

中央銀行專著選譯叢書 NO. 7

# 各國中央銀行法選輯 (2019 年版)

( 上冊 )

*Collections of Central Bank*

*Acts of Selected Countries*

*(2019 Edition) (Volume 1)*

《中英對照本》

中央銀行法務室編印  
中華民國一〇八年十二月

## 序

中央銀行職掌一國貨幣政策，其決策影響國內經濟金融體系，國際間主要央行之貨幣政策甚至透過外溢效應，影響其他國家經濟金融情勢。而各國「中央銀行法」皆明訂該國中央銀行之組織架構、經營目標及業務運作等，對於央行政策施行與業務經營，至關重要。

綜觀各國「中央銀行法」，其中關於中央銀行於政府組織之定位、決策組織架構、職掌及管理制度等，因各國政治、經濟、金融及文化等因素有所差異，制度性安排亦不盡相同。部分國家（例如美國、加拿大、日本等國）之貨幣政策決策組織成員均為專任；另亦有部分國家（例如英國、紐西蘭及亞洲多數國家等）則是專、兼任並存。各國央行之制度結構，端視其國情及政府組織運作而定，並無優劣之分。

歷年來各國依其政治、經濟及金融環境之轉變，其「中央銀行法」亦迭有修正。例如 1997 年日本修正「日本銀行法」、英國修正「英格蘭銀行法」，均在提高彼等央行之獨立性，英格蘭銀行（BoE）並將金融監理權從 BoE 移轉至金融服務管理局（Financial Services Authority, FSA）。全球金融危機於 2008 年 9 月爆發後，凸顯央行除維持物價穩定目

標外，尚應兼負促進金融穩定之任務，因此，許多國家將「促進金融穩定」納入其「中央銀行法」，例如英國、馬來西亞、新加坡等國；此外，2012 年，英國裁撤 FSA，BoE 並修正「英格蘭銀行法」，將金融監理權回歸 BoE。相較之下，我國「中央銀行法」自 1979 年以來，即明定本行有「促進金融穩定」之職責；多年來，本行不僅致力於維持物價穩定，同時亦基於「促進金融穩定」之職責，對於可能危及金融穩定之各項風險，採行妥適之信用管制工具，包括調整特定房貸之房貸成數（LTV），促使銀行業落實對不動產市場風險控管等措施，堪為前瞻性之立法。

近年來，各國「中央銀行法」之修正，有旨在調整央行貨幣政策目標、變更貨幣政策決策方式，或優化央行治理等方向。例如印度準備銀行於 2016 年修正「印度準備銀行法」，俾為其彈性之通膨目標化架構（flexible inflation targeting framework）提供法律基礎，並成立貨幣政策委員會（Monetary Policy Committee, MPC）作為利率決策之組織；英國、澳洲、紐西蘭及新加坡則均有強化其央行治理之相關規定等。

就各國「中央銀行法」修訂沿革觀之，各有其不同之發展背景及特色，其中或有可供我國借鏡之處。為利各界對主要國家中央銀行制度進行比較參考，本行法務室於 2003 年、

2004 年、2009 年及 2013 年分別重行選譯出版歐、亞、美洲及大洋洲等各國中央銀行法之中文版及中英對照版；本次賡續編印「各國中央銀行法選輯（2019 年版）」（中英對照本），係審酌各主要國家之修法幅度、兼顧區域平衡等節，選編近年來法規內容變動較大及較受國際金融體系矚目國家之「中央銀行法」；其中「歐洲中央銀行體系及歐洲中央銀行條例」、「英格蘭銀行法」、「日本銀行法」、「澳大利亞準備銀行法」、「馬來西亞中央銀行法」及「中華民國中央銀行法」錄為「上冊」；「加拿大銀行法」及「新加坡貨幣管理局法」錄為「中冊」；「印度準備銀行法」及「紐西蘭準備銀行法」錄為「下冊」，並以「中央銀行專著選譯叢書」之系列方式出刊。敬祈各界先進續予指教。

中央銀行總裁

楊金龍 謹識

中華民國 108 年 10 月 25 日

各國中央銀行法選輯(2019 年版)翻譯及審校人員

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ON THE STATUTE OF  
THE EUROPEAN  
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THE EUROPEAN  
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歐洲中央銀行體系  
及歐洲中央銀行條例  
議定書

**PROTOCOL  
ON THE STATUTE OF THE EUROPEAN  
SYSTEM OF CENTRAL BANKS AND OF THE  
EUROPEAN CENTRAL BANK**

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**歐洲中央銀行體系及歐洲中央銀行條例  
議定書**

法務室 林男錡 譯

第 1 章	歐洲中央銀行體系
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# **PROTOCOL ON THE STATUTE OF THE EUROPEAN SYSTEM OF CENTRAL BANKS AND OF THE EUROPEAN CENTRAL BANK**

THE HIGH CONTRACTING PARTIES,  
DESIRING to lay down the Statute of the European System of Central Banks and of the European Central Bank provided for in the second paragraph of Article 129 of the Treaty on the Functioning of the European Union,  
HAVE AGREED upon the following provisions, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union:

## **CHAPTER I THE EUROPEAN SYSTEM OF CENTRAL BANKS**

### *Article 1*

#### **The European System of Central Banks**

In accordance with Article 282(1) of the Treaty on the Functioning of the European Union, the European Central Bank (ECB) and the national central banks shall constitute the European System of Central Banks (ESCB). The ECB and the national central banks of those Member States whose currency is the euro shall constitute the Eurosystem.

The ESCB and the ECB shall perform their tasks and carry on their activities in accordance with the provisions of the Treaties and of this Statute.

# **歐洲中央銀行體系及歐洲中央銀行條例 議定書**

締約各方，  
為依歐洲聯盟運作條約（以下簡稱本條約）<sup>譯註<sup>1</sup></sup>第 129 條第 2 項規定，制定歐洲中央銀行體系及歐洲中央銀行條例（以下簡稱本條例）<sup>譯註<sup>2</sup></sup>，爰議定下列條文，作為歐洲聯盟條約及本條約之附件：

## **第 1 章 歐洲中央銀行體系**

### **第 1 條 歐洲中央銀行體系**

歐洲中央銀行及各會員國中央銀行應依本條約第 282(1)條規定，組成歐洲中央銀行體系。歐洲中央銀行及以歐元為通用貨幣之會員國中央銀行，應組成歐元體系。

歐洲中央銀行體系及歐洲中央銀行應依歐洲聯盟條約與本條約及本條例之規定，執行任務及經營業務。

<sup>譯註<sup>1</sup></sup> 為便於閱讀，本篇譯文之「歐洲聯盟運作條約」一詞簡稱為本條約。

<sup>譯註<sup>2</sup></sup> 為便於閱讀及分辨，本篇譯文之「歐洲中央銀行體系及歐洲中央銀行條例」一詞及條文中涉及「歐洲中央銀行體系及歐洲中央銀行條例」者，均簡稱或加註為本條例。

## CHAPTER II OBJECTIVES AND TASKS OF THE ESCB

### *Article 2* Objectives

In accordance with Article 127(1) and Article 282(2) of the Treaty on the Functioning of the European Union, the primary objective of the ESCB shall be to maintain price stability. Without prejudice to the objective of price stability, it shall support the general economic policies in the Union with a view to contributing to the achievement of the objectives of the Union as laid down in Article 3 of the Treaty on European Union. The ESCB shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in Article 119 of the Treaty on the Functioning of the European Union.

### *Article 3* Tasks

- 3.1. In accordance with Article 127(2) of the Treaty on the Functioning of the European Union, the basic tasks to be carried out through the ESCB shall be:
- to define and implement the monetary policy of the Union;
  - to conduct foreign-exchange operations consistent with the provisions of Article 219 of that Treaty;
  - to hold and manage the official foreign reserves of the Member States;
  - to promote the smooth operation of payment systems.
- 3.2. In accordance with Article 127(3) of the Treaty on the Functioning of the European Union, the third indent of Article 3.1 shall be without prejudice to the holding and management by the governments of Member States of foreign-exchange working balances.
- 3.3. In accordance with Article 127(5) of the Treaty on the Functioning of the European Union, the ESCB shall contribute to the smooth conduct of policies pursued by the competent authorities relating to the prudential supervision of credit institutions and the stability of the financial system.

## 第 2 章 歐洲中央銀行體系之目標及任務

### 第 2 條 目標

依本條約第 127(1)條及第 282(2)條規定，歐洲中央銀行體系之主要目標為維持物價穩定。在不影響物價穩定目標之下，歐洲中央銀行體系應支持歐洲聯盟一般經濟政策，以促進達成歐洲聯盟條約第 3 條所定之歐洲聯盟目標。歐洲中央銀行體系應依開放市場自由競爭之原則運作，俾資源有效分配，並遵循本條約第 119 條所定之原則。

### 第 3 條 任務

- 3.1 依本條約第 127(2)條規定，歐洲中央銀行體系之基本任務如下：
- 制定及執行歐洲聯盟貨幣政策；
  - 依本條約第 219 條規定從事外匯操作；
  - 持有及管理各會員國之官方外匯準備；
  - 促進支付系統之順利運作。
- 3.2 依本條約第 127(3)條規定，本條例第 3.1 條第 3 款規定應不損害各會員國政府對外匯營運資金之持有及管理。
- 3.3 依本條約第 127(5)條規定，歐洲中央銀行體系對審慎監理信用機構及維持金融體系穩定之主管機關所執行之政策，應促進其順利運作。

#### **Article 4**

##### **Advisory functions**

In accordance with Article 127(4) of the Treaty on the Functioning of the European Union:

- (a) the ECB shall be consulted:
  - on any proposed Union act in its fields of competence;
  - by national authorities regarding any draft legislative provision in its fields of competence, but within the limits and under the conditions set out by the Council in accordance with the procedure laid down in Article 41;
- (b) the ECB may submit opinions to the Union institutions, bodies, offices or agencies or to national authorities on matters in its fields of competence.

#### **Article 5**

##### **Collection of statistical information**

- 5.1. In order to undertake the tasks of the ESCB, the ECB, assisted by the national central banks, shall collect the necessary statistical information either from the competent national authorities or directly from economic agents. For these purposes it shall cooperate with the Union institutions, bodies, offices or agencies and with the competent authorities of the Member States or third countries and with international organisations.
- 5.2. The national central banks shall carry out, to the extent possible, the tasks described in Article 5.1.
- 5.3. The ECB shall contribute to the harmonisation, where necessary, of the rules and practices governing the collection, compilation and distribution of statistics in the areas within its fields of competence.
- 5.4. The Council, in accordance with the procedure laid down in Article 41, shall define the natural and legal persons subject to reporting requirements, the confidentiality regime and the appropriate provisions for enforcement.

#### **Article 6**

##### **International cooperation**

- 6.1. In the field of international cooperation involving the tasks entrusted to the ESCB, the ECB shall decide how the ESCB shall be represented.
- 6.2. The ECB and, subject to its approval, the national central banks may participate in inter-national monetary institutions.

#### **第 4 條 諮詢功能**

依本條約第 127(4)條規定：

- (a) 歐洲中央銀行應接受下列諮詢：
  - 涉及歐洲中央銀行職權之歐洲聯盟法律草案；
  - 各會員國就涉及歐洲中央銀行職權之法律條文草案所提出之諮詢。但應受歐洲聯盟理事會依本條例第 41 條所訂範圍與條件之限制；
- (b) 歐洲中央銀行得就其職權相關事項，向歐洲聯盟機構、單位、官員或各會員國當局提供意見。

#### **第 5 條 統計資訊之蒐集**

- 5.1 為執行歐洲中央銀行體系之任務，歐洲中央銀行經由各會員國中央銀行之協助，應向各會員國主管機關或直接向經濟主體蒐集必要之統計資訊。為達此目的，歐洲中央銀行應與歐洲聯盟機構、單位、官員、各會員國或第三國之主管機關，以及國際組織合作。
- 5.2 各會員國中央銀行應竭盡所能達成本條例第 5.1 條所列之任務。
- 5.3 歐洲中央銀行於必要時，應促使其職權範圍內各項統計資料之蒐集、編輯及提供之規則與實務一致。
- 5.4 歐洲聯盟理事會應依本條例第 41 條所訂之程序，明定負申報義務之自然人與法人、保密機制及適當之施行細則。

#### **第 6 條 國際合作**

- 6.1 國際合作涉及歐洲中央銀行體系所負任務之國際合作事項，由歐洲中央銀行決定其代行之方式。
- 6.2 歐洲中央銀行及其核准之會員國中央銀行，得參與國際貨幣機構。

6.3. Articles 6.1 and 6.2 shall be without prejudice to Article 138 of the Treaty on the Functioning of the European Union.

### **CHAPTER III ORGANISATION OF THE ESCB**

#### ***Article 7* Independence**

In accordance with Article 130 of the Treaty on the Functioning of the European Union, when exercising the powers and carrying out the tasks and duties conferred upon them by the Treaties and this Statute, neither the ECB, nor a national central bank, nor any member of their decision-making bodies shall seek or take instructions from Union institutions, bodies, offices or agencies, from any government of a Member State or from any other body. The Union institutions, bodies, offices or agencies and the governments of the Member States undertake to respect this principle and not to seek to influence the members of the decision-making bodies of the ECB or of the national central banks in the performance of their tasks.

#### ***Article 8* General principle**

The ESCB shall be governed by the decision-making bodies of the ECB.

#### ***Article 9* The European Central Bank**

- 9.1. The ECB which, in accordance with Article 282(3) of the Treaty on the Functioning of the European Union, shall have legal personality, shall enjoy in each of the Member States the most extensive legal capacity accorded to legal persons under its law; it may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings.
- 9.2. The ECB shall ensure that the tasks conferred upon the ESCB under Article 127(2), (3) and (5) of the Treaty on the Functioning of the European Union are implemented either by its own activities pursuant to this Statute or through the national central banks pursuant to Articles 12.1 and 14.

6.3 本條例第 6.1 條及第 6.2 條規定，不得抵觸本條約第 138 條規定。

### **第 3 章 歐洲中央銀行體系之組織**

#### **第 7 條 獨立性**

依本條約第 130 條規定，歐洲中央銀行、任一會員國中央銀行，或其決策單位之任一成員在執行歐洲聯盟條約與本條約及本條例所賦予之權限、任務與職責時，均不得尋求或接受歐洲聯盟機構、單位、官員、任一會員國政府或其他任何單位之指示。歐洲聯盟機構、單位、官員及會員國政府同意尊重此一原則，且不會企圖影響歐洲中央銀行或會員國中央銀行之決策單位成員執行其職務。

#### **第 8 條 通則**

歐洲中央銀行體系應受歐洲中央銀行決策單位之管理。

#### **第 9 條 歐洲中央銀行**

- 9.1 依本條約第 282(3)條規定，歐洲中央銀行具有法人資格，在各會員國境內應享有各該國法律所賦予法人最廣泛之權限；特別是得取得或處分動產與不動產，以及作為司法程序之當事人。
- 9.2 歐洲中央銀行應確保本條約第 127(2)、(3)及(5)條所賦予歐洲中央銀行銀體系之任務，依本條例或由各會員國中央銀行依本條例第 12.1 條及第 14 條規定執行。

- 9.3. In accordance with Article 129(1) of the Treaty on the Functioning of the European Union, the decision making bodies of the ECB shall be the Governing Council and the Executive Board.

### *Article 10*

#### **The Governing Council**

- 10.1. In accordance with Article 283(1) of the Treaty on the Functioning of the European Union, the Governing Council shall comprise the members of the Executive Board of the ECB and the governors of the national central banks of the Member States whose currency is the euro.
- 10.2. Each member of the Governing Council shall have one vote. As from the date on which the number of members of the Governing Council exceeds 21, each member of the Executive Board shall have one vote and the number of governors with a voting right shall be 15. The latter voting rights shall be assigned and shall rotate as follows:
- as from the date on which the number of governors exceeds 15, until it reaches 22, the governors shall be allocated to two groups, according to a ranking of the size of the share of their national central bank's Member State in the aggregate gross domestic product at market prices and in the total aggregated balance sheet of the monetary financial institutions of the Member States whose currency is the euro. The shares in the aggregate gross domestic product at market prices and in the total aggregated balance sheet of the monetary financial institutions shall be assigned weights of 5/6 and 1/6, respectively. The first group shall be composed of five governors and the second group of the remaining governors. The frequency of voting rights of the governors allocated to the first group shall not be lower than the frequency of voting rights of those of the second group. Subject to the previous sentence, the first group shall be assigned four voting rights and the second group eleven voting rights,
  - as from the date on which the number of governors reaches 22, the governors shall be allocated to three groups according to a ranking based on the above criteria. The first group shall be composed of five governors and shall be assigned four voting rights. The second group shall be composed of half of the total number of governors, with any fraction rounded up to the nearest integer, and shall be assigned eight voting rights. The third group shall be composed of the remaining governors and shall be assigned three voting rights,

- 9.3 依本條約第 129(1)條規定，歐洲中央銀行之決策單位為管理委員會及執行理事會。

### **第 10 條 管理委員會**

- 10.1 依本條約第 283(1)條規定，管理委員會由歐洲中央銀行執行理事會之成員，以及以歐元為通用貨幣之會員國中央銀行總裁共同組成。
- 10.2 管理委員會之成員均有 1 票表決權。自管理委員會之成員人數超過 21 人之日起，執行理事會之成員仍有 1 票表決權，會員國中央銀行總裁則共有 15 票表決權。後者表決權之分配及輪替之規定如下：
- 會員國中央銀行總裁之人數超過 15 人但未達 22 人時，依各會員國以市場價格計算之國內生產總值及貨幣金融機構總資產負債表之規模比重排序，將中央銀行總裁之表決權分為 2 組。以市場價格計算之國內生產總值及貨幣金融機構總資產負債表之規模比重，分別賦予 5/6 及 1/6 權重。第 1 組由 5 名中央銀行總裁組成，第 2 組由其餘中央銀行總裁組成。第 1 組中央銀行總裁行使表決權之頻率應高於第 2 組。第 1 組享有 4 票表決權，第 2 組享有 11 票表決權；
  - 會員國中央銀行總裁之人數已達 22 人時，依前款所定標準排序，將中央銀行總裁之表決權分為 3 組。第 1 組由 5 名中央銀行總裁組成，享有 4 票表決權。第 2 組由全部中央銀行總裁之半數（任何分數四捨五入到最接近之整數）組成，享有 8 票表決權。第 3 組由其餘中央銀行總裁組成，享有 3 票表決權；

- within each group, the governors shall have their voting rights for equal amounts of time,
- for the calculation of the shares in the aggregate gross domestic product at market prices Article 29.2 shall apply. The total aggregated balance sheet of the monetary financial institutions shall be calculated in accordance with the statistical framework applying in the Union at the time of the calculation,
- whenever the aggregate gross domestic product at market prices is adjusted in accordance with Article 29.3, or whenever the number of governors increases, the size and/or composition of the groups shall be adjusted in accordance with the above principles,
- the Governing Council, acting by a two-thirds majority of all its members, with and without a voting right, shall take all measures necessary for the implementation of the above principles and may decide to postpone the start of the rotation system until the date on which the number of governors exceeds 18.

The right to vote shall be exercised in person. By way of derogation from this rule, the Rules of Procedure referred to in Article 12.3 may lay down that members of the Governing Council may cast their vote by means of teleconferencing. These rules shall also provide that a member of the Governing Council who is prevented from attending meetings of the Governing Council for a prolonged period may appoint an alternate as a member of the Governing Council.

The provisions of the previous paragraphs are without prejudice to the voting rights of all members of the Governing Council, with and without a voting right, under Articles 10.3, 40.2 and 40.3.

Save as otherwise provided for in this Statute, the Governing Council shall act by a simple majority of the members having a voting right. In the event of a tie, the President shall have the casting vote.

In order for the Governing Council to vote, there shall be a quorum of two-thirds of the members having a voting right. If the quorum is not met, the President may convene an extraordinary meeting at which decisions may be taken without regard to the quorum.

- 各組內之中央銀行總裁，其表決權享有相同之行使時間；
- 計算以市場價格計算之國內生產總值時，應適用本條例第 29.2 條規定。計算貨幣金融機構之總資產負債表時，應適用計算當時之歐洲聯盟統計架構；
- 不論以市場價格計算之國內生產總值如何依本條例第 29.3 條規定調整，或中央銀行總裁人數如何增加，各組之規模及組成仍應依前開原則調整；
- 管理委員會應採行所有必要之措施執行前開原則，且經管理委員會 2/3 以上成員（不論是否享有表決權）同意，得將輪替投票機制延後至中央銀行總裁之人數超過 18 人時生效。

表決權應親自行使。但依本條例第 12.3 條所訂之程序規則，亦得規定管理委員會之成員得利用視訊會議方式投票。該規則亦應規定長期無法出席管理委員會會議之成員，得指定其代理人。

前 2 項規定不影響管理委員會所有成員（不論是否享有投票權）依本條例第 10.3 條、第 40.2 條及第 40.3 條所享有之表決權。

除本條例另有規定外，管理委員會採簡單多數決。正反票數相同時，由歐洲中央銀行總裁決定之。

管理委員會投票時，應有 2/3 以上之成員出席。不足法定人數時，歐洲中央銀行總裁得召集特別會議，其決議不受法定人數之限制。

- 10.3. For any decisions to be taken under Articles 28, 29, 30, 32 and 33, the votes in the Governing Council shall be weighted according to the national central banks' shares in the subscribed capital of the ECB. The weights of the votes of the members of the Executive Board shall be zero. A decision requiring a qualified majority shall be adopted if the votes cast in favour represent at least two thirds of the subscribed capital of the ECB and represent at least half of the shareholders. If a Governor is unable to be present, he may nominate an alternate to cast his weighted vote.
- 10.4. The proceedings of the meetings shall be confidential. The Governing Council may decide to make the outcome of its deliberations public.
- 10.5. The Governing Council shall meet at least 10 times a year.

### *Article 11*

#### **The Executive Board**

- 11.1. In accordance with the first subparagraph of Article 283(2) of the Treaty on the Functioning of the European Union, the Executive Board shall comprise the President, the Vice-President and four other members. The members shall perform their duties on a full-time basis. No member shall engage in any occupation, whether gainful or not, unless exemption is exceptionally granted by the Governing Council.
- 11.2. In accordance with the second subparagraph of Article 283(2) of the Treaty on the Functioning of the European Union, the President, the Vice-President and the other members of the Executive Board shall be appointed by the European Council, acting by a qualified majority, from among persons of recognised standing and professional experience in monetary or banking matters, on a recommendation from the Council after it has consulted the European Parliament and the Governing Council. Their term of office shall be eight years and shall not be renewable. Only nationals of Member States may be members of the Executive Board.
- 11.3. The terms and conditions of employment of the members of the Executive Board, in particular their salaries, pensions and other social security benefits shall be the subject of contracts with the ECB and shall be fixed by the Governing Council on a proposal from a Committee comprising three members appointed by the Governing Council and three members appointed by the Council. The members of the Executive Board shall not have the right to vote on matters referred to in this paragraph.

- 10.3 依本條例第 28 條、第 29 條、第 30 條、第 32 條及第 33 條規定所為之決議，管理委員會成員之表決權，應依該會員國中央銀行在歐洲中央銀行所認資本之比率予以加權。執行理事會成員之表決權數為零。其決議應經代表在歐洲中央銀行所認資本 2/3 以上，且代表 1/2 以上出資者之同意行之。會員國中央銀行總裁無法出席時，得指定代理人投票。
- 10.4 會議程序應予保密。管理委員會得決定對外公布會議結果。
- 10.5 管理委員會每年應至少開會 10 次。

### **第 11 條 執行理事會**

- 11.1 依本條約第 283(2)條第 1 款規定，執行理事會由歐洲中央銀行總裁、副總裁及其他 4 位成員組成。執行理事會成員應全職履行其職務。未經管理委員會特別允許，執行理事會成員不得從事任何有報酬或無報酬之其他職務。
- 11.2 依本條約第 283(2)條第 2 款規定，歐洲中央銀行總裁、副總裁及執行理事會其他成員應自貨幣或銀行領域具有名望與專業經驗者遴選，由歐洲聯盟理事會諮商歐洲議會及管理委員會後推薦，經歐洲理事會以條件多數決同意後任命之。執行理事會成員任期 8 年，期滿不得連任。執行理事會成員須為會員國之國民。
- 11.3 執行理事會成員之任用條件，特別是薪資、退休金及其他社會安全福利，應在其與歐洲中央銀行之契約中訂定之，並應由管理委員會依據其指定之 3 位成員與歐洲聯盟理事會指定之 3 位成員組成之委員會所提建議決定之。執行理事會成員對本項有關事項無表決權。

- 11.4. If a member of the Executive Board no longer fulfils the conditions required for the performance of his duties or if he has been guilty of serious misconduct, the Court of Justice may, on application by the Governing Council or the Executive Board, compulsorily retire him.
- 11.5. Each member of the Executive Board present in person shall have the right to vote and shall have, for that purpose, one vote. Save as otherwise provided, the Executive Board shall act by a simple majority of the votes cast. In the event of a tie, the President shall have the casting vote. The voting arrangements shall be specified in the Rules of Procedure referred to in Article 12.3.
- 11.6. The Executive Board shall be responsible for the current business of the ECB.
- 11.7. Any vacancy on the Executive Board shall be filled by the appointment of a new member in accordance with Article 11.2.

## *Article 12*

### **Responsibilities of the decision-making bodies**

- 12.1. The Governing Council shall adopt the guidelines and take the decisions necessary to ensure the performance of the tasks entrusted to the ESCB under these Treaties and this Statute. The Governing Council shall formulate the monetary policy of the Union including, as appropriate, decisions relating to intermediate monetary objectives, key interest rates and the supply of reserves in the ESCB, and shall establish the necessary guidelines for their implementation.  
The Executive Board shall implement monetary policy in accordance with the guidelines and decisions laid down by the Governing Council. In doing so the Executive Board shall give the necessary instructions to national central banks. In addition the Executive Board may have certain powers delegated to it where the Governing Council so decides.  
To the extent deemed possible and appropriate and without prejudice to the provisions of this Article, the ECB shall have recourse to the national central banks to carry out operations which form part of the tasks of the ESCB.
- 12.2. The Executive Board shall have responsibility for the preparation of meetings of the Governing Council.
- 12.3. The Governing Council shall adopt Rules of Procedure which determine the internal organisation of the ECB and its decision-making bodies.
- 12.4. The Governing Council shall exercise the advisory functions referred to in Article 4.
- 12.5. The Governing Council shall take the decisions referred to in Article 6.

- 11.4 執行理事會成員不再符合履行其職責之條件，或因嚴重不法觸犯刑責時，歐洲法院得依管理委員會或執行理事會之聲請，強制其退休。
- 11.5 執行理事會出席之成員均有 1 票表決權。除本條例另有規定外，執行理事會採簡單多數決。可否票數相同時，由歐洲中央銀行總裁決定之。投票之相關事宜應明定於本條例第 12.3 條程序規則。
- 11.6 執行理事會負責歐洲中央銀行之經常性業務。
- 11.7 執行理事會缺額時，應依本條例第 11.2 條規定任命新成員補實。

## **第 12 條 決策單位之職責**

- 12.1 管理委員會應訂定必要之準則並作成決議，以確保本條約及本條例賦予歐洲中央銀行體系之任務得以履行。管理委員會應制定歐洲聯盟之貨幣政策（包含關於中間貨幣目標、主要利率及歐洲中央銀行體系準備之供給等決議），並訂定執行時之必要準則。  
執行理事會應依管理委員會訂定之準則及所作之決議執行貨幣政策。為執行前開事項，執行理事會應對會員國中央銀行為必要之指示。此外，執行理事會具有管理委員會決議所賦予之權限。  
在認為可能及適當之範圍內，並在不抵觸本條規定之情形下，歐洲中央銀行應藉助會員國中央銀行執行歐洲中央銀行體系任務範圍內之業務。
- 12.2 執行理事會應負責籌備管理委員會會議事宜。
- 12.3 管理委員會應訂定歐洲中央銀行內部單位及決策單位之程序規則。
- 12.4 管理委員會應執行本條例第 4 條所定之諮詢功能。
- 12.5 管理委員會應作成本條例第 6 條所定之決議。



**Article 13****The President**

- 13.1. The President or, in his absence, the Vice-President shall chair the Governing Council and the Executive Board of the ECB.
- 13.2. Without prejudice to Article 38, the President or his nominee shall represent the ECB externally.

**Article 14****National central banks**

- 14.1. In accordance with Article 131 of the Treaty on the Functioning of the European Union, each Member State shall ensure that its national legislation, including the statutes of its national central bank, is compatible with these Treaties and this Statute.
- 14.2. The statutes of the national central banks shall, in particular, provide that the term of office of a Governor of a national central bank shall be no less than five years.  
A Governor may be relieved from office only if he no longer fulfils the conditions required for the performance of his duties or if he has been guilty of serious misconduct. A decision to this effect may be referred to the Court of Justice by the Governor concerned or the Governing Council on grounds of infringement of these Treaties or of any rule of law relating to their application. Such proceedings shall be instituted within two months of the publication of the decision or of its notification to the plaintiff or, in the absence thereof, of the day on which it came to the knowledge of the latter, as the case may be.
- 14.3. The national central banks are an integral part of the ESCB and shall act in accordance with the guidelines and instructions of the ECB. The Governing Council shall take the necessary steps to ensure compliance with the guidelines and instructions of the ECB, and shall require that any necessary information be given to it.
- 14.4. National central banks may perform functions other than those specified in this Statute unless the Governing Council finds, by a majority of two thirds of the votes cast, that these interfere with the objectives and tasks of the ESCB. Such functions shall be performed on the responsibility and liability of national central banks and shall not be regarded as being part of the functions of the ESCB.

**第 13 條 總裁**

- 13.1 歐洲中央銀行總裁為歐洲中央銀行管理委員會及執行理事會之主席；總裁缺席時，由副總裁擔任主席。
- 13.2 在不抵觸本條例第 38 條規定下，歐洲中央銀行總裁或其指定之人對外代表歐洲中央銀行。

**第 14 條 會員國中央銀行**

- 14.1 依本條約第 131 條規定，各會員國應確保其本國立法（包含其中央銀行法）符合歐洲聯盟條約與本條約及本條例之規定。
- 14.2 各會員國中央銀行法應特別規定其中央銀行總裁之任期不得少於 5 年。  
各會員國中央銀行總裁僅於不再符合履行其職責之條件，或因嚴重不法觸犯刑責時，始得予以解任。遭解任之會員國中央銀行總裁或歐洲中央銀行管理委員會，得將該解任案以違反歐洲聯盟條約、本條約或其他相關規則為由，提送歐洲法院處理。前開程序應自決議解任公布之日，或原告接獲通知，或原告未獲通知時而後得知之日起 2 個月內為之。
- 14.3 各會員國中央銀行為歐洲中央銀行體系之組成部分，應依歐洲中央銀行發布之準則或指令行事。管理委員會應採取必要之措施，確保各會員國中央銀行遵循歐洲中央銀行發布之準則或指令，並要求其提供必要之資訊。
- 14.4 除經管理委員會 2/3 以上多數決議，認定抵觸歐洲中央銀行體系之目標與任務者外，各會員國中央銀行得行使本條例規定以外之職權。各會員國中央銀行有責任及義務行使前開職權，且不得視為歐洲中央銀行體系之部分職權。

**Article 15****Reporting commitments**

- 15.1. The ECB shall draw up and publish reports on the activities of the ESCB at least quarterly.
- 15.2. A consolidated financial statement of the ESCB shall be published each week.
- 15.3. In accordance with Article 284(3) of the Treaty on the Functioning of the European Union, the ECB shall address an annual report on the activities of the ESCB and on the monetary policy of both the previous and the current year to the European Parliament, the Council and the Commission, and also to the European Council.
- 15.4. The reports and statements referred to in this Article shall be made available to interested parties free of charge.

**Article 16****Banknotes**

In accordance with Article 128(1) of the Treaty on the Functioning of the European Union, the Governing Council shall have the exclusive right to authorise the issue of euro banknotes within the Union. The ECB and the national central banks may issue such notes. The banknotes issued by the ECB and the national central banks shall be the only such notes to have the status of legal tender within the Union.

The ECB shall respect as far as possible existing practices regarding the issue and design of bank-notes.

**CHAPTER IV****MONETARY FUNCTIONS AND OPERATIONS OF THE ESCB****Article 17****Accounts with the ECB and the national central banks**

In order to conduct their operations, the ECB and the national central banks may open accounts for credit institutions, public entities and other market participants and accept assets, including book entry securities, as collateral.

**第 15 條 報告義務**

- 15.1 歐洲中央銀行應至少每季擬具並公布歐洲中央銀行體系之業務活動報告。
- 15.2 歐洲中央銀行體系應每週公布合併財務報表。
- 15.3 依本條約第 284(3)條規定，歐洲中央銀行應向歐洲議會、歐洲聯盟理事會、歐洲聯盟執行委員會及歐洲理事會，提交有關歐洲中央銀行體系業務活動及當年與前 1 年貨幣政策之年報。
- 15.4 本條所定之報告及財務報表應使利害關係人得免費取得。

**第 16 條 鈔券**

依本條約第 128(1)條規定，管理委員會對歐盟境內之歐元鈔券發行，有專屬之核准權。歐洲中央銀行及會員國中央銀行得發行前開鈔券。歐洲中央銀行及會員國中央銀行發行之鈔券，為歐盟境內唯一具有法償效力之鈔券。

歐洲中央銀行應儘可能尊重鈔券發行及設計之現行實務。

**第 4 章 歐洲中央銀行體系之貨幣政策職權及操作****第 17 條 於歐洲中央銀行及會員國中央銀行開設之帳戶**

歐洲中央銀行及會員國中央銀行為執行其業務，得接受信用機構、公共機構及其他市場參與者開設帳戶，並接受其資產（包含無實體證券）作為擔保品。

**Article 18****Open market and credit operations**

- 18.1. In order to achieve the objectives of the ESCB and to carry out its tasks, the ECB and the national central banks may:
- operate in the financial markets by buying and selling outright (spot and forward) or under repurchase agreement and by lending or borrowing claims and marketable instruments, whether in euro or other currencies, as well as precious metals;
  - conduct credit operations with credit institutions and other market participants, with lending being based on adequate collateral.
- 18.2. The ECB shall establish general principles for open market and credit operations carried out by itself or the national central banks, including for the announcement of conditions under which they stand ready to enter into such transactions.

**Article 19****Minimum reserves**

- 19.1. Subject to Article 2, the ECB may require credit institutions established in Member States to hold minimum reserve on accounts with the ECB and national central banks in pursuance of monetary policy objectives. Regulations concerning the calculation and determination of the required minimum reserves may be established by the Governing Council. In cases of noncompliance the ECB shall be entitled to levy penalty interest and to impose other sanctions with comparable effect.
- 19.2. For the application of this Article, the Council shall, in accordance with the procedure laid down in Article 41, define the basis for minimum reserves and the maximum permissible ratios between those reserves and their basis, as well as the appropriate sanctions in cases of non-compliance.

**Article 20****Other instruments of monetary control**

The Governing Council may, by a majority of two thirds of the votes cast, decide upon the use of such other operational methods of monetary control as it sees fit, respecting Article 2.

The Council shall, in accordance with the procedure laid down in Article 41, define the scope of such methods if they impose obligations on third parties.

**第 18 條 公開市場及信用操作**

- 18.1 歐洲中央銀行及會員國中央銀行為達成歐洲中央銀行體系之目標及執行其任務，得：
- 於金融市場從事（現貨與期貨）買賣斷交易、透過附買回協議交易、貸與或出借金融請求權與具市場性之工具（不論以歐元或其他貨幣計價），以及貴金屬之交易；
  - 與信用機構及其他市場參與者從事信用操作；放款時並應有適足之擔保品。
- 18.2 歐洲中央銀行應為本身或會員國中央銀行建立公開市場及信用操作之一般原則（包含宣布從事交易之條件）。

**第 19 條 最低準備金**

- 19.1 依本條例第 2 條規定，歐洲中央銀行為實行貨幣政策目標，得要求設立於會員國境內之信用機構，應於歐洲中央銀行及會員國中央銀行開立之帳戶提存最低準備金；準備金之計算及認定規則，由管理委員會訂定。違反規則時，歐洲中央銀行得課以罰息，並得課以其他有效裁罰。
- 19.2 為實行本條規定，管理委員會應依本條例第 41 條所定程序明定最低準備金之提存基礎、準備金與提存基礎間比率之上限，以及違反時之適當裁罰。

**第 20 條 貨幣控制之其他工具**

關於本條例第 2 條規定，管理委員會得經 2/3 以上多數決議，採用其認為適當之其他貨幣管理方式。

管理委員會如採其他方式，致使第三者負擔義務時，應依本條例第 41 條所定程序明定上開方式之範圍。

**Article 21****Operations with public entities**

- 21.1. In accordance with Article 123 of the Treaty on the Functioning of the European Union, overdrafts or any other type of credit facility with the ECB or with the national central banks in favour of Union institutions, bodies, offices or agencies, central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of Member States shall be prohibited, as shall the purchase directly from them by the ECB or national central banks of debt instruments.
- 21.2. The ECB and national central banks may act as fiscal agents for the entities referred to in Article 21.1.
- 21.3. The provisions of this Article shall not apply to publicly owned credit institutions which, in the context of the supply of reserves by central banks, shall be given the same treatment by national central banks and the ECB as private credit institutions.

**Article 22****Clearing and payment systems**

The ECB and national central banks may provide facilities, and the ECB may make regulations, to ensure efficient and sound clearing and payment systems within the Union and with other countries.

**Article 23****External operations**

The ECB and national central banks may:

- establish relations with central banks and financial institutions in other countries and, where appropriate, with international organisations;
- acquire and sell spot and forward all types of foreign exchange assets and precious metals; the term "foreign exchange asset" shall include securities and all other assets in the currency of any country or units of account and in whatever form held;
- hold and manage the assets referred to in this Article;
- conduct all types of banking transactions in relations with third countries and international organisations, including borrowing and lending operations.

**第 21 條 與公共機構之交易**

- 21.1 依本條約第 123 條規定，歐洲中央銀行或會員國中央銀行不得對歐洲聯盟機構、單位、官員、中央政府、區域性、地方性或其他公共當局、受公法管轄之其他單位，或會員國之公營事業提供透支或其他形式之融通機制，亦不得直接購買上開機構發行之債務工具。
- 21.2 歐洲中央銀行或會員國中央銀行得擔任本條例第 21.1 條所列機構之財政代理人。
- 21.3 本條規定不適用於公營信用機構，且會員國中央銀行及歐洲中央銀行對該等信用機構提供準備金之條件，應與民營信用機構相同。

**第 22 條 清算及支付系統**

歐洲中央銀行及會員國中央銀行得提供設備，並由歐洲中央銀行訂定管理規則，以確保歐洲聯盟內部以及與其他國家間之清算及支付系統能有效且穩健運作。

**第 23 條 對外業務**

歐洲中央銀行及會員國中央銀行得：

- 與其他國家之中央銀行與金融機構建立業務關係，並在適當情形下與國際組織建立業務關係；
- 買賣各種外匯資產與貴金屬之現貨及期貨。「外匯資產」包含以任何國家通貨或記帳單位計價，而以任何形式持有之證券及其他資產；
- 持有及管理本條所指之資產；
- 與第三國及國際組織從事各種銀行業務（包含借貸業務）之交易。

**Article 24****Other operations**

In addition to operations arising from their tasks, the ECB and national central banks may enter into operations for their administrative purposes or for their staff.

**CHAPTER V  
PRUDENTIAL SUPERVISION****Article 25****Prudential supervision**

- 25.1. The ECB may offer advice to and be consulted by the Council, the Commission and the competent authorities of the Member States on the scope and implementation of Union legislation relating to the prudential supervision of credit institutions and to the stability of the financial system.
- 25.2. In accordance with any regulation of the Council under Article 127(6) of the Treaty on the Functioning of the European Union, the ECB may perform specific tasks concerning policies relating to the prudential supervision of credit institutions and other financial institutions with the exception of insurance undertakings.

**CHAPTER VI  
FINANCIAL PROVISIONS OF THE ESCB****Article 26****Financial accounts**

- 26.1. The financial year of the ECB and national central banks shall begin on the first day of January and end on the last day of December.
- 26.2. The annual accounts of the ECB shall be drawn up by the Executive Board, in accordance with the principles established by the Governing Council. The accounts shall be approved by the Governing Council and shall thereafter be published.
- 26.3. For analytical and operational purposes, the Executive Board shall draw up a consolidated balance sheet of the ESCB, comprising those assets and liabilities of the national central banks that fall within the ESCB.
- 26.4. For the application of this Article, the Governing Council shall establish the necessary rules for standardising the accounting and reporting of operations undertaken by the national central banks.

**第 24 條 其他業務**

歐洲中央銀行及會員國中央銀行，除基於其任務而發生之業務外，得為其行政管理之目的或為其職員從事其他業務。

**第 5 章 審慎監理****第 25 條 審慎監理**

- 25.1 歐洲中央銀行得對歐洲聯盟理事會、歐洲聯盟執行委員會及會員國主管機關，就歐洲聯盟有關審慎監理信用機構及維持金融體系穩定之立法範圍與執行事項，提出建議並接受諮詢。
- 25.2 歐洲中央銀行得遵循歐洲聯盟理事會依本條約第 127(6) 條所訂定之規則，對信用機構及其他除保險事業以外之金融機構，執行審慎監理政策之特定措施。

**第 6 章 歐洲中央銀行體系之財務規範****第 26 條 財務帳目**

- 26.1 歐洲中央銀行及會員國中央銀行之會計年度，自每年 1 月 1 日至 12 月 31 日。
- 26.2 執行理事會應依管理委員會訂定之原則，擬具歐洲中央銀行年度帳目，經管理委員會核定後公布。
- 26.3 為分析及營運之目的，執行理事會應擬具歐洲中央銀行合併資產負債表（包含會員國中央銀行撥給歐洲中央銀行體系之資產及負債）。
- 26.4 為適用本條規定，管理委員會應為會員國中央銀行訂定營業會計及報告標準之必要規則。

**Article 27****Auditing**

- 27.1. The accounts of the ECB and national central banks shall be audited by independent external auditors recommended by the Governing Council and approved by the Council. The auditors shall have full power to examine all books and accounts of the ECB and national central banks and obtain full information about their transactions.
- 27.2. The provisions of Article 287 of the Treaty on the Functioning of the European Union shall only apply to an examination of the operational efficiency of the management of the ECB.

**Article 28****Capital of the ECB**

- 28.1. The capital of the ECB shall be euro 5 000 million. The capital may be increased by such amounts as may be decided by the Governing Council acting by the qualified majority provided for in Article 10.3, within the limits and under the conditions set by the Council under the procedure laid down in Article 41.
- 28.2. The national central banks shall be the sole subscribers to and holders of the capital of the ECB. The subscription of capital shall be according to the key established in accordance with Article 29.
- 28.3. The Governing Council, acting by the qualified majority provided for in Article 10.3, shall determine the extent to which and the form in which the capital shall be paid up.
- 28.4. Subject to Article 28.5, the shares of the national central banks in the subscribed capital of the ECB may not be transferred, pledged or attached.
- 28.5. If the key referred to in Article 29 is adjusted, the national central banks shall transfer among themselves capital shares to the extent necessary to ensure that the distribution of capital shares corresponds to the adjusted key. The Governing Council shall determine the terms and conditions of such transfers.

**Article 29****Key for capital subscription**

- 29.1. The key for subscription of the ECB's capital, fixed for the first time in 1998 when the ESCB was established, shall be determined by assigning to each national central bank a weighting in this key equal to the sum of:

**第 27 條 稽核**

- 27.1 歐洲中央銀行及會員國中央銀行之帳目，應由管理委員會推薦，並經歐洲聯盟理事會同意之獨立外部稽核人員稽核。稽核人員得全權檢查歐洲中央銀行及會員國中央銀行之全部帳冊及帳目，並取得完整交易資料。
- 27.2 本條約第 287 條規定僅適用於歐洲中央銀行管理經營效率之檢查。

**第 28 條 歐洲中央銀行之資本額**

- 28.1 歐洲中央銀行之資本額為 50 億歐元。該資本額得由管理委員會於歐洲聯盟理事會依本條例第 41 條程序訂定之增資限額及條件內，以本條例第 10.3 條所定之條件多數決，予以增加。
- 28.2 會員國中央銀行為歐洲中央銀行資本額之唯一認捐者及持有者，且應依本條例第 29 條所定標準辦理認捐。
- 28.3 管理委員會應以本條例第 10.3 條所定之條件多數決，決定繳款金額及付款方式。
- 28.4 除本條例第 28.5 條規定外，會員國中央銀行持有歐洲中央銀行之出資額，不得作為轉讓、供擔保或扣押之標的。
- 28.5 本條例第 29 條所定標準調整時，會員國中央銀行應相互轉讓其出資額，以符合調整後之標準；轉讓條件，由管理委員會定之。

**第 29 條 資本分認標準**

- 29.1 歐洲中央銀行之資本分認標準自 1998 年歐洲中央銀行體系成立時即已確定，應按各會員國中央銀行下列 2 項之總和確定其分認權數：

- 50 % of the share of its respective Member State in the population of the Union in the penultimate year preceding the establishment of the ESCB;
  - 50 % of the share of its respective Member State in the gross domestic product at market prices of the Union as recorded in the last five years preceding the penultimate year before the establishment of the ESCB. The percentages shall be rounded up or down to the nearest multiple of 0,0001 percentage points.
- 29.2. The statistical data to be used for the application of this Article shall be provided by the Commission in accordance with the rules adopted by the Council under the procedure provided for in Article 41.
- 29.3. The weightings assigned to the national central banks shall be adjusted every five years after the establishment of the ESCB by analogy with the provisions laid down in Article 29.1. The adjusted key shall apply with effect from the first day of the following year.
- 29.4. The Governing Council shall take all other measures necessary for the application of this Article.

### *Article 30*

#### **Transfer of foreign reserve assets to the ECB**

- 30.1. Without prejudice to Article 28, the ECB shall be provided by the national central banks with foreign reserve assets, other than Member States' currencies, euro, IMF reserve positions and SDRs, up to an amount equivalent to euro 50 000 million. The Governing Council shall decide upon the proportion to be called up by the ECB following its establishment and the amounts called up at later dates. The ECB shall have the full right to hold and manage the foreign reserves that are transferred to it and to use them for the purposes set out in this Statute.
- 30.2. The contributions of each national central bank shall be fixed in proportion to its share in the subscribed capital of the ECB.
- 30.3. Each national central bank shall be credited by the ECB with a claim equivalent to its contribution. The Governing Council shall determine the denomination and remuneration of such claims.
- 30.4. Further calls of foreign reserve assets beyond the limit set in Article 30.1 may be effected by the ECB, in accordance with Article 30.2, within the limits and under the conditions set by the Council in accordance with the procedure laid down in Article 41.

- 歐洲中央銀行體系成立前 2 年，該會員國人口占歐洲聯盟人口比率之 50 %；
  - 歐洲中央銀行體系成立前 2 年往前推算 5 年期間，該會員國以市場價格計算之國內生產總值占歐洲聯盟以市場價格計算之國內生產總值比率之 50 %。
- 百分比應計至最接近 0.0001 百分點之倍數。

- 29.2 為適用本條所需之統計資料，應由歐洲聯盟執行委員會按歐洲聯盟理事會依本條例第 41 條程序訂定之規則，予以提供。
- 29.3 歐洲中央銀行體系成立後，會員國中央銀行之分認權數，應比照本條例第 29.1 條規定，每 5 年調整 1 次。調整後之分認標準自次年 1 月 1 日生效。
- 29.4 為適用本條規定，管理委員會應採行所有必要之措施。

### **第 30 條 外匯資產移交歐洲中央銀行**

- 30.1 在不牴觸本條例第 28 條規定之前提下，歐洲中央銀行應收受各會員國中央銀行所移交總數上限相當於 500 億歐元之外匯準備資產（不包含會員國通貨、歐元、國際貨幣基金之準備部位及特別提款權）。歐洲中央銀行成立後，管理委員會應決定移交之比例及日後移交之金額。歐洲中央銀行得全權持有及管理移交之外匯資產，並依本條例所定目標予以使用。
- 30.2 各會員國中央銀行移交之外匯資產比例，應按其在歐洲中央銀行所認資本之比例定之。
- 30.3 各會員國中央銀行移交之外匯資產，應由歐洲中央銀行貸記一筆相同金額之請求權。管理委員會應決定該請求權之面額及報酬。
- 30.4 歐洲中央銀行得於歐洲聯盟理事會依本條例第 41 條程序訂定之限額與條件內，按本條例第 30.2 條所定比例，要求移交超過本條例第 30.1 條所定限額之外匯資產。

30.5. The ECB may hold and manage IMF reserve positions and SDRs and provide for the pooling of such assets.

30.6. The Governing Council shall take all other measures necessary for the application of this Article.

### *Article 31*

#### **Foreign reserve assets held by national central banks**

31.1. The national central banks shall be allowed to perform transactions in fulfilment of their obligations towards international organisations in accordance with Article 23.

