of the Bank's financial statement.

He shall attend the General Meetings when he deems fit.

Chapter V – Statutory functions

Art. 43. – The Secretary and the Treasurer shall be appointed by the Council of Regency, which may dismiss them.

The Rules of Procedure shall define the duties inherent in their functions.

Their functions may be performed by one of the Directors.

Chapter VI – Financial provisions

Section 1 – Annual accounts, reserve funds and distribution.

Art. 44. – The **annual accounts** shall be drawn up as of 31 December each year. They shall be prepared by the Board of Directors and submitted to the Council of Regency for approval.

The approval of the annual accounts by the Council of Regency gives discharge to the members of the Board of Directors.

Art. 45. – *Repealed.*

Art. 46. – The **reserve fund** is intended for :

1° compensating for losses in capital stock ;

2° supplementing any shortfall in the annual profit up to a dividend of six per cent of the capital.

Upon expiry of the Bank's right of issue, the State shall have a priority claim to one-fifth of the reserve fund. The remaining four-fifths shall be distributed among all the shareholders.

In accordance with Article 141 § 9 of the Law of 2 August 2002 on the supervision of the financial sector and on financial services, the words "the Bank's right of issue" shall be construed as meaning that the right of issue in question includes the right of issue which the Bank may exercise pursuant to Article 106 (1) of the Treaty establishing the European Community.

Art. 47. – *Repealed.*

Art. 48. – *Repealed.*

Art. 49. – The **annual profit** shall be distributed as follows:

1. a first dividend of six per cent (6 %) of the capital shall be allocated to the shareholders ;

2. from the excess, an amount proposed by the Board of Directors and established by the Council of Regency shall be independently allocated to the reserve fund or to the available reserves ;

3° from the second excess, a second dividend, established by the Council of Regency, forming a minimum of fifty per cent (50 %) of the net proceeds from the assets forming the counterpart to the reserve fund and available reserves shall be allocated to the shareholders ;

4° the balance shall be allocated to the State ; it shall be exempt from corporation tax.

Art. 50. – The profit established for allocation to the shareholders for the financial year ended 31 December of each year shall be distributed in a one within the month following the General Meeting, on a date fixed by the latter.

If the profit for distribution among the shareholders is less than 6 % per annum, it shall be supplemented by drawing on the reserve fund.

This drawing shall be refunded to the reserve if, the next year, this refund can be made without reducing the profit for distribution to below 6 %.

Art. 51. – *Repealed.*

Art. 52. – The accounts and, if appropriate, the consolidated accounts of the Bank shall be drawn up :

1° in accordance with the Law of 22 February 1998 establishing the Organic Statute of the National Bank of Belgium and the mandatory rules drawn up pursuant to Article 26.4 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank;

2° and otherwise in accordance with the rules laid down by the Council of Regency.

Articles 2 to 4, 6 to 9 and 16 of the Law of 17 July 1975 on business accounting and their implementing decrees shall apply to the Bank with the exception of the decrees implementing Articles 4 (6) and 9, § 2.

Section 2 – Allocations to the State.

Art. 53. – *Repealed.*

Art. 54. – Any capital gain realised by the Bank through arbitrage transactions of gold assets against other external reserve components shall be entered in a special unavailable reserve account. This capital gain shall be exempt from all taxation. However, where some external reserve components have been arbitrated against gold, the difference between the purchase price of that gold and the average purchase price of the existing gold stock shall be deducted from the amount of that special account.

The net income from the assets which form the counterpart to the capital gain referred to in the first paragraph shall be allocated to the State.

External reserve components acquired as a result of the transactions referred to in the first paragraph shall be covered by the State guarantee as provided in Article 9 (2) of the Law of 22 February 1998 establishing the Organic Statute of the National Bank of Belgium.

The terms and conditions for application of the provisions contained in the preceding paragraphs shall be fixed by agreements to be concluded between the State and the Bank. These agreements shall be published in the *Moniteur belge / Belgisch Staatsblad*.

Art. 55. – Notwithstanding Article 54, the capital gain made from the transfer of assets in gold with regard to the issuing by the State of numismatic or commemorative coins, shall be allotted to the State to the extent of

the unused balance of the 2.75 % of the weight of gold which appeared in the Bank's assets on 1 January 1987, and which could be used by the State, particularly for issuing coins, by virtue of Article 20bis (2) of the Law of 24 August 1939 on the National Bank of Belgium.

Chapter VII – Professional secrecy and exchange of information

Art. 56. – Except when called upon to give evidence in court in a criminal case, the Bank and members and former members of its organs and its staff shall be subject to professional secrecy and may not divulge to any person or authority whatsoever confidential information of which they have had knowledge on account of their duties.

Paragraph 1 shall not preclude the communication of confidential information to third parties in cases laid down by or by virtue of the law.

The Bank, members of its organs and its staff shall be exempt from the obligation contained in Article 29 of the Code of Criminal Procedure.

Contraventions of this article shall incur the penalties laid down by Article 458 of the Penal Code. The provisions of Book 1 of the Penal Code, including Chapter VII and Article 85, shall be applicable to contraventions of this article.

This article does not prevent the observance, by the Bank, the members of its organs and its staff, of specific legal provisions as to professional secrecy, whether more restrictive or not, notably when the Bank is charged with collecting statistical data or information on prudential supervision.

Chapter VIII – General Meeting

Art. 57. – The General Meeting shall represent the totality of the shareholders. It shall be presided over by the Governor.

Its decisions, taken in a regular manner, shall be binding, even on those absent or dissenting.

Art. 58. – The right to take part in the General Meeting is granted to shareholders who have fulfilled the legal formalities to be admitted to the General Meeting of a listed company.

Art. 59. – Before the session is opened, the shareholders shall sign the attendance list.

Art. 60. – Each share shall confer the right to one vote.

Art. 61. – The Ordinary General Meeting shall be held in Brussels on the last Monday of the month of May and, if that day falls on a public holiday, on the first following bank working day, at 2 p.m.

It shall hear the Annual Report on the past year's operations.

It shall elect the Regents and Censors whose terms of office expire and shall take steps to fill the vacancies which have arisen owing to death, resignation or for other reasons.

Art. 62. – An Extraordinary General Meeting may be convened whenever the Council of Regency deems fit.

It must be convened :

1° if the meeting is requested by either the Board of Censors or by shareholders representing one-tenth of the capital stock ;

2° if the number of Regents or of Censors falls below the absolute majority.

Art. 63. – *Repealed.*

Art. 64. – The function of scrutineers shall be performed by the two shareholders present who own the largest number of shares, who do not form part of the administration and who accept this duty.

They shall sign the minutes with the chairman and the other members of the bureau.

The copies and extracts to be supplied to third parties shall be signed by the Secretary.

Art. 65. – The General Meeting shall deliberate :

1° concerning the matters mentioned in the convening notices and concerning those submitted to it either by the Council of Regency or by the Board of Censors ;

2° concerning proposals, signed by one or more shareholders who together own at least 3 % of the company's capital, which have been brought to the attention of the Council of Regency at least twenty-two days before the meeting for inclusion in the agenda.

If the meeting acknowledges the urgency of other proposals made by the Council of Regency, these shall be included in the deliberations.

Art. 66. – All resolutions shall be adopted by an absolute majority of the votes.

In the event of a tie, the proposal shall be rejected.

Art. 67. – Voting will take place either electronically, by roll call, by show of hands, or by ballot.

Elections or dismissals shall take place by secret ballot.

Art. 68. – *Repealed.*

Art. 69. – Regents or Censors may be dismissed only by a majority of three-quarters of the votes of the shareholders present owning at least three-fifths of the shares.

Chapter IX – Amending the Statutes

Art. 70. – The Council of Regency shall amend the Statutes in order to bring them into conformity with the Law of 22 February 1998 establishing the Organic Statute of the National Bank of Belgium and with the international obligations which are binding on Belgium.

Other amendments to the Statutes shall be adopted, on the proposal of the Council of Regency, by a majority of three-quarters of the votes pertaining to the total number of shares present or represented at the General Meeting of Shareholders.

The General Meeting of Shareholders referred to in the second paragraph shall be specially convened and its proceedings shall only be valid if the purpose of the proposed amendments was specially stated in the convening notice and if those attending the meeting represent at least half of the capital stock.

If a first meeting does not represent the proportion of the capital stipulated above, a new meeting shall be convened, whose proceedings shall be valid irrespective of the proportion of the capital present or represented.