31.2. All other operations in foreign reserve assets remaining with the national central banks after the transfers referred to in Article 30, and Member States' transactions with their foreign exchange working balances shall, above a certain limit to be established within the framework of Article 31.3, be subject to approval by the ECB in order to ensure consistency with the exchange rate and monetary policies of the Union.

31.3. The Governing Council shall issue guidelines with a view to facilitating such operations.

### *Article 32*

#### **Allocation of monetary income of national central banks**

32.1. The income accruing to the national central banks in the performance of the ESCB's monetary policy function (hereinafter referred to as "monetary income") shall be allocated at the end of each financial year in accordance with the provisions of this Article.

32.2. The amount of each national central bank's monetary income shall be equal to its annual income derived from its assets held against notes in circulation and deposit liabilities to credit institutions. These assets shall be earmarked by national central banks in accordance with guidelines to be established by the Governing Council.

32.3. If, after the introduction of the euro, the balance sheet structures of the national central banks do not, in the judgment of the Governing Council, permit the application of Article 32.2, the Governing Council, acting by a qualified majority, may decide that, by way of derogation from Article 32.2, monetary income shall be measured according to an alternative method for a period of not more than five years.

30.5 歐洲中央銀行得持有及管理國際貨幣基金之準備部位及特別提款權，並規定彙整此類資產。

30.6 為適用本條規定，管理委員會應採行所有必要之措施。

### **第 31 條 會員國中央銀行持有之外匯資產**

31.1 會員國中央銀行得從事交易，以履行依本條例第 23 條規定對國際組織之義務。

31.2 會員國中央銀行持有本條例第 30 條移交後所餘外匯資產之其他交易，以及會員國以其外匯營運資金餘額進行之交易，於超過本條例第 31.3 條之架構所定限額時，應經歐洲中央銀行核准，以確保符合歐洲聯盟匯率及貨幣政策之一致性。

31.3 為利於前開交易之進行，管理委員會應發布準則。

### **第 32 條 會員國中央銀行貨幣所得之分配**

32.1 會員國中央銀行執行歐洲中央銀行體系貨幣政策職權所產生之應計所得（以下簡稱「貨幣所得」），應於每一會計年度結束時依本條規定予以分配。

32.2 各會員國中央銀行之貨幣所得，應等同於其為鈔券之流通及對信用機構之存款負債而持有之資產所產生之年收入。前開資產應由會員國中央銀行依管理委員會訂定之準則指定之。

32.3 引入歐元後，如依管理委員會之判斷，會員國中央銀行之資產負債表結構無法適用本條例第 32.2 條規定時，管理委員會經條件多數決後，得決定不適用本條例第 32.2 條而以其他方式計算貨幣所得，但期間不得超過 5 年。



- 32.4. The amount of each national central bank's monetary income shall be reduced by an amount equivalent to any interest paid by that central bank on its deposit liabilities to credit institutions in accordance with Article 19. The Governing Council may decide that national central banks shall be indemnified against costs incurred in connection with the issue of banknotes or in exceptional circumstances for specific losses arising from monetary policy operations undertaken for the ESCB. Indemnification shall be in a form deemed appropriate in the judgment of the Governing Council; these amounts may be offset against the national central banks' monetary income.
- 32.5. The sum of the national central banks' monetary income shall be allocated to the national central banks in proportion to their paid up shares in the capital of the ECB, subject to any decision taken by the Governing Council pursuant to Article 33.2.
- 32.6. The clearing and settlement of the balances arising from the allocation of monetary income shall be carried out by the ECB in accordance with guidelines established by the Governing Council.
- 32.7. The Governing Council shall take all other measures necessary for the application of this Article.

### *Article 33*

#### **Allocation of net profits and losses of the ECB**

- 33.1. The net profit of the ECB shall be transferred in the following order:
- (a) an amount to be determined by the Governing Council, which may not exceed 20 % of the net profit, shall be transferred to the general reserve fund subject to a limit equal to 100 % of the capital;
  - (b) the remaining net profit shall be distributed to the shareholders of the ECB in proportion to their paid-up shares.
- 33.2. In the event of a loss incurred by the ECB, the shortfall may be offset against the general reserve fund of the ECB and, if necessary, following a decision by the Governing Council, against the monetary income of the relevant financial year in proportion and up to the amounts allocated to the national central banks in accordance with Article 32.5.

- 32.4 會員國中央銀行之貨幣所得，應扣除會員國中央銀行依本條例第 19 條規定支付信用機構存款負債之利息金額。
- 管理委員會得決定補償會員國中央銀行發行鈔券之成本，或因執行歐洲中央銀行體系貨幣政策於特殊情況下所產生之具體損失。管理委員會應決定適當之補償方式；前開補償金額，得自會員國中央銀行之貨幣所得中扣除。
- 32.5 除管理委員會依本條例第 33.2 條規定所作決議外，全體會員國中央銀行之貨幣所得總額，應按各會員國中央銀行對歐洲中央銀行實際繳納出資之比例分配。
- 32.6 因貨幣所得分配而產生餘額之清算及結算，應由歐洲中央銀行依管理委員會所定準則為之。
- 32.7 為適用本條規定，管理委員會應採行所有必要之措施。

### **第 33 條 歐洲中央銀行淨盈餘及虧損之分配**

- 33.1 歐洲中央銀行之淨盈餘應依下列次序移轉：
- (a) 管理委員會得決定將不超過 20 % 之淨盈餘轉為一般準備金，但以資本額之 100 % 為上限；
  - (b) 其餘盈餘應按出資者對歐洲中央銀行實際繳納出資之比例分配。
- 33.2 歐洲中央銀行發生之虧損，得由歐洲中央銀行之一般準備金抵補，必要時並得依管理委員會之決議，由相關會計年度依第 32.5 條應分配予會員國中央銀行之金額，按比例抵補。

## CHAPTER VII GENERAL PROVISIONS

### *Article 34*

#### **Legal acts**

- 34.1. In accordance with Article 132 of the Treaty on the Functioning of the European Union, the ECB shall:
- make regulations to the extent necessary to implement the tasks defined in Article 3.1, first indent, Articles 19.1, 22 or 25.2 and in cases which shall be laid down in the acts of the Council referred to in Article 41;
  - take decisions necessary for carrying out the tasks entrusted to the ESCB under these Treaties and this Statute;
  - make recommendations and deliver opinions.
- 34.2. The ECB may decide to publish its decisions, recommendations and opinions.
- 34.3. Within the limits and under the conditions adopted by the Council under the procedure laid down in Article 41, the ECB shall be entitled to impose fines or periodic penalty payments on undertakings for failure to comply with obligations under its regulations and decisions.

### *Article 35*

#### **Judicial control and related matters**

- 35.1. The acts or omissions of the ECB shall be open to review or interpretation by the Court of Justice of the European Union in the cases and under the conditions laid down in the Treaty on the Functioning of the European Union. The ECB may institute proceedings in the cases and under the conditions laid down in the Treaties.
- 35.2. Disputes between the ECB, on the one hand, and its creditors, debtors or any other person, on the other, shall be decided by the competent national courts, save where jurisdiction has been conferred upon the Court of Justice of the European Union.
- 35.3. The ECB shall be subject to the liability regime provided for in Article 340 of the Treaty on the Functioning of the European Union. The national central banks shall be liable according to their respective national laws.
- 35.4. The Court of Justice of the European Union shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by or on behalf of the ECB, whether that contract be governed by public or private law.

## 第 7 章 一般條款

### 第 34 條 法律行為

- 34.1 依本條約第 132 條規定，歐洲中央銀行應：
- 就執行本條例第 3.1 條第 1 款、第 19.1 條、第 22 條或第 25.2 條所定任務之必要範圍，以及應載明歐洲聯盟理事會依本條例第 41 條得為之情形，訂定規則；
  - 為執行歐洲聯盟條約與本條約及本條例賦予之任務，作成必要之決議；
  - 提出建議及表達意見。
- 34.2 歐洲中央銀行得公布其決議、建議及意見。
- 34.3 於歐洲聯盟理事會依本條例第 41 條程序訂定之限額及條件內，歐洲中央銀行得對未遵循其規則或決議所定義務之事業，處以罰鍰或定期罰款。

### 第 35 條 司法管轄及相關事務

- 35.1 於本條約所規定之情況及條件下，歐洲中央銀行之作為及不作為，應由歐洲法院公開審查或解釋。歐洲中央銀行於歐洲聯盟條約與本條約所規定之情況及條件下，得提起訴訟。
- 35.2 歐洲中央銀行與其債權人、債務人或任何其他人間之爭端，除已賦予歐洲法院管轄權者外，應由該管國家法院裁決。
- 35.3 歐洲中央銀行應依本條約第 340 條規定負損害賠償責任。會員國中央銀行應依各該國家之法律負損害賠償責任。
- 35.4 歐洲中央銀行或其代表所簽訂公法或私法契約之仲裁條款，歐洲法院享有審判權。

35.5. A decision of the ECB to bring an action before the Court of Justice of the European Union shall be taken by the Governing Council.

35.6. The Court of Justice of the European Union shall have jurisdiction in disputes concerning the fulfilment by a national central bank of obligations under the Treaties and this Statute. If the ECB considers that a national central bank has failed to fulfil an obligation under the Treaties and this Statute, it shall deliver a reasoned opinion on the matter after giving the national central bank concerned the opportunity to submit its observations. If the national central bank concerned does not comply with the opinion within the period laid down by the ECB, the latter may bring the matter before the Court of Justice of the European Union.

#### **Article 36**

##### **Staff**

36.1. The Governing Council, on a proposal from the Executive Board, shall lay down the conditions of employment of the staff of the ECB.

36.2. The Court of Justice of the European Union shall have jurisdiction in any dispute between the ECB and its servants within the limits and under the conditions laid down in the conditions of employment.

#### **Article 37 (ex Article 38)**

##### **Professional secrecy**

37.1. Members of the governing bodies and the staff of the ECB and the national central banks shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy.

37.2. Persons having access to data covered by Union legislation imposing an obligation of secrecy shall be subject to such legislation.

#### **Article 38 (ex Article 39)**

##### **Signatories**

The ECB shall be legally committed to third parties by the President or by two members of the Executive Board or by the signatures of two members of the staff of the ECB who have been duly authorised by the President to sign on behalf of the ECB.

35.5 歐洲中央銀行向歐洲法院提起訴訟，應經管理委員會之決議。

35.6 歐洲法院對有關會員國中央銀行履行歐洲聯盟條約與本條約及本條例所定義務之爭端，享有管轄權。歐洲中央銀行認為會員國中央銀行未依歐洲聯盟條約與本條約及本條例履行義務時，應於給予該會員國中央銀行提出答辯之機會後，提出附理由之意見。該會員國中央銀行未於歐洲中央銀行所定期限依其意見辦理時，歐洲中央銀行得將此事件提交歐洲法院審理。

#### **第 36 條 職員**

36.1 管理委員會應依執行理事會之建議，訂定歐洲中央銀行職員之聘僱條件。

36.2 歐洲法院對歐洲中央銀行與其職員間於聘僱條件範圍內所產生之任何爭端，享有管轄權。

#### **第 37 條（前第 38 條） 業務保密**

37.1 歐洲中央銀行與會員國中央銀行決策單位之成員及職員，於任職期間及離職後，均不得洩漏業務保密義務所涵蓋之資訊。

37.2 知悉歐洲聯盟法定保密義務所涵蓋之資訊者，應受該等法律保密義務之拘束。

#### **第 38 條（前第 39 條） 簽署**

歐洲中央銀行對第三人之合法承諾，應由總裁或執行理事會 2 名成員為之，或經總裁正式授權代表歐洲中央銀行之 2 名職員簽署行之。

**Article 39 (ex Article 40)****Privileges and immunities**

The ECB shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of its tasks, under the conditions laid down in the Protocol on the privileges and immunities of the European Union.

**CHAPTER VIII****AMENDMENT OF THE STATUTE AND COMPLEMENTARY LEGISLATION****Article 40 (ex Article 41)****Simplified amendment procedure**

- 40.1. In accordance with Article 129(3) of the Treaty on the Functioning of the European Union, Articles 5.1, 5.2, 5.3, 17, 18, 19.1, 22, 23, 24, 26, 32.2, 32.3, 32.4, 32.6, 33.1(a) and 36 of this Statute may be amended by the European Parliament and the Council, acting in accordance with the ordinary legislative procedure either on a recommendation from the ECB and after consulting the Commission, or on a proposal from the Commission and after consulting the ECB.
- 40.2. Article 10.2 may be amended by a decision of the European Council, acting unanimously, either on a recommendation from the European Central Bank and after consulting the European Parliament and the Commission, or on a recommendation from the Commission and after consulting the European Parliament and the European Central Bank. These amendments shall not enter into force until they are approved by the Member States in accordance with their respective constitutional requirements.
- 40.3. A recommendation made by the ECB under this Article shall require a unanimous decision by the Governing Council.

**Article 41 (ex Article 42)****Complementary legislation**

In accordance with Article 129(4) of the Treaty on the Functioning of the European Union, the Council, either on a proposal from the Commission and after consulting the European Parliament and the ECB or on a recommendation from the ECB and after consulting the European Parliament and the Commission, shall adopt the provisions referred to in Articles 4, 5.4, 19.2, 20, 28.1, 29.2, 30.4 and 34.3 of this Statute.

**第 39 條（前第 40 條） 特權及豁免權**

於歐洲聯盟特權及豁免權議定書所規定之條件下，歐洲中央銀行為執行其任務之需要，於會員國境內享有特權及豁免權。

**第 8 章 本條例之修正及補充立法****第 40 條（前第 41 條） 簡化修正程序**

- 40.1 依本條約第 129(3)條規定，本條例第 5.1 條、第 5.2 條、第 5.3 條、第 17 條、第 18 條、第 19.1 條、第 22 條、第 23 條、第 24 條、第 26 條、第 32.2 條、第 32.3 條、第 32.4 條、第 32.6 條、第 33.1(a)條及第 36 條規定，得由歐洲議會和歐洲聯盟理事會依歐洲中央銀行諮詢歐洲聯盟執行委員會後之建議，或依歐洲聯盟執行委員會諮詢歐洲中央銀行後之提案，循普通立法程序進行修正。
- 40.2 本條例第 10.2 條之規定得由歐洲聯盟理事會依歐洲中央銀行諮詢歐洲議會及歐洲聯盟執行委員會後之建議，或依歐洲聯盟執行委員會諮詢歐洲議會及歐洲中央銀行後之建議，經一致同意予以修正。前開修正須經成員國依其各自憲法規定得到批准後始得生效。
- 40.3 歐洲中央銀行依本條所為之建議，應經管理委員會一致決議作成。

**第 41 條（前第 42 條） 補充立法**

依本條約第 129(4)條規定，歐洲聯盟理事會應依歐洲聯盟執行委員會諮詢歐洲議會及歐洲中央銀行後之提案，或依歐洲中央銀行諮詢歐洲議會及歐洲聯盟執行委員會後之建議，通過本條例第 4 條、第 5.4 條、第 19.2 條、第 20 條、第 28.1 條、第 29.2 條、第 30.4 條與第 34.3 條所述及之相關規定。

## CHAPTER IX TRANSITIONAL AND OTHER PROVISIONS FOR THE ESCB

### *Article 42 (ex Article 43)*

#### General provisions

- 42.1. A derogation as referred to in Article 139 of the Treaty on the Functioning of the European Union shall entail that the following Articles of this Statute shall not confer any rights or impose any obligations on the Member State concerned: 3, 6, 9.2, 12.1, 14.3, 16, 18, 19, 20, 22, 23, 26.2, 27, 30, 31, 32, 33, 34, and 49.
- 42.2. The central banks of Member States with a derogation as specified in Article 139(1) of the Treaty on the Functioning of the European Union shall retain their powers in the field of monetary policy according to national law.
- 42.3. In accordance with Article 139 of the Treaty on the Functioning of the European Union, "Member States" shall be read as "Member States whose currency is the euro" in the following Articles of this Statute: 3, 11.2 and 19.
- 42.4. "National central banks" shall be read as "central banks of Member States whose currency is the euro" in the following Articles of this Statute: 9.2, 10.2, 10.3, 12.1, 16, 17, 18, 22, 23, 27, 30, 31, 32, 33.2 and 49.
- 42.5. "Shareholders" shall be read as "central banks of Member States whose currency is the euro" in Articles 10.3 and 33.1.
- 42.6. "Subscribed capital of the ECB" shall be read as "capital of the ECB subscribed by the central banks of Member States whose currency is the euro" in Articles 10.3 and 30.2.

### *Article 43 (ex Article 44)*

#### Transitional tasks of the ECB

The ECB shall take over the former tasks of the EMI referred to in Article 141 (2) of the Treaty on the Functioning of the European Union which, because of the derogations of one or more Member States, still have to be performed after the introduction of the euro.

The ECB shall give advice in the preparations for the abrogation of the derogations specified in Article 140 of the Treaty on the Functioning of the European Union.

## 第 9 章 歐洲中央銀行體系之過渡及其他條款

### 第 42 條（前第 43 條） 一般條款

- 42.1 本條約第 139 條所稱之排除規定，係指本條例下列條文對相關會員國不賦予權利亦不課以義務：第 3 條、第 6 條、第 9.2 條、第 12.1 條、第 14.3 條、第 16 條、第 18 條、第 19 條、第 20 條、第 22 條、第 23 條、第 26.2 條、第 27 條、第 30 條、第 31 條、第 32 條、第 33 條、第 34 條與第 49 條。
- 42.2 本條約第 139(1)條所稱適用排除規定之會員國中央銀行，依其本國法律保有貨幣政策之決策權。
- 42.3 依本條約第 139 條規定，本條例第 3 條、第 11.2 條與第 19 條所稱之「會員國」，應解釋為「以歐元為通用貨幣之會員國」。
- 42.4 本條例第 9.2 條、第 10.2 條、第 10.3 條、第 12.1 條、第 16 條、第 17 條、第 18 條、第 22 條、第 23 條、第 27 條、第 30 條、第 31 條、第 32 條、第 33.2 條與第 49 條所稱之「會員國中央銀行」，應解釋為「以歐元為通用貨幣之會員國中央銀行」。
- 42.5 本條例第 10.3 條與第 33.1 條所稱之「出資者」，應解釋為「以歐元為通用貨幣之會員國中央銀行」。
- 42.6 本條例第 10.3 條與第 30.2 條所稱之「在歐洲中央銀行所認資本」，應解釋為「以歐元為通用貨幣之會員國中央銀行在歐洲中央銀行所認資本」。

### 第 43 條（前第 44 條） 歐洲中央銀行於過渡期間之任務

歐洲中央銀行應接管本條約第 141(2)條所稱歐洲貨幣機構之原任務；由於 1 個或多個會員國適用排除規定，該任務於引入歐元後仍須執行。

歐洲中央銀行應就本條約第 140 條所定撤銷適用排除規定之準備事宜，提出建議。

**Article 44 (ex Article 45)****The General Council of the ECB**

- 44.1. Without prejudice to Article 129(1) of the Treaty on the Functioning of the European Union, the General Council shall be constituted as a third decision-making body of the ECB.
- 44.2. The General Council shall comprise the President and Vice-President of the ECB and the Governors of the national central banks. The other members of the Executive Board may participate, without having the right to vote, in meetings of the General Council.
- 44.3. The responsibilities of the General Council are listed in full in Article 46 of this Statute.

**Article 45 (ex Article 46)****Rules of Procedure of the General Council**

- 45.1. The President or, in his absence, the Vice-President of the ECB shall chair the General Council of the ECB.
- 45.2. The President of the Council and a Member of the Commission may participate, without having the right to vote, in meetings of the General Council.
- 45.3. The President shall prepare the meetings of the General Council.
- 45.4. By way of derogation from Article 12.3, the General Council shall adopt its Rules of Procedure.
- 45.5. The Secretariat of the General Council shall be provided by the ECB.

**Article 46 (ex Article 47)****Responsibilities of the General Council**

- 46.1. The General Council shall:
- perform the tasks referred to in Article 43;
  - contribute to the advisory functions referred to in Articles 4 and 25.1.
- 46.2. The General Council shall contribute to:
- the collection of statistical information as referred to in Article 5;
  - the reporting activities of the ECB as referred to in Article 15;
  - the establishment of the necessary rules for the application of Article 26 as referred to in Article 26.4;
  - the taking of all other measures necessary for the application of Article 29 as referred to in Article 29.4;
  - the laying down of the conditions of employment of the staff of the ECB as referred to in Article 36.

**第 44 條（前第 45 條） 歐洲中央銀行全會**

- 44.1 在不抵觸本條約第 129(1)條規定下，應組織全會作為歐洲中央銀行之第三決策機構。
- 44.2 全會由歐洲中央銀行總裁與副總裁，以及會員國中央銀行總裁組成。執行理事會其他成員得參與全會之會議，但無投票權。
- 44.3 全會之職責全部列舉於本條例第 46 條。

**第 45 條（前第 46 條） 全會之程序規則**

- 45.1 歐洲中央銀行總裁為歐洲中央銀行全會之主席；總裁缺席時，由副總裁擔任主席。
- 45.2 歐洲聯盟理事會主席及歐洲聯盟執行委員會之 1 名成員得參與全會之會議，但無投票權。
- 45.3 歐洲中央銀行總裁應籌備全會之會議。
- 45.4 全會不適用本條例第 12.3 條規定，應另訂定其程序規則。
- 45.5 全會之秘書長由歐洲中央銀行遴選。

**第 46 條（前第 47 條） 全會之職責**

- 46.1 全會應：
- 執行本條例第 43 條所定任務；
  - 促成本條例第 4 條及第 25.1 條所定諮詢功能。
- 46.2 全會應協助：
- 蒐集本條例第 5 條所定統計資訊；
  - 報告本條例第 15 條所定歐洲中央銀行之業務活動；
  - 訂定本條例第 26.4 條所定為適用本條例第 26 條規定之必要規則；
  - 採行本條例第 29.4 條所定為適用本條例第 29 條規定之所有必要措施；
  - 訂定本條例第 36 條所定歐洲中央銀行職員之聘僱條件。

- 46.3. The General Council shall contribute to the necessary preparations for irrevocably fixing the exchange rates of the currencies of Member States with a derogation against the euro as referred to in Article 140(3) of the Treaty on the Functioning of the European Union.
- 46.4. The General Council shall be informed by the President of the ECB of decisions of the Governing Council.

*Article 47 (ex Article 48)*

**Transitional provisions for the capital of the ECB**

In accordance with Article 29.1, each national central bank shall be assigned a weighting in the key for subscription of the ECB's capital. By way of derogation from Article 28.3, central banks of Member States with a derogation shall not pay up their subscribed capital unless the General Council, acting by a majority representing at least two thirds of the subscribed capital of the ECB and at least half of the shareholders, decides that a minimal percentage has to be paid up as a contribution to the operational costs of the ECB.

*Article 48 (ex Article 49)*

**Deferred payment of capital, reserves and provisions of the ECB**

- 48.1. The central bank of a Member State whose derogation has been abrogated shall pay up its subscribed share of the capital of the ECB to the same extent as the central banks of other Member States whose currency is the euro, and shall transfer to the ECB foreign reserve assets in accordance with Article 30.1. The sum to be transferred shall be determined by multiplying the euro value at current exchange rates of the foreign reserve assets which have already been transferred to the ECB in accordance with Article 30.1, by the ratio between the number of shares subscribed by the national central bank concerned and the number of shares already paid up by the other national central banks.
- 48.2. In addition to the payment to be made in accordance with Article 48.1, the central bank concerned shall contribute to the reserves of the ECB, to those provisions equivalent to reserves, and to the amount still to be appropriated to the reserves and provisions corresponding to the balance of the profit and loss account as at 31 December of the year prior to the abrogation of the derogation.
- The sum to be contributed shall be determined by multiplying the amount of the reserves, as defined above and as stated in the approved balance sheet of the ECB, by the ratio between the number of shares subscribed by the central bank concerned and the number of shares already paid up by the other central banks.

- 46.3 全會應協助本條約第 140(3)條所定之必要準備工作，為適用排除規定之會員國，訂定其通貨兌換歐元之不可撤銷固定匯率。
- 46.4 總裁應將管理委員會之決議通知全會。

**第 47 條（前第 48 條） 歐洲中央銀行資本之過渡規定**

各會員國中央銀行應依本條例第 29.1 條規定，分配對歐洲中央銀行資本應分認之權數。適用排除規定之會員國中央銀行，得不適用本條例第 28.3 條規定，無須繳納其所認出資。但經全會以代表在歐洲中央銀行所認資本 2/3 以上且代表 1/2 以上出資者之決議，定其應繳納之最低百分比，以分擔歐洲中央銀行之營運成本者，不在此限。

**第 48 條（前第 49 條） 延期支付歐洲中央銀行之資本、準備及負債準備**

- 48.1 會員國中央銀行取消適用排除規定後，應依與以歐元為通用貨幣之會員國中央銀行相同程度，繳納對歐洲中央銀行所認資本，並依本條例第 30.1 條規定，將外匯資產移交歐洲中央銀行。移轉總額為已依本條例第 30.1 條規定移交之外匯資產以當時匯率計算之歐元價值，乘以前開會員國中央銀行所認資本對其他會員國中央銀行已繳納出資之比率。
- 48.2 除依本條例第 48.1 條規定所為支付外，前開會員國中央銀行應繳納歐洲中央銀行之各類準備、相當於各類準備之負債準備，以及取消適用排除規定前 1 年 12 月 31 日損益表尚待攤提之各類準備及負債準備。繳納總額為符合前開定義並經核准之歐洲中央銀行資產負債表所列準備金，乘以前開會員國中央銀行所認資本對其他會員國中央銀行已繳納出資之比率。

48.3. Upon one or more countries becoming Member States and their respective national central banks becoming part of the ESCB, the subscribed capital of the ECB and the limit on the amount of foreign reserve assets that may be transferred to the ECB shall be automatically increased. The increase shall be determined by multiplying the respective amounts then prevailing by the ratio, within the expanded capital key, between the weighting of the entering national central banks concerned and the weighting of the national central banks already members of the ESCB. Each national central bank's weighting in the capital key shall be calculated by analogy with Article 29.1 and in compliance with Article 29.2. The reference periods to be used for the statistical data shall be identical to those applied for the latest quinquennial adjustment of the weightings under Article 29.3.

**Article 49 (ex Article 52)**

**Exchange of banknotes in the currencies of the Member States**

Following the irrevocable fixing of exchange rates in accordance with Article 140 of the Treaty on the Functioning of the European Union, the Governing Council shall take the necessary measures to ensure that banknotes denominated in currencies with irrevocably fixed exchange rates are exchanged by the national central banks at their respective par values.

**Article 50 (ex Article 53)**

**Applicability of the transitional provisions**

If and as long as there are Member States with a derogation, Articles 42 to 47 shall be applicable.

48.3 1 個以上國家成為會員國而其中央銀行成為歐洲中央銀行體系之一部分時，應自動提高在歐洲中央銀行所認資本及移轉歐洲中央銀行外匯資產之限額。增加額為資本擴增範圍內之當時相應金額，乘以前開新加入會員國中央銀行所占權重對現行歐洲中央銀行體系會員國中央銀行所占權重之比率。會員國中央銀行之分認權數，應於符合本條例第 29.2 條規定下，比照本條例第 29.1 條規定計算。用於統計資料之參考期間，應與依本條例第 29.3 條規定對分配權數之最近 5 年調整所適用之參考期間相同。

**第 49 條（前第 52 條） 會員國內鈔券之兌換**

依本條約第 140 條訂定不可撤銷固定匯率後，管理委員會應採行必要之措施，以確保適用不可撤銷固定匯率之通貨，其鈔券由各會員國中央銀行按其通貨面額兌換。

**第 50 條（前第 53 條） 過渡條款之適用**

有適用排除規定之會員國時，即有本條例第 42 條至第 47 條規定之適用。



## 二、Bank of England Act 1998 英格蘭銀行法

**Bank of England Act 1998****英格蘭銀行法**

法務室 林男錡 譯

*PART I CONSTITUTION, REGULATION  
AND FINANCIAL ARRANGEMENTS*

*PART IA FINANCIAL STABILITY*

*PART II MONETARY POLICY*

*PART III TRANSFER OF SUPERVISORY FUNCTIONS  
OF THE BANK TO THE FINANCIAL SERVICES  
AUTHORITY*

*PART IIIA PRUDENTIAL REGULATION*

*PART IV MISCELLANEOUS AND GENERAL*

*SCHEDULE 1 COURT OF DIRECTORS*

*SCHEDULE 2 CASH RATIO DEPOSITS*

*SCHEDULE 2A FINANCIAL POLICY COMMITTEE*

*SCHEDULE 3 MONETARY POLICY COMMITTEE*

*SCHEDULE 4 TRANSFER OF FUNCTIONS:  
SUPPLEMENTARY PROVISIONS*

*SCHEDULE 5 TRANSFER OF FUNCTIONS:  
CONSEQUENTIAL AMENDMENTS*

*SCHEDULE 6 .....*

*SCHEDULE 6A PRUDENTIAL REGULATION COMMITTEE*

*SCHEDULE 7 RESTRICTION ON DISCLOSURE OF  
INFORMATION*

*SCHEDULE 8 TRANSITIONAL PROVISIONS AND  
SAVINGS*

*SCHEDULE 9 REPEALS AND REVOCATIONS*

第 1 章 組織、管理及財務安排

第 1A 章 金融穩定

第 2 章 貨幣政策

第 3 章 本行金融監理職權移轉至金融服務管理局

第 3A 章 審慎監理

第 4 章 附款及通則

附則 1 理事會

附則 2 現金比率存款

附則 2A 金融政策委員會

附則 3 貨幣政策委員會

附則 4 職權移轉：補充規定

附則 5 職權移轉：後續修正

附則 6 .....

附則 6A 審慎監理委員會

附則 7 資訊揭露之限制

附則 8 過渡及保留規定

附則 9 廢止及撤銷

## Bank of England Act 1998

### 1998 CHAPTER 11

An Act to make provision about the constitution, regulation, financial arrangements and functions of the Bank of England, including provision for the transfer of supervisory functions; to amend the Banking Act 1987 in relation to the provision and disclosure of information; to make provision relating to appointments to the governing body of a designated agency under the Financial Services Act 1986; to amend Schedule 5 to that Act; to make provision relating to the registration of Government stocks and bonds; to make provision about the application of section 207 of the Companies Act 1989 to bearer securities; and for connected purposes. [23rd April 1998]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART I

#### CONSTITUTION, REGULATION AND FINANCIAL ARRANGEMENTS

##### Constitution and regulation

##### 1 Court of directors

- (1) There shall continue to be a court of directors of the Bank.
- (2) The court shall consist of the following directors appointed by Her Majesty—
  - (a) a Governor,
  - (b) a Deputy Governor for financial stability,
  - (ba) a Deputy Governor for markets and banking,

## 英格蘭銀行法

### 1998 年第 11 章

為規範英格蘭銀行之組織、管理、財務安排及職權，包含監理權力移轉之規定、修正 1987 年銀行法有關資訊揭露之規定、訂定 1986 年金融服務法有關任命指定機構管理成員之規定、修正前述法律附則 5、訂定政府股票及公債之登記規定、訂定適用 1989 年公司法第 207 條有關無記名證券之規定，以及為達成有關目的而制定之法律。

[1998 年 4 月 23 日]

本法係經現行國會上議院俗職議員與靈職議員，以及下議院議員之建議並獲致同意，經前述人員之授權後，由女王制定如下：—

#### 第 1 章 組織、管理及財務安排

##### 組織及管理

##### 第 1 條 理事會

- (1) 本行續設理事會。
- (2) 理事會由女王任命下列理事組成—
  - (a) 總裁 1 人；
  - (b) 負責金融穩定之副總裁 1 人；
  - (ba) 負責市場及銀行業務之副總裁 1 人；

- (c) a Deputy Governor for monetary policy,
  - (d) a Deputy Governor for prudential regulation, and
  - (e) not more than 9 non-executive directors.
- (3).....
- (4) Schedule 1 shall have effect with respect to the court.

### 1A Power to alter membership of court of directors

- (1) The Treasury, after consulting the Governor of the Bank, may by order amend the list in section 1 (2) so as to—
- (a) alter the title of a Deputy Governor;
  - (b) add a Deputy Governor to the list;
  - (c) remove a Deputy Governor from the list.
- (2) An order under subsection (1)(a) or (c) must (by making saving provision or otherwise) secure that the alteration in the title of a Deputy Governor or the removal of a Deputy Governor from the list in section 1 (2) does not have effect in relation to the individual (if any) who holds that office at the time the order is made.
- (3) An order under subsection (1)(b) may also add the Deputy Governor to which the order relates to the list in—
- (a) section 9B (1) (membership of Financial Policy Committee);
  - (b) section 13 (2) (membership of Monetary Policy Committee);
  - (c) section 30A (2) (membership of Prudential Regulation Committee).
- (4) An order under subsection (1)(c) may also remove from any of those lists the Deputy Governor to which the order relates.
- (5) Where an order under subsection (1) makes an amendment mentioned in column 1 of the following table, it may also make the amendment mentioned in the corresponding entry in column 2 of the table.

- (c) 負責貨幣政策之副總裁 1 人；
- (d) 負責審慎監理之副總裁 1 人；及
- (e) 非執行理事 9 人以下。

(3).....<sup>譯註 1</sup>

(4)附則 1 有關理事會之規定，隨同本法生效。

### 第 1A 條 變更理事會成員之權力

- (1)財政部經洽商總裁後，得以命令修正第 1 條第(2)項之名單，以—
- (a) 變更 1 名副總裁之職稱；
  - (b) 於名單增加 1 名副總裁；
  - (c) 於名單刪除 1 名副總裁。
- (2)第(1)項第(a)款或第(c)款之命令，應（以保留條款或其他方式）確保變更 1 名副總裁之職稱或於第 1 條第(2)項之名單刪除 1 名副總裁，不影響該命令作成時（如有）擔任該職位之個人。
- (3)第(1)項第(b)款之命令，亦得於下列規定之名單，增加該命令涉及之副總裁—
- (a) 第 9B 條第(1)項（金融政策委員會之成員資格）；
  - (b) 第 13 條第(2)項（貨幣政策委員會之成員資格）；
  - (c) 第 30A 條第(2)項（審慎監理委員會之成員資格）。
- (4)第(1)項第(c)款之命令，亦得於前項名單刪除該命令涉及之副總裁。
- (5)第(1)項之命令作成下表第 1 欄之修正時，得於下表第 2 欄作成相對應之修正。

<sup>譯註 1</sup> 刪節號（以下同）表示該條文業經廢止。

<i>Addition or removal of Deputy Governors</i>	<i>Corresponding change in membership of Committee</i>
Addition of one or more Deputy Governors to the list in section 9B (1)	Equal increase in the number of members appointed by the Chancellor of the Exchequer under section 9B (1)(e)
Removal of one or more Deputy Governors from the list in section 9B (1)	Equal reduction in the number of members appointed by the Chancellor of the Exchequer under section 9B (1)(e)
Addition of one or more Deputy Governors to the list in section 13 (2)	Equal reduction in the number of members appointed by the Governor of the Bank under section 13 (2)(b)
Removal of one or more Deputy Governors from the list in section 13 (2)	Equal increase in the number of members appointed by the Governor of the Bank under section 13 (2)(b)
Addition of one or more Deputy Governors to the list in section 30A (2)	Equal increase in the minimum number of members appointed by the Chancellor of the Exchequer under section 30A (2)(g)
Removal of one or more Deputy Governors from the list in section 30A (2)	Equal reduction in the minimum number of members appointed by the Chancellor of the Exchequer under section 30A (2)(g)

(6) The power in subsection (5)—

- (a) to make an equal reduction in the number of members appointed under section 9B (1)(e), 13 (2)(b) or 30A (2)(g), includes power to remove the power to make those appointments where an equal reduction would reduce the number of members so appointed to zero,
  - (b) to make an equal increase in the number of members appointed under section 9B (1)(e), 13 (2)(b) or 30A (2)(g), includes power to reinstate the power to make those appointments where it has previously been removed under paragraph (a).
- (7) An order under subsection (1) may amend, repeal or revoke any provision made by or under any Act, including this Act, so as to make consequential provision.

## 2 Functions of court of directors

- (1) The court of directors of the Bank shall manage the Bank's affairs, other than the formulation of monetary policy.
- (2) In particular, the court's functions under subsection (1) shall include
  - (a) determining the Bank's objectives (including objectives for its financial management) and strategy.
  - (b) the functions mentioned in section 3A (2) (the "oversight functions").

增加或減少之副總裁	委員會成員資格之相對應修正
於第 9B 條第(1)項之名單增加 1 名以上之副總裁	同等增加財政大臣依第 9B 條第(1)項第(e)款規定任命之成員人數
於第 9B 條第(1)項之名單刪除 1 名以上之副總裁	同等減少財政大臣依第 9B 條第(1)項第(e)款規定任命之成員人數
於第 13 條第(2)項之名單增加 1 名以上之副總裁	同等減少財政大臣依第 13 條第(2)項第(b)款規定任命之成員人數
於第 13 條第(2)項之名單刪除 1 名以上之副總裁	同等增加財政大臣依第 13 條第(2)項第(b)款規定任命之成員人數
於第 30A 條第(2)項之名單增加 1 名以上之副總裁	同等增加財政大臣依第 30A 條第(2)項第(g)款規定任命之成員最低人數
於第 30A 條第(2)項之名單刪除 1 名以上之副總裁	同等減少財政大臣依第 30A 條第(2)項第(g)款規定任命之成員最低人數

(6)第(5)項之權力—

- (a) 得同等減少依第 9B 條第(1)項第(e)款、第 13 條第(2)項第(b)款或第 30A 條第(2)項第(g)款規定任命之成員人數，包含排除其任命權而使依前述規定任命之委員人數同等減至為零；
  - (b) 得同等增加依第 9B 條第(1)項第(e)款、第 13 條第(2)項第(b)款或第 30A 條第(2)項第(g)款規定任命之成員人數，包含回復先前依第(a)款規定排除之任命權。
- (7)第(1)項之命令得修正、廢除或撤銷任何法律（包含本法）之任何條文，並為相應之條文。

## 第 2 條 理事會職權

- (1)理事會管理本行一切事務。但貨幣政策之制定除外。
- (2)具體而言，第(1)項理事會職權應包含—
  - (a) 決定本行經營目標（包含本行財務管理目標）及策略；
  - (b) 第 3A 條第(2)項所列之職權（以下簡稱「監督職權」）。

- (3) In determining the Bank's objectives and strategy, the court's aim shall be to ensure the effective discharge of the Bank's functions.
- (4) Subject to that, in determining objectives for the financial management of the Bank, the court's aim shall be to ensure the most efficient use of the Bank's resources.
- (5) Subsections (2) to (4) are subject to—
  - (a) section 2A (Financial Stability Objective);
  - (b) section 11 (objectives in relation to monetary policy);
  - (c) Part 1A of the Financial Services and Markets Act 2000 (objectives and strategy of the Prudential Regulation Authority).

## 2A Financial Stability Objective

- (1) An objective of the Bank shall be to protect and enhance the stability of the financial system of the United Kingdom (the "Financial Stability Objective").
- (2) In pursuing the Financial Stability Objective the Bank shall aim to work with other relevant bodies (including the Treasury and the Financial Conduct Authority).
- (3) .....

## 2AA Macro-prudential measures: Article 458 of the capital requirements regulation

- (1) The Bank is responsible for the application of Article 458 of the capital requirements regulation so far as it relates to measures which are prescribed by order under section 9L (macro-prudential measures).
- (2) The Treasury are responsible for the application of Article 458 of the capital requirements regulation so far as it relates to measures which are not so prescribed.
- (3) The Bank must undertake (in relation to a measure falling within subsection (1)) the notification process required by Article 458 of the capital requirements regulation ("the Article 458 notification process") in any case where it is requested to do so by the Financial Policy Committee in connection with—
  - (a) a direction that the Committee has given or proposes to give under section 9H, or
  - (b) recommendations that the Committee has made or proposes to make under section 9Q.
- (4) The Treasury must undertake (in relation to a measure falling within subsection (2)) the Article 458 notification process in any case where they are requested to do so by the Financial Policy Committee in connection with recommendations that the Committee has made or proposes to make under section 9Q.

- (3) 理事會決定本行經營目標及策略時，應以確保本行職權之有效行使為目的。
- (4) 理事會依前述規定決定本行財務管理之目標時，應以確保本行資源之最有效利用為目的。
- (5) 第(2)項至第(4)項規定應符合—
  - (a) 第 2A 條（金融穩定目標）；
  - (b) 第 11 條（貨幣政策目標）；
  - (c) 2000 年金融服務及市場法第 1A 章（審慎監理局之目標及策略）。

## 第 2A 條 金融穩定目標

- (1) 本行經營目標應保護及強化英國金融體系之穩定（以下簡稱「金融穩定目標」）。
- (2) 本行為達成金融穩定目標，應與其他相關機關（包含財政部及金融督導局）合作。
- (3) .....

## 第 2AA 條 總體審慎措施：資本要求規則第 458 條

- (1) 本行負責適用資本要求規則第 458 條涉及第 9L 條（總體審慎措施）之命令所規範之措施。
- (2) 財政部負責適用資本要求規則第 458 條涉及前項未規範之措施。
- (3) 與下列事項有關時，本行應依金融政策委員會之要求，就（符合第(1)項之措施）進行資本要求規則第 458 條所定之通知程序（以下簡稱「第 458 條之通知程序」）—
  - (a) 該委員會已依或擬依第 9H 條規定下達之指示；或
  - (b) 該委員會已依或擬依第 9Q 條規定提出之建議。
- (4) 與金融政策委員會已依或擬依第 9Q 條規定提出之建議有關時，財政部應依該委員會之要求，（就符合第(2)項之措施）進行第 458 條之通知程序。

- (5) Subsections (3) and (4) do not require the Bank or the Treasury to undertake the Article 458 notification process if—
- (a) the Financial Policy Committee revokes the request, or
  - (b) the Bank considers (in a case within subsection (3)), or the Treasury consider (in a case within subsection (4)), that the measure is incompatible with EU law.
- (6) Neither the Bank nor the Treasury may undertake the Article 458 notification process except in accordance with subsection (3) or (4).
- (7) Where the Bank undertakes the Article 458 notification process, it must consult the Treasury about the assessment required by Article 458 (2)(f) of the capital requirements regulation.
- (8) Where the Financial Policy Committee requests the Treasury to undertake the Article 458 notification process, it must include in the request any information that would in its opinion be relevant to any notification by the Treasury.

## **2B Financial Stability Committee**

.....

## **2C Financial Stability Committee: supplemental**

.....

## **3 Functions to be carried out by non-executive members**

.....

### **3A Oversight functions of court of directors**

- (1).....
- (2) The oversight functions of the court of directors are—
- (a) keeping under review the Bank's performance in relation to—
    - (i) the Bank's objectives (that is, the objectives specified in relation to it in this Act, the objectives specified in relation to the Prudential Regulation Authority in Part 1A of the Financial Services and Markets Act 2000 and the other objectives for the time being determined by the court of directors of the Bank),
    - (ii) the duty of the Financial Policy Committee under section 9C,
    - (iii) the Bank's strategy determined under section 2,

- (5) 符合下列情形時，第(3)項及第(4)項規定未要求本行或財政部進行第 458 條之通知程序—
- (a) 金融政策委員會廢止該要求；或
  - (b) 本行（於第(3)項範圍內）或財政部（於第(4)項範圍內）認定該措施不符合歐盟法律。
- (6) 除依第(3)項或第(4)項規定外，本行或財政部不得進行第 458 條之通知程序。
- (7) 本行進行第 458 條之通知程序前，應先洽請財政部就資本要求規則第 458 條第(2)項第(f)款所定之評估表示意見。
- (8) 金融政策委員會要求本行進行第 458 條之通知程序時，應於該要求中包含其認為與財政部之通知相關之任何資訊。

## **第 2B 條 金融穩定委員會**

.....

## **第 2C 條 金融穩定委員會：補充規定**

.....

## **第 3 條 非執行理事之職權**

.....

### **第 3A 條 理事會之監督職權**

- (1).....
- (2) 理事會之監督職權如下—
- (a) 檢討本行於下列事項之績效—
    - (i) 本行經營目標（即本法所定之經營目標、2000 年金融服務及市場法第 1A 章所定關於審慎監理局之目標，以及理事會當前所訂之其他經營目標）；
    - (ii) 第 9C 條所定金融政策委員會之職責；
    - (iii) 依第 2 條所訂之本行策略；

- (iv) the Bank's financial stability strategy determined under section 9A, and
- (v) the strategy of the Prudential Regulation Authority determined under section 2E of the Financial Services and Markets Act 2000;
- (b) monitoring the extent to which the objectives set by the court of directors of the Bank in relation to the Bank's financial management have been met;
- (c) keeping under review the internal financial controls of the Bank with a view to securing the proper conduct of its financial affairs;
- (d) the functions conferred on the court of directors by the provisions listed in subsection (4).
- (3) .....
- (4) The provisions referred to in subsection (2)(d) are—
  - (a) section 9B (review of procedures followed by Financial Policy Committee);
  - (b) section 16 (review of procedures followed by Monetary Policy Committee);
  - (c) .....
  - (d) .....
  - (e) .....
  - (f) .....
  - (g) .....
  - (h) .....

### 3B Oversight Committee: procedure

### 3C Reviews

- (1) In the discharge of any of its oversight functions, the court of directors may arrange—
  - (a) for a review to be conducted under this section in relation to any matter by a person appointed by the court of directors, and
  - (b) for the person conducting the review to make one or more reports to the court of directors.
- (1A) Where they consider that to do so would contribute to the discharge by the court of directors of any of its oversight functions, the non-executive directors of the Bank (or a majority of them) may arrange—
  - (a) for a review to be conducted under this section in relation to any matter by a person appointed by those directors, and
  - (b) for the person conducting the review to make one or more reports to the court of directors.

- (iv) 依第 9A 條所訂之本行金融穩定策略；及
- (v) 依 2000 年金融服務及市場法第 2E 條所訂之審慎監理局策略；
- (b) 監督理事會所訂本行財務管理目標之達成程度；
- (c) 檢討本行內部財務控制，以確保本行財務健全運作；
- (d) 第(4)項各款規定賦予理事會之職權。

(3) .....

(4) 第(2)項第(d)款所稱之規定如下—

- (a) 第 9B 條（審查金融政策委員會之議事程序）；
- (b) 第 16 條（審查貨幣政策委員會之議事程序）；
- (c) .....
- (d) .....
- (e) .....
- (f) .....
- (g) .....
- (h) .....

### 第 3B 條 監督委員會：議事程序

.....

### 第 3C 條 檢討

- (1) 理事會行使其監督職權時，得安排—
  - (a) 由理事會指派 1 人依本條規定對任何事務進行檢討；並
  - (b) 由該受指派檢討者向理事會提交報告。
- (1A) 非執行理事認為有助於理事會行使其監督職權時，非執行理事（或大多數非執行理事）得安排—
  - (a) 由前述理事指派 1 人依本條規定對任何事務進行檢討；並
  - (b) 由該受指派進行檢討之人向理事會提交報告。



- (2) The persons who may be appointed to conduct a review include an officer or employee of the Bank.
- (3) A review under this section is a "performance review" if it—
  - (a) is arranged in relation to the discharge of any of the court's functions under section 3A (2)(a) and (b), and
  - (b) relates to past events.
- (4) .....
- (5) In the case of a performance review, regard must be had to the desirability of ensuring that sufficient time has elapsed—
  - (a) for the review to be effective, and
  - (b) to avoid the review having a material adverse effect on the exercise by the Bank of its functions.

### 3D Publication of reports of performance reviews

- (1) The Bank must give the Treasury a copy of any report made to the court of directors by a person appointed under section 3C to conduct a performance review (as defined by subsection (3) of that section).
- (2) Subject to subsection (3), the Bank must also publish the report.
- (3) Subsection (2) does not require the publication of information whose publication at the time when the report is made would in the opinion of the court of directors of the Bank be against the public interest.
- (4) Where the court of directors decides under subsection (3) that publication of information at the time when the report is made would be against the public interest, it must keep under consideration the question of whether publication of the information would still be against the public interest.
- (5) Where the court of directors decides that publication of any information is no longer against the public interest, the Bank must publish the information.
- (6) The Treasury must lay before Parliament a copy of any report or other information published by the Bank under this section.