Amendments to the Statutes shall require the approval of the King.

Chapter X – Signing of acts

Art. 71. – All acts that are binding on the Bank may be signed :

- a) either by the Governor;
- b) or by a majority of members of the Board of Directors;
- c) or by a Director together with the Secretary;

without being required to furnish proof of any power whatsoever vis-à-vis third parties.

They may also be signed by one or two representatives authorised either by the Governor, or by a majority of members of the Board of Directors or by a Director together with the secretary.

Furthermore, acts of day-to-day management may be signed :

- a) either by the Vice-Governor or a Director;
- b) or by the Secretary or the Treasurer;
- c) or by one or two members of staff authorised to act as proxy by the Board of Directors for this purpose.

Chapter XI – General and transitional provisions

Section 1 – Use of languages.

Art. 72. – The Bank and its outside offices shall comply with the statutory provisions on the use of languages in administrative matters.

Art. 73. – *Repealed.*

Art. 74. – *Repealed.*

Art. 75. – *Repealed.*

Art. 76. – *Repealed.*

Annex 3 Corporate Governance Charter⁽¹⁾

1. Introduction

The National Bank of Belgium, established by the Law of 5 May 1850 to take on tasks in the public interest, has always had a special governance structure, deviating from ordinary law. Designed from the start to enable the Bank to perform its tasks in the public interest, this special system of governance has evolved in line with the role and objectives assigned to the Bank as the country's central bank.

Today, as the central bank of the Kingdom of Belgium, the Bank – together with the European Central Bank (ECB) and the central banks of the other European Union Member States – is one of the components of the European System of Central Banks (ESCB), set up by the Treaty on the Functioning of the European Union (the Treaty).

By that token, it is governed first of all by the relevant provisions of the Treaty (Title VIII of Part Three) and by the Protocol on the Statute of the ESCB and of the ECB which is annexed to the Treaty, and then by the Law of 22 February 1998 establishing the Organic Statute of the National Bank of Belgium (Organic Law), and its own Statutes, approved by Royal Decree.

The provisions relating to public limited liability companies are applicable only additionally, i.e. in respect of subjects not governed by the Treaty, the Protocol annexed to it, the Organic Law and the Bank's Statutes, and provided the provisions on public limited liability companies do not clash with those higher level rules.

As a central bank, it shares the main objective which the Treaty assigns to the ESCB, namely maintaining price stability. It contributes towards the performance of the basic tasks of the ESCB which consist in defining and implementing the monetary policy of the European Union, conducting foreign exchange operations in accordance with Article 219 of the Treaty, holding and managing the official foreign exchange reserves of the Member States, and promoting the smooth operation of payment systems.

In addition, it exercises prudential supervision of financial institutions and it is entrusted with the performance of other tasks in the public interest, on conditions laid down by the law or its implementing regulations, subject to compatibility with the tasks which come under the ESCB.

The pre-eminence of its tasks in the public interest, present from the start and now anchored in the Treaty on the Functioning of the European Union, is reflected in a system of governance whose very objectives are different from those of the governance of a company incorporated under ordinary law.

First, in accordance with the Treaty, it has to ensure that the rules which govern it are compatible with those of the Treaty itself, and with the Statute of the ESCB, including the requirement concerning the independence of the Bank and of the members of its decision-making bodies in the exercise of their powers and the performance of their tasks, assigned to them by the Treaty and the Statute of the ESCB, in respect of the institutions and bodies of the European Union, governments and all other bodies.

Next, in its governance, the Bank has to reserve a dominant position for the expression of the interests of Belgian society as a whole. That explains, in particular,

(1) Latest amendments: 16 October 2012.

the arrangements for appointing members of its organs, the specific composition and role of the Council of Regency, the limited powers of the General Meeting of Shareholders, the special arrangements for the exercise of supervision, including the powers of the representative of the Finance Minister and those of the Board of Censors, and the way in which the Bank reports on the performance of its tasks. That also explains the provisions governing the financial aspects of its activities, intended to give it a sound financial basis and to allocate to the State, as a sovereign State, any surplus seigniorage revenue, after covering costs, including the constitution of required reserves and return on capital.

The Bank's special tasks and its specific, unique role in Belgium caused the legislator to give this institution its own particular legal framework and a special form of governance.

This explains that a number of provisions in the Belgian corporate governance code, which is based on the management model of a common-law partnership with a monistic board of directors, accountable to the general meeting of shareholders and whose members may be dismissed *ad nutum*, obviously do not apply to the Bank.

Nevertheless, the Bank considers that the system of governance imposed on it partly by its own Organic Law and Statutes, and partly by EU rules, is just as exacting as the recommendations of the Belgian corporate governance code, or even more so in various respects, such as oversight.

It believes that, even though the Belgian corporate governance code is inappropriate to the Bank, it is its duty, in view of its dual status as a central bank and a listed company, to accept an obligation to provide extensive information and report on its activities to the public in general. That is the spirit in which it has drawn up this Corporate Governance Charter.

2. Organisation, governance and supervision of the Bank

2.1 Comparison of the allocation of powers at the Bank and in limited liability companies governed by ordinary law

The table on the next page shows the atypical character of the Bank's organisation.

2.2 Presentation of the Bank's organs and other institutions

The Bank's organs are the Governor, the Board of Directors, the Council of Regency, the Board of Censors and the Sanctions Committee (cf. Article 17 of the Organic Law).

Other institutions of the Bank are the General Meeting, the representative of the Minister of Finance, the auditor and the Works Council.

The Bank's organs and their respective powers are fundamentally different from those of conventional public limited liability companies (see table).

2.3 Organs of the Bank

2.3.1 Governor

POWERS

The Governor exercises the powers conferred on him by the Statute of the ESCB, the Organic Law, and the Bank's Statutes and Rules of Procedure.

He directs the Bank and its staff with the assistance of the Directors. He presides over the Board of Directors and the Council of Regency, arranging the implementation of their decisions, and chairs the General Meeting. He exercises direct authority over the members of staff, whatever their grade and their function.

At the General Meeting, he presents the annual accounts and the Annual Report which have been approved by the Council of Regency. He submits to the Chairmen of the Chamber of Representatives and the Senate the Annual Report referred to in Article 284.3 of the Treaty on the Functioning of the European Union, as well as a yearly report on the activities of the Bank in the field of prudential supervision. He may be heard by the competent committees of the Chamber of Representatives and of the Senate, at the request of those committees or on his own initiative.

He represents the Bank in legal proceedings.

He submits proposals to the Board of Directors on the allocation of the departments and services among the Board's members, and on the representation of the Bank in national and international organisations and institutions.

ALLOCATION OF POWERS AT THE BANK AND IN PUBLIC LIMITED LIABILITY COMPANIES GOVERNED BY ORDINARY LAW

The Bank		Public limited liability companies governed by ordinary law	
King	Appointment of the Governor Appointment of the Directors (on the proposal of the Council of Regency)	Appointment of the directors	General Meeting
General Meeting	Election of the Regents (from a dual list of candidates) Election of the Censors Appointment of the auditor (on the proposal of the Works Council and with the approval of the EU Council of Ministers, on the recommendation of the ECB Governing Council) Hearing of the Annual Report Amendment of the Statutes except for Council of Regency prerogatives	Appointment of the auditors Hearing of the annual report, auditors' report and discharge of the auditors Amendment of the articles of association	
Council of Regency	Amendment of the Statutes to bring them into line with the Organic Law and international obligations which are binding on Belgium Discussion and approval of the annual accounts Approval of the Annual Report Appropriation of the profits Discharge of the Board of Directors Setting the remuneration of the members of the Board of Directors Approval of the budget	Discussion and approval of the annual accounts Appropriation of the profits Discharge of the directors Setting the remuneration of the Board of Directors	
Board of Directors	Definition of company policy Administration and management Drawing up of the annual accounts Preparation of the Annual Report Management and routine operation	Definition of company policy Administration and management Drawing up of the annual accounts Drawing up of the annual report	Board of Directors
Board of Censors	Supervision of the preparation and implementation of the budget Audit Committee	Optional delegation of the management (management board) or the routine operation (chief executive)	Management board or chief executive
Representative of the Minister of Finance	Monitoring of the Bank's operations (right to oppose any measure which is contrary to the law, the Statutes or the interests of the State), except for those which come under the ESCB		

He also has a seat on the ECB Governing Council, which decides *inter alia* on the monetary policy for the euro area.

APPOINTMENT

The Governor is appointed by the King for a renewable term of five years. He may be removed from office by the King only if he has been guilty of serious misconduct or if he no longer fulfils the conditions required for the performance of his duties. An appeal may be lodged with the Court of Justice against such a decision, on the initiative of the Governor or of the ECB Governing Council.

Thus, the EU and Belgian legislation ensures the personal independence of the Governor, both by the length of his term of office and by the restrictions on his removal from office.

2.3.2 Board of Directors

POWERS

The Governor and the Directors jointly exercise their powers as members of the Board of Directors.

The Board of Directors is a collegiate body, responsible for the administration and management of the Bank in accordance with the Organic Law, the Statutes and the Rules of Procedure, and is in charge of the direction of its policy.

The Governor and the Directors each have authority over one or more of the Bank's departments and services. They ensure that the latter implement, within the framework of their respective duties, the decisions taken by the organs.

The Board of Directors appoints and dismisses the members of staff and determines their salaries.

It has the right to make settlements and compromises. It exercises regulatory power in the cases laid down by law.

In circulars or recommendations, it lays down all measures with a view to clarifying the application of the legal or regulatory provisions whose application the Bank supervises. It provides opinions to the various authorities that exercise legal or regulatory power on all draft legislative or regulatory acts relating to the supervisory tasks with which the Bank is or may be charged.

It pronounces on all matters which are not expressly reserved for another organ by law, the Bank's Statutes or Rules of Procedure.

It draws up the budget and prepares the Annual Report and the annual accounts, which it submits to the Council of Regency for approval.

It decides on the investment of the capital, the reserves and the amortisation accounts after consultation with the Council of Regency and without prejudice to the regulations adopted by the ECB.

It proposes the Bank's Rules of Procedure for the approval of the Council of Regency.

The Bank's Board of Directors therefore exercises the powers of administration, management and strategic direction of the enterprise which are delegated to the administrative board in public limited liability companies governed by ordinary law, as well as the actual management powers.

It is not accountable for its activities to the General Meeting, which has no power to give it a discharge; instead, it is accountable to the Council of Regency to which it submits the Annual Report and the annual accounts. The approval of the annual accounts by the Council of Regency constitutes a discharge for the members of the Board of Directors.

COMPOSITION

The Board of Directors is composed of the Governor and five to seven Directors. It includes an equal number of French and Dutch speakers, with the possible exception of the Governor. The members of the Board of Directors must be Belgians.

The Directors are appointed by the King, on a proposal of the Council of Regency. The method of nominating the Directors was specifically designed by law in 1948 to emphasise the character of the Bank's activities as tasks performed in the public interest.

The Directors are appointed for a renewable term of six years.

The King confers the title of Vice-Governor on one of the Directors. The Vice-Governor replaces the Governor if the latter is unable to perform his duties, without prejudice to Article 10.2. of the Statute of the ESCB.

In order to avoid any conflict of interests, the Organic Law stipulates that, except in a limited number of specified instances, the members of the Board of Directors may not perform duties in commercial companies or companies which are commercial in form, or in public institutions engaged in industrial, commercial or financial activities.

They are also prohibited from taking on certain political posts (as members of a parliament, government or ministerial cabinet).

The members of the Board of Directors may be removed from office by the King only if they have been guilty of serious misconduct or if they no longer fulfil the conditions required for the performance of their duties.

Thus, the Organic Law ensures the personal independence of the members of the Board of Directors, both by the length of their term of office and by the restrictions on their removal from office.

FUNCTIONING

The functioning of the Board of Directors is governed by the Organic Law, the Statutes and the Rules of Procedure.

The Board of Directors meets whenever circumstances dictate, and at least once a week. In urgent cases determined by the Governor, except for adopting regulations, it may take decisions by written procedure or by using a voice telecommunications system.

If a member of the Board of Directors has, directly or indirectly, an interest relating to proprietary rights which conflicts with a decision or transaction within the sphere of competence of the Board of Directors, he informs the other members before the Board deliberates. He does not attend discussions concerning that transaction or decision and does not take part in the voting. His declaration and he reasons underlying the conflicting interest are entered in the minutes of the meeting. The Board of Directors describes in the minutes the nature of the decision or transaction, justifies the decision taken and specifies the implications in terms of proprietary rights of that decision for the Bank. Those minutes are included in the Annual Report for the year in question.

The Director concerned also informs the auditor of his conflicting interest. The auditor's report must contain a separate description of the implications in terms of proprietary rights for the Bank resulting from Board of Directors decisions involving a conflicting interest within the meaning of the previous paragraph.

2.3.3 Council of Regency

POWERS

The Council of Regency exchanges views on general issues relating to the Bank, monetary policy and the economic

situation of the country and the European Union, supervisory policy with regard to each of the sectors subject to the Bank's supervision, Belgian, European and international developments in the field of supervision, as well as, in general, any development concerning the financial system subject to the Bank's supervision; without however having any competence to intervene at operational level or take note of individual dossiers. Once a month, it takes note of the Bank's financial situation.

It has power to lay down the accounting rules for all aspects of the annual accounts which are not covered by the provisions of the Bank's Organic Law and are not mandatory for the compilation of the consolidated balance sheet of the Eurosystem. It approves the expenditure budget and the annual accounts. It has the power, as an independent body, to set the Bank's reserve and dividend policy. It determines the final distribution of the profits proposed by the Board of Directors and ensures that the financial interests of the Bank, its shareholders and the State, as a sovereign State, are taken into account in a balanced manner.

It approves the Annual Report.

It amends the Statutes of the Bank in order to bring them into line with the Organic Law and the international obligations which are binding on Belgium.

On a proposal from the Board of Directors, it lays down the Rules of Procedure, containing the basic rules for the operation of the Bank's organs and the organisation of its departments, services and outside offices, and the code of conduct which must be respected by the members of the Board of Directors and the staff.

The Council of Regency has the power to set remuneration policy and fix the salaries of the members of the Board of Directors, including the Governor, of the Council of Regency and the Board of Censors. More detailed information about the remuneration policy and salaries is provided on an annual basis in the remuneration report which forms part of the Governance Statement included in the Annual Report.

The Council of Regency therefore exercises certain powers which, in companies governed by ordinary law, are reserved for the board of directors, and others reserved for the General Meeting of Shareholders. This is a very special organ which introduces an element of duality into the Bank's governance structure. Composed predominantly of non-executive members, the Council of Regency plays a key role in the appointment of Directors, remuneration and supervision, and does so on a more continuous

basis than the special committees of ordinary companies, in view of the frequency of its meetings.

In regard to the budget, including the patronage funds, the Council of Regency is assisted by the Budget Committee and the Special Fund Committee.

The Budget Committee has power to examine the Bank's budget before it is approved by the Council of Regency. It is chaired by a member of the Board of Censors and otherwise comprises three Regents, two other Censors, the representative of the Minister of Finance, and, in an advisory capacity, the Director responsible for the Controlling Department. This committee meets on a yearly basis. It may call on the General Secretariat to provide its secretariat.

The Special Fund Committee has the competence to examine the allocation of the Bank's Special Patronage Fund before it is approved by the Council of Regency. It is chaired by the governor and otherwise comprises two regents, two censors and one member of the Board of Directors. This committee meets on a yearly basis. It may call on the General Secretariat to provide its secretariat.

In the performance of its duties in relation to remuneration and appointments, the Council of Regency is assisted by the Remuneration and Appointments Committee. The Remuneration and Appointments Committee Regulations, annexed to this Charter, define the powers, composition and functioning of that committee.

COMPOSITION

The Council of Regency is composed of the Governor, the Directors and ten Regents. It includes an equal number of French- and Dutch-speaking Regents.

The Regents are elected by the General Meeting for a renewable term of three years, on the basis of dual lists of candidates. Two Regents are chosen on the proposal of the most representative labour organisations, three on the proposal of the most representative organisations from industry and commerce, from agriculture and from small and medium-sized enterprises and traders, and five on the proposal of the Minister of Finance.

The method of appointing the Regents has been organised in a special way. In the preparations for the Law of 28 July 1948 which amended the Organic Law and reorganised the Bank, the legislator expressed its desire that the method of appointing the Directors and Regents should ensure both the Bank's total independence vis-à-vis individual interests and the technical competence of the

candidates. The procedure for proposing the Regents was designed to ensure that the various Belgian socio-economic interests were fairly represented.