### 3E Recommendations resulting from review

- (1) This section applies where a report made by a person appointed under section 3C to conduct a review makes recommendations to the Bank as to steps to be taken by it.
- (2) The court of directors must—
  - (a) monitor the Bank's response to the report, and

- (2) 本行職員或受僱人員得被指派為進行檢討之人。
- (3) 本條之檢討，於符合下列情形時為「績效檢討」—
  - (a) 該檢討涉及理事會第 3A 條第(2)項第(a)款及第(b)款職權之行使；且
  - (b) 有關已發生事件之檢討。
- (4) .....
- (5) 為達成下列目的，進行績效檢討時，應確認已經過相當之期間：
  - (a) 使檢討能發揮效能；且
  - (b) 避免該檢討對本行職權之行使有重大不利影響。

### 第 3D 條 績效檢討報告之公布

- (1) 本行應向財政部提報依第 3C 條規定指派之人向理事會所作之（該條第(3)項定義之）績效檢討報告副本。
- (2) 本行應依第(3)項規定公布該報告。
- (3) 依第(2)項規定應公開之資訊，不包含理事會認為於報告完成時公開該資訊將違反公共利益者。
- (4) 理事會依第(3)項規定認定於報告完成時公開資訊將違反公共利益時，應持續考量公開該資訊是否仍然違反公共利益。
- (5) 理事會認定公開資訊不再違反公共利益時，本行即應公開該資訊。
- (6) 財政部應向國會提交本行依本條規定公布之報告副本或其他資訊。

### 第 3E 條 檢討結果之建議

- (1) 本條規定於依第 3C 條規定指派之人作成檢討報告內容有建議本行應採行之步驟時，適用之。
- (2) 理事會應—
  - (a) 監督本行對報告之回應；並

- (b) if or to the extent that the Bank accepts the recommendations, monitor the implementation of the recommendations.

### 3F Oversight functions: further provisions

- (1) The documents to which the court of directors is to have access in the discharge of its oversight functions include documents considered, or to be considered, by the Financial Policy Committee, the Monetary Policy Committee or the Prudential Regulation Committee.
- (2) One or two members of the court of directors may attend any meeting of the Financial Policy Committee, the Monetary Policy Committee or the Prudential Regulation Committee for the purposes of exercising its oversight functions, but a person attending by virtue of this subsection may not speak unless invited to do so by the person chairing the meeting.
- (2A) But a member of the court of directors who has any direct or indirect interest (including any reasonably likely future interest) in any dealing or business which falls to be considered by the Prudential Regulation Committee may not, under the powers conferred by this section—
- (a) obtain access to any documents relating to the dealing or business, or
- (b) attend any proceedings of the Prudential Regulation Committee relating to any question arising from its consideration of the dealing or business.
- (3) Subsection (2) does not affect—
- (a) anything done in relation to the Financial Policy Committee, the Monetary Policy Committee or the Prudential Regulation Committee by a member of that Committee who is also a member of the court of directors,
- (b) the powers of the Financial Policy Committee under paragraph 13 of Schedule 2A,
- (c) the powers of the Monetary Policy Committee under paragraph 13A of Schedule 3, or
- (d) the powers of the Prudential Regulation Committee under paragraph 15 (2) of Schedule 6A.

### 4 Annual report by the Bank

- (1) As soon as practicable after the end of each of its financial years, the Bank shall make to the Chancellor of the Exchequer a report on its activities in that year.
- (2) A report under this section shall, in particular, contain—
- (a) a report by the court of directors on the matters which it reviews, monitors or otherwise considers in the performance of its oversight functions (as defined by section 3A (2)),
- (aa) a report by the court of directors on the activities of the Financial Policy Committee of the Bank, and
- (b) a copy of the statements for the year prepared under section 7 (2) and (2A) and the report of the Bank's auditors on them.
- (3) .....
- (4) A report under this section shall also contain—

- (b) 於本行接受建議之情形下，監督其執行情形。

### 第 3F 條 監督職權：其他規定

- (1) 理事會行使其監督職權時，得查閱之文件，包含金融政策委員會、貨幣政策委員會或審慎監理委員會已納入考量或將納入考量之文件。
- (2) 理事會為行使其監督職權，得由其成員 1 或 2 人列席金融政策委員會、貨幣政策委員會或審慎監理委員會會議。但依本項規定列席之人員，未經會議主席徵詢不得發言。
- (2A) 理事會成員對於審慎監理委員會審議之交易或業務，有直接或間接利害關係（包含未來合理可能發生之利害關係）時，不得依本條賦予之權力—
- (a) 取得關於該項交易或業務之任何文件；或
- (b) 列席審慎監理委員會審議該項交易或業務之議程。
- (3) 第(2)項規定不影響—
- (a) 理事會成員同時亦為金融政策委員會、貨幣政策委員會或審慎監理委員會之成員時，對於該委員會之行為；
- (b) 金融政策委員會依附則 2A 第 13 點規定之權力；
- (c) 貨幣政策委員會依附則 3 第 13A 點規定之權力；或
- (d) 審慎監理委員會依附則 6A 第 15 點第(2)項規定之權力。

### 第 4 條 本行年度報告

- (1) 本行應於每一會計年度終了後，儘速就該年度業務狀況，向財政大臣提出報告。
- (2) 具體而言，本條之報告應包含—
- (a) 理事會就其職掌事項所為之報告；
- (aa) 理事會就金融政策委員會之業務狀況所為之報告；及
- (b) 依第 7 條第(2)項規定編製之年度會計報表副本及本行稽核人員對該報表之報告。
- (3) .....
- (4) 本條之年度報告並應包含—

- (a) a statement of the rate or rates at which non-executive directors of the Bank have been remunerated in the financial year to which the report relates, and
  - (b) a statement of the Bank's objectives and strategy, as determined by the court of directors of the Bank, for the financial year in which the report is made.
- (5) The Bank shall publish every report under this section in such manner as it thinks appropriate.
- (6) The Chancellor of the Exchequer shall lay copies of every report under this section before Parliament.
- (7) The Chancellor may comply with subsection (6) by laying a document containing a report under this section together with a report by the Prudential Regulation Authority under paragraph 19 of Schedule 1ZB to the Financial Services and Markets Act 2000.

## 5 Custody and use of the seal

- (1) The court of directors of the Bank shall have custody of the Bank's seal.
- (2) The seal shall only be affixed to an instrument if the affixation has been authorised by the court or by a sub-committee of the court acting in exercise of delegated authority.
- (3) The affixing of the seal shall be attested by the signature of—
  - (a) two members of the court,
  - (b) one member of the court and the secretary to the court, or
  - (c) two other officers of the Bank authorised by the court for the purpose.

### *Financial arrangements*

## 6 Cash ratio deposits

Schedule 2 (which makes provision about the maintenance of cash deposits with the Bank by certain financial institutions) shall have effect.

## 7 Accounts

- (1) The Bank shall keep proper accounts and records in relation to the accounts.
- (2) The Bank shall prepare for each of its financial years a statement of accounts consisting of—
  - (a) a balance sheet as at the last day of the year, and
  - (b) a profit and loss account.
- (2A) The Bank shall also prepare for each of its financial years a statement of accounts in relation to—

- (a) 該報告之會計年度內非執行理事受領薪資之說明；及
- (b) 編製該報告之會計年度內，理事會所決定之本行經營目標及策略。

(5) 本行應以其認為適當之方式公布本條之報告。

(6) 財政大臣應向國會提交本條之報告副本。

(7) 財政大臣得依第(6)項規定，提交本條之報告所包含之文件，以及審慎監理委員會依 2000 年金融服務及市場法附則 1ZB 第 19 點規定所為之報告。

## 第 5 條 印信之保管及使用

- (1) 理事會掌管本行之印信。
- (2) 印信僅得蓋用於理事會核准之文書，或理事會附屬之委員會經授權所核准之文書。
- (3) 印信之蓋用，應以下列人員簽署為憑—
  - (a) 理事會成員 2 人；
  - (b) 理事會成員 1 人及理事會秘書；或
  - (c) 理事會基於特定目的所授權之本行職員 2 人。

### *財務安排*

## 第 6 條 現金比率存款

附則 2（規定特定金融機構存放於本行之現金存款）隨同本法生效。

## 第 7 條 帳目

- (1) 本行應保有正確之帳目及其紀錄。
- (2) 本行每一會計年度應編製之會計報表包含—
  - (a) 該會計年度終止日之資產負債表；及
  - (b) 損益表。
- (2A) 本行每一會計年度亦應編製關於下列事項之會計報表—

- (a) income received and assets accrued by the Bank by virtue of its functions as the Prudential Regulation Authority, and
- (b) expenses and liabilities incurred by the Bank by virtue of its functions as the Prudential Regulation Authority.
- (3) In preparing accounts under subsection (2), the Bank shall be subject to requirements corresponding to the relevant Companies Act requirements, except insofar as the accounts relate to the Issue Department.
- (4) The Bank may disregard a requirement to which it is subject under subsection (3) to the extent that it considers it necessary to do so having regard to the Financial Stability Objective.
- (4A) In preparing a statement under subsection (2A) the Bank must comply with any directions given by the Treasury as to—
  - (a) the information to be contained in the statement and the manner in which it is to be presented, and
  - (b) the methods and principles according to which the statement is to be prepared.
- (5) The Bank shall appoint an auditor or auditors to audit its accounts, including any statement under subsection (2) or (2A) .
- (5A) The auditor's report on a statement under subsection (2A) must state whether the auditor is satisfied that the Bank has complied with the requirements of Part 3 of Schedule 1ZB to the Financial Services and Markets Act 2000 (Prudential Regulation Authority fees and penalties).
- (6) As soon as practicable after receiving the report of its auditors on a statement prepared under subsection (2) or (2A) , the Bank shall send a copy of—
  - (a) the report, and
  - (b) the statement,
 to the Chancellor of the Exchequer.
- (7) The Treasury may by notice in writing to the Bank require it to publish in such manner as it thinks fit such additional information relating to its accounts as the Treasury may specify in the notice, including information which the Bank has excluded under subsection (4) from a statement under subsection (2).
- (8) The Treasury shall consult the Bank before giving a notice under subsection (7).
- (8A) A direction under subsection (4A) or a notice under subsection (7) may be revoked by a further direction or notice.
- (9) In subsection (3), the reference to the relevant Companies Act requirements is to the requirements to which the directors of a company which is a banking company for the purposes of the Companies Act 2006 are for the time being subject under that Act (except sections 412 and 413 (directors' benefits)) in relation to the preparation of accounts under section 394 of that Act.

- (a) 本行因審慎監理局之職權而獲得之收入及資產；及
- (b) 本行因審慎監理局之職權而產生之支出及負債。
- (3)除發行部門之帳目外，本行應依公司法相關規定編製第(2)項所定之帳目。
- (4)本行於考量金融穩定目標認有必要時，得不依第(3)項規定辦理。
- (4A)本行編製第(2A)項之報表時，應遵循財政部所下達關於下列事項之指示—
  - (a) 報表內含之資訊及其呈現方式；及
  - (b) 編製報表應依據之方法及原則。
- (5)本行應指定稽核人員 1 人以上，稽查包含第(2)項或第(2A)項所定各項會計報表在內之本行帳目。
- (5A)關於第(2A)項報表之稽查報告，應載明本行是否遵循 2000 年金融服務及市場法附則 1ZB 第 3 章規定（審慎監理局之費用及罰則）之要求。
- (6)本行於收到稽核人員針對第(2)項或第(2A)項會計報表所為之稽查報告時，應儘速將下列資訊之副本送交財政大臣—
  - (a) 稽查報告；及
  - (b) 會計報表。
- (7)財政部得以書面通知要求本行以其認為適當之方式，公開該通知所列有關本行帳目之補充資訊；前述資訊包含本行依第(4)項規定免予編製之第(2)項會計報表。
- (8)財政部為第(7)項之通知前，應先洽商本行意見。
- (8A)第(4A)項之指示或第(7)項之通知得以另一指示或通知撤銷。
- (9)第(3)項規定所稱之公司法相關規定，係指銀行公司之董事所應依 2006 年公司法（除第 412 條及第 413 條（董事報酬）外）第 394 條關於編製帳目之規定。

**7ZA Audit: role of Comptroller and Auditor General**

- (1) Before appointing an auditor or auditors under section 7 (5), the Bank must consult the Comptroller and Auditor General ("the Comptroller").
- (2) The auditor or auditors appointed by the Bank must consult the Comptroller on the scope, timing and direction of the audit and on any audit plan (or any material revisions to an audit plan).
- (3) The Comptroller—
  - (a) has a right of access at any reasonable time to any document relating to the audit of the Bank's accounts which the Comptroller may reasonably require, and
  - (b) may require any person holding or accountable for any such document to provide such information and explanation as are reasonably necessary.
- (4) Subsection (3) applies only to documents in the custody or under the control of the Bank.
- (5) An obligation imposed on a person as a result of the exercise of the powers conferred by subsection (3) is enforceable by injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988.
- (6) The Comptroller (or a person nominated by the Comptroller) may attend any proceedings of the Bank's audit committee which are concerned with the audit of the Bank's accounts.
- (7) The "Bank's audit committee" means the committee or sub-committee within the Bank for the time being having responsibilities relating to the audit of the Bank's accounts.

**7A Accounts of companies wholly owned by the Bank**

- (1) If the Bank considers it necessary to do so having regard to the Financial Stability Objective, the Bank may by direction to a qualifying company exclude the application to the qualifying company of any of the relevant Companies Act requirements.
- (2) The relevant Companies Act requirements are the requirements to which the directors of the qualifying company would otherwise be subject under the Companies Act 2006 (except sections 412 and 413 (directors' benefits)) in relation to the preparation of accounts under section 394 of that Act.
- (3) A direction under subsection (1) may relate to one or more specified accounting periods of the qualifying company, or to a specified accounting period and all subsequent accounting periods of the qualifying company.
- (4) The Bank must consult the Treasury before giving a direction under subsection (1).

**第 7ZA 條 稽核：審計稽核總長之角色**

- (1) 本行依第 7 條第(5)項規定指定稽核人員前，應先洽商審計稽核總長（以下簡稱審計長）之意見。
- (2) 本行指定之稽核人員，應就稽查範圍、時點與方向，以及稽查計畫（或稽查計畫之重大修正）洽商審計長之意見。
- (3) 審計長—
  - (a) 有權在任何合理之時點，查閱其得合理取得與本行帳目稽查有關之任何文件；且
  - (b) 得要求持有或負責前述文件之人，提供合理必要之資訊及說明。
- (4) 第(3)項規定僅適用於本行保管或控制之文件。
- (5) 行使第(3)項賦予之權力而對特定人課予之義務，得依強制令或（於蘇格蘭）依 1988 年最高民事法院法第 45 條所為具體履行之命令強制執行。
- (6) 審計長（或其指定之人）得列席與本行帳目稽查有關之本行稽查會議。
- (7) 「本行稽查委員會」係指本行目前負責帳目稽查之委員會或附屬委員會。

**第 7A 條 本行獨資持有公司之帳目**

- (1) 本行於考量金融穩定目標認有必要時，得下達指示將合格公司排除適用公司法相關規定。
- (2) 公司法相關規定係指合格公司董事依 2006 年公司法（除第 412 條及第 413 條（董事報酬）外）第 394 條關於編製帳戶之規定。
- (3) 第(1)項之指示得涉及合格公司之 1 個或多個特定會計期間，或涉及合格公司之 1 個特定會計期間及其全部後續之會計期間。
- (4) 本行依第(1)項規定下達指示前，應先洽商財政部意見。

- (5) The Treasury may by notice in writing to the Bank require it to publish in such manner as it thinks fit such information relating to the accounts of a qualifying company as the Treasury may specify in the notice.
- (6) The information specified in a notice under subsection (5) may include information which as a result of a direction under subsection (1) was excluded from accounts prepared in accordance with the Companies Act 2006.
- (7) The Treasury must consult the Bank before giving a notice under subsection (5).
- (8) A direction under subsection (1) or a notice under subsection (5) may be revoked by a subsequent direction or notice (as the case may be).
- (9) "Qualifying company" means any company which is wholly owned by the Bank other than—
  - (a) .....
  - (b) a company which is a bridge bank for the purposes of section 12 (3) of the Banking Act 2009.
- (10) For the purposes of subsection (9), a company is wholly owned by the Bank if—
  - (a) it is a company of which no person other than the Bank or a nominee of the Bank is a member, or
  - (b) it is a wholly-owned subsidiary of a company within paragraph (a).

#### **7B Reports on Bank activities indemnified by Treasury**

- (1) This section applies where the Treasury give an indemnity or guarantee to the Bank in respect of an activity or series of activities undertaken by the Bank.
- (2) The Treasury may direct the Bank to prepare a financial report in relation to the activity or series of activities to which the indemnity or guarantee relates.
- (3) A direction under subsection (2) may include directions as to—
  - (a) the financial years for which a report is to be prepared,
  - (b) the information to be contained in the report and the manner in which it is to be presented, and
  - (c) the methods and principles according to which any statement of financial information to be contained in the report is to be prepared.
- (4) A direction under subsection (2) may be revoked by a further direction.
- (5) The Bank must send any report that it prepares under subsection (2) to the Treasury.
- (6) The Treasury may send the report to the Comptroller and Auditor General ("the Comptroller") for review.
- (7) The review is to consider such matters as may be agreed between the Comptroller and the Treasury.
- (8) The Comptroller—

- (5) 財政部得以書面通知本行，要求本行以其認為適當之方式，公布合格公司帳目之資訊；財政部得於通知中指定應公布之資訊。
- (6) 第(5)項通知所指定之資訊，得包含因第(1)項之指示而無須依 2006 年公司法規定編製帳戶之資訊。
- (7) 財政部依第(5)項規定為通知前，應先洽商本行。
- (8) 第(1)項之指示或第(5)項之通知，得（視具體情況）以另一指示或通知撤銷。
- (9) 「合格公司」係指本行獨資持有之公司。但不包含—
  - (a) .....
  - (b) 2009 年銀行法第 12 條第 3 項規範目的下之過渡銀行。
- (10) 依第(9)項規範目的，本行獨資持有之公司為—
  - (a) 除本行或本行提名之人外，無其他公司成員之公司；或
  - (b) 第(a)款之公司所獨資持有之子公司。

#### **第 7B 條 關於財政部保障本行業務之報告**

- (1) 本條適用於財政部對本行經營之業務提供保障或保證之情形。
- (2) 財政部得指示本行擬具涉及前述保障或保證業務之財務報告。
- (3) 第(2)項之指示得包含—
  - (a) 所擬具報告之會計年度；
  - (b) 該報告應涵蓋之資訊及提交方式；及
  - (c) 該報告內之會計報表，於編製時應依據之方法及原則。
- (4) 第(2)項之指示得以另一指示撤銷。
- (5) 本行應將依第(2)項規定擬具之報告，送交財政部。
- (6) 本行得將依第(2)項規定擬具之報告，送交審計稽核總長（以下簡稱「審計長」）審查。
- (7) 前項審查在於考量審計長及財政部可能商定之事項。
- (8) 審計長—

- (a) has a right of access at any reasonable time to any document the Comptroller may reasonably require for the purposes of the review, and
  - (b) may require any person holding or accountable for any such document to provide such information and explanation as are reasonably necessary.
- (9) Subsection (8) applies only to documents in the custody or under the control of—
- (a) the Bank;
  - (b) the auditor or auditors appointed by the Bank under section 7 (5).
- (10) An obligation imposed on a person as a result of the exercise of the powers conferred by subsection (8) is enforceable by injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988.

### 7C Accounts of Bank companies carrying on activities indemnified by Treasury

- (1) This section applies where the Treasury give an indemnity or guarantee to a company ("the company") in which the Bank has an interest, in respect of an activity or series of activities undertaken by the company.
- (2) The Treasury may direct the company to send to the Comptroller and Auditor General ("the Comptroller") accounts prepared by it in accordance with the Companies Act 2006 and any direction given by the Bank under section 7A (1).
- (3) A direction given under subsection (2)—
- (a) may relate to all financial years, or to financial years specified in the direction;
  - (b) may be revoked by a further direction.
- (4) Where a direction given under subsection (2) has effect in relation to a financial year, the company is exempt from the requirements of Part 16 of the Companies Act 2006 (audit) for that financial year, and its balance sheet must include a statement to that effect.
- (5) The Comptroller must examine any accounts sent to the Comptroller under this section with a view to satisfying himself or herself that the accounts have been properly prepared in all material respects in accordance with the bases of preparation identified in the accounts.
- (6) After completing the examination the Comptroller must—
- (a) certify the accounts and issue a report,
  - (b) send the certified accounts and the report to the Treasury, and
  - (c) if not satisfied that the accounts have been properly prepared in all material respects in accordance with the bases of preparation identified in the accounts, report to the House of Commons.

- (a) 有權在任何合理之時點，查閱其基於審查目的得合理取得之任何文件；且
  - (b) 得要求持有或負責前述文件之人，提供合理必要之資訊及說明。
- (9) 第(8)項規定僅適用於下列保管或控制之文件—
- (a) 本行；
  - (b) 本行依第 7 條第(5)項規定指定之稽核人員。
- (10) 行使第(8)項賦予之權力而對特定人課予之義務，得依強制令或（於蘇格蘭）依 1988 年最高民事法院法第 45 條所為具體履行之命令強制執行。

### 第 7C 條 關於財政部保障本行有利害關係公司業務之帳目

- (1) 本條適用於財政部對本行有利害關係之公司（以下簡稱「該公司」）經營之業務提供保障或保證之情形。
- (2) 財政部得指示該公司將依 2006 年公司法及本行依第 7A 條第(1)項規定下達之指示所編製之帳目，送交審計稽核總長（以下簡稱「審計長」）。
- (3) 第(2)項之指示—
- (a) 得涉及全部會計年度，或涉及該指示所列之會計年度；
  - (b) 得以另一指示撤銷。
- (4) 第(2)項之指示如影響某一會計年度，該公司就該會計年度無須依 2006 年公司法第 16 章（稽核）規定辦理，且其資產負債表應包含受影響之會計報表。
- (5) 審計長應檢查依本條規定向其送交之帳目，是否按其準備基礎在全部重要層面均適當編製。
- (6) 審計長完成檢查後，應—
- (a) 認證帳目並發布報告；
  - (b) 將認證之帳目及報告送交財政部；及
  - (c) 如帳目未按其準備基礎在全部重要層面均適當編製時，向下議院報告。

- (7) The Treasury must lay the copy of the certified accounts and the report before Parliament.
- (8) For the purposes of this section, the Bank has an interest in a company if—
  - (a) the Bank, or a nominee of the Bank, is a member of the company, or
  - (b) the company is a subsidiary undertaking of the Bank, within the meaning of section 1162 of the Companies Act 2006.

#### 7D Examination by Comptroller and Auditor General

- (1) The Comptroller and Auditor General ("the Comptroller") may carry out examinations into—
  - (a) the economy, efficiency and effectiveness with which the Bank has used its resources in discharging its functions;
  - (b) the economy, efficiency and effectiveness with which a Bank company has used its resources in discharging its functions.
- (2) An examination under this section may be limited to such functions (however described) of the Bank or the Bank company as the Comptroller considers appropriate.
- (3) An examination under this section is not to be concerned with the merits of the Bank's policy objectives.
- (4) An examination under this section is not to be concerned with the merits of—
  - (a) policy decisions taken by the Financial Policy Committee, the Monetary Policy Committee or the Prudential Regulation Committee;
  - (b) policy decisions taken by a committee or other body within the Bank for the time being having responsibilities for the supervision of payment systems, settlement systems, central securities depositories or clearing houses, so far as the decisions relate to that supervision.
- (5) Subject to subsection (6), an examination under this section is not to be concerned with the merits of policy decisions taken by a committee or other body within the Bank for the time being having responsibilities for the exercise of any of the Bank's resolution functions, so far as the decisions relate to those functions.
- (6) Where the Bank has exercised relevant resolution functions in relation to a financial institution, subsection (5) does not prevent an examination under this section being concerned with the merits of policy decisions within that subsection which are relevant to the Bank's exercise of its resolution functions in relation to that institution (whether or not those policy decisions are also relevant to other financial institutions).
- (7) "Relevant resolution functions" are—
  - (a) any of the stabilisation powers;
  - (b) any of the Bank's functions (other than its functions as the Prudential Regulation Authority) under or by virtue of—
    - (i) Part 2 or 3, or section 233, of the Banking Act 2009,
    - (ii) Part 6 of the Financial Services (Banking Reform) Act 2013.

- (7) 財政部應向國會提交認證之帳目及報告之副本。
- (8) 依本條規範目的，本行有利害關係之公司係指—
  - (a) 本行或本行提名之人為該公司成員之一；或
  - (b) 該公司依2006年公司法第1162條之定義為本行之子公司。

#### 第 7D 條 審計稽核總長之檢查

- (1) 審計稽核總長（以下簡稱「審計長」）得就下列事項進行檢查—
  - (a) 本行利用其資源來行使職權之經濟、效率及有效性；
  - (b) 本行之公司利用其資源來行使職權之經濟、效率及有效性。
- (2) 審計長認為適當時，得將本條之檢查範圍限於本行或本行之公司之特定職權（無論如何敘明）。
- (3) 本條之檢查不涉及本行政策目標之優劣。
- (4) 本條之檢查不涉及下列事項之優劣—
  - (a) 金融政策委員會、貨幣政策委員會或審慎監理委員會所為之政策決定；
  - (b) 本行目前負責監理支付系統、清算系統、證券集中保管機構或結算機構之委員會或其他機構所為關於前述監理事項之政策決定。
- (5) 除第(6)項另有規定外，本條之檢查不涉及本行目前負責清理職權之委員會或其他機構所為關於前述職權政策決定之優劣。
- (6) 本行已就金融機構行使相關清理職權時，本條之檢查得涉及本行就該機構行使清理職權所為政策決定之優劣（不論該項政策決定是否影響其他金融機構），不受第(5)項規定之限制。
- (7) 「相關清理職權」係指—
  - (a) 關於穩定之權力；
  - (b) 依據或憑藉下列法律賦予本行之職權（但不包括本行作為審慎監理局之職權）—
    - (i) 2009 年銀行法第 2 章、第 3 章或第 233 條；
    - (ii) 2013 年金融服務（銀行業改革）法第 6 章。



- (8) Before carrying out an examination under this section, the Comptroller must consult the court of directors of the Bank.
- (9) The Comptroller may report to the House of Commons the results of any examination carried out by the Comptroller under this section.
- (10) For the purposes of this section—  
 "Bank company" means—  
 (a) a company which is a subsidiary undertaking of the Bank, within the meaning of section 1162 of the Companies Act 2006;  
 (b) a company not within paragraph (a) in respect of which a direction under section 7C (2) has effect;  
 "resolution functions" means the Bank's functions (other than its functions as the Prudential Regulation Authority) under or by virtue of—  
 (a) Parts 1 to 3, and section 233, of the Banking Act 2009,  
 (b) Part 6 of the Financial Services (Banking Reform) Act 2013,  
 (c) the Bank Recovery and Resolution (No. 2) Order 2014 (S.I.2014/3348);  
 "stabilisation powers" has the same meaning as in the Banking Act 2009 (see section 1 (4) of that Act).
- (11) Section 6 of the National Audit Act 1983 (Comptroller may carry out economy, efficiency and effectiveness examinations) does not apply to the Bank or a Bank company.

## 7E Memorandum of understanding

- (1) The Bank and the Comptroller must prepare and maintain a memorandum of understanding about examinations under section 7D.
- (2) The memorandum must in particular include provision—  
 (a) as to functions of the Bank in respect of which the Comptroller will not usually consider it appropriate to carry out an examination;  
 (b) identifying the committees or other bodies referred to in section 7D (4)(b) and (5);  
 (c) establishing a procedure for resolving in a timely fashion any dispute between the Bank and the Comptroller as to whether a matter is (under section 7D (3) to (6)) a matter with which an examination under section 7D is not to be concerned;  
 (d) for the publication of the views of the Bank and the Comptroller as to whether a matter is such a matter, in cases where a dispute between them cannot be resolved.

(8) 審計長依本條進行檢查前，應先洽商理事會意見。

(9) 審計長得向下議院報告依本條進行檢查之結果。

(10) 依本條規範目的—

「本行之公司」係指—

(a) 依 2006 年公司法第 1162 條之定義為本行之子公司；

(b) 非屬第(a)款但得受第 7C 條第(2)項指示之公司；

「清理職權」係指依據或憑藉下列法規賦予本行之職權（但不包括本行作為審慎監理局之職權）—

(a) 2009 年銀行法第 1 章至第 3 章及第 233 條；

(b) 2013 年金融服務（銀行業改革）法第 6 章；

(c) 2014 年（S.I.2014 第 3348 號）銀行復原及清理（第 2 號）命令；

「關於穩定之權力」之定義與 2009 年銀行法規定相同（參見該法第 1 條第(4)項）。

(11) 1983 年國家審計法第 6 條規定（審計長得進行經濟、效率及有效性檢查）不適用於本行或本行之公司。

## 第 7E 條 諒解備忘錄

(1) 本行及審計長應擬具並維護關於第 7D 條檢查之諒解備忘錄。

(2) 具體而言，備忘錄應包含下列事項—

(a) 審計長認為不宜進行檢查之本行職權；

(b) 指明第 7D 條第(4)項第(b)款及第(5)項之委員會或其他機構；

(c) 就特定事項是否屬於第 7D 條檢查（依第 7D 條第(3)項至第(6)項）不得涉及事項而產生之爭議，建立及時解決程序；

(d) 對於無法解決之爭議，公布本行及審計長就該事項是否屬於不得涉及事項之意見。

**7F Review by the Treasury**

- (1) The Treasury may appoint an independent person to conduct a review of the economy, efficiency and effectiveness with which the Bank has used its resources in discharging its functions as the Prudential Regulation Authority.
- (2) "Independent" means appearing to the Treasury to be independent of the Bank.
- (3) A review under this section may be limited to such of the Bank's functions as the Prudential Regulation Authority (however described) as the Treasury may specify in appointing the person to conduct it.
- (4) A review under this section is not to be concerned with the merits of the Bank's general policy or principles in pursuing the Bank's objectives (including its objectives as the Prudential Regulation Authority).
- (5) On completion of the review, the person conducting it must make a written report to the Treasury—
  - (a) setting out the result of the review, and
  - (b) making such recommendations (if any) as the person considers appropriate.
- (6) A copy of the report must be—
  - (a) laid before Parliament, and
  - (b) published in such manner as the Treasury think fit.
- (7) Any expenses reasonably incurred in the conduct of the review are to be met by the Treasury out of money provided by Parliament.

**7G Right to obtain documents and information**

- (1) A person conducting an examination under section 7D or a review under section 7F—
  - (a) has a right of access at any reasonable time to any document the person may reasonably require for the purposes of the examination or review, and
  - (b) may require any person holding or accountable for any such document to provide such information and explanation as are reasonably necessary for that purpose.
- (2) Subsection (1) applies to documents in the custody or under the control of—
  - (a) the Bank;
  - (b) the auditor or auditors appointed by the Bank under section 7 (5).
- (3) In the case of an examination under section 7D (1)(b), subsection (1) also applies to documents in the custody or under the control of—
  - (a) the company to which the examination relates;
  - (b) the auditor or auditors of that company.

**第 7F 條 財政部之檢討**

- (1) 財政部得指定獨立人士 1 人，就本行利用其資源來行使作為審慎監理局職權之經濟、效率及有效性進行檢討。
- (2) 「獨立」係指就財政部而言獨立於本行。
- (3) 財政部指定進行檢查之獨立人士時，得將本條之檢討範圍限於本行作為審慎監理局之特定職權（無論如何敘明）。
- (4) 本條之檢討不涉及為實現本行經營目標（包括本行作為審慎監理局之經營目標）之本行一般政策或原則之優劣。
- (5) 該獨立人士完成檢討後，應向財政部提交書面報告—
  - (a) 列出檢討之成果；及
  - (b) （如有建議時）提出其認為適當之建議。
- (6) 報告之副本應—
  - (a) 向國會提交；及
  - (b) 以財政部認為適當之方式公布。
- (7) 進行檢討所產生之合理費用，由財政部以國會提供之資金支應。

**第 7G 條 文件及資訊之取得權**

- (1) 進行第 7D 條檢查或第 7F 條檢討之人—
  - (a) 有權在任何合理之時點，查閱其基於檢查或檢討目的得合理取得之任何文件；且
  - (b) 得要求持有或負責前述文件之人，提供合理必要之資訊及說明。
- (2) 第(1)項規定適用於下列保管或控制之文件—
  - (a) 本行；
  - (b) 本行依第 7 條第(5)項規定指定之稽核人員。
- (3) 進行第 7D 條第(1)項第(b)款之檢查時，第(1)項規定亦適用於下列保管或控制之文件—
  - (a) 該檢查涉及之公司；
  - (b) 前述公司之稽核人員。

- (4) An obligation imposed on a person as a result of the exercise of the powers conferred by subsection (1) is enforceable by injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988.

## 7H Restriction on disclosing information

Section 353A of the Financial Services and Markets Act 2000 (FCA not to disclose certain information received from the Bank) applies in relation to the Comptroller and Auditor General and the National Audit Office as it applies in relation to the Financial Conduct Authority.

## 8 Payments in lieu of dividends

- (1) In section 1 of the Bank of England Act 1946, in subsection (4), (amount payable to Treasury in lieu of dividends on Bank stock), for the words from "the sum" to the end there is substituted "a sum equal to 25 per cent. of the Bank's net profits for its previous financial year, or such other sum as the Treasury and the Bank may agree."
- (2) In that section, at the end there is inserted—
- "(6) In subsection (4) of this section, the reference to the Bank's net profits for its previous financial year is to the profits shown in the audited accounts for that year less the amount of the tax charge so shown."
- (3) In Schedule 1 to that Act (supplemental provisions), after paragraph 11 there is inserted—
- "11A (1) If, when a payment falls to be made under section 1 (4) of this Act, the Bank's accounts for the previous financial year have not been audited, the payment shall be made on the basis of the Bank's estimate of the relevant amounts.
- (2) If an amount estimated under sub-paragraph (1) of this paragraph differs from the amount shown in the audited accounts, an appropriate adjustment shall be made to the next payment under section 1 (4) of this Act to be made after the difference becomes apparent."
- (4) In that Schedule, for paragraph 14 there is substituted—
- "14 Any sum paid by the Bank to the Treasury in lieu of dividends shall be allowed as a deduction in assessing the Bank to corporation tax for the accounting period by reference to which the payment is calculated."

- (4) 行使第(1)項賦予之權力而對特定人課予之義務，得依強制令或（於蘇格蘭）依 1988 年最高民事法院法第 45 條所為具體履行之命令強制執行。

## 第 7H 條 資訊揭露之限制

2000 年金融服務及市場法第 353A 條規定（金融督導局不得揭露自本行取得之特定資訊）適用於審計稽核總長及國家審計局，因該規定適用於金融督導局。

## 第 8 條 以繳庫款代替股息

- (1) 1946 年英格蘭銀行法第 1 條第(4)項規定（繳付財政部代替本行股息之金額），自「金額」等語至句末，修正為「相當於本行上一會計年度淨利 25% 之金額，或財政部與本行商定之其他金額。」
- (2) 於前項條文之末增訂—
- 「(6) 第(4)項規定所稱之本行上一會計年度淨利，係指該會計年度稽核帳目所列出之盈餘扣除稅捐之金額。」
- (3) 於第(1)項法律之附則 1（補充規定）第 11 點後增訂—
- 「11A. (1) 本行依本法第 1 條第(4)項規定繳庫時，如本行上一會計年度帳目尚未完成稽查，前述應付金額應以本行就相關帳目之估算金額為計付基礎。
- (2) 依第(1)項規定估算之金額與帳目稽查後之金額不同時，本行應依本法第 1 條第(4)項規定之金額，於次期付款時為適當之調整。」
- (4) 前述附則第 14 點規定修正為—
- 「14. 本行繳付財政部代替本行股息之金額，於核計同一會計期間之公司稅時，視為扣除額。」

*Supplementary***9 Consequential amendments**

- (1) In section 14 of the National Debt Reduction Act 1786 and section 32 of the Life Annuities Act 1808, for "deputy governor" there is substituted "deputy governors".
- (2) In section 55 of the National Debt Act 1870, the first reference to the Deputy Governor of the Bank of England shall be treated as a reference to a Deputy Governor of the Bank of England.
- (3) In section 3 (3) of the Bank of England Act 1946, after "this Act" there is inserted "and the Bank of England Act 1998".

**PART 1A**  
**FINANCIAL STABILITY**

*Financial stability strategy of the Bank***9A Financial stability strategy**

- (1) The court of directors must—
  - (a) determine the Bank's strategy in relation to the Financial Stability Objective (its "financial stability strategy"), and
  - (b) from time to time review, and if necessary revise, the strategy.
- (2) Before determining or revising the Bank's financial stability strategy, the court of directors must consult about a draft of the strategy or of the revisions—
  - (a) the Financial Policy Committee, and
  - (b) the Treasury.
- (3) The Financial Policy Committee may at any time make recommendations to the court of directors as to the provisions of the Bank's financial stability strategy.
- (4) The court of directors must determine the financial stability strategy of the Bank within 6 months of the coming into force of this section.
- (5) The court of directors must carry out and complete a review of the Bank's financial stability strategy before the end of each relevant period.

**補充規定****第 9 條 相應修正規定**

- (1) 1786 年國家債務縮減法第 14 條及 1808 年國民年金法第 32 條之「副總裁」，修正為「副總裁數人」。
- (2) 1870 年國家債務法第 55 條首次援引之英格蘭銀行副總裁，應被視為英格蘭銀行副總裁之一。
- (3) 1946 年英格蘭銀行法第 3 條第(3)項之「本法」後，增列「及 1998 年英格蘭銀行法」。

**第 1A 章 金融穩定***本行金融穩定策略***第 9A 條 金融穩定策略**

- (1) 理事會應—
  - (a) 訂定本行有關金融穩定目標之策略（以下簡稱「金融穩定策略」）；且
  - (b) 不定期檢討，並於必要時修正該策略。
- (2) 理事會訂定或修正金融穩定策略前，應先就其草案或修正草案洽商下列機關之意見—
  - (a) 金融政策委員會；及
  - (b) 財政部。
- (3) 金融政策委員會得隨時就金融穩定策略相關規定，向理事會提出建議。
- (4) 理事會應於本條規定生效後 6 個月內，訂定金融穩定策略。
- (5) 理事會應於有關期間結束前，進行並完成金融穩定策略之檢討。

- (6) The relevant period is 3 years beginning with the date on which the previous review was completed, except that in the case of the first review the relevant period is the period of 3 years beginning with the date on which the strategy was determined under subsection (4).
- (7) The Bank must publish its financial stability strategy.
- (8) If the financial stability strategy is revised, the Bank must publish the revised strategy.
- (9) Publication under subsection (7) or (8) is to be in such manner as the Bank thinks fit.

*Financial Policy Committee of the Bank*

**9B Financial Policy Committee**

- (1) There is to be a committee of the Bank (the "Financial Policy Committee") consisting of—
  - (a) the Governor of the Bank,
  - (b) the Deputy Governor for financial stability,
  - (ba) the Deputy Governor for markets and banking,
  - (bb) the Deputy Governor for monetary policy,
  - (bc) the Deputy Governor for prudential regulation,
  - (c) the Chief Executive of the FCA,
  - (d) one member appointed by the Governor of the Bank after consultation with the Chancellor of the Exchequer,
  - (e) 5 members appointed by the Chancellor of the Exchequer, and
  - (f) a representative of the Treasury.
- (2) The member appointed under subsection (1)(d) is to be a person who has executive responsibility within the Bank for the analysis of threats to financial stability.
- (3) Before appointing a person under subsection (1)(e), the Chancellor of the Exchequer must—
  - (a) be satisfied that the person has knowledge or experience which is likely to be relevant to the Committee's functions, and
  - (b) consider whether the person has any financial or other interests that could substantially affect the functions as member that it would be proper for the person to discharge.
- (4) The court of directors of the Bank must keep the procedures followed by the Financial Policy Committee under review.
- (5) Schedule 2A has effect with respect to the Financial Policy Committee.

- (6) 有關期間為自前次檢討完成之日起算 3 年。但首次檢討時，為本行依第(4)項規定訂定該策略之日起算 3 年。
- (7) 本行應公布金融穩定策略。
- (8) 金融穩定策略修正時，本行應公布修正後之策略。
- (9) 第(7)項或第(8)項所定之公布，應以本行認為適當之方式為之。

*本行金融政策委員會*

**第 9B 條 金融政策委員會**

- (1) 理事會設附屬委員會（即「金融政策委員會」），其成員包含—
  - (a) 總裁；
  - (b) 負責金融穩定之副總裁；
  - (ba) 負責市場及銀行業務之副總裁；
  - (bb) 負責貨幣政策之副總裁；
  - (bc) 負責審慎監理之副總裁；
  - (c) 金融督導局局長；
  - (d) 總裁洽商財政大臣後任命之成員 1 人；
  - (e) 財政大臣任命之成員 5 人；及
  - (f) 財政部代表 1 人。
- (2) 依第(1)項第(d)款規定任命之成員，應為對於威脅金融穩定分析事項具有執行權限之本行人員。
- (3) 財政大臣依第(1)項第(e)款規定任命人員前，應—
  - (a) 確認該名人員具有與委員會職權相關之專門學識或經驗；且
  - (b) 考量該名人員是否有嚴重影響適當行使委員職權之財務或其他利害關係。
- (4) 理事會應審查金融政策委員會之議事程序。
- (5) 附則 2A 關於金融政策委員會之規定，隨同本法生效。

**9C Objectives of the Financial Policy Committee**

- (1) The Financial Policy Committee is to exercise its functions with a view to—
  - (a) contributing to the achievement by the Bank of the Financial Stability Objective, and
  - (b) subject to that, supporting the economic policy of Her Majesty's Government, including its objectives for growth and employment.
- (2) The responsibility of the Committee in relation to the achievement by the Bank of the Financial Stability Objective relates primarily to the identification of, monitoring of, and taking of action to remove or reduce, systemic risks with a view to protecting and enhancing the resilience of the UK financial system.
- (3) Those systemic risks include, in particular—
  - (a) systemic risks attributable to structural features of financial markets, such as connections between financial institutions,
  - (b) systemic risks attributable to the distribution of risk within the financial sector, and
  - (c) unsustainable levels of leverage, debt or credit growth.
- (4) Subsections (1)(a) and (2) do not require or authorise the Committee to exercise its functions in a way that would in its opinion be likely to have a significant adverse effect on the capacity of the financial sector to contribute to the growth of the UK economy in the medium or long term.
- (5) In this Part "systemic risk" means a risk to the stability of the UK financial system as a whole or of a significant part of that system.
- (6) For the purposes of subsection (5) it is immaterial whether the risk arises in the United Kingdom or elsewhere.
- (7) In subsection (3)(c)—
 

"credit growth" means the growth in lending by the financial sector to individuals in the United Kingdom and businesses carried on in the United Kingdom;

"debt" means debt owed to the financial sector by individuals in the United Kingdom and businesses carried on in the United Kingdom;

"leverage" means the leverage of the financial sector in the United Kingdom.

**9D Specification of matters relevant to economic policy**

- (1) The Treasury may by notice in writing to the Financial Policy Committee specify for the purposes of section 9C (1)(b) what the economic policy of Her Majesty's Government is to be taken to be.
- (2) The Treasury must specify under subsection (1) the matter mentioned there—

**第 9C 條 金融政策委員會之目標**

- (1) 金融政策委員會應基於下列目的行使其職權—
  - (a) 促成本行達成金融穩定目標；及
  - (b) 於前述目標範圍內，支持英國政府之經濟政策，包含經濟成長及充分就業之目標。
- (2) 委員會有關促成本行達成金融穩定目標之職責，主要應係在辨識、監控系統風險，並採行除去或降低該風險之措施，以保護及強化英國金融體系之回復能力。
- (3) 具體而言，該等系統風險包含—
  - (a) 來自於金融市場結構因素之系統風險，例如金融機構間之關聯性；
  - (b) 來自於金融部門內風險分散之系統風險；
  - (c) 無法持續之財務槓桿比率、負債或信用成長水準。
- (4) 第(1)項第(a)款及第(2)項規定並未要求或授權委員會，以對金融部門促進英國中長期經濟成長可能產生重大負面影響之方式，行使其職權。
- (5) 本章所稱之「系統風險」，係指危及英國整體或重大部分金融體系穩定之風險。
- (6) 第(5)項之規範目的，與該風險是否發生於英國境內或其他地區無關。
- (7) 第(3)項第(c)款之用詞定義如下—
 

「信用成長」係指金融部門對於英國境內之個人或企業貸放之成長。

「負債」係指英國境內之個人或企業對金融部門之負債。

「財務槓桿」係指英國金融部門之財務槓桿。

**第 9D 條 經濟政策相關事項之說明**

- (1) 為達成第 9C 條第(1)項第(b)款之目的，財政部得以書面通知金融政策委員會，詳述屬於英國政府經濟政策之事項。
- (2) 財政部為第(1)項之通知，應—

- (a) before the end of the period of 30 days beginning with the day on which section 9C comes into force, and
  - (b) at least once in every calendar year following that in which the first notice under that subsection is given.
- (3) Where the Treasury give notice under this section they must—
- (a) publish the notice in such manner as they think fit, and
  - (b) lay a copy of it before Parliament.

### 9E Recommendations by Treasury

- (1) The Treasury may at any time by notice in writing to the Financial Policy Committee make recommendations to the Committee about—
- (a) matters that the Committee should regard as relevant to the Committee's understanding of the Bank's Financial Stability Objective;
  - (b) the responsibility of the Committee in relation to the achievement of that objective;
  - (c) the responsibility of the Committee in relation to support for the economic policy of Her Majesty's Government, including its objectives for growth and employment;
  - (d) matters to which the Committee should have regard in exercising its functions.
- (2) The Treasury must make recommendations under subsection (1)(a) or (b) ("recommendations about the objective")—
- (a) before the end of the period of 30 days beginning with the day on which this section comes into force, and
  - (b) at least once in every calendar year following that in which the first recommendations about the objective are made.
- (3) The Committee must respond to any recommendations made to it under subsection (1) by notifying the Treasury, in relation to each recommendation, of one or more of the following—
- (a) action that the Committee has taken in accordance with the recommendation;
  - (b) if or to the extent that the recommendation does not relate to immediate action, the Committee's intention to act in accordance with it;
  - (c) whether or not the recommendation relates to immediate action, the Committee's reasons for not intending to act in accordance with it.
- (4) Notification under subsection (3) must be given or confirmed in writing.
- (5) The Treasury must—
- (a) publish in such manner as they think fit any notice given under subsection (1) or notification received under subsection (3), and
  - (b) lay a copy of it before Parliament.

- (a) 自第 9C 條規定生效之日起 30 日內為之；且
  - (b) 依前項規定為首次通知後，每年至少通知 1 次。
- (3) 財政部依本條規定為通知時，應—
- (a) 以其認為適當之方式，公布該通知；並
  - (b) 向國會提交該通知之副本。

### 第 9E 條 財政部之建議

- (1) 財政部得隨時就下列事項提出建議，並以書面通知金融政策委員會—
- (a) 委員會應認定為與本行金融穩定目標有關之事項；
  - (b) 有關委員會達成前款目標之職責；
  - (c) 有關委員會支持英國政府經濟政策（包含經濟成長與充分就業目標）之職責；
  - (d) 委員會行使職權時應考量之事項。
- (2) 財政部提出第(1)項第(a)款或第(b)款之建議（以下簡稱「有關目標之建議」），應—
- (a) 自第(1)項規定生效之日起 30 日內為之；並
  - (b) 自首次提出有關目標之建議後，每年至少提出 1 次。
- (3) 委員會應以下列方式，逐一回應第(1)項之建議，並通知財政部—
- (a) 委員會依據該建議已採行之作為；
  - (b) 於該建議尚無須立即作為之情形下，委員會依據該建議計畫採行之作為；
  - (c) 不論該建議是否須立即作為，委員會未依據該建議採取作為之理由。
- (4) 第(3)項之通知應以書面為之或確認。
- (5) 財政部應—
- (a) 以其認為適當之方式，公布第(1)項或第(3)項之通知；並
  - (b) 向國會提交該通知之副本。

**9F Other general duties**

- (1) In the exercise of its functions, other than its functions under section 9A (2) or (3), the Financial Policy Committee must have regard to the Bank's financial stability strategy.
- (2) In working with the FCA or the PRA or exercising functions in relation to either of them, the Committee must, so far as it is possible to do so while complying with section 9C (1), seek to avoid exercising the Committee's functions in a way that would prejudice—
  - (a) the advancement by the FCA of any of its operational objectives, or
  - (b) the advancement by the PRA of any of its objectives.
- (3) In the exercise of its functions, the Committee must also have regard to—
  - (a) the principle that a burden or restriction which is imposed on a person, or on the carrying on of an activity, should be proportionate to the benefits, considered in general terms, which are expected to result from the imposition of that burden or restriction;
  - (b) the contribution to the achievement by the Bank of the Financial Stability Objective that the Committee can make by disclosing its views about possible systemic risks or disclosing other information about possible systemic risks;
  - (c) the international obligations of the United Kingdom, particularly where relevant to the exercise of the powers of the Committee in relation to the FCA or the PRA.

**9G Functions of the Financial Policy Committee**

- (1) The functions of the Financial Policy Committee are—
  - (a) monitoring the stability of the UK financial system with a view to identifying and assessing systemic risks;
  - (b) giving directions under section 9H;
  - (c) making recommendations under sections 9O to 9R;
  - (d) preparing financial stability reports under section 9W.
- (2) The court of directors may, with the consent of the Treasury, arrange for specified functions of the Bank to be discharged by the Financial Policy Committee.

**第 9F 條 其他一般職責**

- (1) 除第 9A 條第(2)項或第(3)項之職權外，金融政策委員會行使其職權時，應考量本行之金融穩定策略。
- (2) 委員會與金融督導局或審慎監理局合作，或行使與此二機關有關之職權時，在儘可能遵循第 9C 條第(1)項規定之前提下，委員會應避免以可能損害下列事項之方式行使其職權—
  - (a) 金融督導局經營目標之增進；或
  - (b) 審慎監理局監管目標之增進。
- (3) 委員會行使其職權時，並應考量下列事項—
  - (a) 對個人或業務課予之負擔或限制，應與其預期達成之利益相當；
  - (b) 委員會揭露其有關可能發生系統風險之意見或有關可能發生系統風險之其他資訊，可促成本行達成金融穩定目標；
  - (c) 英國之國際義務，特別是在委員會行使與金融督導局或審慎監理局有關之職權時。

**第 9G 條 金融政策委員會之職權**

- (1) 金融政策委員會之職權如下—
  - (a) 監控英國金融體系之穩定性，以辨識及評估系統風險；
  - (b) 依第 9H 條規定下達指示；
  - (c) 依第 9O 條至第 9R 條規定提出建議；
  - (d) 依第 9W 條規定擬具金融穩定報告。
- (2) 理事會得經財政部同意，將本行特定職權委由金融政策委員會行使。



*Directions by Financial Policy Committee***9H Directions to FCA or PRA requiring macro-prudential measures**

- (1) The Financial Policy Committee may give a direction to the FCA or the PRA ("the regulator") requiring the regulator to exercise its functions so as to ensure the implementation, by or in relation to a specified class of regulated persons, of a macro-prudential measure described in the direction.
- (2) "Regulated person" means—
  - (a) in relation to the FCA—
    - (i) an authorised person within the meaning of FSMA 2000,
    - (ii) a recognised investment exchange within the meaning of that Act, or
    - (iii) an EEA market operator as defined by section 312D of that Act;
  - (b) in relation to the PRA, a PRA-authorised person within the meaning of that Act.
- (3) "Macro-prudential measure" is to be read in accordance with section 9L.
- (4) The direction may relate to all regulated persons or to regulated persons of a specified description, but may not relate to a specified regulated person.
- (5) The direction—
  - (a) may refer to the opinion of the regulator or require or authorise the exercise of a discretion by the regulator;
  - (b) may be expressed to remain in force for a specified period or until revoked.
- (6) The direction may not require its provisions to be implemented by specified means or within a specified period, but may include recommendations as to the means to be used and the timing of implementation.
- (7) A recommendation made under subsection (6) may be expressed to be one to which section 9Q (3) (duty to comply or explain) applies.
- (8) The direction may not require the regulator to do anything that it has no power to do, but the existence of the direction is relevant to the exercise of any discretion conferred on the regulator.

*金融政策委員會之指示***第 9H 條 要求金融督導局或審慎監理局採行總體審慎措施之指示**

- (1) 金融政策委員會得對金融督導局或審慎監理局（以下合稱「監管者」）下達指示，要求監管者行使其職權，以確保得透過或針對特定類別之受監管者執行該指示所列之總體審慎措施。
- (2) 「受監管者」係指—
  - (a) 與金融督導局相關時，為—
    - (i) 2000 年金融服務及市場法所定義之取得許可者；
    - (ii) 前款法律所定義之經核可之投資交易所；或
    - (iii) 第(i)款法律第 312D 條所定義之歐洲經濟區市場經營者。
  - (b) 與審慎監理局相關時，為前款法律所定義之經審慎監理局許可者。
- (3) 「總體審慎措施」應依第 9L 條之解釋。
- (4) 本條之指示得規範全部或特定類型之受監管者。但不得僅規範單一特定受監管者。
- (5) 本條之指示—
  - (a) 得援引監管者之意見，或要求或授權監管者行使其裁量權；
  - (b) 得明定於特定期間內或未經撤銷前具有效力。
- (6) 本條之指示不得要求以特定方式或於特定期間內執行其規定。但得建議採行之方式及執行之時機。
- (7) 依第(6)項規定所為之建議，得載明其適用第 9Q 條第(3)項（遵循或解釋之職責）規定。
- (8) 本條之指示不得要求監管者採行其無權執行之措施。但得涉及與監管者行使裁量權有關之事項。

- (9) The direction may specify particular matters to which the regulator is or is not to have regard in complying with the direction, but those matters must be specified in relation to all regulated persons or a class of regulated person rather than a specified regulated person.
- (10) The direction may refer to a publication issued by the FCA, the PRA, another body in the United Kingdom or an international organisation, as the publication has effect from time to time.
- (11) Before giving a direction under this section, the Financial Policy Committee—
  - (a) must consider whether the measure is one to which Article 458 of the capital requirements regulation applies, and
  - (b) if the Committee is of the opinion that it is, may request the Bank to complete the notification process required by that Article.

#### 9I Compliance with directions under section 9H

- (1) The regulator must comply with a direction given to it under section 9H as soon as reasonably practicable.
- (1A) But where a direction under section 9H concerns the implementation of a measure to which Article 458 of the capital requirements regulation applies, the regulator—
  - (a) is not required to comply with the direction unless it has been notified by the Financial Policy Committee that the measure is authorised in accordance with that Article, and
  - (b) must then comply with the direction as soon as reasonably practicable.
- (2) An order under section 9L may, in relation to cases where the regulator is complying with a direction under section 9H, exclude or modify any procedural requirement that would otherwise apply under FSMA 2000 in relation to the exercise by the regulator of its functions in pursuance of the direction.
- (3) The regulator to which a direction under section 9H is given must give the Financial Policy Committee one or more reports on how it is complying or has complied with the direction.
- (4) The Financial Policy Committee may give directions to the regulator specifying the times by which reports required by subsection (3) must be given to the Committee.
- (4A) For the purposes of subsection (1A), a measure is authorised in accordance with Article 458 of the capital requirements regulation if the notification process required by that Article has been completed and any of the following applies—
  - (a) the period during which the European Commission may issue a proposal for an implementing act to reject the draft measure has expired and no such proposal has been issued,

- (9) 本條之指示得具體明定監管者為遵循該指示應考量或無須考量之事項。但應針對全部或特定類型之受監管者，而非僅針對單一特定受監管者。
- (10) 本條之指示得援引金融督導局、審慎監理局、英國其他機關或國際組織所發行已具有經常性影響力之出版品。
- (11) 金融政策委員會下達本條之指示前—
  - (a) 應考量該措施是否屬資本要求規則第 458 條規定適用之措施；且
  - (b) 委員會如認為屬適用之措施時，得要求本行完成該條所定之通知程序。

#### 第 9I 條 第 9H 條指示之遵循

- (1) 監管者應於合理期間內，儘速遵循第 9H 條之指示。
- (1A) 但第 9H 條之指示涉及資本要求規則第 458 條所適用措施之執行時，監管者—
  - (a) 於金融政策委員會通知該措施係屬該條規定所授權者前，無須遵循該指示；並
  - (b) 應於受通知後之合理期間內，儘速遵循該指示。
- (2) 監管者遵循第 9H 條之指示時，第 9L 條之命令得排除或修正有關監管者依該指示行使其職權所應適用之 2000 年金融服務及市場法程序規定。
- (3) 收受第 9H 條指示之監管者，應向金融政策委員會提出其將如何遵循或已遵循該指示情形之報告。
- (4) 金融政策委員會下達指示時，得指定監管者應依第(3)項規定提出報告之時限。
- (4A) 依第(1A)項之規範目的，已依資本要求規則第 458 條規定完成通知程序，並符合下列任一項條件時，該措施係屬該條規定所授權者—
  - (a) 歐盟執行委員會得提出施行法律草案以拒絕該措施草案之期限已到期，且未提出前述提案；

- (b) where the European Commission has issued a proposal for an implementing act to reject the draft measure, the period during which the Council of the European Union may adopt a decision in the form of an implementing act to reject the draft measure has expired without any such decision being adopted, or
  - (c) the measure falls within Article 458 (10).
- (5) "Regulator" has the same meaning as in section 9H.

### 9J Revocation of directions under section 9H

- (1) The Financial Policy Committee may at any time by notice to the regulator revoke a direction under section 9H.
- (2) A direction under section 9H is to be taken to be revoked if the measure to which it relates ceases to be a macro-prudential measure, but this is subject to any provision made under section 9L (4)(e).
- (3) The revocation of a direction under section 9H does not affect the validity of anything previously done in accordance with it.
- (4) "Regulator" has the same meaning as in section 9H.

### 9K Further provisions about directions under section 9H

- (1) Each of the following must be in writing—
  - (a) a direction under section 9H;
  - (b) a notice revoking such a direction;
  - (c) a report under section 9I (3).
- (2) The Financial Policy Committee must give the Treasury a copy of any direction under section 9H or any notice revoking such a direction.
- (3) The Treasury may, if they think fit, lay before Parliament a copy of a direction under section 9H or a notice revoking such a direction.
- (4) Where a direction under section 9H, or a notice revoking such a direction, is included in a record published under section 9U, the Treasury must, if they have not already done so, lay before Parliament a copy of the direction or notice in the form in which it is published in the record.

### 9L Macro-prudential measures

- (1) For the purposes of section 9H a "macro-prudential measure" is a measure prescribed by the Treasury by order.

- (b) 歐盟執行委員會已提出施行法律草案以拒絕該措施草案。但歐盟理事會得決議通過施行法律草案以拒絕該措施草案之期限已到期，且未作成任何決議；或
  - (c) 該措施符合第 458 條第(10)項規定。
- (5) 「監管者」之定義與第 9H 條規定所稱者相同。

### 第 9J 條 第 9H 條指示之撤銷

- (1) 金融政策委員會得隨時通知監管者，撤銷第 9H 條之指示。
- (2) 第 9H 條之指示所涉及之措施不再作為總體審慎措施時，應撤銷該指示。但應符合第 9L 條第(4)項第(e)款規定。
- (3) 第 9H 條指示之撤銷，不影響先前依該指示所為行為之效力。
- (4) 「監管者」之定義與第 9H 條規定所稱者相同。

### 第 9K 條 第 9H 條指示之其他規定

- (1) 下列事項應以書面為之—
  - (a) 第 9H 條之指示；
  - (b) 撤銷前款指示之通知；
  - (c) 第 9I 條第(3)項之報告。
- (2) 金融政策委員會應向財政部提報第 9H 條之指示或撤銷該指示之通知副本。
- (3) 財政部認為適當時，應向國會提交第 9H 條之指示或撤銷該指示之通知副本。
- (4) 第 9H 條之指示或撤銷該指示之通知已列入依第 9U 條規定公布之會議紀錄，如財政部尚未依前項規定辦理時，該部應以會議紀錄公布之格式，向國會提交該指示或通知之副本。

### 第 9L 條 總體審慎措施

- (1) 第 9H 條之「總體審慎措施」，係指財政部以命令規範之措施。

- (2) Before making an order under this section, the Treasury must—
  - (a) consult the Financial Policy Committee, or
  - (b) if the Treasury consider that the delay involved in consulting the Committee would be prejudicial to the stability of the UK financial system, consult the Governor of the Bank.
- (3) In prescribing a measure, the order must specify whether the measure is prescribed in relation to the FCA, the PRA, or both.
- (4) An order under this section—
  - (a) may make different provision for different cases;
  - (b) may confer a discretion on the Financial Policy Committee, the FCA or the PRA;
  - (c) may refer to rules made by the FCA or the PRA;
  - (d) may refer to a publication issued by the FCA, the PRA, another body in the United Kingdom or an international organisation, as the publication has effect from time to time;
  - (e) may contain transitional provisions and savings relating to the coming into force of any provision of the order or to the ceasing to be in force of any temporary provision made by the order.

#### **9M Statements of policy by Financial Policy Committee**

- (1) In relation to each macro-prudential measure prescribed under section 9L, the Financial Policy Committee must prepare and maintain a written statement of the general policy that it proposes to follow in relation to the exercise of its power of direction under section 9H so far as it relates to that measure.
- (2) The Committee may at any time alter or replace a statement maintained under this section.
- (3) The Bank must publish each statement maintained under this section.
- (4) Publication is to be in such manner as the Bank thinks fit.
- (5) Nothing in this section is to be regarded as preventing the Financial Policy Committee from exercising its power of direction under section 9H in relation to a macro-prudential measure, where it considers it necessary to do so by reason of urgency, before it has prepared a statement under this section in relation to that measure.

#### **9N Parliamentary control of orders under section 9L**

- (1) Except as provided by subsection (2), an order under section 9L is not to be made unless a draft of the order has been laid before and approved by resolution of each House of Parliament.

- (2) 財政部依本條規定發布命令前，應—
  - (a) 洽商金融政策委員會；或
  - (b) 如財政部認為洽商金融政策委員會所延誤之時間，將危害英國金融體系之穩定時，應洽商總裁。
- (3) 規範總體審慎措施之命令，應詳細說明該措施與金融督導局或審慎監理局之關連性。
- (4) 本條之命令—
  - (a) 得對不同情形作不同規範；
  - (b) 得授權金融政策委員會、金融督導局或審慎監理局行使其裁量權；
  - (c) 得援引金融督導局或審慎監理局之規定；
  - (d) 得援引金融督導局、審慎監理局、英國其他機關或國際組織所發行已具有經常性影響力之出版品；
  - (e) 得包含涉及本命令將生效之規定或本命令將使其失效之臨時規定之過渡及保留條款。

#### **第 9M 條 金融政策委員會之政策聲明**

- (1) 金融政策委員會應就第 9L 條所定之總體審慎措施，擬具並維護書面之聲明；該聲明係關於委員會依第 9H 條規定行使有關該措施之指示權時，將遵循之一般政策。
- (2) 理事會得隨時修改或更換本條之聲明。
- (3) 本行應公布本條之聲明。
- (4) 聲明之公布，應以本行認為適當之方式為之。
- (5) 金融政策委員會依本條規定擬具有關總體審慎措施之聲明前，如因緊急情形認為需依第 9H 條規定行使有關該措施之指示權，其權力不因本條規定而受限制。

#### **第 9N 條 國會對第 9L 條命令之控制權**

- (1) 除第(2)項所定之情形外，第 9L 條之命令應於其草案提交國會並經上下議院決議通過後，始得發布。

- (2) An order under section 9L may be made without a draft having been laid and approved as mentioned in subsection (1) if the order contains a statement that the Treasury are of the opinion that, by reason of urgency, it is necessary to make the order without a draft being so laid and approved.
- (3) An order under section 9L made in accordance with subsection (2)—
  - (a) must be laid before Parliament after being made, and
  - (b) ceases to have effect at the end of the relevant period unless before the end of that period the order is approved by a resolution of each House of Parliament (but without affecting anything done under the order or the power to make a new order).
- (4) The "relevant period" is a period of 28 days beginning with the day on which the order is made.
- (5) In reckoning the relevant period no account is to be taken of any time during which Parliament is dissolved or prorogued or during which either House is adjourned for more than 4 days.

*Recommendations by Financial Policy Committee*

**9O Making of recommendations within the Bank**

- (1) The Financial Policy Committee may make recommendations within the Bank.
- (2) The recommendations may, in particular, relate to—
  - (a) the provision by the Bank of financial assistance to financial institutions;
  - (b) the exercise by the Bank of its functions in relation to payment systems, settlement systems, clearing houses and central securities depositories.
- (3) The Committee may not make recommendations about—
  - (a) the provision by the Bank of financial assistance in relation to a particular financial institution, or
  - (b) the exercise by the Bank of its powers under Parts 1 to 3 of the Banking Act 2009 in relation to a particular institution.
- (4) The recommendations must be made or confirmed in writing.
- (5) Recommendations by the Committee to the PRA are to be made under section 9Q (and not under this section).

**9P Recommendations to Treasury**

- (1) The Financial Policy Committee may make recommendations to the Treasury.
- (2) The recommendations may, in particular, relate to the exercise by the Treasury of their power to make orders under—

- (2) 第 9L 條之命令，如附有財政部因緊急情形認有必要不經國會決議通過即須發布該命令之聲明者，該命令無須依第(1)項規定提交國會決議通過，即得發布。
- (3) 依第(2)項規定發布第 9L 條之命令時，應—
  - (a) 於發布後提交國會；且
  - (b) 未於有關期間屆滿前經上下議院決議追認者，失其效力。（但不影響依該命令所為之行為或發布新命令之權力。）
- (4) 前項所稱之「有關期間」，係指命令發布之日起算 28 日。
- (5) 有關期間之計算，不計入國會解散、休會，或上下議院暫時休會超過 4 日之期間。

*金融政策委員會之建議*

**第 9O 條 於本行內部提出建議**

- (1) 金融政策委員會得於本行內部提出建議。
- (2) 具體而言，前項建議得涉及—
  - (a) 本行對金融機構提供財務協助之規定；
  - (b) 本行行使有關支付系統、清算系統、結算機構及證券集中保管機構之職權。
- (3) 委員會不得對下列事項提出建議—
  - (a) 本行對特定金融機構提供財務協助之規定；或
  - (b) 本行依 2009 年銀行法第 1 章至第 3 章規定對特定機構行使之權力。
- (4) 本條之建議應以書面為之或確認之。
- (5) 委員會應依第 9Q 條規定（而非本條規定）向審慎監理局提出建議。

**第 9P 條 對財政部之建議**

- (1) 金融政策委員會得對財政部提出建議。
- (2) 具體而言，前項建議得涉及財政部依下列規定發布命令之權力—

- (a) section 9L (macro-prudential measures),
  - (b) section 22 (1) or (1A) of FSMA 2000 (regulated activities),
  - (c) section 22A (1) of that Act (designation of activities requiring prudential regulation by PRA),
  - (d) section 137D (1)(b) of that Act (purposes for which FCA may make product intervention rules), or
  - (e) section 165A (2)(d) of that Act (additional persons who may be required by PRA to provide information).
- (3) The recommendations must be made or confirmed in writing.
- (4) The Committee may make a recommendation under subsection (2)(e) only if it considers that the exercise by the Treasury of their power to make an order under section 165A (2)(d) of FSMA 2000 in the manner proposed is desirable for the purposes of the exercise by the Committee of its functions.
- (5) Before giving a recommendation under subsection (2)(e), the Committee must consult the Treasury.

#### 9Q Recommendations to FCA and PRA

- (1) The Financial Policy Committee may make recommendations to the FCA and the PRA about the exercise of their respective functions.
- (2) The recommendations may relate to all regulated persons or to regulated persons of as pecified description, but may not relate to the exercise of the functions of the FCA or the PRA in relation to a specified regulated person.
- (3) If the recommendations are expressed to be recommendations to which this subsection applies, the body to which they are made must as soon as reasonably practicable—
- (a) act in accordance with the recommendations, or
  - (b) if to any extent it does not, notify the Committee of the extent to which it has not acted in accordance with the recommendations and of the reasons for its decision.
- (4) The recommendations, and any notification under subsection (3)(b), must be made or confirmed in writing.
- (4A) Before making recommendations under this section, the Financial Policy Committee—

- (a) 第 9L 條（總體審慎措施）；
  - (b) 2000 年金融服務及市場法第 22 條第(1)項或第(1A)項（受監管之業務）；
  - (c) 前述法律第 22A 條第(1)項（審慎監理局指定應受審慎規範之業務）；
  - (d) 前述法律第 137D 條第(1)項第(b)款（金融督導局訂定商品干預規則之目的）；或
  - (e) 前述法律第 165A 條第(2)項第(d)款（審慎監理局得要求其他人提供資訊）。
- (3) 本條之建議應以書面為之或確認之。
- (4) 委員會僅得於其認為財政部依 2000 年金融服務及市場法第 165A 條第(2)項第(d)款規定行使發布命令之權力，其方式符合委員會行使其職權之目的時，始得依第(2)項(e)款規定提出建議。
- (5) 委員會依第(2)項第(e)款規定提出建議前，應先洽商財政部。

#### 第 9Q 條 對金融督導局及審慎監理局之建議

- (1) 金融政策委員會得對金融督導局及審慎監理局，就其個別職權之行使提出建議。
- (2) 前項建議得涉及全部或特定類型之受監管者。但不得僅涉及金融督導局或審慎監理局對單一特定受監管者職權之行使。
- (3) 建議已載明適用本項規定時，受建議者應於合理期間內，儘速—
- (a) 依據該建議採行相關作為；或
  - (b) 未依據該建議採行相關作為時，應通知委員會未遵循之程度及其理由。
- (4) 本條之建議及第(3)項第(b)款之通知，應以書面為之或確認之。
- (4A) 金融政策委員會於提出本條之建議前—

- (a) must consider whether acting in accordance with the recommendations would involve a measure to which Article 458 of the capital requirements regulation applies, and
- (b) if the Committee is of the opinion that it would, may—
  - (i) where the measure falls within section 2AA (1), request the Bank to complete the notification process required by that Article, or
  - (ii) where the measure falls within section 2AA (2), request the Treasury to complete that process.
- (4B) If the body to which recommendations under this section are made is of the opinion that the implementation of the recommendations would involve a measure to which Article 458 of the capital requirements regulation applies, that body must—
  - (a) state that opinion to the Financial Policy Committee, and
  - (b) indicate to the Financial Policy Committee whether it intends to act in accordance with the recommendations if the measure is authorised in accordance with Article 458.
- (4C) Subsection (4B)(b) is to be read in accordance with section 9I(4A).
- (5) "Regulated person" has the same meaning as in section 9H.

## 9R Recommendations to other persons

- (1) The Financial Policy Committee may make recommendations to persons other than those mentioned in sections 9O to 9Q.
- (2) The recommendations must be made or confirmed in writing.

### *Explanation*

## 9S Duty to prepare explanation

- (1) In connection with the exercise of any of the specified powers, the Financial Policy Committee must prepare an explanation of—
  - (a) the reasons for the Committee's decision to exercise the power, in the way in which it is being exercised, and
  - (b) the Committee's reasons for believing that the exercise of the power, in the way in which it is being exercised, is compatible with the duties of the Committee under the following provisions—
    - (i) section 9C (1) (as read with section 9C (4)), and
    - (ii) section 9F.

- (a) 應考量依該建議所採行之作為是否涉及資本要求規則第 458 條規定適用之措施；且
- (b) 委員會如認為涉及時，得—
  - (i) 要求本行完成該條所定之通知程序（如該措施符合第 2AA 條第(1)項規定）；或
  - (ii) 要求財政部完成該條所定之通知程序（如該措施符合第 2AA 條第(2)項規定）。
- (4B) 受本條之建議者認為該建議之執行將涉及資本要求規則第 458 條規定適用之措施時，受建議者應—
  - (a) 向金融政策委員會陳述該意見；及
  - (b) 如該措施屬第 458 條規定所授權者，向金融政策委員會表明是否將依該建議採行相關作為。
- (4C) 第(4B)項第(b)款規定應依第 9I 條第(4A)項之解釋。
- (5) 「監管者」之定義與第 9H 條規定所稱者相同。

## 第 9R 條 對其他人之建議

- (1) 金融政策委員會得對第 9O 條至第 9Q 條所規定以外之人提出建議。
- (2) 前項建議應以書面為之或確認之。

### *解釋*

## 第 9S 條 擬具說明之職責

- (1) 金融政策委員會行使其特定權力時，應對下列事項擬具說明—
  - (a) 委員會決定行使該權力之理由與行使之方式；及
  - (b) 委員會認定該權力之行使與行使之方式，符合下列規定所賦予委員會職責之理由：
    - (i) 第 9C 條第(1)項（亦應考量第 9C 條第(4)項）；及
    - (ii) 第 9F 條。

- (2) The specified powers are—
- (a) the power to give a direction under section 9H;
  - (b) the power to make recommendations under section 9O, so far as relating to the exercise of the Bank's functions in relation to payment systems, settlement systems, clearing houses and central securities depositories ;
  - (c) the power to make recommendations under section 9P, so far as relating to the exercise by the Treasury of their power to make orders under any of the provisions mentioned in subsection (2) of that section;
  - (d) the power to make recommendations under section 9Q.
- (3) The explanation required by subsection (1) in relation to the duty in section 9F (3)(a) must include an estimate of the costs and an estimate of the benefits that would arise from compliance with the direction or recommendation in question, unless in the opinion of the Committee it is not reasonably practicable to include such an estimate.

#### Review

### 9T Duty to review directions and recommendations

- (1) The Financial Policy Committee must—
- (a) before the end of each review period, review each direction given by it under section 9H, other than a direction revoked before the end of the review period, and
  - (b) prepare a summary of its conclusions.
- (2) A review period is—
- (a) in relation to the first review, the period of 12 months beginning with the day on which the direction was given, and
  - (b) in relation to subsequent reviews, the period of 12 months beginning with the day on which the previous review was completed.
- (3) The Financial Policy Committee must maintain arrangements for the review at regular intervals of any recommendations that it has made under any of sections 9O to 9R and are of continuing relevance.
- (4) The purpose of a review is—
- (a) in the case of a direction, to consider whether the direction ought to be revoked, and
  - (b) in the case of a recommendation, to consider whether the recommendation ought to be withdrawn.

- (2) 前項所稱之特定權力，包含下列權力—

- (a) 依第 9H 條規定下達指示；
- (b) 依第 9O 條規定，就本行行使有關支付系統、清算系統、結算機構及證券集中保管機構之職權提出建議；
- (c) 依第 9P 條規定，就財政部依第 9P 條第(2)項各款規定行使發布命令之權力提出建議；
- (d) 依第 9Q 條規定提出建議。

- (3) 依第(1)項規定擬具符合第 9F 條第(3)項第(a)款規定之說明時，該說明應包含遵循前述指示或建議可能產生之預估成本與利益。但委員會認為計入前述預估值不可行時，不在此限。

#### 檢討

### 第 9T 條 檢討指示與建議之職責

- (1) 金融政策委員會應—
- (a) 於每一檢討期間結束前，檢討其依第 9H 條規定下達之指示。但該指示於檢討期間結束前經撤銷者，不在此限；及
  - (b) 擬具其結論摘要。
- (2) 前項之檢討期間如下—
- (a) 首次檢討：自下達指示之日起 12 個月內；及
  - (b) 後續檢討：自前次檢討完成之日起 12 個月內。
- (3) 金融政策委員會應定期檢討其依第 9O 條至第 9R 條規定所提供且具持續關連性之建議。
- (4) 檢討之目的如下—
- (a) 就指示而言，係為考量該指示應否撤銷；及
  - (b) 就建議而言，係為考量該建議應否撤回。



*Publication of record of meetings***9U Publication of record of meetings**

- (1) The Bank must publish a record of each meeting of the Financial Policy Committee before the end of the period of 6 weeks beginning with the day of the meeting.
- (2) The record must specify any decisions taken at the meeting (including decisions to take no action) and must set out, in relation to each decision, a summary of the Committee's deliberations.
- (3) The decisions referred to in subsection (2) include in particular a decision—
  - (a) to give or revoke a direction under section 9H;
  - (b) to make recommendations under any of sections 9O to 9R.
  - (c) to make or revoke a request under section 2AA (3) or (4);
  - (d) made under the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014.
- (4) Where a decision has been made to give or revoke a direction under section 9H, the record must include the text of the direction or of the notice of revocation.
- (5) Where a decision has been made to make recommendations under any of sections 9O to 9R, the record must include the recommendations.
- (6) Where since the previous meeting the Committee has received a notification under section 9Q (3)(b), the record must include the notification.
- (7) The information required by subsections (1) and (2) does not include information identifying particular members of the Committee.
- (8) Subsections (1) to (6) do not require the publication of—
  - (a) information about any recommendations made under 9O (2)(a);
  - (b) information whose publication within the time required by subsection (1) would in the opinion of the Committee be against the public interest;
  - (c) information about any decision under paragraph (b);
  - (d) information about a decision to give a direction under section 9H which has been revoked before the record of the meeting at which it was given is published;
  - (e) information about the decision to revoke a direction where information about the direction is withheld under paragraph (d).

*會議紀錄之公布***第 9U 條 會議紀錄之公布**

- (1) 本行應自金融政策委員會每次會議結束之日起 6 週內，公布該次會議紀錄。
- (2) 前項紀錄應詳細說明該次會議所作成之決議（包含不作為之決議），以及委員會就各項決議討論過程之摘要。
- (3) 具體而言，第(2)項規定所稱之決議，應包含：
  - (a) 依第 9H 條規定下達或撤銷指示之決議；
  - (b) 依第 9O 條至第 9R 條規定提出建議之決議。
  - (c) 依第 2AA 條第(3)項或第(4)項規定提出或撤銷要求之決議；
  - (d) 依 2014 年資本要求（資本緩衝及總體審慎措施）規則所為之決議。
- (4) 作成下達或撤銷第 9H 條規定指示之決議時，前述紀錄應包含該指示內容或撤銷通知之全文。
- (5) 作成依第 9O 條至第 9R 條規定提出建議之決議時，前述紀錄應包含該建議。
- (6) 委員會於前次會議後收到第 9Q 條第(3)項第(b)款之通知時，前述紀錄應包含該通知。
- (7) 依第(1)項及第(2)項規定公開之資訊，不包含可識別委員會個別委員之資訊。
- (8) 第(1)項至第(6)項規定應公開之資訊，不包含下列資訊—
  - (a) 依第 9O 條第(2)項第(a)款規定提出建議之資訊；
  - (b) 委員會認為依第(1)項規定所定期限公開，將違反公共利益之資訊；
  - (c) 依第(b)款規定作成決議之資訊；
  - (d) 依第 9H 條規定下達之指示於會議紀錄公布前已被撤銷時，與作成下達該指示之決議有關之資訊；
  - (e) 前項指示之相關資訊依第(d)款規定不予公開時，與作成撤銷該指示之決議有關之資訊。

- (f) information about a decision to make a request under section 2AA (3) or (4) which has been revoked before the record of the meeting at which it was given is published;
  - (g) information about the decision to revoke a request under section 2AA (3) or (4) where information about the request is withheld under paragraph (f).
- (9) Publication under this section or section 9V is to be in such manner as the Bank thinks fit.

### 9V Deferred publication

- (1) Where the Financial Policy Committee decides under subsection (8)(b) of section 9U that publication of information within the time required by subsection (1) of that section would be against the public interest—
  - (a) it must consider whether to fix a date as the earliest date on which the information may be published, and
  - (b) if it does not fix a date, it must keep under consideration the question whether publication of the information would still be against the public interest.
- (2) The Committee must from time to time determine the procedures that it will follow in complying with the duty in subsection (1)(b).
- (3) Where the Committee—
  - (a) fixes a date under subsection (1)(a) as the earliest date on which any information may be published, or
  - (b) decides under subsection (1)(b) that publication of any information is no longer against the public interest,
 the Bank must publish the information at the time when it next publishes under section 9U (1) the record of a meeting of the Committee.

#### *Financial stability reports by Financial Policy Committee*

### 9W Financial stability reports by Financial Policy Committee

- (1) The Financial Policy Committee must prepare and publish reports relating to financial stability ("financial stability reports").
- (2) Two financial stability reports must be published in each calendar year.
- (3) A financial stability report must include—

- (f) 依第 2AA 條第(3)項或第(4)項規定提出之要求於會議紀錄公布前已被撤銷時，與提出該要求之決議有關之資訊；
  - (g) 前項要求之相關資訊依第(f)款規定不予公開時，與作成撤銷第 2AA 條第(3)項或第(4)項要求之決議有關之資訊。
- (9) 本條或第 9V 條所定之公布，應以本行認為適當之方式為之。

### 第 9V 條 延期公布

- (1) 金融政策委員會依第 9U 條第(8)項第(b)款規定作成決議，認為依該條第(1)項所定期限公開資訊，將違反公共利益時—
  - (a) 應考量是否明定該資訊得公開之最早日期；及
  - (b) 未明定日期時，應持續考量公開該資訊是否仍然違反公共利益。
- (2) 委員會應訂定其為達成第(1)項第(b)款之職責所應遵循之程序。
- (3) 委員會為下列決議時，本行應於下次依第 9U 條第(1)項規定公布會議紀錄時公開資訊—
  - (a) 依第(1)項第(a)款規定明定資訊得公開之最早日期；或
  - (b) 依第(1)項第(b)款規定決議公開資訊不再違反公共利益。

#### 金融政策委員會之金融穩定報告

### 第 9W 條 金融政策委員會之金融穩定報告

- (1) 金融政策委員會應擬具並發布關於金融穩定之報告（以下簡稱「金融穩定報告」）。
- (2) 每年應發布 2 份金融穩定報告。
- (3) 金融穩定報告應包含—

- (a) the Committee's view of the stability of the UK financial system at the time when the report is prepared,
  - (b) an assessment of the developments that have influenced the current position,
  - (c) an assessment of the strengths and weaknesses of the UK financial system,
  - (d) an assessment of risks to the stability of the UK financial system, and
  - (e) the Committee's view of the outlook for the stability of the UK financial system.
- (4) A financial stability report must also include—
- (a) a summary of the activities of the Committee in the reporting period, and
  - (b) an assessment of the extent to which the exercise by the Committee of its functions (both during the reporting period and previously) has succeeded during the reporting period in achieving the objectives set out in section 9C (1)(a) and (b).
- (5) If during the reporting period the Committee has made any decision in relation to which section 9S requires the preparation of an explanation, the financial stability report must include the required explanation.
- (6) If during the reporting period the Committee has completed the review of a direction or recommendation, the financial stability report must include a summary of the review.
- (7) The reporting period is the period since the date of the previous financial stability report, except that in the case of the first financial stability report it is the period since the time when this section came fully into force.
- (8) Nothing in subsections (3) to (6) is to be regarded as requiring the Committee to include in a financial stability report any information whose publication would in the Committee's opinion be against the public interest.
- (9) The Committee must give a copy of each financial stability report to the Treasury.
- (10) The Treasury must lay before Parliament a copy of each financial stability report.
- (11) Publication of a financial stability report is to be in such manner as the Bank thinks fit.

#### *Meetings between Governor and Chancellor of the Exchequer*

### **9X Meetings between Governor and Chancellor of the Exchequer**

- (1) As soon as reasonably practicable after the publication by the Financial Policy Committee of a financial stability report, the Governor of the Bank and the Chancellor of the Exchequer must meet to discuss the report and any other matters relating to the stability of the UK financial system that they consider it appropriate to discuss.
- (2) The Treasury must publish a record of each meeting required by subsection (1) before the end of the period of 6 weeks beginning with the day of the meeting.

- (a) 委員會於擬具報告當時，對英國金融體系穩定之看法；
  - (b) 對影響當前形勢發展之評估；
  - (c) 對英國金融體系優勢與弱點之評估；
  - (d) 對影響英國金融體系穩定風險之評估；及
  - (e) 委員會對英國金融體系穩定前景之看法。
- (4) 金融穩定報告亦應包含—
- (a) 委員會於報告期間之業務摘要；及
  - (b) 對委員會（於報告期間及該期間之前）行使其職權，於報告期間達成第 9C 條第(1)項第(a)款及第(b)款目標程度之評估。
- (5) 委員會於報告期間已依第 9S 條要求，擬具決議之說明時，金融穩定報告應包含該說明。
- (6) 委員會於報告期間已完成對指示或建議之檢討時，金融穩定報告應包含該檢討之摘要。
- (7) 報告期間自前次金融穩定報告之日起算。但首次金融穩定報告之報告期間，自本條規定生效之日起算。
- (8) 不得以第(3)項至第(6)項規定，要求委員會將其認為公開將違反公共利益之資訊，納入金融穩定報告。
- (9) 委員會應向財政部提報金融穩定報告之副本。
- (10) 財政部應向國會提交金融穩定報告之副本。
- (11) 金融穩定報告之公布，應以本行認為適當之方式為之。

#### *總裁與財政大臣之會議*

### **第 9X 條 總裁與財政大臣之會議**

- (1) 總裁與財政大臣於金融政策委員會公布金融穩定報告後，應於合理期間內，儘速開會商討報告內容及其他有關英國金融體系穩定方面適合商討之事項。
- (2) 財政部應自第(1)項會議結束之日起 6 週內，公布該次會議紀錄。

- (3) Publication under subsection (2) is to be in such manner as the Treasury think fit.
- (4) Subsection (2) does not require the publication of information whose publication within the time required by that subsection would in the opinion of the Treasury be against the public interest.
- (5) Before publishing the record of a meeting required by subsection (1), or deciding under subsection (4) not to publish such a record, the Treasury must consult the Bank about the record and its publication.

*Power of Bank to require FCA to provide information*

**9Y Directions requiring information or documents**

- (1) The Bank may exercise the powers conferred by this section where it considers that information or documents are reasonably required in connection with the exercise by the Bank of its functions in pursuance of the Financial Stability Objective.
- (2) The Bank may give a direction to the FCA requiring it—
  - (a) to provide the Bank with specified information or information of a specified description, or
  - (b) to produce to the Bank specified documents or documents of a specified description.
- (3) The direction may relate to information or documents which are held by persons other than the FCA and which the FCA has power to obtain or whose production the FCA has power to require.
- (4) Any information or documents to which the direction relates are—
  - (a) where the information or documents are held by a person in relation to whom the powers conferred by subsections (1) and (3) of section 165 of FSMA 2000 are exercisable, to be taken to be information or documents to which that section applies by virtue of subsection (4) of that section,
  - (b) .....
- (5) The information or documents must be provided or produced before the end of such period as may be specified.
- (6) The Bank may require any information provided under this section to be provided in such form as it may require.
- (7) The Bank may require—
  - (a) any information provided, whether in a document or otherwise, to be verified in such manner as it may require;
  - (b) any document produced to be authenticated in such manner as it may require.

**9Z Further provisions about directions under section 9Y**

- (1) In the exercise of its functions under section 9Y, the Bank must have regard to the principle that a burden or restriction which is imposed on a person, or on the carrying on of an activity, should be proportionate to the benefits, considered in general terms, which are expected to result from the imposition of that burden or restriction.

- (3) 第(2)項所定之公布，應以財政部認為適當之方式為之。
- (4) 第(2)項規定應公開之資訊，不包含財政部認為於該項規定之期限內公開將違反公共利益之資訊。
- (5) 財政部依第(1)項規定公布會議紀錄或依第(4)項規定決定不公布該紀錄前，應洽商本行關於該紀錄及其公布之意見。

*本行要求金融督導局提供資訊之權力*

**第 9Y 條 要求資訊或文件之指示**

- (1) 本行對具認為行使金融穩定目標之職權所必要之資訊或文件，得行使本條所賦予之權力。
- (2) 本行得對金融督導局下達指示，要求其—
  - (a) 提供本行特定資訊或特定類型之資訊；或
  - (b) 為本行製作特定文件或特定類型之文件。
- (3) 前述指示得涉及非金融督導局所持有。但金融督導局有權取得或要求出具之資訊或文件。
- (4) 前述指示所涉及之資訊或文件為—
  - (a) 對該資訊或文件之持有者可行使 2000 年金融服務及市場法第 165 條第(1)項及第(3)項所賦予之權力時，適用該條第(4)項規定之資訊或文件；
  - (b) .....
- (5) 前述資訊或文件應於所定期間屆滿前提供或製作。
- (6) 本行得要求依所定格式提供本條之資訊。
- (7) 本行得要求—
  - (a) 以書面或其他形式提供之資訊，應依本行要求之方式認證；
  - (b) 製作之文件應依本行要求之方式鑑定。

**第 9Z 條 第 9Y 條指示之其他規定**

- (1) 本行行使第 9Y 條之職權時，應考量對提供資訊之個人或其業務所課以之負擔或限制，需與其預期達成之利益相當。

- (2) Before giving a direction under section 9Y to the FCA, the Bank must consult the FCA.
- (3) A direction under section 9Y must be in writing, and may be revoked by a notice in writing.
- (4) As soon as practicable after giving a direction under section 9Y, the Bank must publish the direction in such manner as it thinks appropriate for bringing the direction to the attention of persons (other than the FCA) who may be affected by it.
- (5) Subsection (4) does not require the publication of information whose publication at the time required by that subsection would in the opinion of the Bank be against the public interest.
- (6) Where the Bank decides under subsection (5) that publication of any information would be against the public interest, it must from time to time review that decision and if it subsequently decides that publication is no longer against the public interest it must comply with subsection (4).

### *Supplementary*

#### **9ZA Interpretation of Part 1A**

In this Part—

"the FCA" means the Financial Conduct Authority;

"financial assistance" has the meaning given by section 257 (1) of the Banking Act 2009;

"the Financial Policy Committee" means the Financial Policy Committee of the Bank of England;

"the financial sector" means financial institutions generally;

"FSMA 2000" means the Financial Services and Markets Act 2000;

"the PRA" means the Prudential Regulation Authority;

"systemic risk" has the meaning given by section 9C (5);

"the UK economy" means the economy of the United Kingdom;

"the UK financial system" means the financial system of the United Kingdom.

- (2) 本行對金融督導局下達第 9Y 條之指示前，應先洽商金融督導局。
- (3) 第 9Y 條之指示應以書面為之，並得以書面通知予以撤銷。
- (4) 本行下達第 9Y 條之指示後，應儘速以其認為能周知（除金融督導局以外之）利害關係人之適當方式，公布該指示。
- (5) 第(4)項規定應公開之資訊，不包含本行認為於所定時點公開該資訊將違反公共利益者。
- (6) 本行依第(5)項規定認定公開資訊將違反公共利益時，應不定期檢討該決定，並於其認定公開該資訊不違反公共利益時，依第(4)項規定予以公開。

### *補充規定*

#### **第 9ZA 條 第 1A 章之解釋**

本章之一

「FCA」係指金融督導局；

「財務協助」之定義依 2009 年銀行法第 257 條第(1)項規定；

「金融政策委員會」係指英格蘭銀行金融政策委員會；

「金融部門」係泛指金融機構；

「FSMA 2000」係指 2000 年金融服務及市場法；

「PRA」係指審慎監理局；

「系統風險」之定義依第 9C 條第(5)項規定；

「英國經濟」係指聯合王國之經濟；

「英國金融體系」係指聯合王國之金融體系。

## PART II MONETARY POLICY

### *Role of the Bank*

#### 10 Operational responsibility

In section 4 (1) of the Bank of England Act 1946 (power of the Treasury to give directions to the Bank), at the end there is inserted ", except in relation to monetary policy".

#### 11 Objectives

In relation to monetary policy, the objectives of the Bank of England shall be—

- (a) to maintain price stability, and
- (b) subject to that, to support the economic policy of Her Majesty's Government, including its objectives for growth and employment.

#### 12 Specification of matters relevant to objectives

- (1) The Treasury may by notice in writing to the Bank specify for the purposes of section 11—
  - (a) what price stability is to be taken to consist of, or
  - (b) what the economic policy of Her Majesty's Government is to be taken to be.
- (2) The Treasury shall specify under subsection (1) both of the matters mentioned there—
  - (a) before the end of the period of 7 days beginning with the day on which this Act comes into force, and
  - (b) at least once in every period of 12 months beginning on the anniversary of the day on which this Act comes into force.
- (3) Where the Treasury give notice under this section they shall—
  - (a) publish the notice in such manner as they think fit, and
  - (b) lay a copy of it before Parliament.

### *Monetary Policy Committee of the Bank*

#### 13 Monetary Policy Committee

- (1) There shall be a committee of the Bank, to be known as the Monetary Policy Committee of the Bank of England, which shall have responsibility within the Bank for formulating monetary policy.

## 第 2 章 貨幣政策

### *本行角色*

#### 第 10 條 業務責任

1946 年英格蘭銀行法第 4 條第(1)項規定（財政部對本行下達指示之權力）之末，增列「但貨幣政策除外」。

#### 第 11 條 經營目標

本行貨幣政策目標為—

- (a) 維持物價穩定；及
- (b) 於前述目標範圍內，支持英國政府之經濟政策，包含經濟成長及充分就業之目標。

#### 第 12 條 與經營目標有關之事項

- (1) 為達成第 11 條規範目的，財政部得明定下列事項，並以書面通知本行—
  - (a) 構成物價穩定之事項；或
  - (b) 屬於英國政府經濟政策之事項。
- (2) 財政部為第(1)項之通知，應—
  - (a) 自本法生效之日起 7 日內為之；並
  - (b) 自本法生效週年之日起，每 12 個月至少通知 1 次。
- (3) 財政部依本條規定為通知時，應—
  - (a) 以其認為適當之方式，公布該通知；並
  - (b) 向國會提交該通知之副本。

### *本行貨幣政策委員會*

#### 第 13 條 貨幣政策委員會

- (1) 本行設貨幣政策委員會，負責本行貨幣政策之制定。

- (2) The Committee shall consist of—
- (a) the Governor of the Bank,
  - (aa) the Deputy Governor for financial stability,
  - (aaa) the Deputy Governor for markets and banking,
  - (ab) the Deputy Governor for monetary policy,
  - (b) one member (to be known as the Chief Economist of the Bank) appointed by the Governor of the Bank after consultation with the Chancellor of the Exchequer, and
  - (c) 4 members appointed by the Chancellor of the Exchequer.
- (3) The member appointed under subsection (2)(b) shall be a person who carries out monetary policy analysis within the Bank.
- (4) Before appointing a person under subsection (2)(c) the Chancellor of the Exchequer must—
- (a) be satisfied that the person has knowledge or experience which is likely to be relevant to the Committee's functions, and
  - (b) consider whether the person has any financial or other interests that could substantially affect the functions as member that it would be proper for the person to discharge.
- (5) Schedule 3 shall have effect with respect to the Committee.

#### 14 Publication of statements about decisions

- (1) As soon as reasonably practicable after each meeting of the Monetary Policy Committee, the Bank shall publish a statement as to whether it was decided at the meeting that the Bank should take any action, other than action by way of intervening in financial markets, for the purpose of meeting its objectives under section 11 and, if it was, what the action is.
- (2) If, at any meeting, the Committee decides that the Bank should intervene in financial markets, it shall also consider at the meeting whether immediate publication of the decision would be likely to impede or frustrate the achievement of the intervention's purpose.
- (3) If the Committee decides under subsection (2) that immediate publication of a decision would not have the effect mentioned there, the Bank shall, when it publishes a statement under subsection (1) about the meeting, publish a statement as to what action by way of intervening in financial markets the Committee has decided the Bank should take.
- (4) If the Committee decides under subsection (2) that immediate publication of a decision would have the effect mentioned there, it shall keep under consideration the question of whether publication of the decision would still have that effect.

- (2) 委員會之成員包含—
- (a) 總裁；
  - (aa) 負責金融穩定之副總裁；
  - (aaa) 負責市場及銀行業務之副總裁；
  - (ab) 負責貨幣政策之副總裁；
  - (b) 總裁洽商財政大臣後任命之成員 1 人（即本行首席經濟學家）；及
  - (c) 財政大臣任命之成員 4 人。
- (3) 依第(2)項第(b)款規定任命之成員，應為執行貨幣政策分析之本行人員。
- (4) 財政大臣依第(2)項第(c)款規定任命人員前，應—
- (a) 確認該名人員具有與委員會職權相關之專門學識或經驗；且
  - (b) 考量該名人員是否有嚴重影響適當行使委員職權之財務或其他利害關係。
- (5) 附則 3 有關委員會之規定，隨同本法生效。

#### 第 14 條 關於決議說明之公布

- (1) 本行應於貨幣政策委員會每次會議結束後之合理期間內，儘速公布說明委員會為達成第 11 條所定目標是否決定採行措施，以及採行何種措施。但與干預金融市場有關之決議，不在此限。
- (2) 委員會作成本行應干預金融市場之決議時，應一併考量立即公布該決議是否會阻擾或妨礙其干預目的之達成。
- (3) 委員會依第(2)項規定認定立即公布決議不致有前述影響者，本行應於依第(1)項規定公布說明時，一併公布說明委員會決議本行應採行之金融市場干預措施。
- (4) 委員會依第(2)項規定認定立即公布決議將有前述影響時，應持續考量公布該決議是否仍有前述影響。

- (5) As soon as reasonably practicable after the Committee has decided that publication of a decision which has not been the subject of a statement under subsection (3) would no longer have the effect mentioned in subsection (2), the Bank shall publish a statement as to what action by way of intervening in financial markets the Committee decided the Bank should take and when the decision was made.
- (6) Publication under this section shall be in such manner as the Bank thinks fit.