In order to avoid any conflict of interests, the Organic Law stipulates that the Regents may not be members of the administrative, management or supervisory bodies of an institution subject to the supervision of the Bank pursuant to Articles 8, or 12*bis*, nor may they perform management duties in such an institution or take on certain political posts (as members of a parliament, government or ministerial cabinet).

The Regents may be dismissed by the General Meeting of Shareholders deciding by a majority of three-quarters of the votes of the shareholders present, holding at least three-fifths of the shares.

FUNCTIONING

The functioning of the Council of Regency is governed by the Organic Law, the Statutes and the Rules of Procedure.

The Council of Regency meets at least twenty times a year and passes its decisions by a majority of the votes. In urgent cases determined by the Governor, the Council of Regency may take decisions by written procedure or by using a voice telecommunications system.

If a member of the Council of Regency has, directly or indirectly, an interest relating to proprietary rights which conflicts with a decision within the sphere of competence of the Council of Regency, he informs the other members before the Council deliberates. He must not attend discussions concerning that decision, or take part in the voting. In particular, the Governor and the Directors are not permitted to attend the discussions and take part in the voting concerning the approval of the annual accounts.

2.3.4 Board of Censors

POWERS

The Board of Censors' task is to supervise the preparation and implementation of the Bank's budget. In that context, it regularly takes cognisance of the activities of the Internal Audit Service. Its chairman informs the Council of Regency of those activities each year and answers its questions on the subject.

The Board of Censors is also the Bank's Audit Committee. By that token, the tasks assigned to the Board of Censors

include taking charge, in an advisory capacity, of the monitoring of the process of preparing the financial information, the monitoring of the effectiveness of the internal control and risk management systems, the monitoring of the statutory audit of the annual accounts and the examination and the monitoring of the independence of the auditor.

Once a year, the Audit Committee reports to the Council of Regency on the performance of its duties. It also reports to the Council of Regency on all matters arising from the performance of its duties which are relevant for the approval of the annual accounts and the Annual Report, and for the drafting of the accounting rules by the Council of Regency. The Audit Committee reports to the Board of Directors on all aspects relevant to the reliability of the financial information, the proper operation of internal control, risk management and the internal audit, and the independence of the auditor.

COMPOSITION

The Board of Censors is composed of ten members. It includes an equal number of French and Dutch speakers. The Censors are elected by the General Meeting of Shareholders for a renewable term of three years. They are chosen from among persons with particular expertise in auditing. In order to avoid any conflict of interests, they may not take on certain political and parliamentary duties. The majority of Censors may not be members of the administrative, management or supervisory bodies of an institution subject to the supervision of the Bank pursuant to Articles 8, or 12*bis*, nor may they perform management duties in such an institution.

The Censors may be dismissed by the General Meeting of Shareholders deciding by a majority of three-quarters of the votes of the shareholders present, holding at least three-fifths of the shares.

FUNCTIONING

The functioning of the Board of Censors is governed by the Organic Law, the Statutes and the Rules of Procedure. The rules on its functioning as an Audit Committee are also set out in the Audit Committee Regulations. The Rules of Procedure and the Audit Committee Regulations are annexed to this Charter.

The Board of Censors meets at least eight times a year. Its resolutions are adopted by a majority of the votes.

2.3.5 Sanctions Committee

POWERS

The Sanctions Committee pronounces on the imposition by the Bank of administrative fines and penalties laid down by the laws applicable to the institutions that it supervises. The rules of procedure for the imposition of administrative fines and penalties are set out in the Organic Act.

COMPOSITION

The Sanctions Committee is composed of six members appointed by the King:

1° a State counsellor or honorary State counsellor, appointed on a proposal from the First President of the Council of State;

2° a counsellor at the Court of Cassation or honorary counsellor at the Court of Cassation, appointed on a proposal from the First President of the Court of Cassation;

3° two magistrates who are neither members of the Court of Cassation, nor of the Brussels Court of Appeal;

4° two other members.

The chairman is elected by the members of the Sanctions Committee from among the persons mentioned in 1°, 2° and 3°.

For the three years preceding their appointment, the members of the Sanctions Committee may not have been on either the Board of Directors of the Bank, or a member of the Bank's staff.

During the course of their mandate, members may not carry out any duties whatsoever or any mandate whatsoever in an institution subject to the supervision of the Bank or in a professional association representing institutions subject to the supervision of the Bank, nor may they provide services for a professional association representing institutions subject to the supervision of the Bank.

They are also prohibited from taking on certain political posts (as members of a parliament, government or ministerial cabinet).

The mandate of the members of the Sanctions Committee is six years and renewable. Members may be removed from office by the King only if they no longer fulfil the

conditions for the performance of their duties or if they have been guilty of serious misconduct.

FUNCTIONING

The Sanctions Committee may take valid decisions when two of its members and its chairman are present and in a position to deliberate. If its chairman is unable to attend, it may take valid decisions when three of its members are present and in a position to deliberate.

Members of the Sanctions Committee may not deliberate in a case in which they have a personal interest that may influence their opinion.

2.4 Other institutions of the Bank

2.4.1 General Meeting

POWERS

The Ordinary General Meeting hears the Annual Report on the past year and elects the Regents and the Censors for the offices which have become vacant, in accordance with the stipulations of the Organic Law. It appoints the external auditor. It amends the Statutes in cases where that power is not reserved for the Council of Regency.

The General Meeting deliberates concerning the matters mentioned in the convening notice and those submitted to it by the Council of Regency or by the Board of Censors.

The Organic Law does not confer organ status on the General Meeting, whose powers are limited.

COMPOSITION

The General Meeting is composed of the shareholders who have fulfilled the legal formalities for admission to the general meeting of a listed company.

The General Meeting represents the totality of the shareholders.

FUNCTIONING

The General Meeting is chaired by the Governor. The Ordinary General Meeting is held on the last Monday in May or, if that is a public holiday, on the next bank working day. An Extraordinary General Meeting may be convened whenever the Council of Regency deems fit. A meeting must be convened if the number of Regents

or of Censors falls below the absolute majority, or if it is requested either by the Board of Censors or by shareholders representing one-tenth of the capital stock.

Before the meeting is opened, the shareholders sign the attendance register.

The function of scrutineers shall be performed by the two shareholders present who own the largest number of shares, who do not form part of the administration and who accept this duty.

Each share confers entitlement to one vote.

All resolutions are passed by an absolute majority of the votes. If the votes are equally divided, the proposal is rejected. Voting will take place either electronically, by roll call, by a show of hands, or by ballot papers. Elections or dismissals take place by secret ballot.

Decisions passed in accordance with the rules are binding on all the shareholders.

Minutes are drawn up in respect of each meeting. They are signed by the tellers, the chairman and the other members of the bureau. They are published on the Bank's website. Exemplified copies and extracts to be issued to third parties are signed by the Secretary.

2.4.2 Representative of the Minister of Finance

Except as regards the tasks and operations within the domain of the ESCB, the representative of the Minister of Finance supervises the Bank's operations, and suspends and brings to the attention of the Minister of Finance any decision which is contrary to the law, the Statutes or the interests of the State. If the Minister of Finance has not given a decision within one week of the suspension, the decision may be implemented.

The representative of the Minister of Finance attends, *ex officio*, in an advisory capacity, the meetings of the Council of Regency and the Board of Censors.

Except as regards operations within the domain of the ESCB, the representative of the Minister of Finance has the right to take note at any time of the state of business and to check the accounts and cash holdings. He attends the General Meetings when he deems fit. The Board of Directors is required to provide him, whenever he so requests, with a certified copy of the Bank's financial statement.

He reports to the Minister of Finance each year on the performance of his duties.

Via his representative, the Minister of Finance thus exercises, on behalf of the sovereign State, supervision over the Bank's activities in regard to tasks in the national interest.

The salary of the representative of the Minister of Finance is set by the said Minister in consultation with the management of the Bank, and is paid by the Bank.

2.4.3 Auditor

The auditor performs the auditing functions prescribed by Article 27.1 of the Protocol on the Statute of the ESCB and of the ECB, and reports to the Council of Regency on those activities. He certifies the annual accounts. He also performs certification functions for the attention of the ECB auditor.

He reports to the Works Council once a year on the annual accounts and the Annual Report. He certifies the accuracy and completeness of the information supplied by the Board of Directors. He analyses and explains, particularly for the members of the Works Council appointed by the employees, the economic and financial information submitted to this Council, in terms of its significance in relation to the financial structure and the assessment of the Bank's financial position.

The auditor is appointed on the basis of a procedure in accordance with the public procurement legislation to which the Bank is subject. He is then appointed by the General Meeting of the Bank on the proposal of the Works Council. He must be approved by the EU Council of Ministers, on the recommendation of the ECB.

2.4.4 Works Council

Pursuant to the Law of 20 September 1948 on the organisation of the economy, the Bank has a Works Council, a joint consultation body composed of representatives of the employer and representatives of the staff, elected every four years.

The main function of the Works Council is to give its opinion and formulate any suggestions or objections in regard to all measures which could change the working arrangements, working conditions and efficiency of the enterprise.

Specific economic and financial information is made available by the Board of Directors, in accordance with the law.

2.5 Mechanisms for controlling the activities

A series of control mechanisms ranging from operational to external controls govern the Bank's activities and operations, ensuring that they proceed smoothly with due regard for the set objectives and in accordance with the dual concern for security and the economical use of resources.

The control requirements applicable to the Bank on account of its tasks as the country's central bank and its membership of the ESCB differ from, and extend beyond, those laid down in the Belgian corporate governance code recommended for public limited liability companies governed by ordinary law.

From the point of view of the general management of the enterprise, the Board of Directors is responsible for establishing an internal control system.

The persons in charge within the hierarchy and their staff take on primary responsibility for the actual operation of the internal control system.

The Internal Audit Service takes on secondary responsibility for assessing the internal control system, with the following specific objectives:

- in all operating units, to raise awareness of the risks of the enterprise and improve risk identification and measurement;
- to formulate an independent appraisal of these risks and the control measures, checking their application;
- to issue the Board of Directors and the heads of departments and services with opinions and to propose measures for improving the internal control system;
- to provide assistance where necessary in the implementation of these measures.

In order to guarantee its independence vis-à-vis the departments and services, the Internal Audit Service comes directly under the Governor, and does not carry any direct operational responsibility. It reports to the Board of Directors.

The head of the Internal Audit Service is a member of the Internal Auditors Committee (IAC) of the ESCB. The Internal Audit Service conforms to the methodology, objectives, responsibilities and reporting procedure laid down within the ESCB, including the ESCB Audit Policy approved by the ECB Governing Council.

Certain control functions are performed by specific administrative entities (e.g. the management of access to computer systems), while structural conflicts of interest are resolved by segregating the activities concerned (system of Chinese walls): thus, for example, the operation and oversight of the payment systems are entrusted to two different departments.

The Board of Censors supervises the preparation and implementation of the budget and takes note of the activities of the Internal Audit Service. Every year, its chairman informs the Council of Regency and answers its questions.

As the Bank's Audit Committee, the Board of Censors is responsible, in an advisory capacity, for the monitoring of the effectiveness of the internal control and risk management systems and the monitoring of the Bank's internal audit.

To that end, the Audit Committee periodically examines, in accordance with a plan which it draws up, the internal control and risk management systems set up by the various departments and services. It ensures that the main risks, including the risks relating to compliance with the current legislation and rules, are correctly identified, managed and drawn to its own attention and to that of the Board of Directors. The Audit Committee also examines the notes contained in the Annual Report concerning internal control and risk management.

The Audit Committee examines the effectiveness of the internal audit. It examines the internal audit charter and verifies whether the Internal Audit Service has the resources and expertise appropriate to the nature, size and complexity of the Bank. Where appropriate, it makes recommendations on this subject to the Board of Directors. Before the internal audit's programme of work is approved by the Board of Directors, the Audit Committee examines that programme, taking account of the complementarity with the work of the statutory auditor.

The Audit Committee receives the internal audit reports or a summary thereof, and the quarterly report of the internal audit. It examines the extent to which the departments and services take account of the internal audit's findings and recommendations. At the request of the

Board of Directors, the Audit Committee gives its opinion concerning the profile of the internal audit officer.

The Audit Committee also assesses the relevance and consistency of the accounting rules drawn up by the Council of Regency.

The Council of Regency approves the annual accounts, the annual budget, the accounting rules and the rules on the Bank's internal organisation. It consults the Audit Committee before approving the annual accounts, and may ask this committee to examine specific questions on that subject and report back to it. The Bank is also subject to various external controls.

The first form of control is provided by the auditor, who verifies and certifies the Bank's accounts.

Except as regards the tasks and operations within the domain of the ESCB, the representative of the Minister of Finance supervises the Bank's operations on the behalf of the Minister. The latter in fact has the right to monitor those operations and to oppose the implementation of any measure which would be contrary to the law, the Statutes or the interests of the State.

In addition, the Governor may be heard by the competent committees of the Chamber of Representatives and of the Senate, at the request of those committees or on his own initiative.

Finally, pursuant to the Statute of the ESCB and of the ECB, the Bank acts in accordance with the directions and instructions of the ECB. The Governing Council takes the necessary measures to ensure compliance with those directions and instructions, and requires all necessary information to be supplied to it.

2.6 Rules of conduct

A code of conduct imposes strict rules of behaviour on the members of the Board of Directors and on the Bank's employees.

The members of the Board of Directors maintain the highest standards of professional ethics.

The members of the Bank's organs and staff are subject to strict professional secrecy pursuant to Article 35 of the Organic Law. They are also subject to the rules on insider trading and market manipulation, based on Articles 25 and 25*bis* of the Law of 2 August 2002 on the supervision of the financial sector and on financial services.

The Law of 2 May 1995 sets out an obligation for the members of the Council of Regency – namely, the Directors and the Regents – and the members of the Board of Censors to disclose an annual list of their mandates, duties and occupations to the Court of Auditors. In addition, they are bound to make an annual wealth declaration, unless there have been no appointments, terminations or renewals in the past year with regard to the mandates, duties and occupations that they have to declare.

The Bank's code of conduct lays down rules for members of the Board of Directors and of its staff on the holding of and transactions in the Bank's shares and shares or parts issued by enterprises subject to supervision by the Bank.

The Regents and Censors do not effect any transactions in shares of the Bank or financial instruments relating to those shares during the fixed closed periods each year which start from the point in time when the annual accounts are drawn up by the Board of Directors and end when the said accounts are published. Outside of those fixed closed periods, they exercise prudence in trading in the Bank's shares and refrain at all times from any speculative transaction in those shares. They also respect the closed periods fixed *ad hoc* by the Board of Directors. They must ensure that their close associates within the meaning of Article 2 (23) of the Law of 2 August 2002 on the supervision of the financial sector and on financial services respect the same rules. The legal compliance officer shall inform the Regents and Censors about the closed periods.

3. Shareholders

3.1 Capital and shares

The Bank's share capital totals ten million euro. It is represented by four hundred thousand shares of no face value. Two hundred thousand registered, non-transferable shares are held by the Belgian State. The two hundred thousand other registered, bearer or dematerialised shares are held by the public and listed on Euronext Brussels.

The share capital is fully paid up.

Except for those belonging to the State, the shares can be converted to registered or dematerialised shares, free of charge, at the owner's request.

Ownership of the registered shares is established by entry in the Bank's shareholders register. The registered

shareholder receives a certificate which does not constitute a transferable instrument. Dematerialised shares are represented by an account entry in the name of their owner or holder with an authorised intermediary or with the settlement institution, S.A. Euroclear Belgium.

3.2 Shareholder structure

Since 1948, and pursuant to the Organic Law, the Belgian State has held two hundred thousand of the Bank's shares, or 50 % of the total voting rights.

The Bank has no knowledge of other holdings of 5 % or more of the voting rights.

3.3 Dividends

The setting of the dividends is organised by the Organic Law. A first dividend of 6 % of the capital is guaranteed by all reserves. The second dividend corresponds to 50 % of the net proceeds from the portfolio which the Bank holds as a counterpart to its total reserves. The second dividend is guaranteed by the available reserve, unless the level of the reserves were to fall too low as a result.

In view of the special nature of the Bank and its tasks in the public interest, including the primary objective of maintaining price stability, the dividend is largely dissociated from profit or loss. In this way, the shareholder is protected against the volatility of the Bank's results, which are influenced by the monetary policy of the Eurosystem and exogenous factors such as demand for banknotes or exchange rate movements.