### 15 Publication of minutes of meetings

- (1) As soon as reasonably practicable after each meeting of the Monetary Policy Committee, the Bank shall publish minutes of the meeting.
- (2) Subsection (1) shall not apply to minutes of any proceedings relating to—
- a decision to intervene in financial markets, or
  - a decision about the publication of a decision to intervene in financial markets,
- unless the Committee has decided that publication of the decision to intervene would not be likely, or would no longer be likely, to impede or frustrate the achievement of the intervention's purpose.
- (3) Minutes of proceedings relating to—
- a decision to intervene in financial markets, or
  - a decision about the publication of a decision to intervene in financial markets,
- shall, if not required to be published as soon as reasonably practicable after the meeting, be published by the Bank as soon as reasonably practicable after a statement about the decision to intervene is published under section 14 (5).
- (4) Minutes published under this section shall record, in relation to any decision of the Committee, the voting preference of the members who took part in the vote on the decision.
- (4A) The Bank shall exclude from minutes published under this section information which relates to proceedings of the Financial Policy Committee if the Bank considers that publication of that information would be against the public interest.
- (5) Publication under this section shall be in such manner as the Bank thinks fit.

### 16 Functions of court of directors

- (1) The court of directors of the Bank shall keep the procedures followed by the Monetary Policy Committee under review.
- (2) In particular, the court's function under subsection (1) shall include determining whether the Monetary Policy Committee has collected the regional, sectoral and other information necessary for the purposes of formulating monetary policy.
- (3) .....

- (5) 委員會認定原不符第(3)項規定之決議，已不致有第(2)項規定所列之影響而予以公布時，本行應於合理期間內，儘速公布說明委員會決議本行應採行之干預金融市場措施，以及該決議作成之時點。
- (6) 本條所定之公布，應以本行認為適當之方式為之。

### 第 15 條 會議紀錄之公布

- (1) 本行應於貨幣政策委員會每次會議結束後之合理期間內，儘速公布該次會議紀錄。
- (2) 除委員會認定公布決議將不致於或不再干擾或妨礙其干預目的之達成外，第(1)項規定不適用下列議程之紀錄—
- 干預金融市場之決議；或
  - 關於公布干預金融市場決議之決議。
- (3) 下列議程之紀錄如無須於該次會議結束後之合理期間內儘速公布時，本行應自該干預決議之說明依第 14 條第(5)項規定公布後之合理期間內，儘速公布之一—
- 干預金融市場之決議；或
  - 關於公布干預金融市場決議之決議。
- (4) 依本條規定公布之紀錄，就委員會之決議事項，應記載參與決議之各委員投票情形。
- (4A) 本行認為公開涉及金融政策委員會議程之資訊將違反公共利益時，應將該資訊排除於依本法公布之紀錄。
- (5) 本條所定之公布，應以本行認為適當之方式為之。

### 第 16 條 理事會之職權

- (1) 理事會應審查貨幣政策委員會之議事程序。
- (2) 具體而言，第(1)項所定之理事會職權，應包含確認貨幣政策委員會為制定貨幣政策，是否已蒐集地區性、產業別或其他必要之資訊。
- (3) .....



*Information and reports***17 Power to obtain information**

- (1) The Bank may by notice in writing require an undertaking to which this section applies to provide the Bank with such information as may be specified in the notice, being information about the relevant financial affairs of the undertaking which the Bank considers it necessary or expedient to have for the purposes of its functions under this Part.
- (2) A notice under subsection (1) may require information to be provided—
  - (a) in such form or manner as may be specified in the notice;
  - (b) at such time or times as may be so specified;
  - (c) in relation to such period or periods as may be so specified.
- (3) An undertaking is one to which this section applies if—
  - (a) it has a place of business in the United Kingdom; and
  - (b) it falls within subsection (3A), (3B), (3C) or (3D).
- (3A) An undertaking falls within this subsection if it is a deposit-taker.
- (3B) An undertaking falls within this subsection if it is not a deposit-taker but it—
  - (a) falls within the subsector "other monetary financial institution", as defined by paragraph 2.48 of Annex A to Council Regulation (EC) No. 2223/96,
  - (b) carries on a business of granting credits secured on land used for residential purposes,
  - (c) has issued a debt security, or
  - (d) has acted as an agent in connection with arranging or managing the issue of a debt security.
- (3C) An undertaking falls within this subsection if it is a financial holding company.
- (3D) An undertaking falls within this subsection if it is not a deposit-taker but continues to have a liability in respect of a deposit which was held by it in accordance with the Banking Act 1979 or the Banking Act 1987 or a permission under Part 4A of the Financial Services and Markets Act 2000.
- (4) The Treasury may by order provide which financial affairs of an undertaking are relevant for the purposes of this section, and may make different provision for different undertakings or classes of undertaking.
- (5) The Treasury may by order amend subsections (3) to (3D).
- (6) Before making an order under this section, the Treasury shall consult—

*資訊及報告***第 17 條 取得資訊之權力**

- (1) 本行得以書面通知要求本條規定之業者，向本行提供該通知所列之資訊；前述資訊須為本行認為於行使本章職權所必需，或有利於本行行使本章職權之相關財務資訊。
- (2) 第(1)項之通知得要求依下列規定提供資訊—
  - (a) 依通知所列之格式或方式；
  - (b) 依通知所列之時間；
  - (c) 依通知所列之相關期間。
- (3) 本條所稱之業者，係指—
  - (a) 於英國設有營業處所；且
  - (b) 符合第(3A)項、第(3B)項、第(3C)項或第(3D)項所定情形者。
- (3A) 存款收受者為本項所稱之業者。
- (3B) 非存款收受者，但屬下列各款情形之一者，為本項所稱之業者—
  - (a) 歐盟理事會第 2223/96 號規則附件 A 第 2.48 點所定義之「其他貨幣金融機構」；
  - (b) 從事住宅用地擔保授信之業者；
  - (c) 已發行債券者；或
  - (d) 從事與發行債券之規劃或經理有關之代理商。
- (3C) 金融控股公司為本項所稱之業者。
- (3D) 非存款收受者，但依 1979 年銀行法或 1987 年銀行法規定得保留其收受之存款，或依 2000 年金融服務及市場法第 4A 章規定取得許可者，為本項所稱之業者。
- (4) 財政部得以命令規定各業者與本條目的有關之財務事項，並得就不同業者或不同類型之業者訂定不同之規範。
- (5) 財政部得以命令修正第(3)項至第(3D)項規定。
- (6) 財政部依本條規定發布命令前，應先洽商—

- (a) the Bank,
  - (b) the Statistics Board,
  - (c) such persons as appear to them to be representative of persons likely to be materially affected by the order, and
  - (d) such other persons as they consider appropriate.
- (7) "Deposit taker" means—
- (a) a person who has permission under Part 4A of the Financial Services and Markets Act 2000 to accept deposits; or
  - (b) an EEA firm of the kind mentioned in paragraph 5(b) or (c) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 (1) of that Schedule) to accept deposits or other repayable funds.
- (7A) "Debt security" means any instrument creating or acknowledging indebtedness (including a government or public security).
- (7B) Subsections (7) and (7A) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
  - (b) any relevant order under that section; and
  - (c) Schedule 2 to that Act.
- (7C) "Financial holding company" has the meaning given by Article 4 (1)(20) of the capital requirements regulation.
- (7D) "Undertaking" has the meaning given by section 1161 (1) of the Companies Act 2006.

## 18 Reports

- (1) The Bank shall prepare and publish reports in accordance with the provisions of this section.
- (2) A report under this section shall contain—
  - (a) a review of the monetary policy decisions published by the Bank in the period to which the report relates,
  - (b) an assessment of the developments in inflation in the economy of the United Kingdom in the period to which the report relates, and
  - (c) an indication of the expected approach to meeting the Bank's objectives under section 11.
- (3) A report under this section shall relate to—
  - (a) a period of 3 months, or
  - (b) such other period as the Treasury and the Monetary Policy Committee may agree.

- (a) 本行；
  - (b) 統計委員會；
  - (c) 受該命令重大影響之當事人代表；及
  - (d) 其他財政部認為適當之人。
- (7) 「存款收受者」係指—
- (a) 依 2000 年金融服務及市場法第 4A 章規定取得收受存款之許可者；或
  - (b) 前項法律附則 3 第 5 點第(b)款或第(c)款所稱之歐洲經濟區公司，依該附則第 15 點規定（符合該附則第 12 點第(1)項之授權資格）取得收受存款或其他可償付資金之許可者。
- (7A) 「債券」係指創設或承認債務之金融工具（包含政府或公共債券）。
- (7B) 第(7)項及第(7A)項規定應依下列規定解釋—
- (a) 2000 年金融服務及市場法第 22 條；
  - (b) 依前款條文發布之相關命令；及
  - (c) 前述法律附則 2。
- (7C) 「金融控股公司」之定義依資本要求規則第 4 條第(1)項第(20)款規定。
- (7D) 「業者」之定義依 2006 年公司法第 1161 條第(1)項規定。

## 第 18 條 報告

- (1) 本行應依本條規定擬具及公布報告。
- (2) 本條之報告應包含—
  - (a) 對本行於報告期間內所公布貨幣政策決議之檢討；
  - (b) 對英國經濟於報告期間內通貨膨脹情形之評估；及
  - (c) 期望達成第 11 條本行經營目標之指標。
- (3) 本條之報告應涵蓋—
  - (a) 3 個月之期間；或
  - (b) 財政部及貨幣政策委員會同意之其他期間。

- (4) Periods to which reports under this section relate shall be successive, the first such period commencing on such day within the period of 3 months ending with the day on which this Act comes into force as the Treasury shall, after consultation with the Bank, specify in writing to it.
- (5) No report under this section shall be published without the approval of the Monetary Policy Committee.
- (6) A report under this section shall be published as soon as reasonably practicable after the end of the period to which it relates and in such manner as the Bank thinks fit.

*Treasury's reserve powers*

## 19 Reserve powers

- (1) The Treasury, after consultation with the Governor of the Bank, may by order give the Bank directions with respect to monetary policy if they are satisfied that the directions are required in the public interest and by extreme economic circumstances.
- (2) An order under this section may include such consequential modifications of the provisions of this Part relating to the Monetary Policy Committee as the Treasury think fit.
- (3) A statutory instrument containing an order under this section shall be laid before Parliament after being made.
- (4) Unless an order under this section is approved by resolution of each House of Parliament before the end of the period of 28 days beginning with the day on which it is made, it shall cease to have effect at the end of that period.
- (5) In reckoning the period of 28 days for the purposes of subsection (4), no account shall be taken of any time during which Parliament is dissolved or prorogued or during which either House is adjourned for more than 4 days.
- (6) An order under this section which does not cease to have effect before the end of the period of 3 months beginning with the day on which it is made shall cease to have effect at the end of that period.
- (7) While an order under this section has effect, section 11 shall not have effect.

*Supplementary*

## 20 Interpretation of Part II

In this Part, "the Monetary Policy Committee" means the Monetary Policy Committee of the Bank of England.

- (4) 本條報告之涵蓋期間應連續計算。財政部經洽商本行後，應以書面指定本法生效之日前3個月期間內之1日，為首次報告涵蓋期間之起始日。
- (5) 未經貨幣政策委員會同意，不得公布本條之報告。
- (6) 本條之報告應於涵蓋期間屆滿後之合理期間內，儘速以本行認為適當之方式公布之。

*財政部保留之權力*

## 第19條 保留之權力

- (1) 財政部經洽商總裁後，認為於公共利益及緊急經濟情勢有必要時，得以命令就貨幣政策有關事項對本行下達指示。
- (2) 財政部認為適當之情形下，本條之命令得包含相應修正本章有關貨幣政策委員會之規定。
- (3) 本條之命令發布後，應連同法定文件提交國會。
- (4) 本條之命令自發布之日起28日內未經上下議院決議追認時，於該期間結束後失其效力。
- (5) 第(4)項規定所定28日之計算，不計入國會解散、休會，或上下議院暫時休會超過4日之期間。
- (6) 本條之命令自發布之日起3個月內未失效者，應於該期間末日失效。
- (7) 於本條之命令有效期間內，第11條規定不生效力。

*補充規定*

## 第20條 第2章之解釋

本章所稱之「貨幣政策委員會」係指英格蘭銀行貨幣政策委員會。

### PART III

#### TRANSFER OF SUPERVISORY FUNCTIONS OF THE BANK TO THE FINANCIAL SERVICES AUTHORITY

#### 21 Transfer

.....

#### 22 Supplementary provisions

Schedule 4 (transfer of functions: supplementary provisions) shall have effect.

#### 23 Consequential amendments

- (1) Schedule 5 (amendments of primary, and other principal, legislation consequential on the transfer of functions by section 21) shall have effect.
- (2) .....
- (3) If a reference in a relevant provision to the Bank is predicated on the continuing exercise by the Bank of any of the transferred functions, it shall, in relation to any time after the coming into force of this Act, have effect as a reference to the Authority.
- (4) In subsection (3), "relevant provision" means a provision which—
  - (a) has effect before, as well as after, the coming into force of this Act, and
  - (b) is contained in a document other than an Act or an instrument made under an Act.

#### 24 Status

.....

#### 25 .....

#### 26 .....

#### 27 .....

### 第 3 章 本行金融監理職權移轉至金融服務管理局<sup>譯註 2</sup>

#### 第 21 條 職權之移轉

.....

#### 第 22 條 補充規定

附則 4（職權之移轉：補充規定）隨同本法生效。

#### 第 23 條 相應修正

- (1) 附則 5（依第 21 條規定移轉職權而相應修正之主要及其他重要法規）隨同本法生效。
- (2) .....
- (3) 相關規定所援引之本行，係基於本行持續行使移轉之職權時，於本法生效後，係指該局。
- (4) 第(3)項所稱之「相關規定」，係指該規定—
  - (a) 於本法生效之前及之後均有效力；且
  - (b) 於法律以外之文件或依法律製作之文書所規範。

#### 第 24 條 法律地位

.....

#### 第 25 條 .....

#### 第 26 條 .....

#### 第 27 條 .....

<sup>譯註 2</sup> 金融服務管理局之金融監理職權，自 2013 年 4 月 1 日起由金融督導局及審慎監理局行使。

*Consequential changes to banking bodies*

28 .....

29 .....

*Supplementary***30 Interpretation of Part III**

In this Part—

"the Authority" means the Financial Services Authority;

"transferred functions" means the functions transferred to the Authority by this Part.

**PART 3A****PRUDENTIAL REGULATION****30A Prudential Regulation Committee**

- (1) There is to be a committee of the Bank known as the Prudential Regulation Committee of the Bank of England.
- (2) The Prudential Regulation Committee is to consist of—
  - (a) the Governor of the Bank,
  - (b) the Deputy Governor for financial stability,
  - (c) the Deputy Governor for markets and banking,
  - (d) the Deputy Governor for prudential regulation,
  - (e) the Chief Executive of the Financial Conduct Authority,
  - (f) one member appointed by the Governor of the Bank with the approval of the Chancellor of the Exchequer, and
  - (g) at least 6 members appointed by the Chancellor of the Exchequer.
- (3) The functions of the Prudential Regulation Committee are—
  - (a) its functions by virtue of section 2A of the Financial Services and Markets Act 2000 (which provides for the Bank's functions as the Prudential Regulation Authority to be exercised by the Bank acting through the Prudential Regulation Committee), and
  - (b) the functions conferred on it by this Act.

*銀行機構之相應變更*

第 28 條 .....

第 29 條 .....

*補充規定***第 30 條 第 3 章之解釋**

本章之—

「該局」係指金融服務管理局；

「移轉之職權」係指依本章規定移轉至該局之職權。

**第 3A 章 審慎監理****第 30A 條 審慎監理委員會**

- (1) 本行設審慎監理委員會。
- (2) 審慎監理委員會之成員包含—
  - (a) 總裁；
  - (b) 負責金融穩定之副總裁；
  - (c) 負責市場及銀行業務之副總裁；
  - (d) 負責審慎監理之副總裁。
  - (e) 金融督導局局長；
  - (f) 總裁洽商財政大臣後任命之成員 1 人；及
  - (g) 財政大臣任命之成員至少 6 人。
- (3) 審慎監理委員會之職權為—
  - (a) 依 2000 年金融服務及市場法第 2A 條規定（規定本行作為審慎監理局之職權，由本行透過審慎監理委員會行使）而取得之職權；及
  - (b) 本法賦予委員會之職權。

- (4) Schedule 6A has effect with respect to the Prudential Regulation Committee.

### 30B Recommendations by Treasury

- (1) The Treasury may at any time by notice in writing to the Prudential Regulation Committee make recommendations to the Committee about aspects of the economic policy of Her Majesty's Government to which the Committee should have regard—
- (a) when considering how to advance the objectives of the Prudential Regulation Authority, and
  - (b) when considering the application of the regulatory principles set out in section 3B of the Financial Services and Markets Act 2000.
- (2) The Treasury must make recommendations under subsection (1) at least once in each Parliament.
- (3) The Treasury must—
- (a) publish in such manner as they think fit any notice given under subsection (1), and
  - (b) lay a copy of it before Parliament.

### 30C Operational independence

- (1) The Bank must make arrangements to ensure compliance with—
- (a) article 4.7 of the capital requirements directive, and
  - (b) article 3.3 of the recovery and resolution directive, (which require resolution functions and supervisory functions to be operationally independent of one another).
- (2) The Bank must prepare and issue a statement of its arrangements under subsection (1).
- (3) If there are material changes to the arrangements, it must prepare and issue a revised statement.
- (4) The Bank must consult the Treasury before issuing a statement under subsection (2) or a revised statement under subsection (3).
- (5) If it appears to the Treasury that any action proposed to be taken by the Bank would be incompatible with obligations of the United Kingdom under the provisions mentioned in subsection (1)(a) or (b), the Treasury may direct the Bank not to take that action.
- (6) If it appears to the Treasury that any action which the Bank has power to take is required for the purpose of implementing those obligations, the Treasury may direct the Bank to take that action.
- (7) In this section—
- "the capital requirements directive" means Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms;

- (4) 附則 6A 關於審慎監理委員會之規定，隨同本法生效。

### 第 30B 條 財政部之建議

- (1) 財政部於下列情形時，得隨時就審慎監理委員會應考量之英國政府經濟政策提出建議，並以書面通知委員會—
- (a) 考量如何促進審慎監理局之監管目標；及
  - (b) 考量 2000 年金融服務及市場法第 3B 條所定監理原則之適用。
- (2) 財政部應於每國會會期至少提出 1 次第(1)項之建議。
- (3) 財政部應—
- (a) 以其認為適當之方式，公布第(1)項之通知；並
  - (b) 向國會提交該通知之副本。

### 第 30C 條 運作之獨立性

- (1) 本行應作出安排以確保符合下列規定（要求清理職權及監理職權應分別獨立運作）—
- (a) 資本要求指令第 4.7 條規定；及
  - (b) 復原及清理指令第 3.3 條規定。
- (2) 本行應依第(1)項規定擬具並發布其安排之聲明。
- (3) 前項之安排有重大異動時，本行應擬具並發布修改後之聲明。
- (4) 本行發布第(2)項之聲明或第(3)項修改後之聲明前，應先洽商財政部意見。
- (5) 財政部認為本行擬採行之作為與英國依第(1)項第(a)款或第(b)款所列規定應負之義務不符時，得指示本行不採行該作為。
- (6) 財政部認為本行有權採行為履行前述義務所必須之作為時，得指示本行採行該作為。
- (7) 本條之—
- 「資本要求指令」係指 2013 年 6 月 26 日歐洲議會及歐盟理事會關於信貸機構之業務開放及信貸機構與投資公司之審慎監理之歐盟 2013 年第 36 號指令；

"the recovery and resolution directive" means Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms.

## PART IV MISCELLANEOUS AND GENERAL

### *Miscellaneous*

31 .....

32 .....

### 33 Closure of National Savings Stock Register to gilts

(1) The Treasury may by order—

- (a) make provision excluding gilts from registration in the Register on and after a day specified in the order,
  - (b) make provision for the transfer to the books of the Bank of the entries in the Register at the beginning of the day specified under paragraph (a) which relate to gilts, and
  - (c) make provision for the transfer to the Bank of rights and liabilities of the Director of Savings in relation to the registration of gilts in the Register or any transaction associated therewith.
- (2) The power conferred by paragraph (b) of subsection (1) includes power to make provision in relation to gilts which were not registered in the Register at the beginning of the day specified under paragraph (a) of that subsection, but which should have been.
- (3) An order under subsection (1) may contain such consequential, incidental, supplementary and transitional provisions as appear to the Treasury to be necessary or expedient.
- (4) Without prejudice to subsection (3), an order under subsection (1) may contain—
- (a) provision requiring things done by, or in relation to, the Director of Savings, to be treated as done by, or in relation to, the Bank,

「復原及清理指令」係指 2014 年 5 月 15 日歐洲議會及歐盟理事會關於建立信貸機構與投資公司之復原及清理架構之歐盟 2014 年第 59 號指令。

## 第 4 章 附款及通則

### 附款

第 31 條 .....

第 32 條 .....

### 第 33 條 國家儲蓄銀行之債券登記系統停止登記英國政府公債

(1) 財政部得以命令—

- (a) 規定於該命令指定之日起，不再於登記系統登記英國政府公債；
  - (b) 規定於第(a)款所指定之日起，將登記系統涉及英國政府公債之帳目移轉至本行之帳冊；及
  - (c) 規定將國家儲蓄銀行董事長有關英國政府公債於登記系統之登記或相關交易所生權利與義務，移轉至本行。
- (2) 第(1)項第(b)款賦予之權力，包含移轉依該項第(a)款指定之日時應於登記系統登記，但未登記之英國政府公債帳目。
- (3) 第(1)項之命令得載明財政部認為必要或適當之後續、附隨、補充及過渡條款。
- (4) 在不牴觸第(3)項規定之前提下，第(1)項之命令得載明—
- (a) 國家儲蓄銀行董事長所為或涉及國家儲蓄銀行董事長者，視為本行所為或涉及本行；

- (b) provision requiring references in documents to the Register to be construed as references to the books of the Bank, and
  - (c) provision requiring certificates issued by the Director of Savings in relation to registration in the Register to be treated as issued by the Bank in relation to registration in the books of the Bank.
- (5) An order under subsection (1) may—
- (a) make different provision for different cases, and
  - (b) contain provision amending, or repealing or revoking, an enactment contained in—
    - (i) an Act, whenever passed, or
    - (ii) an instrument, whenever made, under an Act, whenever passed.
- (6) In this section—
- "gilts" means stock or bonds of any of the descriptions included in Part I of Schedule 11 to the Finance Act 1942 (whether on or after the passing of this Act); and
- "the Register" means the National Savings Stock Register.

### 34 Provision of brokerage service in connection with gilt registration

In section 47 of the Finance Act 1942 (transfer and registration of Government stock), after subsection (1) there is inserted—

- "(1ZA) Regulations under subsection (1) of this section may make provision with respect to the purchase and sale of such stock and bonds by any person, or any description of person, through the Bank of England and, in relation to purchase or sale under the regulations, may—
- (a) make provision with respect to the commission and fees payable, and
  - (b) make provision limiting the amount which any person, or any description of person, may purchase or sell on any day."

### 35 Section 207 of the Companies Act 1989: bearer securities

.....

### 36 .....

#### *General*

### 37 Restriction on disclosure of information

Schedule 7 (which restricts the disclosure of information obtained for monetary policy or cash ratio deposit purposes) shall have effect.

- (b) 文件中引述登記系統者，解釋為引述本行之帳冊；及
- (c) 國家儲蓄銀行董事長所核發於登記系統登記之證明者，視為本行所核發於本行帳冊登記之證明。

### (5) 第(1)項之命令得—

- (a) 對不同之案件作不同之規定；及
- (b) 載明修正、廢除或撤銷下列所載規定之條款—
  - (i) 已通過之法律；或
  - (ii) 依已通過之法律所作成之文書。

### (6) 本條之一—

「英國政府公債」係指 1942 年金融法附則 11 第 1 章所稱之公債或債券（不論該法通過時或通過後）；及

「登記系統」係指國家儲蓄銀行之債券登記系統。

### 第 34 條 與英國政府公債登記有關之經紀服務

1942 年金融法第 47 條（政府債券之移轉及登記）於第(1)項後增訂—

- 「(1ZA) 依本條第(1)項所訂之命令得就任何人透過英格蘭銀行購買及出售公債與債券，以及涉及依該命令購買或出售者—
- (a) 規定應付之佣金及費用；及
  - (b) 規定任何人每日得購買或出售之限額。」

### 第 35 條 1989 年公司法第 207 條：無記名證券

### 第 36 條 .....

#### *通則*

### 第 37 條 資訊揭露之限制

附則 7（為貨幣政策或現金比率存款之目的所蒐集資訊揭露之限制）隨同本法生效。



**38 Offences in relation to supplying information to the Bank**

- (1) A person who fails without reasonable excuse to comply with any requirement imposed on him under section 17 (1) or paragraph 9 of Schedule 2 shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (2) If after conviction of an offence under subsection (1) a person continues the failure for which he was convicted, he shall be guilty of a further offence under that subsection and liable on summary conviction to be punished accordingly.
- (3) A person who in purported compliance with a requirement imposed on him under section 17 (1) or paragraph 9 of Schedule 2 provides information which he knows to be false or misleading in a material particular, or recklessly provides information which is false or misleading in a material particular, shall be guilty of an offence and liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine, or to both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding 3 months, or to a fine not exceeding the statutory maximum, or to both.

**39 Offences by bodies corporate**

- (1) Where an offence under this Part committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

**40 Orders**

- (1) Any power of the Treasury to make an order under this Act shall be exercisable by statutory instrument.
- (2) An order under—section 1A (1), section 17 (4) or (5), paragraph 1 (2) or 5 of Schedule 2, or paragraph 3 (2) of Schedule 7, shall not be made unless a draft of the order has been laid before and approved by resolution of each House of Parliament.

**第 38 條 拒絕向本行提供資訊之罰則**

- (1) 無正當理由而未履行第 17 條第(1)項或附則 2 第 9 點規定所課以之義務者構成犯罪，經簡易判決程序定罪者，科第 4 級標準等級以下罰金。
- (2) 於第(1)項判決定罪後仍未履行其所負義務者，依該項規定構成另一犯罪，經簡易判決程序定罪者應另予處罰。
- (3) 依第 17 條第(1)項或附則 2 第 9 點規定負提供資訊之義務，而故意或因過失提供錯誤或不實之資訊者構成犯罪，應依下列規定處罰—
  - (a) 經起訴判決程序定罪者，處 2 年以下有期徒刑，或科或併科罰金；或
  - (b) 經簡易判決程序定罪者，處 3 個月以下有期徒刑，或科或併科法定最高金額以下罰金。

**第 39 條 法人之罰則**

- (1) 法人犯本章之罪，經證實係由其董事、經理人、秘書或其他相當職位或有同等決定權之人之同意、共謀或過失所致者，該董事、經理人、秘書或其他相當職位或有同等決定權之人與法人共同構成犯罪，應同為被告並依調查事實結果加以處罰。
- (2) 法人之事務由其職員管理者，該職員於其管理職權內所為之行為或不行為，視同該法人之董事所為，並適用第(1)項之規定。

**第 40 條 命令**

- (1) 財政部依本法發布之命令，應以法定文件為之。
- (2) 第 1A 條第(1)項、第 17 條第(4)項或第(5)項、附則 2 第 1 點第(2)項或第 5 點，或附則 7 第 3 點第(2)項之命令，應於其草案提交國會並經上下議院決議通過後，始得發布。

- (3) A statutory instrument containing an order under—  
section 23 (2),  
paragraph 2 (2) or 8 of Schedule 2,  
paragraph 1 (5) of Schedule 4, or  
paragraph 3 (3) of Schedule 7,  
shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) A statutory instrument containing an order under section 33 shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (4A) Section 9N contains its own provisions about parliamentary procedure in relation to an order under section 9L.
- (5) Section 19 contains its own provisions about parliamentary procedure in relation to an order under that section.

#### 41 General interpretation

In this Act—

"the Bank" means the Bank of England;

"the capital requirements regulation" means Regulation (EU) No. 575/2013 of the European Parliament and of the Council.

"central securities depository" has the meaning given by point (1) of Article 2 (1) of Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories;

#### 42 Transitional provisions and savings

Schedule 8 (transitional provisions and savings) shall have effect.

#### 43 Repeals

The enactments and instruments specified in Schedule 9 are hereby repealed or revoked to the extent specified in the final column of that Schedule.

#### *Final provisions*

#### 44 Extent

- (1) This Act extends to Northern Ireland.
- (2) Section 33 extends to the Channel Islands and the Isle of Man.
- (3) The extent of any amendment, repeal or revocation by this Act is the same as that of the enactment amended, repealed or revoked.

- (3) 內含第 23 條第(2)項、附則 2 第 2 點第(2)項或第(8)項、附則 4 第 1 點第(5)項，或附則 7 第 3 點第(3)項命令之法定文件，應依上議院或下議院之決議而失其效力。
- (4) 內含第 33 條命令之法定文件，應依下議院之決議而失其效力。
- (4A) 第 9N 條之規定，包含與第 9L 條命令有關之國會程序。
- (5) 第 19 條之規定，包含與該條命令有關之國會程序。

#### 第 41 條 一般解釋

本法之一

「本行」係指英格蘭銀行；

「資本要求規則」係指歐洲議會及歐盟理事會 2013 年第 575 號規則；

「證券集中保管機構」之定義依歐洲議會及歐盟理事會 2014 年 7 月 23 日關於改善歐盟證券結算及證券集中保管機構之 2014 年第 909 號規則第 2 條第(1)項第(1)款規定。

#### 第 42 條 過渡及保留規定

附則 8（過渡及保留規定）隨同本法生效。

#### 第 43 條 廢止

附則 9 所列之法規或文書，依該附則末欄所定之範圍，自即日起廢止。

#### *末則*

#### 第 44 條 效力範圍

- (1) 本法之效力及於北愛爾蘭。
- (2) 第 33 條規定之效力及於海峽群島及好漢島。
- (3) 依本法而修正或廢止之法規，與該法規具有相同之效力。

**45 Commencement**

This Act shall come into force on such day as the Treasury may by order appoint.

**46 Short title**

This Act may be cited as the Bank of England Act 1998.

**SCHEDULES****SCHEDULE 1****COURT OF DIRECTORS***Terms of office*

- 1 (1) Appointment as Governor of the Bank shall be for a period of 8 years.
- (2) Appointment as Deputy Governor of the Bank shall be for a period of 5 years.
- (3) A person may not be appointed—
  - (a) as Governor, more than once, or
  - (b) as Deputy Governor, more than twice.
- (4) A person appointed as Governor or Deputy Governor of the Bank shall work exclusively for the Bank; and for this purpose work in an office that an enactment requires to be held by the Governor or a Deputy Governor is to be taken to be work for the Bank.
- 2 (1) Appointment as non-executive director of the Bank shall be for a period of 4 years, or such shorter period as may be specified in the appointment.
- (2) If it appears to Her Majesty that in the circumstances it is desirable to do so, Her Majesty may, before the end of the term for which a person is appointed as non-executive director, extend the person's term of office on one occasion for a specified period of not more than 6 months.
- (3) If a person whose term of office is extended under sub-paragraph (2) is subsequently re-appointed as non-executive director—
  - (a) the length of the term of his or her re-appointment (or, if the person is re-appointed more than once, of the first re-appointment following the extension) is to be reduced by a period equal to the extension, but
  - (b) the term of that re-appointment may itself be extended under subparagraph (2).
- 3 .....
- 4 A person appointed as Governor, Deputy Governor or non-executive director of the Bank may resign his office by written notice to the Bank.

**第 45 條 施行日期**

本法之生效日期，由財政部以命令定之。

**第 46 條 簡稱**

本法得稱為 1998 年英格蘭銀行法。

**附則****附則 1 理事會***任期*

1. (1) 總裁之任期為 8 年。
- (2) 副總裁之任期為 5 年。
- (3) 總裁、副總裁任命之限制如下—
  - (a) 曾任總裁者，不得再任；或
  - (b) 曾任副總裁 2 任者，不得再任。
- (4) 總裁、副總裁為專任；擔任法律明定應由總裁或副總裁擔任之職位者，視為任職本行。
2. (1) 非執行理事之任期為 4 年，或為任命時所定之較短期間。
- (2) 女王得視情況需要，於非執行理事之任期結束前，延長其任期 1 次。但延長之任期不得超過 6 個月。
- (3) 依第(2)項規定延長任期之非執行理事，隨後再任時—
  - (a) 再任（如再任不止 1 次時，為延長後第 1 次之再任）之任期應扣除延長之任期；但
  - (b) 再任之任期仍得依第(2)項規定予以延長。
3. ....
4. 總裁、副總裁或非執行理事，得以書面通知本行辭去其職位。

*Qualification for appointment*

- 5 (1) A person is disqualified for appointment as Governor, Deputy Governor or non-executive director of the Bank if he is a Minister of the Crown or a person serving in a government department in employment in respect of which remuneration is payable out of money provided by Parliament.
- (2) An officer or employee of the Bank, other than a person holding office under section 9B (1)(e), is disqualified for appointment as non-executive director of the Bank.
- 6 (1) The fact that a person has held office as Governor of the Bank does not disqualify that person from appointment as Deputy Governor or non-executive director of the Bank.
- (2) The fact that a person has held office as Deputy Governor or non-executive director of the Bank does not disqualify that person from re-appointment to that office or for appointment to the other office or as Governor of the Bank, but this is subject to paragraph 1 (3)(b).

*Removal from office*

- 7 (1) A person appointed as Governor or Deputy Governor of the Bank shall vacate office if he becomes a person to whom paragraph 5 (1) applies.
- (2) A person appointed as non-executive director of the Bank shall vacate office if he becomes a person to whom paragraph 5 (1) or (2) applies.
- 8 (1) The Bank may, with the consent of the Chancellor of the Exchequer, remove a person from office as Governor, Deputy Governor or non-executive director of the Bank if it is satisfied—
- (a) that he has been absent from meetings of the court for more than 3 months without the consent of the court,
- (b) that he has become bankrupt, that a debt relief order (under Part 7A of the Insolvency Act 1986) has been made in respect of him, that his estate has been sequestrated or that he has made an arrangement with or granted a trust deed for his creditors, or
- (c) that he is unable or unfit to discharge his functions as a member.
- (2) In relation to the Deputy Governor for prudential regulation, the reference in sub-paragraph (1)(c) to inability or unfitness to discharge functions as member of the court of directors is to be read as including a reference to inability or unfitness to discharge functions as chief executive for prudential regulation (see Schedule 6A).

*任命資格*

5. (1) 內閣閣員或任職於政府機關且薪資由國會支付者，不得任命為總裁、副總裁或非執行理事。
- (2) 除依第 9B 條第(1)項第(e)款規定任職之人員外，本行職員或受僱人員，不得任命為非執行理事。
6. (1) 曾任總裁者，得任命為副總裁或非執行理事。
- (2) 曾任副總裁或非執行理事者，得再任原職或任命為與原職不同之另一職位，或任命為總裁。但應符合第 1 點第(3)項第(b)款之規定。

*解職*

7. (1) 總裁或副總裁接任第 5 點第(1)項之職位時，應辭去總裁或副總裁職位。
- (2) 非執行理事接任第 5 點第(1)項或第(2)項之職位時，應辭去非執行理事職位。
8. (1) 總裁、副總裁或非執行理事有下列情形之一者，本行得經財政大臣同意予以解任—
- (a) 未經理事會同意，超過 3 個月缺席理事會會議；
- (b) 破產、（依 1986 年破產法第 7A 章規定）受核發債務免除命令、財產被扣押或與其債權人訂定信託契約；或
- (c) 無法或不適宜履行其理事職權。
- (2) 第(1)項第(c)款關於負責審慎監理之副總裁無法或不適宜履行理事會成員職權之參考標準，應包含關於負責審慎監理之執行長（參見附則 6A）無法或不適宜履行其職權之參考標準。

*Powers*

- 9 The court may act notwithstanding the existence of one or more vacancies among its members.
- 10 The court may appoint such sub-committees as it thinks fit.
- 11 (1) The court may delegate such duties and powers as it thinks fit to—
- (a) a member of the court,
  - (b) any officer, employee or agent of the Bank,
  - (c) a sub-committee consisting of—
    - (i) members of the court, or
    - (ii) one or more members of the court and one or more of the officers, employees and agents of the Bank.
  - (d) a committee consisting of officers, employees or agents of the Bank.
- (2) The duties and powers that may be delegated under this paragraph do not include duties and powers that are by any enactment expressly imposed or conferred on the court of directors.
- (a) include duties and powers conferred on the court of directors by section 9A (financial stability strategy), but
  - (b) except as mentioned in paragraph (a).
- (3) The court of directors retains responsibility for a duty or power which it delegates under this paragraph.

*Meetings*

- 12 (1) The court shall meet at least 7 times in each calendar year.
- (2) Either of the following may summon a meeting at any time on giving such notice as the circumstances appear to require—
- (a) the Governor of the Bank (or in his absence a Deputy Governor), and
  - (b) the chair of the court.

*Publication of record of meetings*

- 12A (1) The Bank must publish a record of each meeting of the court—
- (a) before the end of the period of 6 weeks beginning with the day of the meeting, or
  - (b) if no meeting of the court is subsequently held during that period, before the end of the period of 2 weeks beginning with the day of the next meeting.

*權力*

9. 理事會之職權，不因理事之出缺而受影響。
10. 理事會認為適當時，得任命附屬委員會成員。
11. (1) 理事會認為適當時，得將其職責與權力授予下列人員或組織行使之—
- (a) 理事會成員；
  - (b) 本行職員、受僱人員或代理人；
  - (c) 由下列成員組成之附屬委員會—
    - (i) 理事會成員；或
    - (ii) 理事會成員 1 人以上，以及本行職員、受僱人員與代理人 1 人以上。
  - (d) 由本行職員、受僱人員與代理人組成之委員會。
- (2) 依本點規定得授權之職責與權力—
- (a) 包含第 9A 條規定（金融穩定策略）賦予理事會之職責與權力；但
  - (b) 除第(a)款所列者外，不包含法律明確課予或賦予理事會之職責與權力。
- (3) 理事會就依本點授權之職責或權力負其責任。

*會議*

12. (1) 理事會會議每年應至少舉行 7 次。
- (2) 下列人員認為必要時，得隨時通知召開理事會會議—
- (a) 總裁（總裁缺席時為副總裁）；及
  - (b) 理事會主席。

*會議紀錄之公布*

- 12A. (1) 本行應於下列期限，公布理事會會議紀錄—
- (a) 自該次會議結束之日起 6 週內；或
  - (b) 理事會於前款期限無後續會議時，自下次會議結束之日起 2 週內。

- (2) The record must specify any decisions taken at the meeting (including decisions to take no action) and must set out, in relation to each decision, a summary of the court's deliberations.
- (3) Sub-paragraphs (1) and (2) do not require the publication of information whose publication within the time required by sub-paragraph (1) would in the opinion of the court be against the public interest.
- (4) Publication under this section is to be in such manner as the Bank thinks fit.

#### *Proceedings*

- 13 (1) At a meeting of the court, the proceedings shall be regulated as follows.
  - (2) .....
  - (3) The Chancellor of the Exchequer may designate—
    - (a) a member of the court to chair its meetings ("the chair of the court"), and
    - (b) one or more members of the court as deputies to chair its meetings in the absence of the chair of the court.
  - (3A) But a member of the court who is the Governor or a Deputy Governor of the Bank may not be designated under paragraph (a) or (b) of sub-paragraph (3).
  - (4) If a member of the court has any direct or indirect interest in any dealing or business with the Bank—
    - (a) he shall disclose his interest to the court at the time of the dealing or business being negotiated or transacted, and
    - (b) he shall have no vote in relation to the dealing or business, unless the court has resolved that the interest does not give rise to a conflict of interest.
  - (5) A member of the court shall have no vote in relation to any question arising which touches or concerns him but shall withdraw and be absent during the debate of any matter in which he is concerned.
  - (6) Subject to sub-paragraphs (3) to (5), the court shall determine its own procedure (including quorum).

#### *Remuneration*

- 14 (A1) The remuneration of the Governor and Deputy Governors of the Bank is to be determined by a sub-committee of the court of directors consisting of 3 or more non-executive directors of the Bank.

- (2) 前項紀錄應詳細說明該次會議所作成之決議（包含不作為之決議），以及理事會就各項決議討論過程之摘要。
- (3) 第(1)項及第(2)項規定應公開之資訊，不包含理事會認為依第(1)項規定所定期限公開，將違反公共利益之資訊。
- (4) 本點所定之公布，應以本行認為適當之方式為之。

#### *議事程序*

- 13. (1) 理事會會議之議事程序，依本點規定。
  - (2) .....
  - (3) 財政大臣得指派—
    - (a) 理事會成員 1 人為理事會會議主席（以下簡稱「理事會主席」）；及
    - (b) 理事會成員 1 人以上為理事會會議副主席，於理事會主席缺席時擔任主席。
  - (3A) 總裁或副總裁不得依第(3)項第(a)款或第(b)款規定指派為理事會主席或副主席。
  - (4) 理事會成員對於本行之交易或業務，有直接或間接利害關係時—
    - (a) 該成員應於理事會商議或處理該項交易或業務時，向理事會揭露其利害關係；且
    - (b) 除理事會決議其利害關係不致產生利益衝突之情形外，該成員對該項交易或業務，無表決權。
  - (5) 理事會成員對於涉及本人之事項，無表決權；於該事項討論過程中，應暫時退席。
  - (6) 理事會得於符合第(3)項至第(5)項規定之條件下，自行訂定議事程序（包含法定人數）。

#### *薪資*

- 14. (A1) 總裁或副總裁之薪資由理事會所設之附屬委員會訂定；該附屬委員會由非執行理事 3 人以上組成。

- (1) A person appointed as Governor or Deputy Governor of the Bank shall be entitled to be paid by the Bank such remuneration as that sub-committee may determine.
- (2) The Bank may pay, or create and maintain a fund for the payment of, pensions or capital grants to members, or former members, of the court who have rendered exclusive services to the Bank.
- 15 A non-executive director of the Bank shall be entitled to be paid by the Bank such remuneration as the Bank may determine with the approval of the Chancellor of the Exchequer.

## SCHEDULE 2

### CASH RATIO DEPOSITS

#### *Eligible institutions*

- 1 (1) Each deposit-taker is an eligible institution for the purposes of this Schedule.
- (1A) "Deposit-taker" has the meaning given in section 17, except that it does not include—
- (a) a credit union;
- (b) a friendly society;
- (c) a person who has permission to accept deposits under Part 4A of the Financial Services and Markets Act 2000 only in the course of effecting or carrying out contracts of insurance in accordance with that permission; or
- (d) an EEA firm of the kind mentioned in paragraph 5(c) of Schedule 3 to that Act.
- (1B) "Credit union" has the meaning given—
- (a) by the Credit Unions Act 1979; or
- (b) in Northern Ireland, by the Credit Unions (Northern Ireland) Order 1985.
- (1C) "Friendly society" means—
- (a) a society which is registered within the meaning of the Friendly Societies Act 1974; or
- (b) a society incorporated under the Friendly Societies Act 1992.
- (2) The Treasury may by order amend sub-paragraphs (1) to (1C) as they think fit.

- (1) 總裁或副總裁之薪資由前項附屬委員會訂定，並由本行支付。
- (2) 現任或曾任理事且為專任者，本行得支付其退休金或補助金，或設立並維持支付其退休金或補助金之基金。
15. 非執行理事之薪資，由本行經財政大臣同意後訂定及支付。

## 附則 2 現金比率存款

### 合格機構

1. (1) 存款收受者為本附則之合格機構。
- (1A) 「存款收受者」之定義依第 17 條規定。但不包含下列機構—
- (a) 信用合作社；
- (b) 互助社；
- (c) 依 2000 年金融服務及市場法第 4A 章規定取得收受存款之許可，且依該許可訂立或履行保險契約者；或
- (d) 前款法律附則 3 第 5 點第(c)款所稱之歐洲經濟區公司。
- (1B) 「信用合作社」之定義依下列法令規定—
- (a) 1979 年信用合作社法；或
- (b) 於北愛爾蘭，依 1985 年（北愛爾蘭）信用合作社命令。
- (1C) 「互助社」係指—
- (a) 符合 1974 年互助社法定義所註冊之社團；或
- (b) 依 1992 年互助社法組成之社團。
- (2) 財政部得以命令修正第(1)項至第(1C)項規定。

*Liability base*

- 2 (1) For the purposes of this Schedule, the liability base of an eligible institution at any time is the aggregate of those sterling and foreign currency liabilities of the institution which are eligible liabilities.
- (2) The Treasury may by order define eligible liabilities for the purposes of this paragraph and make provision about the calculation of any description of eligible liability, including provision for the amount of a liability of any description to be treated as reduced by the amount of an asset of any description.

*Call notices*

- 3 (1) The Bank may give an eligible institution notice under this paragraph.
- (2) Notice under this paragraph ("a call notice") shall be in writing and shall specify—
- (a) the period to which it relates, and
  - (b) the amount which, in relation to that period, is the institution's depositable amount.
- (3) The period to be specified under sub-paragraph (2)(a)—
- (a) shall be a period of 6 months beginning at least 4 working days after the date of the notice, and
  - (b) shall not include any part of a period specified in a previous call notice given to the institution concerned.

*Calculation of depositable amount*

- 4 (1) In the case of any call notice, the amount to be specified under paragraph 3 (2)(b) is the amount, or, as the case may be, the sum of the amounts, produced by multiplying so much of the institution's average liability base for the reference period as falls into each value band by the ratio applicable to that band.
- (2) The Bank may use such method to calculate an institution's average liability base for the purposes of this paragraph as it thinks fit, and may use different methods for different institutions.
- (3) For the purposes of this paragraph, value bands and the ratios applicable to them are such as may be specified under paragraph 5.

*負債基礎*

2. (1) 本附則所稱合格機構之負債基礎，為該機構該當於合格負債之英鎊及外幣存款總和。
- (2) 財政部得以命令定義本點之合格負債，以及訂定計算合格負債（包含被認定為應減去資產數額之負債數額）之規定。

*存款通知*

3. (1) 本行得依本點規定通知合格機構。
- (2) 依本點規定所為之通知（以下簡稱「存款通知」）應以書面為之，並載明—
- (a) 該通知之有關期間；及
  - (b) 該機構於前述期間應存入之金額。
- (3) 第(2)項第(a)款規定所載之期間—
- (a) 應有 6 個月之期間，並自通知之日起至少 4 個工作日後起算；且
  - (b) 不得涵蓋先前對該機構之存款通知所載之任何期間。

*存款金額之計算*

4. (1) 依第 3 點第(2)項第(b)款規定於存款通知所載之金額，為該機構於參考期間之平均負債基礎落於各金額級距部分，乘以該級距適用比率之總和。
- (2) 本行得以其認為適當之方式計算個別機構之平均負債基礎，並得以不同方式計算不同機構之平均負債基礎。
- (3) 本點之金額級距及其適用比率，係依第 5 點規定定之。



*Value bands and applicable ratios*

- 5 The Treasury may by order specify for the purposes of paragraph 4 value bands and the ratios applicable to them.

*Effect of call notice*

- 6 (1) Where the Bank has given an eligible institution a call notice, then, if at any time in the period to which the notice relates the following conditions are met, namely—
- (a) the institution is an eligible institution, and
  - (b) the institution does not have on deposit in the appropriate account with the Bank the amount specified in the notice as its depositable amount in relation to that period,
- the Bank may by notice in writing require the institution to make a payment in lieu of deposit.
- (2) A notice under sub-paragraph (1) shall specify what period it covers, and the period specified must—
- (a) fall within the period to which the call notice relates, and
  - (b) be a period throughout which the conditions mentioned in sub-paragraph (1) have been met.
- (3) The amount which the Bank may by a notice under sub-paragraph (1) require an institution to pay is an amount equal to interest for the period covered by the notice, at 4% over the benchmark rate, on the average shortfall during that period.
- (4) The Bank may use such method to calculate the average shortfall as it thinks fit.
- (5) In sub-paragraph (1)(b), the reference to the appropriate account, in relation to an eligible institution, is to such account of the institution with the Bank as is designated by the Bank for the purposes of this Schedule.
- (6) For the purposes of sub-paragraph (3), the shortfall, at any time, is the amount which the institution needs to deposit to prevent the condition mentioned in sub-paragraph (1)(b) applying.

*Benchmark rate of interest*

- 7 (1) The benchmark rate of interest for the purposes of paragraph 6 (3) is the Bank rate.
- (2) In this paragraph, "Bank rate" means—
- (a) the official Bank rate determined by the Monetary Policy Committee of the Bank, or
  - (b) where an order under section 19 of this Act is in force, any equivalent rate determined by the Treasury under that section.
- 8 The Treasury may by order amend or replace paragraph 7.