4. Communication with shareholders and the public

4.1 Principles

As the country's central bank, the Bank performs special tasks in the public interest, on which it has to render account to the democratic institutions and to the public in general, and not only to its shareholders and employees.

4.2 Reports

Every year, the Bank publishes a Report providing the public with extensive information on recent economic and financial developments in Belgium and abroad.

The summary presented by the Governor on behalf of the Council of Regency focuses on key events in the past year and delivers the Bank's main messages concerning economic policy.

Each year, the Bank also publishes a report on its activities in the field of prudential supervision, as well as a Corporate Report presenting for the shareholders' and the public's attention the Annual Report and the annual accounts for the preceding year and explaining the organisation and governance of the Bank.

These Reports are made available in printed form to the shareholders and the public. They are also published on the Bank's website, which offers all the Annual Reports issued since 1998.

The Bank is not subject to the rules governing the drawing up and issuing of periodical information (Royal Decree of 14 November 2007 on the obligations of issuers of financial instruments admitted to trading on a regulated market).

4.3 Relations with Parliament

Pursuant to the Organic Law and the Statutes, the Governor may be heard by the competent committees of the Chamber of Representatives and of the Senate, at their request or on his own initiative. He shall send to the Chairmen of the Chamber of Representatives and the Senate the Annual Report on the activities of the Bank in the field of prudential supervision.

4.4 General Meetings

The Bank's Ordinary General Meeting provides an opportunity for shareholders and the Bank's management to meet. Every year at the meeting, the Board of Directors presents the Annual Report and the annual accounts for the past financial year.

4.5 Website

On its website, the Bank offers the public and the shareholders a large quantity of regularly updated information on its activities and operations, available at all times.

5. Representation of the Bank and signing of acts

5.1 Representation of the Bank

The Governor represents the Bank in legal proceedings.

The Governor and the Board of Directors may expressly or tacitly grant special authority to represent the Bank.

5.2 Signing of acts

All acts which are binding upon the Bank may be signed either by the Governor, or, in the absence of the latter, by the Vice-Governor, either by a majority of the members of the Board of Directors or by a Director together with the Secretary, without any need to substantiate their authority to third parties. They may also be signed by one or two persons mandated either by the Governor or by a majority of the members of the Board of Directors or by a Director together with the Secretary.

Moreover, routine administrative acts may be signed either by the Vice-Governor or a Director, or by the Secretary or the Treasurer or by one or two members of the staff mandated by the Board of Directors.

6. The Bank's specific responsibility

The Bank issues and abides by its own mission statement. In addition, as a member of the Eurosystem, it has adopted that system's mission statement.

6.1 The Bank's mission statement

"The National Bank intends to be an independent, competent and accessible institution which carries out tasks in the public interest, providing added value for the economy and for Belgian society. It aims to be a valued partner of the Eurosystem, to which it contributes at multiple levels."

6.2 Eurosystem mission statement

"The Eurosystem, which comprises the European Central Bank and the national central banks of the Member States of the European Union whose currency is the euro, is the monetary authority of the euro area. We in the Eurosystem have as our primary objective the maintenance of price

stability for the common good. Acting also as a leading financial authority, we aim to safeguard financial stability and promote European financial integration.

In pursuing our objectives, we attach utmost importance to credibility, trust, transparency and accountability. We aim for effective communication with the citizens of Europe and the media. We are committed to conducting our relations with European and national authorities in full accordance with the Treaty provisions and with due regard for the principle of independence.

We jointly contribute, strategically and operationally, to attaining our common goals with due respect to the principle of decentralisation. We are committed to good governance and to performing our tasks effectively and efficiently, in a spirit of cooperation and teamwork. Drawing on the breadth and depth of our experiences as well as on the exchange of know-how, we aim to strengthen our shared identity, speak with a single voice and exploit synergies, within a framework of clearly defined roles and responsibilities for all members of the Eurosystem.”

Annex 4 Rules of Procedure⁽¹⁾

Chapter I – Activities of the organs

Art. 1. – The Bank's organs are the Governor, the Board of Directors, the Council of Regency, the Board of Censors and the Sanctions Committee.

Art. 2. – The Governor exercises his powers in accordance with the Organic Law, the Statutes and these Rules of Procedure.

He directs the Bank and its staff with the assistance of the Directors.

He submits proposals to the Board of Directors on the allocation among its members of authority over the departments, services and units, and on the representation of the Bank in national and international organisations and institutions.

Without prejudice to the preceding paragraphs and Article 4, the Governor exercises direct authority over the members of staff, whatever their grade or function.

Art. 3. – The King confers the title of Vice-Governor on one of the Directors. The Vice-Governor replaces the Governor if the latter is unable to perform his duties, without prejudice to Article 10.2 of the Statute of the ESCB.

Art. 4. – § 1. The Governor and the Directors jointly exercise their powers as members of the Board of Directors. The Board of Directors is responsible for the administration and management of the Bank in

accordance with the Organic Law, the Statutes and these Rules of Procedure.

The Board of Directors is chaired by the Governor. In his absence, the Vice-Governor takes his place.

On the proposal of one of its members, the Board of Directors may invite one or more members of the Bank's staff, as well as the special representatives integrated into the Bank in accordance with Article 337, § 1 of the Royal Decree of 3 March 2011 on the evolution of the supervisory structure for the financial sector, to attend all or part of a meeting. If an invited member of staff or special representative has, directly or indirectly, an interest relating to proprietary rights which conflicts with a decision within the sphere of competence of the Board of Directors, he or she shall inform the Board of Directors before the board takes a decision.

Unless it is unable to do so, the Board of Directors meets at least once a week. It also meets whenever deemed necessary by the Governor, the Vice-Governor or two Directors.

Taking account of the requests made by members of the Board of Directors, the items for discussion at a meeting are entered on the agenda by the Secretary at least two calendar days before the meeting. The Governor approves the agenda and inserts amendments with the agreement of the Directors concerned, by no later than the day before the meeting. After that deadline, no further items may be added to the agenda except with the approval of the Governor.

All documents intended to form the basis of decisions of the Board of Directors, and in particular notes from the services and departments concerning the items for discussion, are circulated to the Directors at least two

(1) Approved by the Council of Regency on 20 February 2008.
Latest amendments: 24 October 2012.

calendar days before the meeting, except in urgent cases.

The Board of Directors may not deliberate unless the majority of its members are present. Except in urgent cases, no decision may be taken on items which are not entered on the agenda. Resolutions are passed by a majority of the votes cast. If the votes are evenly divided, the Governor has the casting vote. If, in the Governor's absence, the votes are evenly divided, the proposal is rejected.

The minutes of the meetings of the Board of Directors contain a brief mention of the matters discussed and the decisions taken. In cases of dissent, the Directors may ask for the minutes to record their vote, with supporting reasons, or their opinion. Once the minutes have been approved, they are signed by the members present at the meeting to which the minutes relate. The Secretary is responsible for keeping the minutes.

When drafting the minutes concerning prudential matters, the Secretary is assisted by a member of the Legal Service who, for that purpose, attends meetings of the Board of Directors dealing with prudential matters.

§ 2. In duly reasoned urgent cases confirmed by the Governor, the Board of Directors may, except when adopting regulations, decide by the written procedure or by using a system of voice telecommunication.

In order to take a decision by voice telecommunication, all members must be called by the Governor or, in his absence, by the Vice-Governor. The decision is adopted by the majority of the votes, provided the voice telecommunication procedure enables the majority of the members of the Board of Directors to communicate in real time and to hold a collective discussion. Each member contacted may request the convening of a meeting of the Board of Directors or the application of the written procedure referred to in the following subsection.

In the case of the written procedure, the Governor or, in his absence, the Vice-Governor submits the text of the draft decision by post with acknowledgement of receipt. The text may also be submitted by fax, electronic mail or any other written process. When these communication facilities are used, the technical confirmation of sending counts as proof of receipt. Moreover, each member is notified personally, preferably by telephone, of the sending of the communication. The communication mentions the time available to the members for submitting their written agreement to the proposal. During that period, each member may request an oral discussion of the draft

decision via a voice telecommunication procedure, or may request the convening of a meeting of the Board of Directors. The proposal is approved by the Board of Directors if, within the period stated in the communication, all members have unanimously given their written approval.

Minutes are produced on all decisions taken by the procedures described in this paragraph.

§ 3. If a member of the Board of Directors has, directly or indirectly, an interest relating to proprietary rights which conflicts with a decision or transaction within the sphere of competence of the Board of Directors, he informs the other members before the Board deliberates. He does not attend discussions concerning that transaction or decision and does not take part in the voting. His declaration and the reasons underlying the conflicting interest are entered in the minutes of the meeting. The Board of Directors describes in the minutes the nature of the decision or transaction, justifies the decision taken and specifies the implications in terms of proprietary rights of that decision for the Bank. Those minutes are included in the management report for the year in question.

The Director concerned also informs the auditor of his conflicting interest. The auditor's report must contain a separate description of the implications in terms of proprietary rights for the Bank resulting from Board of Directors decisions involving a conflicting interest within the meaning of the previous paragraph.

Art. 5. – § 1. The Council of Regency discusses questions within its sphere of competence under the Organic Law, the Statutes and these Rules of Procedure.

It meets at least twenty times per year. In urgent cases, it holds an extraordinary meeting which is convened by the Governor.

Council of Regency resolutions are passed in accordance with Article 31.1 of the Statutes. Any discussion may be postponed to the next meeting at the request of the majority of the members present. In that case, the author is nonetheless permitted to submit the proposal without waiting.

Minutes of the discussions of the Council of Regency are kept in accordance with Article 31.2 of the Statutes.

§ 2. In urgent cases confirmed by the Governor, the Council of Regency may decide by the written procedure or by using a system of voice telecommunication.

In order to take a decision by voice telecommunication, all members must be called by the Governor or, in his absence, by the Vice-Governor. The decision is adopted by the majority of the votes, provided the voice telecommunication procedure enables the majority of the members of the Council of Regency to communicate in real time and to hold a collective discussion. Each member contacted may request the convening of a meeting of the Council of Regency or the application of the written procedure referred to in the following sub-section.

In the case of the written procedure, the Governor or, in his absence, the Vice-Governor submits the text of the draft decision by post with acknowledgement of receipt. The text may also be submitted by fax, electronic mail or any other written process. When these communication facilities are used, the technical confirmation of sending counts as proof of receipt. Moreover, each member is notified personally, preferably by telephone, of the sending of the communication. The communication mentions the time available to the members for submitting their written agreement to the proposal. During that period, each member may request an oral discussion of the draft decision via a voice telecommunication procedure, or may request the convening of a meeting of the Council of Regency. The proposal is approved by the Council of Regency if, within the period stated in the communication, all members have unanimously given their written approval.

Minutes are produced on all decisions taken by the procedures described in this paragraph.

§ 3. In regard to the budget, including the patronage funds, the Council of Regency is assisted by the Budget Committee and the Special Fund Committee.

The Budget Committee has power to examine the Bank's budget before it is approved by the Council of Regency. It is chaired by a member of the Board of Censors and otherwise comprises three Regents, two other Censors, the representative of the Minister of Finance, and, in an advisory capacity, the Director responsible for the Controlling Department. This committee meets on a yearly basis. It may call on the General Secretariat to provide its secretariat.

The Special Fund Committee has the competence to examine the allocation of the Bank's Special Patronage Fund before it is approved by the Council of Regency. It is chaired by the Governor and otherwise comprises two Regents, two Censors and one member of the Board of Directors. This committee meets on a yearly basis. It may call on the General Secretariat to provide its secretariat.

§ 4. In the performance of its duties in relation to remuneration and appointments, the Council of Regency is assisted by the Remuneration and Appointments Committee.

The Remuneration and Appointments Committee Regulations define the powers, composition and functioning of that committee.

§ 5. If a member of the Council of Regency has, directly or indirectly, an interest relating to proprietary rights which conflicts with a decision within the sphere of competence of the Council of Regency, he informs the other members before the Council deliberates. He must not attend discussions concerning that decision, or take part in the voting.

§ 6. The Regents do not effect any transactions in shares of the Bank or financial instruments relating to those shares during the fixed closed periods which run each year from the moment that the Board of Directors decides on the annual accounts until the moment when that information is published. Outside those fixed closed periods, they exercise prudence in trading in the Bank's shares and refrain at all times from any speculative transaction in those shares. They also respect the closed periods fixed *ad hoc* by the Board of Directors. They must ensure that their close associates within the meaning of Article 2 (23) of the Law of 2 August 2002 on the supervision of the financial sector and on financial services respect the same rules. The legal compliance officer shall inform the Regents of any closed period.

Art. 6. – § 1. The Board of Censors exercises its duties as an Audit Committee and its supervisory duties in regard to the preparation and implementation of the budget in accordance with the provisions of the Organic Law, the Statutes and these Rules of Procedure, and ensures that there are no conflicts between these duties that hinder their proper execution. The additional rules of operation regarding the Audit Committee are set out in the *Audit Committee Regulations*.

The Board of Censors meets at least eight times per year and whenever necessary, in which case it is convened by the Chairman. The Board passes its resolutions in accordance with the provisions of Article 33 of the Statutes.

Minutes are kept of the deliberations of the Board of Censors. Once these have been approved, they are signed by the members present at the meeting to which the minutes relate. The minutes are forwarded to the Bank's Secretary, either as a whole or in part, and communicated to the Board of Directors.

§ 2. The members of the Board of Censors do not effect any transactions in shares of the Bank or financial instruments relating to those shares during the fixed closed periods which run each year from the moment that the Board of Directors decides on the annual accounts until the moment when that information is published. Outside those fixed closed periods, they exercise prudence in trading in the Bank's shares and refrain at all times from any speculative transaction in those shares. They also respect the closed periods fixed *ad hoc* by the Board of Directors. They must ensure that their close associates within the meaning of Article 2 (23) of the Law of 2 August 2002 on the supervision of the financial sector and on financial services respect the same rules. The legal compliance officer shall inform the Censors of any closed period.

Art. 7. – The Sanctions Committee exercises its powers in accordance with the provisions of the law and the regulation which it adopts.

The chairman of the Sanctions Committee also exercises the powers of supervision over compliance with the Bank's code of conduct as described in that code.

Chapter II – The Secretary and the Treasurer

Art. 8. – The Secretary, appointed by the Council of Regency in accordance with Article 43 of the Statutes, draws up the minutes and the records of the meetings of the Board of Directors and of the Council of Regency. He draws up the minutes of the General Meeting of Shareholders and has them signed by the chairman of the General Meeting, the scrutineers and the other members of the bureau. He certifies copies conforming to the original. He deals with changes to the Bank's Rules of Procedure.

Art. 9. – The Treasurer, appointed by the Council of Regency in accordance with Article 43 of the Statutes, is responsible for the design and coordination of the physical safety or security measures intended to protect persons, valuables, documents and buildings, except for data security measures which are the responsibility of the Director responsible for the IT Department. In the performance of his duties, the Treasurer may call on any member of the staff. He is assisted in particular by the Security and Surveillance Service. He is kept informed of the internal audit reports on security measures and may instruct the Internal Audit Service to conduct any audit. He approves budget proposals and expenditure commitments relating to security measures.

Chapter III – Organisation of the departments, services and offices

Art. 10. – The Board of Directors organises the head office in departments, services and units, specifying their functions. The resulting organisation chart is updated and published on the Bank's website.

On a proposal of the Governor, the Board of Directors allocates authority over the departments, services and units among the Directors. The Directors arrange for the departments, services and units under their authority to execute the decisions taken by the organs within their respective spheres.

The departments comprise services, units and/or groups. The departments, services, units and groups are run respectively by their head of department, head of service, head of unit or head of group. These are responsible for the management of their department, service, unit or group and the implementation of the decisions taken by the organs.

The Board of Directors may set up standing interdepartmental working groups, deciding their terms of office, appointing their members and designating their chairman.

Art. 11. – The outside offices (provincial branches) perform the tasks for which they have been given responsibility by the Board of Directors. These concern in particular decentralised operations coming under other departments or services, and local representation duties.

The office managers ensure the implementation of operating and security instructions and the maintenance of the building, equipment and furniture provided for the office. They inform the head office services without delay of any important facts concerning them.

The Board of Directors authorises one member of the staff of each office to replace the person in charge as his deputy. It also designates the persons whom the office manager may delegate to sign for him, in compliance with the rules.

Chapter IV – The auditor

Art. 12. – The auditor exercises his powers in accordance with the provisions of the law. He also exercises the powers of authorisation and supervision laid down by the Bank's code of conduct.