*金額級距及其適用比率*

5. 財政部得以命令明定第 4 點之金額級距及其適用比率。

*存款通知之效力*

6. (1) 本行對合格機構為存款通知後，於該通知之有關期間符合下列要件時，本行得以書面通知該機構以付款代替存款—
- (a) 該機構為合格機構；且
  - (b) 該機構於存款通知之有關期間內，未將該通知所載之應存入金額存入本行適當帳戶。
- (2) 第(1)項之通知應明定其涵蓋期間，而—
- (a) 該期間應於存款通知之有關期間內；且
  - (b) 於該期間內，皆符合第(1)項之要件。
- (3) 本行以第(1)項通知要求合格機構應支付之金額，為該機構於前述通知涵蓋期間之平均不足金額，以基準利率加計 4% 計息。
- (4) 本行得以其認為適當之方式，計算平均不足金額。
- (5) 第(1)項第(b)款規定所稱合格機構之本行適當帳戶，為本行為達成本附則規定目的所指定之帳戶。
- (6) 第(3)項規定之不足金額，為該機構為避免達成第(1)項第(b)款之要件應存入之金額。

*基準利率*

7. (1) 第 6 點第(3)項之基準利率為本行利率。
- (2) 本點之「本行利率」係指—
- (a) 貨幣政策委員會所定之本行官方利率；或
  - (b) 於本法第 19 條之命令有效期間內，財政部依該條規定所定之相當利率。
8. 財政部得以命令修正或取代第 7 點規定。

*Power to obtain information*

- 9 (1) The Bank may by notice in writing require an eligible institution to provide the Bank with such information as may be specified in the notice, being information which the Bank considers it necessary or expedient to have for the purposes of its functions under this Schedule.
- (2) A notice under sub-paragraph (1) may require information to be provided—
- (a) in such form or manner as may be specified in the notice;
  - (b) at such time or times as may be so specified;
  - (c) in relation to such period or periods as may be so specified.

*Orders*

- 10 Before making an order under this Schedule, the Treasury shall consult—
- (a) the Bank,
  - (b) such persons as appear to them to be representative of persons likely to be materially affected by the order, and
  - (c) such other persons as they think fit.
- 11 In exercising the power to make orders under paragraph 2 (2) or 5, the Treasury shall have regard to the financial needs of the Bank.

*Interpretation*

- 12 In this Schedule—
- "reference period", in relation to a call notice, means the period of 6 months ending immediately before the month in which the notice is given; and
- "working day" means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.

*Modifications for new entrants*

- 13 (1) In its application to the first call notice to be given to an institution or society after it becomes an eligible institution, this Schedule shall have effect with the following modifications.

*取得資訊之權力*

9. (1) 本行得以書面通知要求合格機構，向本行提供該通知所列之資訊；前述資訊須為本行認定於行使本附則職權所必需，或有利於本行行使本附則職權者。
- (2) 第(1)項之通知得要求依下列規定提供資訊—
- (a) 依該通知所列之格式或方式；
  - (b) 依該通知所列之時限；
  - (c) 依該通知所列之有關期間。

*命令*

10. 財政部依本附則規定發布命令前，應先洽商—
- (a) 本行；
  - (b) 受該命令重大影響之當事人代表；及
  - (c) 其他財政部認為適當之人。
11. 財政部依第 2 點第(2)項或第 5 點規定行使發布命令之權力時，應考量本行之財務需求。

*解釋*

12. 本附則之一
- 「參考期間」，就存款通知而言，係指該通知當月前 6 個月之期間；且
- 「工作日」係指除星期六、星期日、聖誕節、耶穌受難日或英國任一地區依 1971 年銀行與金融交易法之銀行放假日以外之日。

*對於新成員之修正*

13. (1) 適用於成為合格機構後首次接獲存款通知之機構或社團時，本附則應為本點之修正，並隨同本法生效。

- (2) In paragraph 3 (3)(a), after "period of" there is inserted " not more than ".
- (3) In paragraph 7 (2), for "the end of the reference period for the relevant call notice" there is substituted " such time before the beginning of the period to which the relevant call notice relates as the Bank thinks fit ".
- (4) In paragraph 12, in the definition of "reference period", for the words from "the period" to the end there is substituted "such period prior to the notice as the Bank thinks fit".

## SCHEDULE 2A

### FINANCIAL POLICY COMMITTEE

#### *Terms of office of appointed members*

- 1 (1) Appointment under section 9B (1)(d) or (e) as a member of the Financial Policy Committee is to be for a period of 3 years, but this is subject to sub-paragraph (2) and to paragraph 3.
- (2) Initially some appointments may be for shorter and different periods so as to secure that appointments expire at different times.
- 2 (1) A person may not be appointed as a member of the Committee under section 9B (1)(e) more than twice.
- (2) For this purpose an appointment which by virtue of paragraph 1 (2) is for a period of less than 3 years is to be disregarded.
- 3 (1) If it appears to the Chancellor of the Exchequer that in the circumstances it is desirable to do so, the Chancellor may, before the end of the term for which a person is appointed as a member of the Committee under section 9B (1)(e), extend the person's term of office on one occasion for a specified period of not more than 6 months.
- (2) The term being extended may be the person's first or second term or, in a case where paragraph 2 (2) allows a third term, the person's third term.
- (3) If a person whose first term of office is extended is subsequently re-appointed under section 9B (1)(e)—

- (2) 第 3 點第(3)項第(a)款「6 個月之期間」之前，增加「不超過」等語。
- (3) 第 7 點第(2)項「相關存款通知之參考期間屆滿時」，修正為「本行認為於相關存款通知之有關期間開始前之適當時間」。
- (4) 第 12 點對「參考期間」之定義，自「該通知」等語至句末，修正為「本行認為於該通知前之適當期間」。

## 附則 2A 金融政策委員會

#### *任命成員之任期*

1. (1) 除第(2)項及第 3 點規定之情形外，依第 9B 條第(1)項第(d)款或第(e)款規定任命之金融政策委員會成員，其任期為 3 年。
- (2) 首次任命之部分成員得有較短或不同任期，以確保任期不致同時屆滿。
2. (1) 曾依第 9B 條第(1)項第(e)款規定任命為成員 2 任以上者，不得依該款規定再任。
- (2) 依第 1 點第(2)項規定任命且任期少於 3 年之成員，該次任期不列入計算。
3. (1) 財政大臣認為必要時，得於依第 9B 條第(1)項第(e)款規定任命之成員任期屆滿前，延長其任期。但延長之任期不得超過 6 個月。
- (2) 延長任期得於該成員第 1 任或第 2 任任期為之；依第 2 點第(2)項規定得擔任第 3 任時，並得於該成員第 3 任任期為之。
- (3) 已延長第 1 任任期之成員，依第 9B 條第(1)項第(e)款規定再任時—

- (a) the length of the second term is to be reduced by a period equal to the extension of the first term, but
- (b) the second term may itself subsequently be extended under sub-paragraph (1).
- (4) In a case where a person's second term of office is extended and paragraph 2 (2) allows a third term, sub-paragraph (3) is to be read as if the references to first and second terms were references to second and third terms respectively.
- 4 (1) A person appointed under section 9B (1)(d) or (e) may resign the office by written notice to the Bank.
- (2) Where the notice relates to a person appointed under section 9B (1)(e), the Bank must give a copy of the notice to the Treasury.
- 5 The terms and conditions on which a person holds office as a member of the Committee appointed under section 9B (1)(e) are to be such as the court of directors of the Bank may determine.

#### *Qualification for appointment*

- 6 (1) The following persons are disqualified for appointment under section 9B (1)(d) or (e)—
  - (a) a Minister of the Crown;
  - (b) a person serving in a government department in employment in respect of which remuneration is paid out of money provided by Parliament.
- (2) The following persons are disqualified for appointment under section 9B (1)(e)—
  - (a) a member of the Monetary Policy Committee of the Bank appointed under section 13 (2)(c);
  - (b) a member of the Prudential Regulation Committee of the Bank appointed under section 30A (2)(g).

#### *Removal of appointed members*

- 7 A person appointed under section 9B (1)(d) or (e) vacates office on becoming a person to whom paragraph 6 (1)(a) or (b) applies.
- 8 A person appointed under section 9B (1)(d) vacates office on ceasing to have executive responsibility within the Bank for the analysis of threats to financial stability.

- (a) 第 2 任任期應扣除相當於第 1 任所延長之期間；但
- (b) 第 2 任任期仍得依第(1)款規定延長。
- (4) 已延長第 2 任任期，且依第 2 點第(2)項規定得擔任第 3 任之成員時，第(3)項就第 1 任及第 2 任任期所為之規定，應分別對應該成員之第 2 任及第 3 任任期。
- 4. (1) 依第 9B 條第(1)項第(d)款或第(e)款規定任命之成員，得以書面通知本行辭去其職位。
- (2) 依第 9B 條第(1)項第(e)款規定任命之成員以前項通知辭職時，本行應向財政部提交該通知之副本。
- 5. 依第 9B 條第(1)項第(e)款規定任命之成員，其任職條件由理事會定之。

#### *任命資格*

- 6. (1) 下列人員不得依第 9B 條第(1)項第(d)款或第(e)款規定任命為成員—
  - (a) 內閣閣員；
  - (b) 任職於政府機關且薪資由國會支付者。
- (2) 下列人員不得依第 9B 條第(1)項第(e)款規定任命為成員—
  - (a) 依第 13 條第(2)項第(c)款規定任命之貨幣政策委員會成員；
  - (b) 依第 30A 條第(2)項第(g)款規定任命之審慎監理委員會成員。

#### *任命成員之解職*

- 7. 依第 9B 條第(1)項第(d)款或第(e)款規定任命之成員，接任第 6 點第(1)項第(a)款或第(b)款之職位時，應辭去成員職位。
- 8. 依第 9B 條第(1)項第(d)款規定任命之成員，就本行對於威脅金融穩定分析事項不再具有執行權限時，應辭去成員職位。

- 9 (1) The court of directors of the Bank may, with the consent of the Chancellor of the Exchequer, remove a member appointed under section 9B (1)(d) or (e) ("M") if it is satisfied—
- (a) that M has been absent from 3 or more meetings of the Financial Policy Committee without the Committee's consent,
  - (b) that M has become bankrupt, that a debt relief order (under Part 7A of the Insolvency Act 1986) has been made in respect of M, that M's estate has been sequestrated or that M has made an arrangement with or granted a trust deed for M's creditors, or
  - (c) that M is unable or unfit to discharge M's functions as a member.
- (2) The court of directors may, with the consent of the Chancellor of the Exchequer, also remove a member appointed under section 9B (1)(e) ("M") if it is satisfied that in all the circumstances M's financial or other interests are such as substantially to affect the functions as member which it would be proper for M to discharge.

#### *Meetings*

- 10 (1) The Committee shall meet at least 4 times in each calendar year.
- (2) The Governor of the Bank (or in the Governor's absence the Bank's Deputy Governor for financial stability) may summon a meeting at any time on giving such notice as the person giving the notice thinks the circumstances require.

#### *Proceedings*

- 11 (1) At a meeting of the Committee, the proceedings are to be regulated as follows.
- (2) The quorum is to be 6 (excluding the Treasury's representative) and of the 6—
- (a) one must be the Governor of the Bank or the Bank's Deputy Governor for financial stability,
  - (b) unless both those mentioned in paragraph (a) are present, one must be one of the other Deputy Governors of the Bank, and
  - (c) one must be a member appointed under section 9B (1)(e).
- (3) The chair is to be taken by the Governor of the Bank or, if the Governor is not present, by the Bank's Deputy Governor for financial stability.
- (4) The person chairing the meeting must seek to secure that decisions of the Committee are reached by consensus wherever possible.
- (5) Where that person forms the opinion that consensus cannot be reached, a decision is to be taken by a vote of all those members present at the meeting.

9. (1) 依第 9B 條第(1)項第(d)款或第(e)款規定任命之成員，有下列情形之一者，理事會得經財政大臣同意予以解任—
- (a) 未經金融政策委員會同意，缺席金融政策委員會會議 3 次以上；
  - (b) 破產、經（依 1986 年破產法第 7A 章規定）對其核發債務減輕令、財產被扣押或與其債權人訂定信託契約；或
  - (c) 無法或不適宜履行其成員職權。
- (2) 依第 9B 條第(1)項第(e)款規定任命之成員，其財務或其他利害關係對其適當行使成員職權有重大影響時，理事會得經財政大臣同意予以解任。

#### *會議*

10. (1) 委員會會議每年應至少舉行 4 次。
- (2) 總裁（或總裁缺席時為負責金融穩定之副總裁）認為必要時，得隨時通知召開會議。

#### *議事程序*

11. (1) 委員會會議之議事程序，依本點之規定。
- (2) 會議之法定人數為 6 人（財政部代表不計入），包含—
- (a) 其中 1 人應為總裁或負責金融穩定之副總裁；
  - (b) 除第(a)款所列人員皆出席之情形外，其中 1 人應為其他副總裁；及
  - (c) 其中 1 人應為依第 9B 條第(1)項第(e)款規定任命之成員。
- (3) 總裁為會議主席；總裁缺席時，由負責金融穩定之副總裁擔任主席。
- (4) 會議主席應儘可能確保會議決議係以共識決定之。
- (5) 委員會成員意見未能達成共識時，會議決議由出席會議之全體成員以投票決定之。

- (6) In the event of a tie, the person chairing the meeting is to have a second casting vote.
- (7) At a meeting of the Committee—
  - (a) the Treasury's representative may not vote, and
  - (b) any view expressed by the Treasury's representative is to be disregarded in determining under sub-paragraph (4) or (5) whether there is a consensus.
- (8) .....
- 12 The Committee may, in relation to sub-paragraph (2), (3), (4) or (5) of paragraph 11, determine circumstances in which a member who is not present at, but is in communication with, a meeting is to be treated for the purposes of that sub-paragraph as present at it.
- 13 The Committee may invite other persons to attend, or to attend and speak at, any meeting of the Committee.
- 14 (1) If a member of the Committee ("M") has any direct or indirect interest (including any reasonably likely future interest) in any dealing or business which falls to be considered by the Committee—
  - (a) M must disclose that interest to the Committee when it considers the dealing or business, and
  - (b) the Committee must decide whether M is to be permitted to participate in any proceedings of the Committee relating to any question arising from its consideration of the dealing or business, and if so to what extent and subject to what conditions (if any).
- (2) The Bank must issue and maintain a code of practice describing how members of the Committee and the Committee are to comply with sub-paragraph (1).
- (3) The Bank may at any time revise or replace the code.
- (4) Before issuing, revising or replacing the code, the Bank must consult the Treasury.
- (5) The Bank must publish the current version of the code in whatever manner it sees fit.
- (6) The Committee must comply with the code when taking decisions under sub-paragraph (1)(b).

*Decisions otherwise than at meetings*

- 15 (1) The Committee may take a decision on a matter without a meeting if—
  - (a) a majority of eligible members indicate in writing their agreement to the decision,
  - (b) the eligible members who indicate in writing their agreement to the decision would have constituted a quorum at a meeting of the Committee, and

- (6) 正反票數相同時，由會議主席決定之。
- (7) 委員會會議中—
  - (a) 財政部代表無投票權；且
  - (b) 財政部代表之意見，不作為認定是否達成第(4)項或第(5)項共識之依據。
- (8) .....
- 12. 委員會得認定未實際出席會議但以通訊方式參與之成員，視為已依第 11 點第(2)項、第(3)項、第(4)項或第(5)項規定出席會議。
- 13. 委員會得邀請其他人員列席會議，或列席會議並表示意見。
- 14. (1) 委員會成員對於委員會審議之交易或業務，有直接或間接利害關係（包含未來合理可能發生之利害關係）時—
  - (a) 該成員應於委員會審議該項交易或業務時，向委員會揭露其利害關係；且
  - (b) 委員會應決定該成員得否參與委員會審議該項交易或業務之議程，以及得參與時之參與程度及（如有條件時之）限制條件。
- (2) 本行應制定並維護規範委員會及其成員應如何遵循第(1)項規定之行為守則。
- (3) 本行得隨時修改或更換該守則。
- (4) 本行制定、修改或更換該守則前，應先洽商財政部意見。
- (5) 本行應以其認為適當之方式公布現行守則。
- (6) 委員會依第(1)項第(b)款規定決議時，應符合該守則之規定。

*不經會議之決議*

- 15. (1) 符合下列條件時，委員會得不經會議作成決議—
  - (a) 多數合格成員以書面同意該決議；
  - (b) 以書面同意該決議之合格成員人數已達到會議之法定人數；以及

- (c) any other requirements determined by the Committee are met.
- (2) "Eligible members" are members of the Committee who would have been entitled to vote on the matter if the matter had been proposed for decision at a meeting of the Committee.

*Power to determine own procedure*

- 16 Subject to paragraphs 11, 14 and 15, the Committee is to determine its own procedure.

### SCHEDULE 3

#### MONETARY POLICY COMMITTEE

*Terms of office of appointed members*

- 1 Appointment as a member of the Committee under section 13 (2)(b) or (c) shall be for a period of 3 years, but this is subject to paragraph 2B.
- 2 .....
- 2A A person may not be appointed as a member of the Committee under section 13 (2)(c) more than twice.
- 2B (1) If it appears to the Chancellor of the Exchequer that in the circumstances it is desirable to do so, the Chancellor may, before the end of the 3 years for which a person is appointed as a member of the Committee under section 13 (2)(c), extend the person's term of office on one occasion for a specified period of not more than 6 months.
- (2) The term being extended may be the person's first or second term.
- (3) If a person whose first term of office is extended is subsequently re-appointed under section 13 (2)(c)—
- (a) the length of the second term is to be reduced by a period equal to the extension of the first term, but
- (b) the second term may itself subsequently be extended under subparagraph (1).
- 3 (1) A person appointed under section 13 (2)(b) or (c) may resign his office by written notice to the Bank.
- (2) Where the notice relates to a person appointed under section 13 (2)(c), the Bank must give a copy of the notice to the Treasury.
- 4 (1) .....

- (c) 委員會所定之其他條件。

- (2) 「合格成員」係指於委員會會議審議提案議題時，具有表決權之成員。

*決定其程序之權力*

16. 委員會應於符合第 11 點、第 14 點及第 15 點規定之條件下，自行訂定其程序。

### 附則 3 貨幣政策委員會

*任命成員之任期*

1. 依第 13 條第(2)項第(b)款或第(c)款規定任命之貨幣政策委員會成員，其任期為 3 年。但第 2B 點規定之情形除外。
2. ....
- 2A. 依第 13 條第(2)項第(c)款規定任命為成員 2 任以上者，不得依該款規定再任。
- 2B. (1) 財政大臣認為必要時，得於依第 13 條第(2)項第(c)款規定任命之成員 3 年任期屆滿前，延長其任期。但延長之任期不得超過 6 個月。
- (2) 延長任期得於該成員第 1 任或第 2 任任期為之。
- (3) 已延長第 1 任任期之成員，依第 13 條第(2)項第(c)款規定再任時—
- (a) 第 2 任任期應扣除相當於第 1 任所延長之期間；但
- (b) 第 2 任任期仍得依第(1)款規定延長。
3. (1) 依第 13 條第(2)項第(b)款或第(c)款規定任命之成員，得以書面通知本行辭去其職位。
- (2) 依第 13 條第(2)項第(c)款規定任命之成員以前項通知辭職時，本行應向財政部提交該通知之副本。
4. (1) .....

- (2) The terms and conditions on which a person holds office as a member of the Committee appointed under section 13 (2)(c) are to be such as the court of directors of the Bank may determine.
- (3).....

#### *Qualification for appointment*

- 5 A person is disqualified for appointment under section 13 (2)(b) or (c) if—
- (a) he is a Minister of the Crown, or a person serving in a government department in employment in respect of which remuneration is payable out of money provided by Parliament, or
  - (b) he is a member of the court of directors of the Bank.
- 5A The following persons are disqualified for appointment under section 13 (2)(c)—
- (a) a member of the Financial Policy Committee of the Bank appointed under section 9B (1)(e);
  - (b) a member of the Prudential Regulation Committee of the Bank appointed under section 30A (2)(g).
- 6 The fact that a person has held office under section 13 (2)(b) or (c) does not disqualify him for further appointment to such office (subject to paragraph 2A).

#### *Removal of appointed members*

- 7 A person appointed under section 13 (2)(b) or (c) shall vacate office if he becomes a person to whom paragraph 5(a) or (b) applies.
- 8 A person appointed under section 13 (2)(b) shall vacate office if he ceases to carry out monetary policy analysis within the Bank.
- 9 (1) The court of directors of the Bank may, with the consent of the Chancellor of the Exchequer, remove a member appointed under section 13 (2)(b) or (c) if it is satisfied—
- (a) that he has been absent from the 3 or more meetings of the Monetary Policy Committee without that Committee's consent,
  - (b) that he has become bankrupt, that a debt relief order (under Part 7A of the Insolvency Act 1986) has been made in respect of him, that his estate has been sequestrated or that he has made an arrangement with or granted a trust deed for his creditors, or
  - (c) that he is unable or unfit to discharge his functions as a member.

- (2) 依第 13 條第(2)項第(c)款規定任命之成員，其任職條件由理事會定之。
- (3) .....

#### *任命資格*

5. 下列人員不得依第 13 條第(2)項第(b)款或第(c)款規定任命為成員—
- (a) 內閣閣員，或任職於政府機關且薪資由國會支付者；或
  - (b) 本行理事。
- 5A. 下列人員不得依第 13 條第(2)項第(c)款規定任命為成員—
- (a) 依第 9B 條第(1)項第(e)款規定任命之金融政策委員會成員；
  - (b) 依第 30A 條第(2)項第(g)款規定任命之審慎監理委員會成員。
6. 依第 13 條第(2)項第(b)款或第(c)款規定任命之成員得再任。但應符合第 2A 點之規定。

#### *任命成員之解職*

7. 依第 13 條第(2)項第(b)款或第(c)款規定任命之成員，接任第 5 點第(a)款或第(b)款之職位時，應辭去成員職位。
8. 依第 13 條第(2)項第(b)款規定任命之委員，對於本行貨幣政策分析事項不再具有執行權限時，應辭去成員職位。
9. (1) 依第 13 條第(2)項第(b)款或第(c)款規定任命之成員，有下列情形之一者，理事會得經財政大臣同意予以解任：
- (a) 未經貨幣政策委員會同意，缺席貨幣政策委員會會議 3 次以上；
  - (b) 破產、經（依 1986 年破產法第 7A 章規定）對其核發債務減輕令、財產被扣押或與其債權人訂定信託契約；或
  - (c) 無法或不適宜履行其成員職權。



- (1A) The court of directors may, with the consent of the Chancellor of the Exchequer, also remove a member appointed under section 13 (2)(c) if it is satisfied that in all the circumstances his financial or other interests are such as substantially to affect the functions as member which it would be proper for him to discharge.

(2) .....

### *Meetings*

- 10 (1) The Committee shall meet at least 8 times in each calendar year.  
 (1A) The Committee shall meet at least once in any 10 week period.  
 (2) .....

### *Proceedings*

- 11 (1) At a meeting of the Committee, the proceedings shall be regulated as follows.  
 (2) The quorum shall be 6, of whom—  
 (a) one must be the Governor of the Bank or the Deputy Governor for monetary policy,  
 (b) unless both those mentioned in paragraph (a) are present, one must be either the Deputy Governor for financial stability or the Deputy Governor for markets and banking.  
 (3) .....  
 (4) Decisions shall be taken by a vote of all those members present at the meeting.  
 (5) In the event of a tie, the chairman shall have a second casting vote.  
 (6) Subject to sub-paragraphs (2) to (5) and paragraph 13B, the Committee shall determine its own procedure.
- 12 The Committee may, in relation to sub-paragraph (2), (3) or (4) of paragraph 11, determine circumstances in which a member who is not present at, but is in communication with, a meeting, is to be treated for the purposes of that sub-paragraph as present at it.
- 13 A representative of the Treasury may attend, and speak at, any meeting of the Committee.
- 13A The Committee may invite other persons to attend, or to attend and speak at, any meeting of the Committee.
- 13B (1) If a member of the Committee ("M") has any direct or indirect interest (including any reasonably likely future interest) in any dealing or business which falls to be considered by the Committee—  
 (a) M must disclose that interest to the Committee when it considers the dealing or business, and

- (1A) 依第 13 條第(2)項第(c)款規定任命之成員，其財務或其他利害關係對其適當行使職權有重大影響時，理事會得經財政大臣同意予以解任。

(2) .....

### 會議

10. (1) 委員會會議每年應至少舉行 8 次。  
 (1A) 委員會會議每 10 週應至少舉行 1 次。  
 (2) .....

### 議事程序

11. (1) 委員會會議之議事程序，依本點之規定。  
 (2) 會議之法定人數為 6 人，包含—  
 (a) 其中 1 人應為總裁或負責貨幣政策之副總裁；  
 (b) 除第(a)款所列人員皆出席之情形外，其中 1 人應為負責金融穩定之副總裁或負責市場及銀行業務之副總裁。  
 (3) .....  
 (4) 會議決議應由出席會議之全體委員以投票決定之。  
 (5) 正反票數相同時，由會議主席決定之。  
 (6) 委員會得於符合第(2)項至第(5)項及第 13B 點規定之條件下，自行訂定議事程序。
12. 委員會得認定未實際出席會議但以通訊方式參與之成員，視為已依第 11 點第(2)項、第(3)項或第(4)項規定出席會議。
13. 財政部代表得列席委員會會議，並表示意見。
- 13A. 委員會得邀請其他人員列席會議，或列席會議並表示意見。
- 13B. (1) 委員會成員對於委員會審議之交易或業務，有直接或間接利害關係（包含未來合理可能發生之利害關係）時—  
 (a) 該成員應於委員會審議該項交易或業務時，向委員會揭露其利害關係；且

- (b) the Committee must decide whether M is to be permitted to participate in any proceedings of the Committee relating to any question arising from its consideration of the dealing or business, and if so to what extent and subject to what conditions (if any).
- (2) The Bank must issue and maintain a code of practice describing how members of the Committee and the Committee are to comply with sub-paragraph (1).
- (3) The Bank may at any time revise or replace the code.
- (4) Before issuing, revising or replacing the code, the Bank must consult the Treasury.
- (5) The Bank must publish the current version of the code in whatever manner it sees fit.
- (6) The Committee must comply with the code when taking decisions under sub-paragraph (1)(b).

*Report to court of directors of the Bank*

- 14 The Committee shall at least 8 times in each calendar year, submit a report on its activities to the court of directors of the Bank.

*Parliamentary disqualification*

- 15 In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (other disqualifying offices), there is inserted at the appropriate place — "Member of the Monetary Policy Committee of the Bank of England appointed under section 13 (2)(b) or (c) of the Bank of England Act 1998."; and a corresponding amendment is made in Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975.

## SCHEDULE 4

### TRANSFER OF FUNCTIONS: SUPPLEMENTARY PROVISIONS

*Continuity of exercise of functions*

- 1 (1) The transfer of functions by this Part shall not affect the validity of anything done (or having effect as if done) by or in relation to the Bank before the day on which this Act comes into force ("the transfer day").

- (b) 委員會應決定該成員得否參與委員會審議該項交易或業務之議程，以及得參與時之參與程度與（如有條件時之）限制條件。
- (2) 本行應制定並維護規範委員會及其成員應如何遵循第(1)項規定之行為守則。
- (3) 本行得隨時修改或更換該守則。
- (4) 本行制定、修改或更換該守則前，應先洽商財政部意見。
- (5) 本行應以其認為適當之方式公布現行守則。
- (6) 委員會依第(1)項第(b)款規定決議時，應符合該守則之規定。

*向理事會報告*

14. 委員會每年應至少 8 次向理事會提出業務報告。

*國會成員之不適格*

15. 1975 年下議院不適格法附則 1 第 3 章（其他不適格職位），於適當處增訂「依 1998 年英格蘭銀行法第 13 條第(2)項第(b)款或第(c)款規定任命之貨幣政策委員會成員」；1975 年北愛爾蘭議會不適格法附則 1 第 3 章規定並配合修正。

## 附則 4 職權移轉：補充規定<sup>譯註 3</sup>

*職權行使之持續性*

1. (1) 本章之職權移轉，不影響本法生效日（以下簡稱「移轉日」）前本行所為（或視為已完成）行為或與本行有關事項之效力。

<sup>譯註 3</sup> 金融服務管理局之金融監理職權，自 2013 年 4 月 1 日起由金融督導局及審慎監理局行使。

- (2) Anything which, immediately before the transfer day, is in the process of being done by or in relation to the Bank may, if it relates to any of the transferred functions, be continued by or in relation to the Authority.
- (3) Anything done (or having effect as if done) by, or in relation to, the Bank before the transfer day for the purpose of, or in connection with, any of the transferred functions, shall, so far as is required for continuing its effect on and after that day, have effect as if done by, or in relation to, the Authority.
- (4) Any reference to the Bank in any document constituting or relating to anything to which the foregoing provisions of this paragraph apply shall, so far as is required for giving effect to those provisions, be construed as a reference to the Authority.
- (5) The Treasury may, in relation to any of the transferred functions, by order exclude, modify or supplement any of the foregoing provisions of this paragraph or make such other transitional provisions as they think necessary or expedient.

#### *Transfer of staff*

- 2 The transfer of functions by this Part shall be regarded for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 1981 as the transfer of part of an undertaking, whether or not it would be so regarded apart from this provision.

#### *Transfer of property, rights and liabilities*

- 3 (1) The Bank shall make a scheme under this paragraph for the transfer to the Authority of such of the Bank's property, rights and liabilities as appear to the Bank appropriate to be so transferred in consequence of the transfer of functions by this Part.
- (2) A scheme under this paragraph made by the Bank shall not be capable of coming into force unless it is approved by the Treasury.
- (3) The Bank may not submit a scheme under this paragraph to the Treasury for their approval without the consent of the Authority.
- (4) Where a scheme under this paragraph is submitted to the Treasury for their approval, they may, before approving it, make such modifications to it as appear to them to be appropriate.
- (5) Where this sub-paragraph applies, the Treasury may, after consultation with the Bank and the Authority, make a scheme under this paragraph for the transfer to the Authority of such of the Bank's property, rights and liabilities as appear to them appropriate to be so transferred in consequence of the transfer of functions by this Part.
- (6) Sub-paragraph (5) applies if—

- (2) 移轉日前已由本行進行中或與本行有關之事項，如涉及移轉之職權，應由該局持續進行或與該局有關。
- (3) 移轉日前本行所為（或視為已完成）行為或與本行有關之事項，如涉及移轉之職權，而於移轉日後仍應持續生效者，視為該局所為或與該局有關。
- (4) 涉及本點前3項規定之適用時，文件中所援引之本行，於前3項規定有效之範圍，解釋為該局。
- (5) 涉及移轉之職權時，財政部得以命令排除、修正或補充本點前4項規定，或訂定其認為必要或適當之其他過渡規定。

#### *職員之移轉*

- 2. 本章之職權移轉，應視為1981年事業轉讓（就業保護）規則規範目的下之事業部分轉讓，而無須考慮與該規定是否有所區別。

#### *財產、權利及債務之移轉*

- 3. (1) 配合本章之職權移轉，本行應依本點規定，就適宜移轉之本行財產、權利及債務，訂定移轉至該局之計畫。
- (2) 本行依本點規定訂定之計畫，未經財政部核准前，不生效力。
- (3) 未經該局同意，本行不得將本點之計畫提報財政部核准。
- (4) 本點之計畫提報財政部核准時，財政部於核准前，得為適當之修正。
- (5) 符合本項規定適用之情形時，配合本章之職權移轉，財政部得於洽商本行及該局後，依本點規定，就適宜移轉之本行財產、權利及債務，訂定移轉至該局之計畫。
- (6) 第(5)項規定適用於—

- (a) the Bank fails, before such time as may be notified to it by the Treasury as the latest time for submission of a scheme under this paragraph, to submit such a scheme to them for their approval, or
- (b) the Treasury decide not to approve a scheme that has been submitted to them by the Bank (either with or without modifications).
- (7) A scheme under this paragraph shall come into force on such day as the Treasury may by order appoint.
- (8) When a scheme under this paragraph comes into force, the property, rights and liabilities of the Bank to which the scheme relates shall, by virtue of this paragraph and without further assurance, be transferred to and vested in the Authority in accordance with the provisions of the scheme.
- (9) The Bank shall provide the Treasury with all such information and other assistance as they may reasonably require for the purposes of, or otherwise in connection with, the exercise of any power conferred on them by this paragraph.
- 4 (1) The property, rights and liabilities capable of being transferred in accordance with a scheme under paragraph 3 shall include property, rights and liabilities that would not otherwise be capable of being transferred or assigned by the Bank.
- (2) The transfers authorised by sub-paragraph (1) include transfers which are to take effect as if there were—
  - (a) no such requirement to obtain any person's consent or concurrence,
  - (b) no such liability in respect of a contravention of any other requirement, and
  - (c) no such interference with any interest or right,
 as there would be, in the case of any transaction apart from this Act, by reason of provisions having effect (whether under any enactment or agreement or otherwise) in relation to the terms on which the Bank is entitled or subject in relation to any property, right or liability.
- 5 (1) A scheme under paragraph 3 may also contain provision—
  - (a) for rights and liabilities to be transferred so as to be enforceable by or against both the Bank and the Authority,
  - (b) for the creation in favour of the Bank of an interest or right in or in relation to property transferred in accordance with the scheme,
  - (c) for giving effect to a transfer to the Authority in accordance with the scheme by the creation in favour of the Authority of an interest or right in or in relation to property retained by the Bank,
  - (d) for imposing on the Bank and the Authority obligations to enter into such written agreements with each other as may be specified in the scheme, and
  - (e) for imposing on either one of them obligations to execute such instruments in favour of the other as may be so specified.

- (a) 本行未能於財政部通知提報本點計畫之最後時限內，將計畫提報該部核准；或
- (b) 財政部決定駁回本行提報之計畫（不論計畫是否經過修正）。
- (7) 本點之計畫於財政部以命令指定之日生效。
- (8) 本點之計畫生效時，其涉及之本行財產、權利及債務應依本點規定，按計畫內容移轉並歸屬於該局，而無須進一步之保證。
- (9) 本行應提供財政部為行使本點所賦予之權力而合理需要之所有資訊及其他協助。
- 4. (1) 依第3點之計畫移轉之本行財產、權利及債務，應包含本行原本不得移轉或轉讓之財產、權利及債務。
- (2) 第(1)項授權之轉讓，包含視為有下列情形而生效之轉讓；因本法以外之其他交易，（不論依法律、協議或其他形式之條款）對本行有權或涉及本行之財產、權利或義務具有效力—
  - (a) 無須取得他人同意；
  - (b) 無違反其他規定之責任；及
  - (c) 未干涉任何利益或權利。
- 5. (1) 第3點之計畫得載明—
  - (a) 移轉之權利及債務，以由本行或該局強制執行；
  - (b) 設立與依計畫移轉之財產有關之利益或權利，以利於本行；
  - (c) 為依計畫有效移轉至該局，設立與本行保留之財產有關之利益或權利，以利於該局；
  - (d) 課以本行與該局應依計畫要求簽訂書面協議之義務；
  - (e) 課以本行或該局應依計畫要求讓利於他方之義務。

- (2) An obligation imposed by a provision included in a scheme by virtue of sub-paragraph (1)(d) or (e) shall be enforceable by civil proceedings by the Bank or the Authority for an injunction or for any other appropriate relief.
- (3) A transaction of any description effected in pursuance of a provision included in a scheme by virtue of sub-paragraph (1)(d) or (e)—
- shall have effect subject to the provisions of any enactment which provides for transactions of that description to be registered in any statutory register, but
  - subject to that, shall be binding on all other persons, notwithstanding that it would, apart from this provision, have required the consent or concurrence of any other person.
- 6 (1) A scheme under paragraph 3 may make such supplemental, consequential and transitional provision for the purposes of, or in connection with, any transfer of property, rights or liabilities for which the scheme provides or in connection with any other provisions contained in the scheme as the Bank may consider appropriate.
- (2) In particular, such a scheme may provide—
- that for purposes connected with any transfer made in accordance with the scheme (including the transfer of rights and liabilities under an enactment) the Authority is to be treated as the same person in law as the Bank,
  - that, so far as may be necessary for the purposes of or in connection with any such transfer, agreements made, transactions effected and other things done by or in relation to the Bank are to be treated as made, effected or done by or in relation to the Authority,
  - that, so far as may be necessary for the purposes of or in connection with any such transfer, references to the Bank in any agreement (whether or not in writing), deed, bond, instrument or other document are to have effect with such modifications as are specified in the scheme,
  - that proceedings commenced by or against the Bank are to be continued by or against the Authority, and
  - that the Bank and the Authority are to co-operate with each other for the purposes of and in connection with the scheme.

## SCHEDULE 5 TRANSFER OF FUNCTIONS: CONSEQUENTIAL AMENDMENTS

### PART I BANKING SUPERVISION

#### CHAPTER I BANKING ACT 1987

1 .....

- (2) 依第(1)項第(d)款或第(e)款規定載明於計畫之義務，得由本行或該局透過民事訴訟程序，以法院強制令或其他適當救濟方式強制執行。
- (3) 涉及依第(1)項第(d)款或第(e)款規定載明於計畫之條款而成立之交易—
- 於符合法律規定該類型之交易應向法定登記單位登記時生效；但
  - 除本點另有規定外，雖未取得他人同意，對他人仍具有拘束力。
6. (1) 為移轉第 3 點之計畫所規定或涉及之財產、權利及債務，該計畫得載明本行認為適當之補充、後續及過渡條款。
- (2) 具體而言，前項計畫得規定—
- 為依計畫進行移轉（包含依法移轉權利及債務），該局與本行於法律上視為同一人；
  - 本行為移轉之必要所為之協議、交易或其他事項，視為由該局所為；
  - 為移轉之必要，（不論是否為書面之）協議、契約、債券、文書或其他文件中所稱之本行，應依計畫所規定為修正；
  - 本行進行之訴訟程序，由該局持續進行；及
  - 本行及該局應為計畫目的相互合作。

## 附則 5 職權移轉：後續修正

### 第 1 章 銀行監理

#### 第 1 節 1987 年銀行法

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## CHAPTER II

### BANKING COORDINATION (SECOND COUNCIL DIRECTIVE) REGULATIONS 1992

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### 第 2 節 1992 年銀行業協調（第 2 屆理事會指令）規則

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### CHAPTER III OTHER ENACTMENTS

#### *Consumer Credit Act 1974 (c. 39)*

36 In the Consumer Credit Act 1974, in section 16 (3)(f), for "Bank of England" there is substituted "Financial Services Authority".

#### *Insolvency Act 1986 (c. 45)*

37 In the Insolvency Act 1986, in section 422 (1), for "Bank of England" there is substituted "Financial Services Authority".

#### *Building Societies Act 1986 (c. 53)*

38 (1) Section 101 of the Building Societies Act 1986 is amended as follows.  
 (2) In subsection (4), for "Bank", in both places, there is substituted "Authority".  
 (3) In subsection (6)—  
 (a) for the definition of "the Bank" there is substituted—  
 "'the Authority" means the Financial Services Authority", and  
 (b) in paragraph (c) of the definition of "financial institution", for "Bank" there is substituted "Authority".

#### *Financial Services Act 1986 (c. 60)*

39 .....

30. ....  
 31. ....  
 32. ....  
 33. ....  
 34. ....  
 35. ....

### 第 3 節 其他法規

#### *1974 年消費者信貸法 (第 39 章)*

36. 1974 年消費者信貸法第 16 條第(3)項第(f)款之「英格蘭銀行」改為「金融服務管理局」。

#### *1986 年破產法 (第 45 章)*

37. 1986 年破產法第 422 條第(1)項之「英格蘭銀行」改為「金融服務管理局」。

#### *1986 年建築融資協會法 (第 53 章)*

38. (1) 1986 年建築融資協會法第 101 條修正如後。  
 (2) 第(4)項之「該行」均改為「該局」。  
 (3) 第(6)項—  
 (a) 「該行」之定義改為—  
 「『該局』係指金融服務管理局」；且  
 (b) 第(c)款關於「金融機構」之定義，「該行」改為「該局」。

#### *1986 年金融服務法 (第 60 章)*

39. ....

*Insolvency (Northern Ireland) Order 1989 S.I. 1989/2405 (N.I. 19)*

- 40 In the Insolvency (Northern Ireland) Order 1989, in Article 366, for "Bank of England" there is substituted "Financial Services Authority".

*Courts and Legal Services Act 1990 (c. 41)*

- 41 (1) The Courts and Legal Services Act 1990 is amended as follows.
- (2) In sections 37 (8)(a) and 48 (4)(a), the words "by the Bank of England" are omitted.
- (3) In section 52 (6)—
- (a) in paragraph (a), the words "by the Bank of England" are omitted, and
- (b) for "with the Bank of England" there is substituted "with the Financial Services Authority".
- (4) In section 54 (1), in the inserted subsection (2)(e)(i), the words "by the Bank of England," are omitted.

*Charities Act 1993 (c. 10)*

42 .....

*Building Societies Act 1997 (c. 32)*

- 43 (1) Section 32 of the Building Societies Act 1997 is amended as follows.
- (2) In subsection (1), for "Bank" there is substituted "Authority".
- (3) In subsection (3)(a), for "Governor of the Bank" there is substituted "Chairman of the Authority".
- (4) In subsection (7), for the definition of "the Bank" there is substituted—
- "the Authority" means the Financial Services Authority."

**PART II****SUPERVISION UNDER SECTION 43 OF THE FINANCIAL SERVICES ACT 1986***Financial Services Act 1986 (c. 60)*

44 .....

*1989 年 2405 號（北愛爾蘭）破產命令（N.I. 19）*

40. 1989 年（北愛爾蘭）破產命令第 366 條之「英格蘭銀行」改為「金融服務管理局」。

*1990 年法院及法律服務法（第 41 章）*

41. (1) 1990 年法院及法律服務法修正如後。
- (2) 刪除第 37 條第(8)項第(a)款及第 48 條第(4)項第(a)款之「由英格蘭銀行」等語。
- (3) 第 52 條第(6)項—
- (a) 刪除第(a)款之「由英格蘭銀行」等語；且
- (b) 「向英格蘭銀行」改為「向金融服務管理局」。
- (4) 第 54 條第(1)項於所修正之第(2)項第(e)款第(i)目刪除「由英格蘭銀行」等語。

*1993 年慈善法（第 10 章）*

42. ....

*1997 年建築融資協會法（第 32 章）*

43. (1) 1997 年建築融資協會法第 32 條修正如後。
- (2) 第(1)項之「該行」改為「該局」。
- (3) 第(3)項第(a)款之「該行總裁」改為「該局主席」。
- (4) 第(7)項「該行」之定義改為—
- 「『該局』係指金融服務管理局。」

**第 2 章 1986 年金融服務法第 43 條之監理***1986 年金融服務法（第 60 章）*

44. ....



*Investment Services Regulations 1995 (S.I. 1995/3275)*

45. ....

**PART III****SUPERVISION UNDER SECTION 171 OF THE COMPANIES ACT 1989***Companies Act 1989 (c. 40)*

46 The Companies Act 1989 is amended as follows.

47 .....

48 (1) Section 176 is amended as follows.

(2) In subsection (2)(b), for "Bank of England" there is substituted "Financial Services Authority".

(3) For subsection (6) there is substituted—

"(6) Before making regulations under this section relating to a description of charges defined by reference to their being granted in favour of a person included in the list maintained by the Financial Services Authority for the purposes of section 171, or in connection with exchange facilities or clearing services provided by a person included in that list, the Secretary of State and the Treasury shall consult the Authority and the Bank of England.

(6A) Before making regulations under this section relating to a description of charges defined by reference to their being granted in favour of the Bank of England, or in connection with settlement arrangements provided by the Bank, the Secretary of State and the Treasury shall consult the Bank."

*Companies (No. 2) (Northern Ireland) Order 1990 (S.I. 1990/1504 (N.I. 10))*

49 (1) The Companies (No. 2) (Northern Ireland) Order 1990 is amended as follows.

50 In article 93 (3), for "and the Bank of England" there is substituted ", the Bank of England and the Financial Services Authority".

51 (1) Article 98 is amended as follows.

(2) In paragraph (2)(b), for "Bank of England" there is substituted "Financial Services Authority".

(3) For paragraph (6) there is substituted—

*1995 年投資服務規則 (S.I. 1995/3275)*

45. ....

**第 3 章 1989 年公司法第 171 條之監理***1989 年公司法 (第 40 章)*

46. 1989 年公司法修正如後。

47. ....

48. (1) 第 176 條修正如後。

(2) 第(2)項第(b)款之「英格蘭銀行」改為「金融服務管理局」。

(3) 第(6)項改為—

「(6) 依本條訂定有利於金融服務管理局依第 171 條規範目的而建立之名單內所列之人定義之收費說明，或與該名單所列之人所提供之交換設施或結算服務相關之法規前，商務大臣及財政部應洽商該局及英格蘭銀行之意見。

(6A) 依本條訂定有利於英格蘭銀行所定義之收費說明或與該行所提供之清算安排相關之法規前，商務大臣及財政部應洽商該行之意見。」

*1990 年 (第 2 號) (北愛爾蘭) 公司法 (S.I. 1990/1504 (N.I. 10))*

49. 1990 年 (第 2 號) (北愛爾蘭) 公司法修正如後。

50. 第 93 條第(3)項之「及英格蘭銀行」改為「、英格蘭銀行及金融服務管理局」。

51. (1) 第 98 條修正如後。

(2) 第(2)項第(b)款之「英格蘭銀行」改為「金融服務管理局」。

(3) 第(6)項改為—

"(6) Before making regulations under this Article relating to a description of charges defined by reference to their being granted in favour of a person included in the list maintained by the Financial Services Authority for the purposes of section 171 of the Companies Act 1989, or in connection with exchange facilities or clearing services provided by a person included in that list, the Department shall consult the Treasury, the Authority and the Bank of England.

(6A) Before making regulations under this Article relating to a description of charges defined by reference to their being granted in favour of the Bank of England, or in connection with settlement arrangements provided by the Bank, the Department shall consult the Treasury and the Bank."

#### PART IV

### GENERAL: DISCLOSURE OF INFORMATION

#### CHAPTER I

#### BANKING ACT 1987

52 .....  
53 .....  
54 .....  
55 .....  
56 .....  
57 .....  
58 .....  
59 .....

#### CHAPTER II

#### OTHER ENACTMENTS

*Consumer Credit Act 1974 (c. 39)*

60 In section 174(3A) of the Consumer Credit Act 1974—

(a) for "Bank of England" there is substituted "Financial Services Authority", and

(b) for "Bank" there is substituted "Authority".

「(6) 依本條訂定有利於金融服務管理局依 1989 年公司法第 171 條規範目的而建立之名單內所列之人定義之收費說明，或與該名單所列之人所提供之交換設施或結算服務相關之法規前，經濟發展部應洽商財政部、該局及英格蘭銀行之意見。

(6A) 依本條訂定有利於英格蘭銀行所定義之收費說明或與該行所提供之清算安排相關之法規前，經濟發展部應洽商財政部及該行之意見。」

### 第 4 章 通則：資訊揭露

#### 第 1 節 1987 年銀行法

52. ....  
53. ....  
54. ....  
55. ....  
56. ....  
57. ....  
58. ....  
59. ....

#### 第 2 節 其他法規

*1974 年消費者信貸法（第 39 章）*

60. 1974 年消費者信貸法第 174 條第(3A)項—

(a) 「英格蘭銀行」改為「金融服務管理局」。

(b) 「該行」改為「該局」。

*Insurance Companies Act 1982 (c. 50)*

61 .....

*Companies Act 1985 (c. 6)*

62 .....

*Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6))*

63 .....

*Building Societies Act 1986 (c. 53)*

64 (1) The Building Societies Act 1986 is amended as follows.

(2) In section 53, in subsection (5)—

(a) for "Bank of England", in the first place where it occurs, there is substituted "Financial Services Authority",

(b) for paragraph (b) there is substituted—

"(b) by the Authority of any of its functions under the Banking Act 1987 or as a supervisor of money market institutions;" and

(c) for "Bank of England", in the second place where it occurs, there is substituted "Authority".

(3) In that section, after subsection (5) there is inserted—

"(5A) Nothing in subsection (1) above prohibits the disclosure of information to the Bank of England where, in the opinion of the Commission, it is desirable or expedient that the information should be disclosed with a view to facilitating the discharge—

(a) by the Commission of any of its functions under this Act; or

(b) by the Bank of any of its functions;

nor does subsection (1) above prohibit further disclosure of the information by the Bank of England with the consent of the Commission."

(4) In section 54(3A)—

(a) for "Bank of England", in the first place where it occurs, there is substituted "Financial Services Authority, other than in its capacity as a designated agency within the meaning of the Financial Services Act 1986," and

(b) for "Bank of England", in the second place where it occurs, there is substituted "Financial Services Authority".

*1982 年保險公司法 (第 50 章)*

61. ....

*1985 年公司法 (第 6 章)*

62. ....

*1986 年 (北愛爾蘭) 公司命令 (S.I. 1986/1032 (N.I. 6))*

63. ....

*1986 年建築融資協會法 (第 53 章)*

64. (1) 1986 年建築融資協會法修正如後。

(2) 第 53 條第(5)項—

(a) 首次出現之「英格蘭銀行」改為「金融服務管理局」；

(b) 第(b)款改為—

「(b) 該局依 1987 年銀行法賦予之職權或作為貨幣市場機構之監管者」；及

(c) 其後出現之「英格蘭銀行」改為「該局」。

(3) 於第(5)項後增訂—

「(5A) 建築融資協會管理委員會認為應揭露該資訊以有助於下列職權之行使時，第(1)項規定不得作為向英格蘭銀行揭露之限制，亦不得作為英格蘭銀行經該委員會同意後進一步揭露該資訊之限制—

(a) 該委員會依本法賦予之職權；或

(b) 該行之職權。」

(4) 第 54 條第(3A)項—

(a) 首次出現之「英格蘭銀行」改為「除 1986 年金融服務法定義之指定機構外，為金融服務管理局」；及

(b) 其後出現之「英格蘭銀行」改為「金融服務管理局」。

*Financial Services Act 1986 (c. 60)*

65 .....

*Companies Act 1989 (c. 40)*

66 .....

*Courts and Legal Services Act 1990 (c. 41)*

67 .....

*Friendly Societies Act 1992 (c. 40)*

68 .....

*Pension Schemes Act 1993 (c. 48)*

69 (1) The Pension Schemes Act 1993 is amended as follows.

(2) In section 149 (6)(e), for "Bank of England" there is substituted "Financial Services Authority".

(3) In section 158A (1), in the Table, in the entry relating to the Bank of England, for the words in the second column there is substituted "Any of its functions", and after that entry there is inserted—

"The Financial Services Authority.	Functions under the Financial Services Act 1986 (other than as a designated agency within the meaning of that Act), the Banking Act 1987 or section 171 of the Companies Act 1989."
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*Pension Schemes (Northern Ireland) Act 1993 (c.49)*

70 (1) The Pension Schemes (Northern Ireland) Act 1993 is amended as follows.

(2) In section 145 (6)(e), for "Bank of England" there is substituted "Financial Services Authority".

*1986 年金融服務法（第 60 章）*

65. ....

*1989 年公司法（第 40 章）*

66. ....

*1990 年法院及法律服務法（第 41 章）*

67. ....

*1992 年互助協會法（第 40 章）*

68. ....

*1993 年退休金計畫法（第 48 章）*

69.(1) 1993 年退休金計畫法修正如後。

(2) 第 149 條第(6)項第(e)款之「英格蘭銀行」改為「金融服務管理局」。

(3) 第 158A 條第(1)項之附表，於英格蘭銀行條目之第 2 欄改為「其任何職權」，並於該條目之後增列下列條目—

「金融服務管理局	依 1986 年金融服務法（除該法定義之指定機構外）、1987 年銀行法或 1989 年公司法第 171 條賦予之職權。」
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*1993 年（北愛爾蘭）退休金計畫法（第 49 章）*

70.(1) 1993 年（北愛爾蘭）退休金計畫法修正如後。

(2) 第 145 條第(6)項第(e)款之「英格蘭銀行」改為「金融服務管理局」。

(3) In section 154A(1), in the Table, in the entry relating to the Bank of England, for the words in the second column there is substituted "Any of its functions", and after that entry there is inserted—

"The Financial Services Authority.	Functions under the Financial Services Act 1986 (other than as a designated agency within the meaning of that Act), the Banking Act 1987 or section 171 of the Companies Act 1989."
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*Pensions Act 1995 (c. 26)*

71 .....

*Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))*

72 In Article 105(1) of the Pensions (Northern Ireland) Order 1995, in the Table, in the entry relating to the Bank of England, for the words in the second column there is substituted "Any of its functions", and after that entry there is inserted—

"The Financial Services Authority.	Functions under the Financial Services Act 1986 (other than as a designated agency within the meaning of that Act), the Banking Act 1987 or section 171 of the Companies Act 1989."
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**SCHEDULE 6**

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**SCHEDULE 6A  
PRUDENTIAL REGULATION COMMITTEE**

*Interpretation*

1 In this Schedule—

(3) 第 154A 條第(1)項之附表，於英格蘭銀行條目之第 2 欄改為「其任何職權」，並於該條目之後增列下列條目—

「金融服務管理局	依 1986 年金融服務法（除該法定義之指定機構外）、1987 年銀行法或 1989 年公司法第 171 條賦予之職權。」
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*1995 年退休金法（第 26 章）*

71. ....

*1995 年（北愛爾蘭）退休金命令（S.I. 1995/3213 (N.I. 22)）*

72. 1995 年（北愛爾蘭）退休金命令第 105 條第(1)項之附表，於英格蘭銀行條目之第 2 欄改為「其任何職權」，並於該條目之後增列下列條目—

「金融服務管理局	依 1986 年金融服務法（除該法定義之指定機構外）、1987 年銀行法或 1989 年公司法第 171 條賦予之職權。」
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**附則 6** .....

**附則 6A 審慎監理委員會**

*解釋*

1. 本附則之一

"chief executive for prudential regulation" means the Deputy Governor for prudential regulation, acting in his or her capacity as a member of the Committee or by virtue of a delegation under paragraph 17;

"the Committee" means the Prudential Regulation Committee;

"prudential regulation strategy" means the strategy determined by the Prudential Regulation Authority under section 2E of the Financial Services and Markets Act 2000.

#### *Appointment of members by Chancellor*

- 2 Before appointing a person as a member of the Committee under section 30A (2)(g), the Chancellor of the Exchequer must—
  - (a) be satisfied that the person has knowledge or experience which is likely to be relevant to the Committee's functions, and
  - (b) consider whether the person has any financial or other interests that could substantially affect the functions as member that it would be proper for the person to discharge.

#### *Term of office of appointed members*

- 3 (1) Appointment as a member of the Committee under section 30A (2)(f) or (g) is to be for a period of 3 years, but this is subject to sub-paragraph (2) and to paragraph 5.
- (2) Initially some appointments may be for shorter and different periods so as to secure that appointments expire at different times.
- 4 (1) A person may not be appointed as a member of the Committee under section 30A (2)(g) more than twice.
- (2) For this purpose an appointment which by virtue of paragraph 3 (2) is for a period of less than 3 years is to be disregarded.
- 5 (1) If it appears to the Chancellor of the Exchequer that in the circumstances it is desirable to do so, the Chancellor may, before the end of the term for which a person is appointed as a member of the Committee under section 30A (2)(g), extend the person's term of office on one occasion for a specified period of not more than 6 months.
- (2) The term being extended may be the person's first or second term or, in a case where paragraph 4 (2) allows a third term, the person's third term.
- (3) If a person whose first term of office is extended is subsequently re-appointed under section 30A (2)(g)—

「審慎監理執行長」係指負責審慎監理之副總裁作為委員會成員之身分或依第 17 點規定授權而行使職權者；

「委員會」係指審慎監理委員會；

「審慎監理策略」係指審慎監理局依 2000 年金融服務及市場法第 2E 條規定所定之策略。

#### *財政大臣之任命成員*

2. 財政大臣依第 30A 條第(2)項第(g)款規定任命人員前，應—
  - (a) 確認該名人員具有與委員會職權相關之專門學識或經驗；且
  - (b) 考量該名人員是否有嚴重影響適當行使成員職權之財務或其他利害關係。

#### *任命成員之任期*

3. (1) 除第(2)項及第 5 點規定之情形外，依第 30A 條第(2)項第(f)款或第(g)款規定任命之委員會成員，其任期為 3 年。
- (2) 首次任命之部分成員得有較短或不同任期，以確保任期不致同時屆滿。
4. (1) 曾依第 30A 條第(2)項第(g)款規定任命為成員 2 任以上者，不得再依該款規定任命為成員。
- (2) 依第 3 點第(2)項規定任命且任期少於 3 年之成員，該次任期不列入計算。
5. (1) 財政大臣認為必要時，得於依第 30A 條第(2)項第(g)款規定任命之成員任期屆滿前，延長其任期。但延長之任期不得超過 6 個月。
- (2) 延長任期得於該成員第 1 任或第 2 任任期為之；依第 4 點第(2)項規定得擔任第 3 任時，並得於該成員第 3 任任期為之。
- (3) 已延長第 1 任任期之成員，依第 30A 條第(2)項第(g)款規定再任時—

- (a) the length of the second term is to be reduced by a period equal to the extension of the first term, but
- (b) the second term may itself be extended under sub-paragraph (1).
- (4) In a case where a person's second term of office is extended and paragraph 4 (2) allows a third term, sub-paragraph (3) is to be read as if the references to first and second terms were references to second and third terms respectively.
- 6 (1) A person appointed under section 30A (2)(f) or (g) may resign the office by written notice to the Bank.
- (2) Where the notice relates to a person appointed under section 30A (2)(g) the Bank must give a copy of the notice to the Treasury.

#### *Terms and conditions of appointment*

- 7 (1) The terms on which a person is appointed as a member of the Committee under section 30A (2)(g) must be such as—
  - (a) to secure that the member is not subject to direction by the Bank or the Treasury,
  - (b) to require the member not to act in accordance with the directions of any other person, and
  - (c) to prohibit the member from acquiring any financial or other interests that have a material effect on the extent of the functions as member that it would be proper for the member to discharge.
- (2) The terms and conditions on which a person holds office as a member of the Committee appointed under section 30A (2)(g) are to be determined by the court of directors.

#### *Qualification for appointment*

- 8 (1) The following persons are disqualified for appointment under section 30A (2)(f) or (g)—
  - (a) a minister of the Crown;
  - (b) a person serving in a government department in employment in respect of which remuneration is paid out of money provided by Parliament.
- (2) The following persons are disqualified for appointment under section 30A (2)(g)—
  - (a) a member of the Financial Policy Committee of the Bank appointed under section 9B (1)(e);
  - (b) a member of the Monetary Policy Committee of the Bank appointed under section 13 (2)(c).

- (a) 第 2 任任期應扣除相當於第 1 任所延長之期間；但
- (b) 第 2 任任期仍得依第(1)款規定延長。
- (4) 已延長第 2 任任期，且依第 4 點第(2)項規定得擔任第 3 任之成員時，第(3)項就第 1 任及第 2 任任期所為之規定，應分別對應該成員之第 2 任及第 3 任任期。
- 6. (1) 依第 30A 條第(2)項第(f)款或第(g)款規定任命之成員，得以書面通知本行辭去其職位。
- (2) 依第 30A 條第(2)項第(g)款規定任命之成員以前項通知辭職時，本行應向財政部提交該通知之副本。

#### *任命之條件*

- 7. (1) 依第 30A 條第(2)項第(g)款規定任命成員之條件，應—
  - (a) 確保該成員不受本行或財政部之指示；
  - (b) 要求該成員不依任何其他人之指示行事；且
  - (c) 禁止該成員取得重大影響適當行使成員職權之財務或其他利益。
- (2) 依第 30A 條第(2)項第(g)款規定任命之成員，其任職條件由理事會定之。

#### *任命資格*

- 8. (1) 下列人員不得依第 30A 條第(2)項第(f)款或第(g)款規定任命為成員—
  - (a) 內閣閣員；
  - (b) 任職於政府機關且薪資由國會支付者。
- (2) 下列人員不得依第 30A 條第(2)項第(g)款規定任命為成員—
  - (a) 依第 9B 條第(1)項第(e)款任命之金融政策委員會成員；
  - (b) 依第 13 條第(2)項第(c)款規定任命之貨幣政策委員會成員。

*Removal of appointed members*

- 9 (1) A person appointed under section 30A (2)(f) or (g) vacates office on becoming a person to whom paragraph 8 (1) applies.
- (2) The court of directors of the Bank may, with the consent of the Chancellor of the Exchequer, remove a member appointed under section 30A (2)(f) or (g) ("M") if it is satisfied—
- (a) that M has been absent from 3 or more meetings of the Prudential Regulation Committee without the Committee's consent,
  - (b) that M has become bankrupt, that a debt relief order (under Part 7A of the Insolvency Act 1986) has been made in respect of M, that M's estate has been sequestrated or that M has made an arrangement with or granted a trust deed for M's creditors, or
  - (c) that M is unable or unfit to discharge M's functions as a member.
- (3) The court of directors may, with the consent of the Chancellor of the Exchequer, also remove a member appointed under section 30A (2)(g) ("M") if it is satisfied that in all the circumstances M's financial or other interests are such as substantially to affect the functions as member which it would be proper for M to discharge.

*Decision making*

- 10 (1) Decisions of the Committee must be taken either—
- (a) at a meeting of the Committee in accordance with paragraphs 11 to 15, or
  - (b) in writing in accordance with paragraph 16.
- (2) Subject to paragraphs 11 to 16, the Committee is to determine its own procedure.

*Meetings*

- 11 The Governor of the Bank or any Deputy Governor of the Bank who is a member of the Committee may summon a meeting at any time by giving such notice as the person giving the notice thinks the circumstances require.
- 12 (1) At a meeting of the Committee, the proceedings are to be regulated as follows.
- (2) The quorum is to be determined by the Committee, but it must be not less than 3 and of those 3—
- (a) one must be the Governor of the Bank, the Bank's Deputy Governor for financial stability or the Bank's Deputy Governor for markets and banking,

*任命成員之解職*

9. (1) 依第 30A 條第(2)項第(f)款或第(g)款規定任命之成員，接任第 8 點第(1)項之職位時，應辭去成員職位。
- (2) 依第 30A 條第(2)項第(f)款或第(g)款規定任命之成員，有下列情形之一者，理事會得經財政大臣同意予以解任—
- (a) 未經審慎監理委員會同意，缺席審慎監理委員會會議 3 次以上；
  - (b) 破產、經（依 1986 年破產法第 7A 章規定）對其核發債務減輕令、財產被扣押或與其債權人訂定信託契約；或
  - (c) 無法或不適宜履行其成員職權。
- (3) 依第 30A 條第(2)項第(g)款規定任命之成員，其財務或其他利害關係對其適當行使成員職權有重大影響時，理事會得經財政大臣同意予以解任。

*決議*

10. (1) 委員會應於下列情形作成決議—
- (a) 依第 11 點至第 15 點規定舉行之會議；或
  - (b) 依第 16 點規定之書面決議。
- (2) 委員會應於符合第 11 點至第 16 點規定之條件下，自行訂定其程序。

*會議*

11. 總裁或為委員會成員之副總裁認為必要時，得隨時通知召開會議。
12. (1) 委員會會議之議事程序，依本點之規定。
- (2) 會議之法定人數由委員會定之。但不得少於 3 人，且包含—
- (a) 其中 1 人應為總裁、負責金融穩定之副總裁或負責市場及銀行業務之副總裁；



- (b) unless both the Governor and the Bank's Deputy Governor for financial stability are present, one must be the Bank's Deputy Governor for prudential regulation, and
- (c) one must be a member appointed under section 30A (2)(g).
- (3) The chair is to be taken by the Governor of the Bank or, if the Governor is not present, by the Deputy Governor for financial stability or the Deputy Governor for markets and banking.
- (4) The person chairing the meeting must seek to ensure that decisions of the Committee are reached by consensus wherever possible.
- (5) Where that person forms the opinion that consensus cannot be reached, a decision is to be taken by a vote of all those members present at the meeting (subject to paragraphs 13 and 14).
- (6) In the event of a tie, the person chairing the meeting is to have a second casting vote.
- 13 The chief executive of the Financial Conduct Authority must not take part in any discussion by or decision of the Committee which relates to—
  - (a) the exercise of any functions of the Prudential Regulation Authority in relation to a particular person, or
  - (b) a decision not to exercise those functions.
- 14 (1) If a member of the Committee ("M") has any direct or indirect interest (including any reasonably likely future interest) in any dealing or business which falls to be considered by the Committee—
  - (a) M must disclose that interest to the Committee when it considers the dealing or business, and
  - (b) the Committee must decide whether M is to be permitted to participate in any proceedings of the Committee relating to any question arising from its consideration of the dealing or business, and if so to what extent and subject to what conditions (if any).
- (2) The Bank must issue and maintain a code of practice describing how members of the Committee and the Committee are to comply with sub-paragraph (1).
- (3) The Bank may at any time revise or replace the code.
- (4) Before issuing, revising or replacing the code, the Bank must consult the Treasury.
- (5) The Bank must publish the current version of the code in whatever manner it sees fit.
- (6) The Committee must comply with the code when taking decisions under sub-paragraph (1)(b).

- (b) 除總裁及負責金融穩定之副總裁皆出席之情形外，其中 1 人應為負責審慎監理之副總裁；及
- (c) 其中 1 人應為依第 30A 條第(2)項第(g)款規定任命之成員。
- (3) 總裁為會議主席；總裁缺席時，由負責金融穩定之副總裁或負責市場及銀行業務之副總裁擔任主席。
- (4) 會議主席應儘可能確保會議決議係以共識決定之。
- (5) 委員會成員意見未能達成共識時，會議決議由出席會議之全體成員以投票決定之（但應符合第 13 點及第 14 點規定）。
- (6) 正反票數相同時，由會議主席決定之。
- 13. 金融督導局局長不得參與委員會關於下列事項之討論及決議—
  - (a) 行使審慎監理局涉及特定對象之職權；或
  - (b) 非行使前款職權之決議。
- 14. (1) 委員會成員對於委員會審議之交易或業務，有直接或間接利害關係（包含未來合理可能發生之利害關係）時—
  - (a) 該成員應於委員會審議該項交易或業務時，向委員會揭露其利害關係；且
  - (b) 委員會應決定該成員得否參與委員會審議該項交易或業務之議程，以及得參與時之參與程度及（如有條件時之）限制條件。
- (2) 本行應制定並維護規範委員會及其成員應如何遵循第(1)項規定之行為守則。
- (3) 本行得隨時修改或更換該守則。
- (4) 本行制定、修改或更換該守則前，應先洽商財政部意見。
- (5) 本行應以其認為適當之方式公布現行守則。
- (6) 委員會依第(1)項第(b)款規定決議時，應符合該守則之規定。

- 15 (1) The Committee may determine circumstances in which a member who is not present at, but is in communication with, a meeting is to be treated as present at it for the purposes of paragraph 12.
- (2) The Committee may invite other persons to attend, or to attend and speak at, any meeting of the Committee.

*Decisions otherwise than at meetings*

- 16 (1) The Committee may take a decision on a matter without a meeting if—
- (a) a majority of eligible members indicate in writing their agreement to the decision,
  - (b) the eligible members who indicate in writing their agreement to the decision would have constituted a quorum at a meeting of the Committee, and
  - (c) any other requirements determined by the Committee are met.
- (2) "Eligible members" are members of the Committee who would have been entitled to vote on the matter if the matter had been proposed for decision at a meeting of the Committee.

*Delegation of functions*

- 17 (1) The Committee may delegate such of its functions as it thinks fit to—
- (a) a member of the Committee,
  - (b) a sub-committee of the Committee consisting of—
    - (i) members of the Committee, or
    - (ii) one or more members of the Committee and one or more officers, employees or agents of the Bank,
  - (c) an officer, employee or agent of the Bank, or
  - (d) a committee consisting of officers, employees or agents of the Bank.
- This is subject to sub-paragraphs (2) and (9).
- (2) The Committee must delegate to the chief executive for prudential regulation the following functions—
- (a) preparing for consideration by the Committee drafts of a prudential regulation strategy and any proposed revisions to that strategy;
  - (b) preparing for consideration by the Committee drafts of the annual budget required by paragraph 18 and any proposed variations of that budget;

15. (1) 委員會得認定未實際出席會議但以通訊方式參與之成員，視為已依第 12 點規定出席會議。
- (2) 委員會得邀請其他人員列席會議，或列席會議並表示意見。

*不經會議之決議*

16. (1) 符合下列條件時，委員會得不經會議作成決議—
- (a) 多數合格成員以書面同意該決議；
  - (b) 以書面同意該決議之合格成員人數已達到會議之法定人數；以及
  - (c) 委員會所定之其他條件。
- (2) 「合格成員」係指於委員會會議審議提案議題時，具有表決權之成員。

*授權*

17. (1) 委員會認為適當時，得將其職權授予下列人員或組織行使。但應符合第(2)項至第(9)項規定—
- (a) 委員會成員；
  - (b) 由下列成員組成之委員會附屬委員會—
    - (i) 委員會成員；或
    - (ii) 委員會成員 1 人以上，以及本行職員、受僱人員或代理人 1 人以上；
  - (c) 本行職員、受僱人員或代理人；或
  - (d) 本行職員、受僱人員或代理人組成之委員會。
- (2) 委員會應將下列職權授予審慎監理執行長行使。但應符合第(9)項規定—
- (a) 擬具由委員會審議之審慎監理策略草案及該策略之修正草案；
  - (b) 擬具由委員會審議之第 18 點所定年度預算草案及該預算之變更草案；

- (c) the day to day management of the Bank's functions as the Prudential Regulation Authority;
  - (d) the day to day implementation of the prudential regulation strategy.
- This is subject to sub-paragraph (9).
- (3) A delegation under sub-paragraph (2)—
    - (a) must identify any decisions (within sub-paragraph (9) or otherwise) that are not included in the delegation;
    - (b) may be on such terms and subject to such conditions as the Committee thinks fit.
  - (4) Those terms and conditions—
    - (a) may include provision about the manner of the exercise of the delegated functions;
    - (b) may be revised by the Committee from time to time.
  - (5) Sub-paragraph (2) does not apply in the event of a vacancy in the office of Deputy Governor for prudential regulation.
  - (6) The Bank must publish a statement setting out—
    - (a) the functions which the Committee has delegated to the chief executive for prudential regulation,
    - (b) the terms and conditions on which each delegation is made, and
    - (c) any decisions (within sub-paragraph (9) or otherwise) that are not included in the delegations.
  - (7) If there is a material change to any of those matters, the Bank must publish a revised statement.
  - (8) The requirement to delegate the functions mentioned in sub-paragraph (2) to the chief executive for prudential regulation does not prevent further delegation of those functions by the chief executive.
  - (9) The Committee may not delegate the following functions—
    - (a) reporting to the Chancellor of the Exchequer under paragraph 19;
    - (b) making rules under the Financial Services and Markets Act 2000;
    - (c) determining, reviewing and revising the prudential regulation strategy under section 2E of that Act;
    - (d) giving and reviewing guidance under section 2I of that Act;
    - (e) giving and revoking directions under section 3I, 3J, 3M, 316 or 318 of that Act;
    - (f) issuing statements under section 63ZD, 63C, 69, 142V, 192H, 192N, 210 or 345D of that Act;

- (c) 本行作為審慎監理局職權之日常管理；
  - (d) 審慎監理策略之日常執行。
- (3) 第(2)項之授權—
- (a) 應確認（符合第(9)項或其他規定之）決定未包含於授權範圍；
  - (b) 得附加委員會認為適當之條件。
- (4) 前項之條件—
- (a) 得包含所授權職權之行使方式；
  - (b) 得由委員會隨時修改。
- (5) 第(2)項規定於負責審慎監理之副總裁出缺時，不適用之。
- (6) 本行應公布聲明，列明—
- (a) 委員會授權審慎監理執行長行使之職權；
  - (b) 每次授權所附加之條件；及
  - (c) （符合第(9)項或其他規定）而未包含於授權範圍之決定。
- (7) 前項之事項有重大異動時，本行應公布修改後之聲明。
- (8) 第(2)項所列應授權審慎監理執行長行使之規定，並未禁止執行長將前述職權再授予他人行使。
- (9) 委員會不得將下列職權授予他人行使—
- (a) 依第 19 點規定向財政大臣報告；
  - (b) 依 2000 年金融服務及市場法訂定規則；
  - (c) 依該法第 2E 條規定訂定、檢討及修正審慎監理策略；
  - (d) 依該法第 2I 條規定提供及檢討指引；
  - (e) 依該法第 3I 條、第 3J 條、第 3M 條、第 316 條或第 318 條規定下達及撤銷指示；
  - (f) 依該法第 63ZD 條、第 63C 條、第 69 條、第 142V 條、第 192H 條、第 192N 條、第 210 條或第 345D 條規定發布聲明；

- (fa) making technical standards in accordance with Chapter 2A of Part 9A of that Act;
- (g) issuing statements under section 80 of the Financial Services Act 2012.
- (h) making EU Exit instruments under the Financial Regulators' Powers (Technical Standards) (Amendment etc.) (EU Exit) Regulations 2018.

### *Prudential regulation budget*

- 18 (1) The Committee must, with the approval of the court of directors, for each of the Bank's financial years adopt an annual budget for the Bank's functions as the Prudential Regulation Authority.
- (2) The budget must be adopted before the start of the financial year to which it relates.
- (3) The Committee may, with the approval of the court of directors, vary the budget for a financial year at any time after its adoption.
- (4) The Bank must publish each budget, and each variation of a budget, in whatever way it thinks appropriate.

### *Annual reports*

- 19 At least once a year the Committee must make a report to the Chancellor of the Exchequer on—
  - (a) the adequacy of the resources allocated, in the period to which the report relates, to the Bank's functions as the Prudential Regulation Authority, and
  - (b) the extent to which the exercise of the Bank's functions as the Prudential Regulation Authority is independent of the exercise of its other functions.

## **SCHEDULE 7 RESTRICTION ON DISCLOSURE OF INFORMATION**

### *Restricted information*

- 1 (1) Subject to sub-paragraph (2), information is restricted information for the purposes of this paragraph if—
  - (a) it is obtained by the Bank by virtue of the power conferred by section 17 (1) or paragraph 9 of Schedule 2 (whether or not it was obtained pursuant to a notice under that provision), and

- (fa) 依該法第 9A 章第 2A 節規定訂定技術標準；
- (g) 依 2012 年金融服務法第 80 條規定發布聲明；
- (h) 依 2018 年金融監管者權力（技術標準）（修正等）（退出歐盟）規則訂定退出歐盟之文書。

### *審慎監理預算*

18. (1) 委員會應經理事會同意，就本行每一會計年度，通過本行作為審慎監理局職權之年度預算。
- (2) 前項預算應於該預算涉及之會計年度開始前通過之。
- (3) 委員會得經理事會同意，於通過預算之會計年度內隨時變更該預算。
- (4) 委員會應以其認為適當之方式，公布每筆預算及預算之變更。

### *年度報告*

19. 委員會每年應至少就下列事項向財政大臣報告 1 次—
  - (a) 於報告涵蓋期間內，本行作為審慎監理局職權所配置資源之適足性；及
  - (b) 本行行使作為審慎監理局職權，相較於本行行使其他職權之獨立性程度。

## **附則 7 資訊揭露之限制**

### *受限制之資訊*

1. (1) 除第(2)項規定之情形外，符合下列條件之資訊，為本點規定所稱受限制之資訊—
  - (a) 本行藉由第 17 條第(1)項或附則 2 第 9 點規定所賦予之權力所取得（不論是否依前述規定所為之通知而取得）；且

- (b) it relates to the business or other affairs of any person.
- (2) Information is not restricted information for the purposes of this paragraph if—
  - (a) it has been made available to the public from other sources, or
  - (b) it is in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it.
- (3) Except as permitted by the following provisions of this Schedule, restricted information shall not be disclosed by—
  - (a) the Bank or any officer or employee of the Bank, or
  - (b) any person obtaining the information directly or indirectly from the Bank,
 without the consent of the person from whom the Bank obtained the information and, if different, the person to whom the information relates.
- (4) Any person who discloses information in contravention of this paragraph shall be guilty of an offence and liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine, or to both;
  - (b) on summary conviction, to imprisonment for a term not exceeding 3 months, or to a fine not exceeding the statutory maximum, or to both.

*Disclosure for the purposes of the Bank's functions*

- 2 (1) Paragraph 1 does not preclude the disclosure of information in any case in which disclosure is for the purpose of enabling or assisting the Bank to discharge—
  - (a) its functions as a monetary authority,
  - (b) its functions as a supervisor of systems for the transfer of funds between credit institutions and their customers,
  - (c) its functions under Schedule 2, or
  - (d) its functions as the Prudential Regulation Authority.
- (2) "Credit institution" means an undertaking whose business is to receive deposits or other repayable funds from the public and to grant credits for its own account.

- (b) 涉及任何人之業務或其他事項。
- (2) 符合下列條件之資訊，非屬本點規定所稱受限制之資訊—
  - (a) 已於其他來源公開；或
  - (b) 該資訊係以摘要或彙整方式呈現，且無從識別屬特定之人。
- (3) 除本附則另有規定外，未經資訊提供者及與該資訊內容有關人員（如與資訊提供者不同時）之同意，下列人員不得揭露受限制之資訊—
  - (a) 本行或本行之職員或受僱人員；或
  - (b) 直接或間接透過本行取得該資訊之人。
- (4) 違反本點規定揭露資訊者構成犯罪，應依下列規定處罰—
  - (a) 經起訴判決程序定罪者，處 2 年以下有期徒刑，或科或併科罰金；
  - (b) 經簡易判決程序定罪者，處 3 個月以下有期徒刑，或科或併科法定最高額度以下之罰金。

*為達成本行職權之揭露*

- 2. (1) 本行為執行下列職權所必需，或有利於本行行使下列職權所為之資訊揭露，不受第 1 點規定之限制—
  - (a) 作為貨幣主管機關之職權；
  - (b) 作為信貸機構與其顧客間資金移轉系統監管機關之職權；
  - (c) 附則 2 所定之職權；或
  - (d) 作為審慎監理局之職權。
- (2) 「信貸機構」係指向大眾吸收存款或其他可償還資金，並為自己利益提供信用之業者。

*Disclosure by the Bank to other authorities*

- 3 (1) Paragraph 1 does not preclude the disclosure by the Bank of information to any authority specified in the first column of the following Table if the Bank considers that the disclosure would enable or assist that authority to discharge any of the functions specified in relation to it in the second column of that Table.

Table

<i>Authority</i>	<i>Functions</i>
The Treasury.	Functions under the Financial Services and Markets Act 2000.
The Secretary of State.	Functions under the Financial Services and Markets Act 2000.
An inspector appointed under Part 14 of the Companies Act 1985 ...	Functions under that Part. ....
A person authorised to exercise powers under section 447 of the Companies Act 1985 or section 84 of the Companies Act 1989.	Functions under that section.
A person appointed under— (a) section 167 of the Financial Services and Markets Act 2000, (b) subsection (3) or (5) of section 168 of that Act, or (c) section 284 of that Act, to conduct an investigation.	Functions in relation to that investigation.
The Financial Conduct Authority ...	Functions under the legislation relating to friendly societies, the Building Societies Act 1986, Part 7 of the Companies Act 1989 or the Financial Services and Markets Act 2000.
...	...

*本行對其他機關之揭露*

3. (1) 本行認定揭露資訊為附表第 1 欄所列之機關行使第 2 欄所列之職權所必需，或有利於其行使前述職權時，得揭露該資訊，不受第 1 點規定之限制。

附表

機關	職權
財政部	2000 年金融服務及市場法所賦予之職權。
內閣大臣	2000 年金融服務及市場法所賦予之職權。
依 1985 年公司法第 14 章規定指派之檢查人 ...	該章所賦予之職權。 ...
依 1985 年公司法第 447 條或 1989 年公司法第 84 條規定授權行使職權或指派之人	該條所賦予之職權。
依下列規定指派從事調查之人— (a) 2000 年金融服務及市場法第 167 條； (b) 該法第 168 條第(3)項或第(5)項；或 (c) 該法第 284 條。	關於前述調查之職權。
金融督導局 ...	與互助社有關之立法、1986 年建築融資協會法、1989 年公司法第 7 章或 2000 年金融服務及市場法所賦予之權力。
...	...

The Chancellor of the Exchequer (or any person to whom any functions of the Chancellor of the Exchequer under the Statistics of Trade Act 1947 are delegated)	Functions under the Statistics of Trade Act 1947.
The Pensions Regulator	Functions conferred by or by virtue of— (a) the Pension Schemes Act 1993, (b) the Pensions Act 1995, (c) the Welfare Reform and Pensions Act 1999, (d) the Pensions Act 2004, or (e) any enactment in force in Northern Ireland corresponding to an enactment mentioned in paragraphs (a) to (d) above.
The Payment Systems Regulator established under section 40 of the Financial Services (Banking Reform) Act 2013	Functions conferred by, or by virtue of, that Act, the Payment Card Interchange Fee Regulations 2015 and the Payment Services Regulations 2017.

- (2) The Treasury may by order amend the Table in sub-paragraph (1) by—
- adding any public or other authority and specifying functions in relation to it,
  - removing any authority for the time being specified in the Table, or
  - altering the functions for the time being specified in the Table in relation to any authority.
- (3) The Treasury may by order restrict the circumstances in which, or impose conditions subject to which, disclosure is permitted in the case of any authority for the time being specified in the Table.
- (4) Before making an order under this paragraph, the Treasury shall consult the Bank.

#### *Onward disclosure*

- 4 (1) Paragraph 1 does not preclude the disclosure by any authority specified in the first column of the Table in paragraph 3 (1) of information obtained by it by virtue of that provision if it makes the disclosure—
- with the consent of the Bank, and
  - for the purpose of enabling or assisting it to discharge any functions specified in relation to it in the second column of that Table.

財政大臣（或受委任行使 1947 年貿易統計法所賦予財政大臣職權之人）	1947 年貿易統計法所賦予之職權。
退休金管理者	依下列規定所賦予之職權— (a) 1993 年退休金計畫法； (b) 1995 年退休金法； (c) 1999 年福利改革與退休金法； (d) 2004 年退休金法；或 (e) 北愛爾蘭相應於第(a)款至第(d)款規定所列法律之現行法。
依 2013 年金融服務（銀行業改革）法第 40 條規定所定之支付系統監管者	依據或憑藉該法、2015 年支付卡交換費規則及 2017 年支付服務規則所賦予之職權。

- (2) 財政部得以命令對第(1)項之附表作下列修正—
- 增列公務機關或其他機關，並明列其相關職權；
  - 刪除該附表當前所列之機關；或
  - 修改該附表當前所列機關之職權。
- (3) 財政部得以命令對該附表當前所列之機關，限制其揭露情形或附加其揭露條件。
- (4) 財政部依本點規定發布命令前，應先洽商本行意見。

#### *進一步之揭露*

4. (1) 第 3 點第(1)項附表第 1 欄所列之機關依該項規定取得資訊時，該機關於下列情形得揭露該資訊，不受第 1 點規定之限制—
- 經本行同意；且
  - 其揭露係行使該附表第 2 欄所列之職權所必需，或有利於其行使前述職權。

- (2) Before deciding whether to give its consent to disclosure under this paragraph, the Bank shall take account of such representations as the authority proposing to make the disclosure may make about the desirability of or necessity for the disclosure.

*Other permitted disclosures*

- 5 Paragraph 1 does not preclude the disclosure of information—
- (a) with a view to the institution of, or otherwise for the purposes of, any proceedings in connection with a payment due under Schedule 2 (payment in lieu of cash ratio deposit),
  - (b) with a view to the institution of, or otherwise for the purposes of, any criminal proceedings, whether under this Act or otherwise, or
  - (c) in pursuance of any EU obligation.

**SCHEDULE 8**  
**TRANSITIONAL PROVISIONS AND SAVINGS**

*Bank's immunity from suit*

1 .....

*Disclosure of information*

2 .....  
3 .....  
4 .....  
5 .....

*Pre-commencement consultation*

- 6 If, before the day on which this Act comes into force, anything is done which, had it been done after that day, would to any extent have satisfied—
- (a) any requirement to consult before making an order under this Act, or
  - (b) any requirement of paragraph 2 (1) of Schedule 6,
- that requirement shall to that extent be taken to have been satisfied.

- (2) 本行依本點規定行使揭露之同意權前，應考量該機關就擬為揭露行為所表明之需求或必要性。

*其他可揭露之情形*

5. 第 1 點規定未限制基於下列目的所為之資訊揭露—
- (a) 為涉及依附則 2（以付款代替現金比率存款）有關應付款規定所生訴訟程序之機構，或為該應付款訴訟程序之目的；
  - (b) 為涉及依本法或其他法令規定所生刑事訴訟程序之機構；或為刑事訴訟程序之目的，或
  - (c) 為遵循歐盟義務。

**附則 8 過渡及保留規定**

*本行之訴訟豁免權*

1. ....

*資訊揭露*

2. ....  
3. ....  
4. ....  
5. ....

*施行前之洽商*

6. 本法生效前已完成下列事項時，視為已於生效後完成該事項—
- (a) 依本法發布命令前應洽商之要求；或
  - (b) 附則 6 第 2 點第(1)項規定之要求。



Membership of the Deposit Protection Board

存款保護委員會之成員

7 .....

7. ....

SCHEDULE 9  
REPEALS AND REVOCATIONS

PART I  
REPEALS

Chapter	Short title	Extent of repeal
1946 c. 27.	The Bank of England Act 1946.	Sections 2 and 4 (2). Schedule 2.
...	...	... In Schedule 7, in paragraph 1 (2), the words "and the Governor of the Bank of England acting jointly".
...	...	...
1990 c. 41.	The Courts and Legal Services Act 1990.	In sections 37 (8)(a), 48 (4)(a) and 52 (6), the words "by the Bank of England". In section 54 (1), in the inserted subsection (2)(e) (i), the words "by the Bank of England,".

PART II

附則 9 廢止及撤銷

第 1 章 廢止

廢止

章別	簡稱	廢止部分
1946 年第 27 章	1946 年英格蘭銀行法	第 2 條及第 4 條第(2)項。附則 2。
...	...	... 附則 7 第 1 點第(2)項之「及英格蘭銀行總裁共同作為」等語。
...	...	...
1990 年第 41 章	1990 年法院及法律服務法	第 37 條第(8)項第(a)款、第 48 條第(4)項第(a)款及第 52 條第(6)項之「由英格蘭銀行」等語。 第 54 條第(1)項於所修正之第(2)項第(e)款第(i)目之「由英格蘭銀行」等語。

第 2 章

### 三、Bank of Japan Act 日本銀行法

**BANK OF JAPAN ACT****日本銀行法**

法務室 謝佳雯 譯

<i>Chapter I</i>	<i>General Provisions (Article 1 - Article 13)</i>
<i>Chapter II</i>	<i>Policy Board (Article 14 - Article 20)</i>
<i>Chapter III</i>	<i>Officers and Employees (Article 21 - Article 32)</i>
<i>Chapter IV</i>	<i>Business (Article 33 - Article 45)</i>
<i>Chapter V</i>	<i>Bank of Japan Notes (Article 46 - Article 49)</i>
<i>Chapter VI</i>	<i>Accounting (Article 50 - Article 53)</i>
<i>Chapter VII</i>	<i>Reporting, etc. to the Diet (Article 54 and Article 55)</i>
<i>Chapter VIII</i>	<i>Rectification, etc. of Illegal Acts, etc. (Article 56 - Article 58)</i>
<i>Chapter IX</i>	<i>Miscellaneous Provisions (Article 59 - Article 62)</i>
<i>Chapter X</i>	<i>Penal Provisions (Article 63 - Article 66)</i>

第一章	總則
第二章	政策委員會
第三章	幹部及職員
第四章	業務
第五章	鈔券
第六章	會計
第七章	對國會之報告
第八章	違法行為之改正等
第九章	雜則
第十章	罰則

# BANK OF JAPAN ACT

## Chapter I General Provisions

### (Purpose)

#### Article 1

- (1) The purpose of the Bank of Japan, or the central bank of Japan, is to issue banknotes and to carry out currency and monetary control.
- (2) In addition to what is prescribed in the preceding paragraph, the Bank of Japan's purpose is to ensure smooth settlement of funds among banks and other financial institutions, thereby contributing to the maintenance of stability of the financial system.

### (The Principle of Currency and Monetary Control)

#### Article 2

Currency and monetary control by the Bank of Japan shall be aimed at achieving price stability, thereby contributing to the sound development of the national economy.

### (Respecting the Autonomy of the Bank of Japan and Ensuring Transparency)

#### Article 3

- (1) The Bank of Japan's autonomy regarding currency and monetary control shall be respected.
- (2) The Bank of Japan shall endeavor to clarify to the citizen the content of its decisions, as well as its decision-making process, regarding currency and monetary control.

### (Relationship with the Government)

#### Article 4

The Bank of Japan shall, taking into account the fact that currency and monetary control is a component of overall economic policy, always maintain close contact with the government and exchange views sufficiently, so that its currency and monetary control and the basic stance of the government's economic policy shall be mutually compatible.

# 日本銀行法

1997年6月18日全案修正，並訂自1998年4月1日施行

1997年6月20日、1997年12月12日、1998年10月16日、1999年11月12日、1999年12月22日、2004年6月2日、2005年7月26日、2006年6月2日、2007年6月27日均為部分修正

2011年6月24日第10次部分修正

## 第一章 總則

### 第一條 目的

- 1 日本銀行（以下簡稱本行<sup>譯註</sup>）為日本之中央銀行，以發行鈔券及執行通貨與金融之調節為目的。
- 2 除前項規定外，本行應以確保銀行及其他金融機構間資金正常順利清算，並維持信用秩序為目的。

### 第二條 通貨及金融調節之宗旨

本行對通貨及金融之調節，係以穩定物價及健全發展國民經濟為宗旨。

### 第三條 本行自主性之尊重及透明性之確保

- 1 對於本行調節通貨及金融之自主性應予尊重。
- 2 本行對於通貨及金融之調節所為決策之內容及決策過程，應盡量使國民明瞭。

### 第四條 與政府之關係

為確保所執行之通貨及金融調節為經濟政策之一環，以與政府經濟政策之基本方針相整合，本行應與政府維持經常性之密切聯繫及意見之充分溝通。

<sup>譯註</sup> 為便於閱讀，本篇譯文之「日本銀行」一詞簡稱為「本行」。

**(Public Nature of the Bank of Japan's Business and Its Autonomy)****Article 5**

- (1) In light of the public nature of its business and property, the Bank of Japan shall endeavor to conduct its business in a proper and efficient manner.
- (2) In implementing this Act, due consideration shall be given to the autonomy of the Bank of Japan's business operations.

**(Juridical Personality)****Article 6**

The Bank of Japan shall be a juridical person.

**(Head Office and Branch Offices, etc.)****Article 7**

- (1) The Bank of Japan shall locate its head office in Tokyo.
- (2) The Bank of Japan may, pursuant to an Ordinance of the Ministry of Finance and upon authorization from the Minister of Finance, establish, relocate, or abolish offices including branch offices.
- (3) The Bank of Japan may, pursuant to an Ordinance of the Ministry of Finance and upon authorization from the Minister of Finance, establish or abolish agencies that perform a part of the Bank's business.
- (4) If an application for authorization set forth in the preceding two paragraphs has been filed but the Minister of Finance has denied it, he/she shall make public this denial of authorization and the reason therefor promptly, together with the content of the requested application.

**(Stated Capital)****Article 8**

- (1) The amount of the Bank of Japan's stated capital shall be one hundred million yen to be contributed to by both the government and non-governmental persons.
- (2) Of the amount of stated capital set forth in the preceding paragraph, the amount of contribution by the government shall be no less than fifty-five million yen.

**(Investment Securities)****Article 9**

- (1) The Bank of Japan shall issue investment securities for capital contribution pursuant to paragraph 1 of the preceding Article.
- (2) Other matters concerning investment securities set forth in the preceding paragraph, as well as matters concerning capital contribution in general, shall be specified by a Cabinet Order.

**第五條 業務之公共性及營運之自主性**

- 1 鑒於本行之業務及財產具有公共性，應為適當且有效率之營運。
- 2 適用本法時，應充分考量本行業務營運之自主性。

**第六條 法人格**

本行為法人。

**第七條 總行及分行等**

- 1 本行設總行於東京都。
- 2 本行得依據財務省之命令，經財務大臣認可後設置、遷移或裁撤分行及其他辦事處。
- 3 本行得依據財務省之命令，於財務大臣認可後設置代理行，為一部業務之代理。其裁撤時，亦同。
- 4 財務大臣對前二項申請不為認可時，應儘速將其理由及申請之內容公布之。

**第八條 資本額**

- 1 本行之資本額為日幣一億圓，由政府及政府以外之人共同出資。
- 2 政府之前項出資額不得低於五千五百萬日圓。

**第九條 出資憑證**

- 1 本行對依前條第一項所為之出資，發給出資憑證。
- 2 與前項出資憑證及其他出資有關之必要事項，由政令規定之。

**(Transfer of Equity)****Article 10**

Contributories to the Bank of Japan's capital may, pursuant to a Cabinet Order, transfer their equity or put it in pledge.

**(Articles of Incorporation)****Article 11**

- (1) The Bank of Japan shall stipulate the following matters in its articles of incorporation:
  - (i) Purpose;
  - (ii) Official name;
  - (iii) Locations of the head office and branch offices;
  - (iv) Matters concerning the stated capital and contribution;
  - (v) Matters concerning the Policy Board;
  - (vi) Matters concerning officers;
  - (vii) Matters concerning its business and the execution thereof;
  - (viii) Matters concerning the issuance of banknotes;
  - (ix) Matters concerning accounting;
  - (x) Means for public notice and publication.
- (2) Any amendments to the articles of incorporation shall not come into effect unless authorized by the Minister of Finance and the Prime Minister.
- (3) The provisions of Article 7, paragraph 4 shall apply mutatis mutandis to the authorization set forth in the preceding paragraph.

**(Registration)****Article 12**

- (1) The Bank of Japan shall register relevant matters pursuant to a Cabinet Order.
- (2) Matters to be registered as prescribed in the preceding paragraph may not be asserted against a third party unless having been registered.

**(Restriction on Use of the Bank of Japan's Name)****Article 13**

No person other than the Bank of Japan may use the name "Bank of Japan."

**第十條 股份之讓與**

以政令所規定者為限，出資人之股份得為讓與或為質權之標的。

**第十一條 章程**

- 1 本行應以章程規定下列事項：
  - 一、目的
  - 二、名稱
  - 三、總行及分行之所在地
  - 四、有關資本及出資之事項
  - 五、有關政策委員會之事項
  - 六、有關幹部之事項
  - 七、有關業務及其執行事項
  - 八、有關鈔券之發行事項
  - 九、有關會計之事項
  - 十、有關公告及公布之方法
- 2 章程之變更，應經財務大臣及內閣總理大臣之認可，始生效力。
- 3 第七條第四項之規定，於前項認可，準用之。

**第十二條 登記**

- 1 本行應依政令之規定，就應登記事項辦理登記。
- 2 依前項規定就應登記事項辦理登記後，始生對抗第三人之效力。

**第十三條 使用名稱之限制**

非本行，不得使用本行之名稱。

## Chapter II Policy Board

### (Establishment)

#### Article 14

A Policy Board (hereinafter referred to as the "Board" in this and the following Chapter) shall be established in the Bank of Japan.