Annex 5 Audit Committee Regulations⁽¹⁾

1. General

1.1 General duties

The Audit Committee performs an advisory function. Its duties are defined by Article 21*bis* of the Organic Law. Titles 2 to 5 below describe those duties in detail, and more particularly what is meant by the monitoring of the processes and systems mentioned.

1.2 Reporting

Once a year, the Audit Committee shall report to the Council of Regency on the performance of its duties.

The Audit Committee shall also report to the Council of Regency on all points arising from the performance of its duties which are of relevance for the approval of the annual accounts and the Annual Report of the Bank, and for the drafting of the accounting rules by the Council of Regency.

The Council of Regency shall consult the Audit Committee before approving the annual accounts. It may request the Audit Committee to examine specific questions on this subject and report back to it.

The Audit Committee shall report to the Board of Directors on all aspects relevant to the reliability of the financial information, the proper operation of internal control, risk management and the internal audit, the effectiveness of the external audit, and the independence of the auditor.

The Audit Committee shall draw the attention of the competent organ to aspects which it considers require action or improvement. It shall also make recommendations on the measures to be taken.

2. Monitoring of the process of preparing the financial information

2.1 Standards and rules

The Audit Committee shall assess the relevance and consistency of the accounting rules drawn up by the Council of Regency.

It shall examine the modifications which the Council of Regency proposes to make to the accounting rules, and express its opinion on that subject.

The Audit Committee shall discuss with the Board of Directors and the auditor any significant questions concerning the preparation of the financial information.

2.2 Significant and abnormal transactions

The Board of Directors shall inform the Audit Committee of the principles adopted for recording significant or abnormal transactions where various accounting approaches are possible.

2.3 Financial information

The Audit Committee shall assess the accuracy, exhaustiveness and consistency of the financial information.

(1) Approved by the Council of Regency on 8 October 2008.

In particular, it shall examine the annual accounts drawn up by the Board of Directors before they are discussed and approved by the Council of Regency.

This examination shall be based on a programme set by the Audit Committee and taking account of the activities of the Accounting Service, the Internal Audit Service and the auditor.

3. Monitoring of the effectiveness of internal control and risk management

3.1 Periodic examinations

The Audit Committee shall examine periodically, in accordance with a plan which it draws up, the internal control and risk management systems set up by the various departments and services.

It shall ensure that the main risks, including the risks relating to compliance with the current legislation and rules, are correctly identified, managed and drawn to its own attention and to that of the Board of Directors.

3.2 Application to the Annual Report

The Audit Committee shall examine the comments contained in the Annual Report concerning internal control and risk management.

3.3 Financial or other irregularities

The Audit Committee shall examine the opportunities available to the Bank's staff for confidential reporting of any concerns about possible irregularities, particularly in regard to the preparation of the financial information.

4. Monitoring of the effectiveness of the internal audit process

4.1 Internal Audit Service

The Bank shall have its own independent Internal Audit Service.

The Audit Committee shall examine the internal audit charter and verify whether the Internal Audit Service has the resources and expertise appropriate to the nature, size and complexity of the Bank.

Where appropriate, it shall make recommendations to the Board of Directors on that subject.

4.2 Programme of work

Before the internal audit's programme of work is approved by the Board of Directors, the Audit Committee shall examine that programme, taking account of the complementarity with the work of the auditor.

4.3 Audit reports and recommendations

The Audit Committee shall examine the effectiveness of the internal audit. It shall receive the internal audit reports or a summary thereof.

It shall receive the quarterly report of the internal audit at the same time as the Board of Directors.

It shall examine the extent to which the departments and services take account of the internal audit's findings and recommendations.

4.4 Internal audit officer

At the request of the Board of Directors, the audit committee shall give its opinion concerning the profile of the internal audit officer.

5. Monitoring of the external audit process

5.1 The Bank's auditor

The Audit Committee shall make recommendations to the Board of Directors on the proposal for the selection, appointment and re-appointment of the auditor. It shall be informed of the tendering procedure, and in particular the selection criteria. If necessary, it shall make recommendations on this subject.

Where appropriate, the Audit Committee shall investigate questions leading to the dismissal of the auditor and make recommendations on the measures consequently required.

5.2 Programme of work

The auditor's programme of work shall be notified to the Audit Committee. The latter shall be informed in good time of any significant points revealed by the external audit process.

5.3 External audit reports and recommendations

The Audit Committee shall examine the effectiveness of the external audit process and ascertain to what extent the Board of Directors takes account of the recommendations made to it by the auditor in its recommendation letter.

5.4 Independence

The Audit Committee shall monitor the independence of the auditor in accordance with Article 21*bis*, § 4, of the Organic Law.

It shall, in particular, monitor the nature and extent of the services other than auditing which could be assigned to the auditor.

6. Functioning of the Audit Committee

6.1 General contacts

The Audit Committee may invite the Governor, another member of the Board of Directors, a senior manager, the internal audit officer or the auditor to attend its meetings in whole or in part.

The Audit Committee is authorised to meet any person which it deems appropriate, without any need for a member of the Board of Directors or the Bank's senior management to be present.

6.2 Contact with the internal audit

The Audit Committee shall meet the internal audit officer at least twice a year.

The internal audit officer may contact the chairman of the Audit Committee direct and without restriction.

6.3 Contact with the auditor

The Audit Committee shall also meet the auditor and the internal audit officer at least twice a year to exchange opinions with them on any questions relevant to its duties, including the provisions of Article 21*bis*, § 3 and § 4 of the Organic Law, and on any other problem revealed by the audit process.

The auditor may contact the chairman of the Audit Committee direct and without restriction.

6.4 Assessment of the Audit Committee Regulations

The Audit Committee shall assess its own effectiveness once a year, and if appropriate shall propose the necessary adjustments to these Regulations.

6.5 Support

The Audit Committee may call on :

- the Secretariat Service, the entity dealing with meetings of the management organs, for administrative tasks and secretariat;
- the Internal Audit Service to facilitate contact with the Bank's departments and services.

Annex 6 Remuneration and Appointments Committee Regulations⁽¹⁾

1. Powers

1.1 General duties

The Remuneration and Appointments Committee has an advisory role. It assists the Council of Regency in the performance of its duties in relation to remuneration and appointments, and submits recommendations to the organs and entities competent to propose candidates.

1.2 Powers relating to remuneration

The Remuneration and Appointments Committee submits proposals to the Council of Regency on the remuneration policy and on the remuneration of the Governor, the other members of the Board of Directors, the members of the Council of Regency and the members of the Board of Censors.

Each year, the Remuneration and Appointments Committee prepares the remuneration report which is included in the Governance Statement and approved by the Council of Regency.

1.3 Powers relating to appointments

The Remuneration and Appointments Committee submits recommendations for the attention of the organs and entities competent to propose candidates for vacant posts on the Board of Directors, the Council of Regency and the Board of Censors, those recommendations being

intended to enable those organs and entities to respect all the applicable legal, statutory and ethical rules and to ensure the balanced composition of the Bank's organs in terms of competence and gender.

2. Composition

The Remuneration and Appointments Committee is composed of two Regents, two Censors and the representative of the Minister of Finance. The Remuneration and Appointments Committee members appoint one of the Regents or Censors as chairman.

At least three members fulfil the independence criteria stated in Article 526b of the Company Code.

At least one member has the necessary expertise relating to remuneration policy which, according to the law, means that this member must hold a higher education diploma and must have at least three years' experience in personnel management or in regard to the remuneration of company directors and board members.

The Governor takes part in the Remuneration and Appointments Committee meetings in an advisory capacity.

(1) Approved by the Council of Regency on 22 December 2010.
Last amended on 24 October 2012.

3. Functioning

The Remuneration and Appointments Committee meets at least twice a year and whenever it considers that necessary for the performance of its duties.

Decisions of the Remuneration and Appointments Committee are valid only if the majority of its members are present.

Decisions are taken by a majority of the votes cast. If the votes are evenly divided, the chairman has the casting vote. If the chairman is absent and the votes are evenly divided, the proposal is rejected.

At least every two years, the Remuneration and Appointments Committee assesses its own efficiency and proposes the necessary adjustments to these regulations.

The Remuneration and Appointments Committee can call on the Bank's General Secretariat to provide its secretariat.

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Governor

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Boulevard de Berlaimont 14 – BE-1000 Brussels

Contact for the publication

Luc Dufresne

Secretary-General

Tel. +32 2 221 24 96 – Fax +32 2 221 30 91
luc.dufresne@nbb.be

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