### (Authority)

#### Article 15

(1) The following matters concerning currency and monetary control shall be decided by the Board:

- (i) Determining or altering the basic discount rate and other discount rates pertaining to the discounting of negotiable instruments set forth in Article 33, paragraph 1, item (i), as well as the types and conditions of negotiable instruments pertaining to the said discounting;
- (ii) Determining or altering the basic loan rate and other loan rates pertaining to the loans set forth in Article 33, paragraph 1, item (ii), as well as the types, conditions, and value of collateral pertaining to the said loans;
- (iii) Determining, altering, or abolishing reserve requirement ratios, the base date, and other matters prescribed in Article 4, paragraph 1 of the Act on Reserve Deposit Requirement System (Act No. 135 of 1957);
- (iv) Determining or altering the guidelines for financial market control (currency and monetary control conducted through financial markets [including open market operations]) through such measures as the buying and selling of negotiable instruments, bonds, or electronically recorded claims (electronically recorded claims prescribed in Article 2, paragraph 1 of the Electronically Recorded Claims Act [Act No. 102 of 2007]; hereinafter the same shall apply in this item and Article 33, paragraph 1) prescribed in Article 33, paragraph 1, item (iii), as well as determining or altering the types, conditions, and other matters of negotiable instruments, bonds, or electronically recorded claims pertaining to the said financial market control;
- (v) Determining or altering other guidelines for currency and monetary control;

## 第二章 政策委員會

### 第十四條 設置

本行應設政策委員會（本章以下及第三章簡稱委員會）。

### 第十五條 權限

1 下列通貨及金融調節之有關事項，應依委員會之決議為之：

- 一、依第三十三條第一項第一款規定所為票據貼現之重貼現率及其他貼現率、重貼現票據之種類及辦理重貼現之條件等之決定或變更
- 二、依第三十三條第一項第二款規定所為融通之融通利率及其他放款利率、相關擔保品之種類、條件及價額之決定或變更
- 三、與存款準備金有關之法律（昭和三十二年第一百三十五號法律）第四條第一項規定之存款準備率及基準期日之設定、變更或廢止
- 四、第三十三條第一項第三款規定以票據、債券或電子登錄債權【即依電子登錄債權法(平成十九年第一百零二號法律)第二條第一項規定所稱之電子登錄債權。本款以下及第三十三條第一項亦同】之買賣及其他金融市場調節措施（包括公開市場操作等，於貨幣市場進行之通貨及金融調節措施），其方針之決定或變更，以及與金融市場調節有關之票據、債券或電子登錄債權之種類、條件及其他事項之決定或變更
- 五、其他與通貨及金融調節事項有關方針之決定或變更

- (vi) Determining or altering the Bank of Japan's view on currency and monetary control, including its basic view on economic and monetary conditions which provides the basis for matters listed in the preceding items.
- (2) In addition to matters to be subject to the Board resolution as prescribed in the preceding paragraph, the following matters shall also be decided by the Board:
  - (i) Making loans pursuant to Article 37, paragraph 1, and executing business pursuant to Article 38, paragraph 2;
  - (ii) Applying for authorization pursuant to Article 39, paragraph 1, and determining important matters concerning the business pertaining to the said authorization;
  - (iii) Conducting the buying and selling of foreign exchange to facilitate international financial business which the Minister of Finance specifies as constituting cooperation in the field of international finance as prescribed in Article 40, paragraph 3, initiating transactions with a foreign central bank, etc. (a foreign central bank, etc. prescribed in Article 41) pertaining to the business prescribed in the same Article, and executing transactions pursuant to Article 42;
  - (iv) Applying for authorization pursuant to the proviso of Article 43, paragraph 1, and determining important matters concerning the business pertaining to the said authorization;
  - (v) Determining the content of a contract concerning on-site examinations prescribed in Article 44, paragraph 1, as well as determining important matters concerning the implementation of on-site examinations for each business year;
  - (vi) Altering the articles of incorporation;
  - (vii) Preparing or altering a statement of operation procedures;
  - (viii) Establishing, relocating, or abolishing offices including branch offices and agencies;
  - (ix) Determining important matters concerning the Bank of Japan's organization and size of staff (excluding what is listed in the preceding item);
  - (x) Establishing or altering the standards for paying remuneration prescribed in Article 31, paragraph 1, as well as rules on service prescribed in Article 32;
  - (xi) Acquiring or disposing of real estate and other important property;

六、本行對與以上各款規定基礎有關之經濟與金融情勢之原則性意見，及其他與通貨及金融調節有關意見之決定或變更

2 前項以外，其他應經委員會議決之事項：

- 一、依第三十七條第一項規定之融通及第三十八條第二項所定業務之實施
- 二、依第三十九條第一項規定認可之申請，及經認可後與業務相關之重要事項
- 三、依第四十條第三項規定應經財務大臣決定與外國中央銀行及國際機構合作從事之外匯買賣、依第四十一條規定與外國中央銀行進行之交易及依第四十二條所定交易之實施
- 四、依第四十三條第一項但書規定認可之申請，及與該認可業務相關之重要事項
- 五、依第四十四條第一項規定與考查有關契約之內容，及與每會計年度實施考查有關之重要事項
- 六、章程之變更
- 七、業務手冊之訂定或變更
- 八、分行及其他辦事處、代理行之設置、遷移或廢止
- 九、前款規定以外之其他有關組織及人員編制之重要事項
- 十、第三十一條第一項規定之薪給津貼給付標準，及第三十二條規定之服務相關準則之訂定或變更
- 十一、不動產及其他重要資產之取得或處分



- (xii) Making or altering a budget for expenses (a budget for expenses prescribed in Article 51, paragraph 1), preparing an inventory, balance sheet, profit and loss statement, and statement of accounts, and determining important matters concerning accounting including the appropriation of any surplus;
  - (xiii) Preparing a written report prescribed in Article 54, paragraph 1, as well as the outline of business operations prescribed in Article 55;
  - (xiv) Establishing or altering the rules prescribed in Article 59;
  - (xv) Determining matters to be decided by the Board pursuant to this Act or to be carried out by the Board pursuant to this Act or other laws and regulations;
  - (xvi) Determining matters which the Board finds particularly necessary, in addition to what is listed in the preceding items.
- (3) The Board shall supervise the execution of their duties by the officers (excluding Auditors and Counsellors in this paragraph) of the Bank of Japan.

### (Organization)

#### Article 16

- (1) The Board shall be composed of nine members.
- (2) Board members shall consist of six Members of the Policy Board, the Bank of Japan's Governor and two Deputy Governors. In this case, the Governor and the Deputy Governors shall perform their duties as Board members independently of each other, irrespective of the provisions of Article 22, paragraphs 1 and 2.
- (3) The Board shall have a chairperson, who shall be elected by Board members from among themselves.
- (4) The chairperson shall exercise general control over Board business.
- (5) The Board shall designate, in advance, a member who shall perform the duties of the chairperson when the chairperson is prevented from attending to his/her duties.

### (Calling of Board Meetings)

#### Article 17

- (1) Board meetings shall be called by the chairperson of the Board (or by the designated alternate prescribed in paragraph 5 of the previous Article; hereinafter the same shall apply in this Article, the following Article, and Article 20).
- (2) The chairperson shall, pursuant to a Cabinet Order, regularly call Board meetings at which the matters listed in the items of Article 15, paragraph 1 (hereinafter referred to as "monetary control matters" in this Chapter) are to be discussed.

十二、經費預算（依第五十一條第一項規定）之編列或變更、財產目錄、資產負債表、損益計算書及決算報告書之作成、盈餘之處理及其他與會計有關之重要事項

十三、依第五十四條第一項及第五十五條規定作成之報告書及業務概況書

十四、依第五十九條所定章程之制定或變更

十五、依本法及其他法令規定應由委員會決定及辦理之事項

十六、除以上各款事項外，經委員會認為有特別必要之事項

3 委員會對本行幹部（監事及顧問除外）職務之執行應予監督。

### 第十六條 組織

- 1 委員會由委員九人組成之。
- 2 委員由審議委員六人、本行總裁及副總裁二人充任之。總裁及副總裁得獨立行使委員之職權，不受第二十二條第一項及第二項規定之限制。
- 3 委員會置議長，由委員互選之。
- 4 議長綜理委員會之會務。
- 5 委員會應預先由委員中選定一人，於議長因故不能執行職務時，代理其職務。

### 第十七條 會議之召集

- 1 委員會之會議由議長召集之。（議長不能執行職務時，則由前條第五項所規定之代理人召集之。本條以下、第十八條及第二十條同）
- 2 議長應依政令定期召集以第十五條第一項各款事由（以下簡稱「金融調節事項」）為議題之會議。

- (3) The preceding paragraph shall not be interpreted as preventing a Board meeting for monetary control matters from being called on an ad hoc basis, when the chairperson finds it necessary, or when one-third or more of the total incumbent Board members find it necessary and request the chairperson to call such a meeting.

#### (Management of Board Meetings)

##### Article 18

- (1) The Board may neither meet nor vote unless the chairperson and two-thirds or more of the total incumbent Board members are present.
- (2) Matters shall be decided by a majority of votes cast by Board members who are present. When the votes are equally split, the chairperson shall make a final decision.
- (3) Except for those specified in this Act, procedures of meetings and other necessary matters concerning the administration of the Board shall be determined by the Board.

#### (Attendance of Government Representatives)

##### Article 19

- (1) The Minister of Finance or the Minister of State for Economic and Fiscal Policy prescribed in Article 19, paragraph 2 of the Act for Establishment of the Cabinet Office (Act No. 89 of 1999) (referred to as the "Minister of State for Economic and Fiscal Policy" in the following paragraph; in the case where the office is vacant, it shall be assumed by the Prime Minister) may, when necessary, attend and express opinions at Board meetings for monetary control matters, or may designate an official of the Ministry of Finance or the Cabinet Office, respectively, to attend and express opinions at such meetings.
- (2) The Minister of Finance, or a delegate designated by him/her, and the Minister of State for Economic and Fiscal Policy, or a delegate designated by him/her, may, when attending the Board meetings for monetary control matters, submit proposals concerning monetary control matters, or request that the Board postpone a vote on proposals on monetary control matters submitted at the meeting until the next Board meeting for monetary control matters.
- (3) When a request has been made to postpone a vote as prescribed in the preceding paragraph, the Board shall decide whether or not to accommodate the request, in accordance with the Board's practice for voting.

- 3 議長認有必要，或現任委員總數三分之一以上認有必要而向其為請求時，應即召開與金融調節事項有關之會議，不受前項規定之限制。

#### 第十八條 議事之運作

- 1 委員會應有議長及現有委員三分之二以上之出席，始得開議並為議決。
- 2 委員會之議事表決，應經出席委員過半數同意行之。於可否同數時，由議長決定之。
- 3 除本法另有規定外，議事之程序及其他有關委員會進行之必要事項，由委員會決定之。

#### 第十九條 政府代表之出席

- 1 財務大臣或依內閣府設置法（平成十一年第八十九號法律）第十九條第二項規定之經濟財政政策大臣（未設有此一大臣時，則由內閣總理大臣擔任。以下簡稱「經濟財政政策大臣」）於必要時，得出席或指定職員代表出席與金融調節事項有關之會議，並得陳述意見。
- 2 前項出席與金融調節事項有關會議之財務大臣或其指定之財務省職員，或經濟財政政策大臣或其指定之內閣府職員，於會議中得提出有關金融調節事項之議案，或要求將該次會議中對於有關金融調節事項之議決延至下次金融調節事項之會議中舉行。
- 3 依據前項規定而請求延期議決時，委員會應依據議事常規，作成同意與否之決定。

**(Publication of Transcripts, etc.)****Article 20**

- (1) After each Board meeting for monetary control matters, the chairperson shall promptly prepare a document describing an outline of the discussion at the meeting in accordance with the decisions made by the Board, and make public the document following its approval at another Board meeting for monetary control matters.
- (2) The chairperson shall prepare a transcript of each Board meeting for monetary control matters in accordance with the decisions made by the Board, and make public the transcript after the expiration of a period of time which is determined by the Board as appropriate.

**Chapter III Officers and Employees****(Officers)****Article 21**

The officers of the Bank of Japan shall consist of six Members of the Policy Board, a Governor, two Deputy Governors, three or fewer Auditors, six or fewer Executive Directors, and a small number of Counsellors.

**(Duties and Powers of Officers)****Article 22**

- (1) The Governor shall represent the Bank of Japan and exercise general control over the Bank's business in accordance with decisions made by the Board.
- (2) The Deputy Governors shall, in accordance with decisions made by the Governor, represent the Bank of Japan, administer the business of the Bank assisting the Governor, act for the Governor whenever he/she is prevented from attending to his/her duties, and perform the Governor's duties during a vacancy in the office of the Governor.
- (3) The Auditors shall audit the business of the Bank of Japan.
- (4) The Auditors may, when they find it necessary based on the audit results, submit their opinions to the Minister of Finance, the Prime Minister, or the Board.
- (5) The Executive Directors shall, in accordance with the decisions made by the Governor, administer the business of the Bank of Japan assisting the Governor and the Deputy Governors, act for the Governor when the Governor and the Deputy Governors are prevented from attending to their duties, and perform the Governor's duties during a vacancy in the office of the Governor and the Deputy Governors.
- (6) The Counsellors shall be consulted by the Board on any important matters concerning the Bank of Japan's business operations, and may express their opinions to the Board when they find it necessary.

**第二十條 議事錄等之公開**

- 1 有關金融調節事項之會議終了後，議長應立即依委員會之決定，作成記載該次會議議事要旨之文書，經以金融調節事項為議題之委員會會議承認後公布之。
- 2 議長根據委員會之決定，作成金融調節事項會議之議事錄，並應於經委員會認為適當之相當期間經過後公布之。

**第三章 幹部及職員****第二十一條 幹部**

本行置審議委員六人、總裁一人、副總裁二人、監事三人以下、理事六人以下及顧問若干人為其幹部。

**第二十二條 幹部之職權**

- 1 總裁對外代表本行，依據委員會之決定，綜理行務。
- 2 副總裁承總裁之命代表本行，輔佐總裁掌理本行之業務，於總裁因故不能執行職務時，代理其職務；總裁出缺時，代行其職務。
- 3 監事監查本行之業務。
- 4 監事依其監查之結果認有必要時，得向財務大臣、內閣總理大臣或委員會提出意見。
- 5 理事依總裁之指示，輔佐總裁及副總裁處理本行業務；總裁及副總裁因故無法執行職務時，代理其職務；總裁及副總裁出缺時，代行其職務。
- 6 顧問於應委員會之諮詢，或認為有必要時，得就與本行業務有關之重要事項，向委員會陳述意見。

**(Restrictions on Authority of Representation)****Article 22-2**

Restrictions on the authority of representation of the Governor or the Deputy Governors may not be asserted against a third party without knowledge of such restrictions.

**(Acts of Conflict of Interest)****Article 22-3**

The Governor or the Deputy Governors shall not have the authority of representation with regard to matters for which their interests and the interest of the Bank of Japan conflict with each other. In this case, the court shall appoint a special agent, upon a request from an interested person or a public prosecutor.

**(Appointment of Officers)****Article 23**

- (1) The Governor and the Deputy Governors shall be appointed by the Cabinet, subject to the consent of the House of Representatives and the House of Councillors.
- (2) The Members of the Policy Board shall be appointed by the Cabinet, subject to the consent of the House of Representatives and the House of Councillors, from among persons with relevant knowledge and experience including experts on the economy or finance.
- (3) The Auditors shall be appointed by the Cabinet.
- (4) The Executive Directors and the Counsellors shall be appointed by the Minister of Finance based on the Board's recommendation.
- (5) If the term of office of a Governor, Deputy Governor, or Member of the Policy Board expires or a vacancy occurs in the office of any of these, and if the Diet is out of session or the House of Representatives has been dissolved and it is impossible to obtain the consent of both Houses, the Cabinet may appoint a Governor, Deputy Governor, or Member of the Policy Board, irrespective of the provisions of paragraphs 1 and 2.
- (6) In the case set forth in the preceding paragraph, the appointment shall be approved ex post by both Houses in the first Diet session after the said appointment. If the Cabinet fails to obtain such ex post approval, it shall immediately dismiss the said Governor, Deputy Governor, or Member of the Policy Board.

**第二十二條之二 代表權之限制**

對總裁或副總裁之代表權所附加之限制，不得對抗善意第三人。

**第二十二條之三 利益衝突行為**

對於與本行、總裁或副總裁有利益衝突之事項，總裁或副總裁無代表權。於此情形，法院應依利害關係人或檢察官之聲請，選任特別代理人。

**第二十三條 幹部之任命**

- 1 總裁及副總裁經兩議院同意後，由內閣任命之。
- 2 審議委員應為具有經濟或金融及相關學識經驗之專業人員，經兩議院同意後，由內閣任命之。
- 3 監事由內閣任命之。
- 4 理事及顧問經委員會之推荐，由財務大臣任命之。
- 5 總裁、副總裁或審議委員之任期屆滿或出缺時，其因國會休會或眾議院解散，而無法經兩議院行使同意權者，內閣得不依本條第一項及第二項之規定，而逕自行使對各該人員之任命權。
- 6 前項情形，應於任命後首次召開之國會中經兩議院追認之；其未獲兩議院追認者，內閣應逕將該等人員解任之。

**(Officers' Terms of Office)****Article 24**

- (1) The terms of office shall be five years for the Governor, Deputy Governors, and Members of the Policy Board, four years for Auditors and Executive Directors, and two years for Counsellors. However, if a vacancy occurs in the office of a Governor, Deputy Governor, or Member of the Policy Board, the term of office for a substitute Governor, Deputy Governor, or Member of the Policy Board shall be limited to the remaining term of his/her predecessor.
- (2) The Governor, Deputy Governors, Members of the Policy Board, Auditors, Executive Directors, and Counsellors may be reappointed.

**(Guarantee of the Officers' Status)****Article 25**

- (1) Officers of the Bank of Japan (excluding Executive Directors in this paragraph) shall not be dismissed against their will during their terms of office, except in the case prescribed in the second sentence of Article 23, paragraph 6 or in the following cases:
  - (i) An officer has received a ruling of the commencement of bankruptcy proceedings;
  - (ii) An officer has received punishment under this Act;
  - (iii) An officer has been sentenced to imprisonment without work or a heavier punishment;
  - (iv) An officer has been deemed incapable of carrying out his/her duties due to mental or physical disorder by the Board (or by the Board and the Cabinet in the case of the Auditors).
- (2) The Cabinet or the Minister of Finance shall dismiss an officer of the Bank of Japan if he/she falls under any of the cases listed in the items of the preceding paragraph.
- (3) In addition to the case prescribed in the preceding paragraph, the Minister of Finance may dismiss an Executive Director when the Board has requested the dismissal thereof.

**(Restriction on Officers' Acts)****Article 26**

- (1) An officer of the Bank of Japan (excluding Counsellors; hereinafter the same shall apply in this Article and Articles 31 and 32) shall not conduct any of the following acts during his/her term of office:
  - (i) Becoming a candidate for the Diet, for any local council, or for any elected public office;
  - (ii) Becoming an officer of any political body including a political party or actively engaging in political activities;

**第二十四條 幹部之任期**

- 1 總裁、副總裁及審議委員之任期為五年，監事及理事之任期為四年，顧問之任期為二年。但總裁、副總裁或審議委員出缺時，遞補之總裁、副總裁或審議委員，其任期應為前任所餘任期。
- 2 總裁、副總裁、審議委員、監事、理事及顧問均得續派連任。

**第二十五條 幹部之身分保障**

- 1 本行幹部（理事除外）除依第二十三條第六項後段及下列各款規定之情形外，於任期中不得任意解任之：
  - 一、受破產宣告者。
  - 二、依本法規定應受處罰者。
  - 三、受拘役以上刑之處罰者。
  - 四、由委員會（監事則由委員會及內閣）認定因身心障礙無法執行職務者。
- 2 本行幹部有前項各款規定情事之一者，內閣或財務大臣應予解任之。
- 3 除前項規定外，財務大臣於委員會請求時，得解任該理事。

**第二十六條 幹部之行為限制**

- 1 本行幹部（除顧問外；本條以下、第三十一條及第三十二條亦同），於任期中不得為下列行為：
  - 一、任國會、地方議會之議員或其他公職之候選人。
  - 二、任政黨或其他政治團體之幹部，或積極從事政治活動。

- (iii) Engaging in other work that brings remuneration (excluding work that the Board finds as meeting the requirements specified by the rules on service prescribed in Article 32 as the standards of work that does not interfere with the proper execution of his/her duties as an officer);
  - (iv) Carrying out commercial business or other business for the purpose of pecuniary gain.
- (2) If an officer of the Bank of Japan becomes a candidate for the Diet, for any local council, or for any elected public office, he/she shall be deemed to have resigned as an officer of the Bank.

#### (Appointment of Agents)

##### Article 27

The Governor and the Deputy Governors may appoint agents, from among the Bank of Japan's Executive Directors or employees, who shall have the authority to act on behalf of the Bank in all juridical and non-juridical matters with regard to the business of the Bank's head office and branch offices.

#### (Appointment of Employees)

##### Article 28

The Bank of Japan's employees shall be appointed by the Governor.

#### (Confidentiality Obligations of Officers and Employees)

##### Article 29

The Bank of Japan's officers and employees shall not leak or misappropriate secrets which they have learned in the course of their duties. The same shall apply even after they have left the Bank.

#### (Status of the Officers and Employees)

##### Article 30

The Bank of Japan's officers and employees shall be deemed to be those engaged in public service pursuant to laws and regulations.

#### (Standards for Paying Remuneration)

##### Article 31

- (1) The Bank of Japan shall establish the standards for paying rewards (including the payment of money such as bonuses), salaries (including the payment of money such as bonuses), and retirement allowances (collectively referred to as "remuneration" in the following paragraph) to be paid to its officers and employees, as being consistent with the general standards prevailing in society, and shall report such standards to the Minister of Finance and, at the same time, make them public. The same shall apply when making any change to the standards.

三、任其他可支領報酬之職務（除不妨礙幹部職務之執行、未逾越第三十二條與服務有關準則所定範圍並經委員會同意者外）。

四、經營營利事業或為其他以獲取金錢利益為目的之業務。

- 2 本行幹部如為國會、地方議會之議員或其他公職之候選人者，應視同辭去幹部之職務。

#### 第二十七條 代理人之選任

總裁及副總裁得於理事或本行職員中選任代理人，代理為與本行總行或分行業務有關之一切訴訟或非訟行為。

#### 第二十八條 職員之任命

本行職員由總裁任命之。

#### 第二十九條 幹部及職員之保密義務

本行幹部及職員對於因職務所知悉之秘密事項，不得洩漏或盜用。其離職後，亦同。

#### 第三十條 幹部及職員之地位

本行幹部及職員，視為依法令從事公務之人。

#### 第三十一條 薪給等之給付標準

- 1 本行對於幹部及職員之報酬（包括獎金及其他金錢之給付等）、薪給（包括獎金及其他給付等）及退職金（以下合稱「薪給等」）之給付，應訂定合乎社會一般情形之支給標準，並應於向財務大臣提出時一併公開之。其變更時，亦同。

- (2) Among the standards for paying remuneration prescribed in the preceding paragraph, those pertaining to officers shall be established in consideration of salaries, retirement allowances, and other circumstances of national public officers to whom the Act on Salaries of Government Officials with Special Capacity (Act No. 252 of 1949) is applicable.

**(Rules on Service)****Article 32**

The Bank of Japan shall, in light of the public nature of its business and in order to ensure the proper execution of their duties by its officers and employees, establish rules on service for its officers and employees, such as rules on the obligations to devote themselves to their duties and to separate themselves from private enterprises, and shall report such rules to the Minister of Finance and, at the same time, make them public. The same shall apply when making any change to the rules.

**Chapter IV Business****(Regular Business)****Article 33**

- (1) In order to achieve the purpose prescribed in Article 1, the Bank of Japan may conduct the following business:
- (i) Discounting of commercial bills and other negotiable instruments;
  - (ii) Making loans against collateral in the form of negotiable instruments, national government securities and other securities, or electronically recorded claims;
  - (iii) Buying and selling of commercial bills and other negotiable instruments (including those drawn by the Bank of Japan in this item), national government securities and other bonds, or electronically recorded claims;
  - (iv) Lending and borrowing of national government securities and other bonds against cash collateral;
  - (v) Taking deposits;
  - (vi) Conducting domestic funds transfers;
  - (vii) Taking safe custody of securities and other instruments pertaining to property rights, or certificates;
  - (viii) Buying and selling gold and silver bullion and carrying out business related to business set forth in the preceding items.

- 2 前項薪給等之給付標準涉及幹部者，應參照有關特別職之職員薪給法律（昭和二十四年第二百五十二號法律）中，有關公務員之薪給、退職金及其他情事等予以認定。

**第三十二條 服務相關準則**

本行為配合業務之公共性，並確保幹部及職員妥適執行職務，應就幹部與職員之專職義務及不得為與私人企業有關之服務等事項訂定準則，並應於向財務大臣提出時公開之。其變更時，亦同。

**第四章 業務****第三十三條 通常業務**

- 1 為達成第一條所定目的，本行得辦理下列業務：
- 一、商業本票及其他票據之重貼現
  - 二、以票據、公債及其他有價證券或電子登錄債權為擔保之融通
  - 三、商業本票與其他票據（含本行簽發者）、公債及其他債券或電子登錄債權之買賣
  - 四、以金錢為擔保之公債及其他債券之借貸
  - 五、存款
  - 六、國內匯兌
  - 七、有價證券及其他與財產權相關之證券或證書之保管寄存
  - 八、金銀塊之買賣及前述各款業務之附隨業務

- (2) "Taking deposits" set forth in item (v) of the preceding paragraph refers to taking deposits based on a deposit contract.

**(Loans, etc. to the National Government)**

**Article 34**

As the central bank of Japan, the Bank of Japan may, in addition to the business prescribed in paragraph 1 of the preceding Article, conduct the following business with the national government:

- (i) Making uncollateralized loans within the limit decided by the Diet as prescribed in the proviso of Article 5 of the Fiscal Act (Act No. 34 of 1947);
- (ii) Making uncollateralized loans for the national government's temporary borrowing permitted under the Fiscal Act or other acts concerning the national government's accounting;
- (iii) Subscribing or underwriting national government securities within the limit decided by the Diet as prescribed in the proviso of Article 5 of the Fiscal Act;
- (iv) Subscribing or underwriting financing bills and other financing securities;
- (v) Taking safe custody of precious metals and other articles.

**(Handling of Treasury Money)**

**Article 35**

- (1) As the central bank of Japan, the Bank of Japan shall handle treasury money, pursuant to laws and regulations.
- (2) When handling treasury money as prescribed in the preceding paragraph, the Bank of Japan may conduct the business necessary for this purpose in addition to the business prescribed in Article 33, paragraph 1.

**(Handling of National Government Affairs)**

**Article 36**

- (1) As the central bank of Japan, the Bank of Japan shall handle national government affairs concerning currency and finance, pursuant to laws and regulations.
- (2) When handling national government affairs as prescribed in the preceding paragraph, the Bank of Japan may conduct the business necessary for this purpose in addition to the business prescribed in Article 33, paragraph 1.
- (3) Expenses necessary for handling national government affairs as prescribed in paragraph 1 may be borne by the Bank of Japan, pursuant to laws and regulations.

- 2 前項第五款之「存款」，係指基於存款契約所收受之存款。

**第三十四條 對政府之融通**

本行作為日本之中央銀行，除前條第一項規定業務之外，對政府得辦理下列業務：

- 一、依財政法（昭和二十二年第三十四號法律）第五條但書規定，於國會議決金額之範圍內，得為無擔保融通
- 二、依財政法或其他與政府會計相關法律之規定，得為暫時性無擔保融通
- 三、依財政法第五條但書規定，於國會議決金額之範圍內，得認購或承銷公債
- 四、得認購或承銷財務省所發行之證券及其他融通證券
- 五、貴金屬及其他物品之保管寄存

**第三十五條 經理國庫**

- 1 本行作為日本之中央銀行，應依法令所定經理國庫資金。
- 2 本行為依前項規定經理國庫，除第三十三條第一項所規定者外，並得為其他必要之業務。

**第三十六條 辦理國家事務**

- 1 本行作為日本之中央銀行，依法令之規定，辦理有關通貨及金融之國家事務。
- 2 本行為辦理前項事務，除第三十三條第一項所規定者外，並得經營其他必要之業務。
- 3 辦理第一項所指之國家事務所需經費，得依法令之規定，由本行負擔之。



**(Temporary Loans to Financial Institutions, etc.)****Article 37**

- (1) Irrespective of the provisions of Article 33, paragraph 1, the Bank of Japan may provide financial institutions (banks and other institutions engaged in the business of taking deposits, etc. [deposits and others prescribed in Article 2, paragraph 2 of the Deposit Insurance Act {Act No. 34 of 1971} and other deposits for savings] and in funds transfers in the course of trade; the same shall apply hereinafter) and other financial business entities specified by a Cabinet Order (hereinafter collectively referred to as "financial institutions, etc.") with uncollateralized loans the amount of which is equivalent to the shortage of funds for a period no longer than the length of time prescribed by a Cabinet Order, when the relevant financial institutions, etc. unexpectedly experience a temporary shortage of funds necessary for payment due to accidental causes, including failures in electronic data processing systems, whereby their business operations may be seriously hampered if the shortage is not recovered swiftly, provided that the Bank finds the advance is necessary to secure smooth settlement of funds among financial institutions.
- (2) The Bank of Japan shall, when having provided loans as prescribed in the preceding paragraph, report to that effect to the Prime Minister and the Minister of Finance without delay.

**(Business Contributing to the Maintenance of Stability of the Financial System)****Article 38**

- (1) The Prime Minister and the Minister of Finance may, when they find it especially necessary for the maintenance of stability of the financial system, such as in the case where they find that serious problems may arise in the maintenance of stability of the financial system based on the consultation pursuant to Article 57-5 of the Banking Act (Act No. 59 of 1981) or other laws and regulations, request the Bank of Japan to conduct the business necessary to maintain stability of the financial system, such as to provide loans to the financial institution pertaining to the said consultation.
- (2) When a request has been made from the Prime Minister and the Minister of Finance as prescribed in the preceding paragraph, the Bank of Japan may conduct the business necessary to maintain stability of the financial system, including the provision of loans under special conditions, responding to the said request, in addition to the business prescribed in Article 33, paragraph 1.

**第三十七條 對金融機構之暫時性融通**

- 1 本行於金融機構（銀行及其他收受存款《即依昭和四十六年第三十四號法律「存款保險法」第二條第二項所稱存款及其他儲金》與辦理匯兌業務之金融機構，以下同）及其他依政令規定經營金融業務者（以下併稱「金融機構等」）之電子資訊處理系統發生故障及其他偶發事故，造成難以預見之暫時性資金支付不足之情形時，如認為不立即融通支付將造成該金融機構等經營困難，而有確保金融機構間資金順利清算之必要者，得對該金融機構等於政令所規定之期間內，就不足資金部分提供無擔保融通，不受第三十三條第一項規定之限制。
- 2 本行依前項規定為融通時，應儘速報告內閣總理大臣及財務大臣。

**第三十八條 為維持信用秩序之業務**

- 1 內閣總理大臣與財務大臣基於銀行法（昭和五十六年第五十九號法律）第五十七條之五規定及依其他法令所訂定之協議，認為信用秩序之維持有產生重大障礙之虞時，或其他為維持信用秩序所必要者，得要求本行對該協議有關之金融機構為資金之融通，或辦理其他維持信用秩序所必要之業務。
- 2 本行依前項規定，於內閣總理大臣與財務大臣要求時，除第三十三條第一項規定業務之外，得依據特別之條件為資金之融通或辦理其他維持信用秩序所必要之業務。

**(Business Contributing to Smooth Settlement of Funds)****Article 39**

- (1) In addition to the business prescribed in Article 33 through the preceding Article, the Bank of Japan may, upon authorization from the Prime Minister and the Minister of Finance, conduct the business deemed to contribute to smooth settlement of funds among financial institutions in conjunction with the business prescribed in Article 33, paragraph 1, items (v) through (vii) or the business prescribed in Article 35, paragraph 2 or Article 36, paragraph 2.
- (2) The provisions of Article 7, paragraph 4 shall apply mutatis mutandis to the authorization set forth in the preceding paragraph.

**(Buying and Selling of Foreign Exchange)****Article 40**

- (1) The Bank of Japan may, when necessary, buy and sell foreign exchange on its own account or as an agent handling national government affairs pursuant to Article 36, paragraph 1, and it may also buy and sell foreign exchange on behalf of foreign central banks, etc. (foreign central banks and those equivalent thereto; the same shall apply hereinafter) or international institutions (international institutions of which Japan has a membership, including the Bank for International Settlements; the same shall apply hereinafter) as their agent in order to cooperate with them as the central bank of Japan.
- (2) The Bank of Japan shall buy and sell foreign exchange as an agent handling national government affairs pursuant to Article 36, paragraph 1, when the purpose of the buying and selling is to stabilize the exchange rate of Japanese currency.
- (3) The Bank of Japan shall, when buying and selling foreign exchange on its own account or as an agent on behalf of foreign central banks, etc. or international institutions to cooperate with them as the central bank of Japan pursuant to paragraph 1, conduct the buying and selling for the purpose which the Minister of Finance specifies as constituting cooperation in the field of international finance, at the request, or upon the approval, of the Minister of Finance.

**(International Financial Business)****Article 41**

The Bank of Japan may conduct the following business with foreign central banks, etc. or international institutions in order to cooperate with them as the central bank of Japan:

**第三十九條 為促使資金清算順利之業務**

- 1 本行除第三十三條至前條所定業務之外，經內閣總理大臣與財務大臣認可，得辦理與第三十三條第一項第五款至第七款所規定之業務及與第三十五條第二項或第三十六條第二項所定業務配合後，有助於金融機構間資金順利清算所必要之業務。
- 2 第七條第四項之規定，於前項之認可，準用之。

**第四十條 外匯交易業務**

- 1 本行除於必要時得自行，或依第三十六條第一項規定以辦理國家事務為由，進行外匯交易之外，並得以日本中央銀行之名義與外國中央銀行等（指外國之中央銀行或其相當之機構，以下同）或國際機構（指日本加入之國際機構，包括國際清算銀行，以下同），以掌理外匯交易事務之地位進行外匯交易，俾達成合作之目的。
- 2 本行依第三十六條第一項規定處理國家事務，所進行之外匯交易，係以維持本國通貨於外匯市場之安定為目的。
- 3 本行依第一項規定，以日本中央銀行之名義，為與外國中央銀行或國際機構合作，自行或以外匯事務掌理者之身分所進行之外匯交易者，其中因與國際金融合作有關而須由財務大臣決定之外匯交易，應基於財務大臣要求或許可後始得為之。

**第四十一條 國際金融業務**

本行作為日本之中央銀行，為與外國中央銀行或國際機構合作，得辦理下列各款業務：

- (i) Taking deposits pertaining to deposit money denominated in Japanese currency (deposits prescribed in Article 33, paragraph 2);
- (ii) Buying and selling national government securities in exchange for deposits received through the business set forth in the preceding item;
- (iii) Taking safe custody of securities, precious metals, and other articles;
- (iv) Carrying out intermediary, brokerage, or agency services for sales and purchases of national government securities conducted by the said foreign central banks, etc. or international institutions;
- (v) Other business specified by an ordinance of the Ministry of Finance as those deemed to contribute to the proper management of Japanese currency or assets denominated in Japanese currency held by the said foreign central banks, etc. or international institutions.

#### Article 42

In addition to the business prescribed in the preceding Article, the Bank of Japan may conduct the following transactions and other transactions necessary for cooperating, as the central bank of Japan, with foreign central banks, etc. or international institutions in the field of international finance, including the provision of international financial assistance, at the request, or upon the approval, of the Minister of Finance:

- (i) Substituting loan claims against foreign central banks, etc. which are held by the Bank for International Settlements;
- (ii) Providing credit to foreign central banks, etc. or international institutions.

#### (Prohibition of Other Business)

#### Article 43

- (1) The Bank of Japan may not conduct any business other than that specified by this Act as the business of the Bank; provided, however, that this shall not apply to the case where such business is necessary to achieve the Bank's purpose specified by this Act and the Bank has obtained authorization from the Minister of Finance and the Prime Minister.

- 一、收受以本國貨幣記帳之存款(即第三十三條第二項規定之存款)
- 二、以辦理前款業務所收受存款之對價出售或買入政府公債
- 三、保管有價證券、貴重金屬及其他物品
- 四、居間、代辦或代理外國中央銀行或國際機構進行政府公債交易
- 五、其他依照財務省令協助各該外國中央銀行或國際機構從事本國貨幣或以本國貨幣計價資產之適切運用

#### 第四十二條 國際金融業務

除前條規定外，本行為與外國中央銀行或國際機構合作，俾以獲得國際金融支援及其他國際金融方面之合作，得以中央銀行之名義，依財務大臣之要求或許可，而為下列及其他合作所必要之交易：

- 一、受讓包括國際清算銀行對外國中央銀行等之融資債權
- 二、對外國中央銀行或國際機構授信

#### 第四十三條 其他業務之禁止

- 1 本行不得為本法規定以外之業務。但為達成本行依本法所規定之目的所必要，並經財務大臣與內閣總理大臣認可者，不在此限。

- (2) The provisions of Article 7, paragraph 4 shall apply mutatis mutandis to the authorization set forth in the preceding paragraph.

#### (On-Site Examinations)

##### Article 44

- (1) The Bank of Japan may, for the purpose of appropriately conducting or preparing to conduct the business prescribed in Articles 37 through 39, conclude a contract with financial institutions, etc. which would be the counterparty in such business (hereinafter referred to as the "counterparty financial institutions, etc." in this Article) concerning on-site examinations (examinations which the Bank carries out regarding the business operations and the state of the property of the counterparty financial institutions, etc. by visiting the premises thereof; hereinafter the same shall apply in this Article) (such contract shall meet the requirements specified by a Cabinet Order including those whereby the Bank shall notify and obtain prior consent from the counterparty financial institutions, etc. when carrying out on-site examinations).
- (2) The Bank of Japan shall consider the administrative burden incurred by counterparty financial institutions, etc. when carrying out on-site examinations.
- (3) When a request has been made from the Commissioner of the Financial Services Agency, the Bank of Japan may submit the documents describing the results of the on-site examinations and other related materials to the Commissioner or have officials of the Financial Services Agency inspect them.

#### (Statement of Operation Procedures)

##### Article 45

- (1) The Bank of Japan shall prepare a statement of operation procedures and submit it to the Minister of Finance and the Prime Minister. The same shall apply when making any change to the statement.
- (2) The statement of operation procedures set forth in the preceding paragraph shall contain matters specified by a Cabinet Order, including those concerning the provision of loans.

### Chapter V Bank of Japan Notes

#### (Issuance of Bank of Japan Notes)

##### Article 46

- (1) The Bank of Japan shall issue banknotes.
- (2) The banknotes issued by the Bank of Japan (hereinafter referred to as "Bank of Japan notes") as prescribed in the preceding paragraph shall be legal tender and hence shall be used for payment without limits.

- 2 第七條第四項之規定，於前項認可，準用之。

#### 第四十四條 考查

- 1 本行為妥適執行第三十七條至第三十九條之業務，並確保該業務能妥適進行，得與其業務交易之對象，亦即各金融機構（以下簡稱「金融機構等交易對象」），訂定與考查（即本行對金融機構等對象之業務與財產狀況進行之實地調查，以下各條同）有關之契約（考查時應事先告知並取得金融機構等交易對象之同意，並以政令規定者為限）。
- 2 本行於進行考查時，應同時考慮金融機構等交易對象因受考查所產生之事務負擔。
- 3 本行應於金融廳長官要求時，向其提出記載考查結果之文件及其他相關資料，或提供其職員閱覽。

#### 第四十五條 業務手冊

- 1 本行應訂定業務手冊，向財務大臣與內閣總理大臣提出之。其變更時，亦同。
- 2 前項業務手冊，應記載資金融通有關事項及其他政令所定事項。

### 第五章 鈔券

#### 第四十六條 鈔券之發行

- 1 本行得發行鈔券。
- 2 依前項規定由本行所發行之鈔券具有法償之效力，得無限制通用。

**(Types and Forms of Bank of Japan Notes)****Article 47**

- (1) The types of Bank of Japan notes shall be specified by a Cabinet Order.
- (2) The Minister of Finance shall decide the forms of Bank of Japan notes and publicly notify them.

**(Exchange of Bank of Japan Notes)****Article 48**

The Bank of Japan shall exchange, without fees, Bank of Japan notes rendered unfit for further circulation due to defacement, mutilation, or other causes, pursuant to an Ordinance of the Ministry of Finance.

**(Printing and Cancellation of Bank of Japan Notes)****Article 49**

- (1) The Bank of Japan shall determine the procedures for printing and canceling Bank of Japan notes and submit those procedures to the Minister of Finance for approval. The same shall apply when making any change to the procedures.
- (2) The provisions of Article 7, paragraph 4 shall apply mutatis mutandis to the approval set forth in the preceding paragraph.

**Chapter VI Accounting****(Business Year)****Article 50**

The business year of the Bank of Japan shall run April 1 through March 31 of the following year.

**(Budget for Expenses)****Article 51**

- (1) Every business year, the Bank of Japan shall make a budget for expenses (limited to those specified by a Cabinet Order as not hampering the currency and monetary control; hereinafter such budget shall be referred to as a "budget for expenses"), and submit it to the Minister of Finance for authorization before the business year begins. The same shall apply when making any change to the budget.
- (2) If the Minister of Finance finds it inappropriate to authorize the budget for expenses submitted as prescribed in the preceding paragraph, he/she shall make prompt notice to the Bank of Japan to that effect along with the reason therefor, and make public the details of the submitted budget for expenses and the said reason.
- (3) When the notice as prescribed in the preceding paragraph has been made, the Bank of Japan may express its opinions to the Minister of Finance or, if necessary, make public the said opinions.

**第四十七條 鈔券之種類及樣式**

- 1 鈔券之種類，依政令定之。
- 2 鈔券之樣式，由財務大臣訂定並公告之。

**第四十八條 鈔券之收兌**

本行應依財務省令之規定，以不收取手續費之方式，收兌因污染、損傷及其他事由而難以使用之鈔券。

**第四十九條 鈔券之印製與註銷**

- 1 本行應訂定鈔券之印製及註銷程序，並報經財務大臣承認。其變更時，亦同。
- 2 第七條第四項之規定，於前項承認，準用之。

**第六章 會計****第五十條 會計年度**

本行之會計年度，為每年四月一日起至翌年三月三十一日止。

**第五十一條 經費預算**

- 1 本行應於每會計年度編列經費預算（依政令規定，以不妨礙對通貨及金融之調節者為限），並於年度開始前向財務大臣提出並經其認可。其變更時，亦同。
- 2 財務大臣對於依前項規定所提出之預算認為不應予以認可時，應將其理由儘速通知本行，並公布預算之詳細內容及其理由。
- 3 本行接獲前項規定之通知時，得向財務大臣陳述意見，必要時並得公布之。

**(Financial Statements, etc.)****Article 52**

- (1) The Bank of Japan shall prepare an inventory of property and a balance sheet for each six-month period running from April through September and from October through March and prepare a profit and loss statement for each business year as well as for each six-month period mentioned above, and submit these documents (hereinafter referred to as "financial statements") attached with Auditors' written opinions thereon to the Minister of Finance for approval within two months after the relevant six-month period or the business year has elapsed.
- (2) When submitting the financial statements for a business year to the Minister of Finance as prescribed in the preceding paragraph, the Bank of Japan shall attach a statement of accounts for the business year and the Auditors' written opinions thereon.
- (3) When having received the approval from the Minister of Finance as prescribed in paragraph 1, the Bank of Japan shall, without delay, keep the financial statements, the statement of accounts set forth in the preceding paragraph, and the Auditors' written opinions set forth in the preceding two paragraphs at its head office and branch offices and make them available for public inspection for a period determined by the Policy Board as appropriate.

**(Appropriation of Surplus)****Article 53**

- (1) The Bank of Japan shall reserve, as a reserve fund, five-hundredths of the surplus resulting from the settlement of profits and losses for each business year.
- (2) Irrespective of the provisions of the preceding paragraph, the Bank of Japan may, when it finds it especially necessary, reserve the money which exceeds the amount prescribed in the preceding paragraph as a reserve fund, upon authorization from the Minister of Finance.
- (3) The reserve fund reserved as prescribed in the preceding two paragraphs shall not be disposed of, except to cover losses incurred by the Bank of Japan or to be appropriated for dividends as prescribed in the following paragraph.
- (4) The Bank of Japan may, upon authorization from the Minister of Finance, pay dividends to contributories out of the surplus resulting from the settlement of profits and losses for each business year; provided, however, that the rate of dividend payments against paid-up capital may not exceed five-hundredths per annum.

**第五十二條 財務報表等**

- 1 本行應於四月至九月及十月至翌年三月，每半年間製作財產目錄及資產負債表，並於此每半年之結算及會計年度之決算時製作損益表；上述文件（以下簡稱「財務報表」）並須檢附監事之意見書，於結算及決算後二個月內，向財務大臣提出並經其承認。
- 2 本行依前項規定向財務大臣提交會計年度相關之財務報表時，得於該財務報表中檢附該會計年度之決算報告書及監事對於該決算報告書之意見書。
- 3 本行依據第一項規定取得財務大臣之承認時，應儘速將該財務報表、前項之決算報告書及前二項之監事意見書置於總行及各分行，於政策委員會認為適當之期間內，供大眾閱覽之。

**第五十三條 盈餘之處理**

- 1 本行於各會計年度損益計算後有盈餘者，應提撥相當於盈餘百分之五之數額，累積為公積金。
- 2 本行認為必要時，得不受前項規定之限制，經財務大臣認可，由前項之盈餘中，提撥超出該項規定應累積額度以外之公積金。
- 3 依前二項提撥之公積金，除彌補本行之虧損或依後項規定提撥作為股息之外，不得供作其他用途。
- 4 本行經財務大臣認可後，得提撥各會計年度經損益計算後之盈餘，作為對出資者分配股息之用。但該盈餘分配占實收資本額之比率，不得超過年率百分之五。

- (5) After deducting the amount reserved as prescribed in paragraphs 1 and 2 and the dividend payments prescribed in the preceding paragraph from the surplus resulting from the settlement of profits and losses for each business year, the Bank of Japan shall pay the remaining surplus to the national treasury within two months after each relevant business year ends.
- (6) The government may have the Bank of Japan make the payment to the national treasury for each business year as prescribed in the preceding paragraph, partially during the said business year, by estimate, pursuant to a Cabinet Order.
- (7) The amount of the payment to the national treasury pursuant to paragraph 5 shall be treated as losses when accounting the amount of income prescribed by the Corporation Tax Act (Act No. 34 of 1965) and the amount of income pertaining to the business tax prescribed by the Local Tax Act (Act No. 226 of 1950).
- (8) In addition to what is prescribed in the preceding three paragraphs, necessary matters concerning the payment to the national treasury pursuant to paragraph 5 shall be specified by a Cabinet Order.
- (9) The provisions of Article 7, paragraph 4 shall apply mutatis mutandis to the authorization set forth in paragraphs 2 and 4.

## Chapter VII Reporting, etc. to the Diet

### (Reporting to and Attendance at the Diet)

#### Article 54

- (1) The Bank of Japan shall, approximately every six months, prepare a written report on the Policy Board resolutions regarding the matters listed in the items of Article 15, paragraph 1 and conditions of business operations that the Bank has conducted based thereon and submit it to the Diet through the Minister of Finance.
- (2) The Bank of Japan shall endeavor to explain to the Diet the written report set forth in the preceding paragraph.
- (3) The Bank of Japan's Governor or the chairperson of the Policy Board, or a representative designated by them, shall attend the sessions of the House of Representatives, the House of Councillors, or their Committees when requested by them, in order to explain the state of the Bank's business operations and property.

- 5 本行由各會計年度損益計算後之盈餘中，扣除第一項及第二項所規定應累積之公積金，及依前項規定分配之股息後之餘額，於各該會計年度終了之二個月內，應繳交國庫。
- 6 政府對於本行依前項規定於各會計年度應繳交國庫金額之一部，得依政令之規定，於各該會計年度中予以估算並命本行先行繳交。
- 7 依第五項規定之繳交金額，於依法人稅法（昭和四十年第三十四號法律）計算所得，及依地方稅法（昭和二十五年第二百二十六號法律）計算營業稅之金額時，得記入損失之帳目內。
- 8 除前三項之規定外，與第五項規定之繳交金有關之必要事項，得以政令定之。
- 9 第七條第四項之規定，於第二項及第四項之認可，準用之。

## 第七章 對國會之報告

### 第五十四條 出席國會及報告

- 1 本行原則上應於每六個月，將經政策委員會對於第十五條第一項各款所為議決之內容，及本行依據該決議內容所為之業務狀況作成報告書，經財務大臣提送國會。
- 2 本行對前項之報告書，應向國會為詳盡之說明。
- 3 本行總裁或政策委員會議長，或經總裁或議長指定之代理人，於各議院或其委員會要求出席說明本行業務及資產狀況時，應出席各該議院或其委員會。

**(Publication of an Outline of Business Operations)****Article 55**

When having received the approval regarding financial statements for each business year as prescribed in Article 52, paragraph 1, the Bank of Japan shall prepare, without delay, an outline of its business operations for the business year and make it public along with the said financial statements and a statement of accounts for the said business year.

**Chapter VIII Rectification, etc. of Illegal Acts, etc.****(Rectification of Illegal Acts, etc.)****Article 56**

- (1) The Minister of Finance or the Prime Minister may, when he/she finds that the Bank of Japan, its officers or employees have violated or are likely to violate this Act, other laws and regulations, or articles of incorporation, request the Bank to take the measures necessary to rectify such acts.
- (2) When a request has been made from the Minister of Finance or the Prime Minister as prescribed in the preceding paragraph, the Bank of Japan shall promptly take measures which the Policy Board finds necessary, such as rectifying the said acts, and report those measures to the Minister of Finance or the Prime Minister.

**(Audit at the Request of the Minister of Finance or the Prime Minister)****Article 57**

- (1) The Minister of Finance or the Prime Minister may, when he/she finds that the Bank of Japan, its officers or employees have violated or are likely to violate this Act, other laws and regulations, or articles of incorporation, request the Auditors of the Bank to audit such acts and other necessary matters and report the results thereof to the Minister of Finance or the Prime Minister.
- (2) When a request has been made from the Minister of Finance or the Prime Minister as prescribed in the preceding paragraph, the Auditors of the Bank of Japan shall promptly audit such matters and report the results thereof to the Minister of Finance or the Prime Minister and also to the Policy Board.

**(Reports, etc.)****Article 58**

The Minister of Finance or the Prime Minister may, when he/she finds it necessary in light of the conditions of the business operations of the Bank of Japan, request the Bank to submit a report or relevant materials.

**第五十五條 公布業務概況書**

本行於各會計年度相關之財務報表依第五十二條第一項之規定取得承認後，應儘速作成該年度之業務概況書，並將該業務概況書與該財務報表及該年度之決算報告書一併公布之。

**第八章 違法行為之改正等****第五十六條 違法行為等之改正**

- 1 財務大臣或內閣總理大臣認為本行及其幹部或職員之行為違反本法或其他法令或章程，或有違反之虞時，得要求本行採取改正該等行為之必要措施。
- 2 本行於財務大臣或內閣總理大臣為前項規定之要求時，除應儘速為改正該等行為及其他政策委員會認為必要之處置外，並應將該處置內容向財務大臣或內閣總理大臣提出報告。

**第五十七條 經財務大臣或內閣總理大臣要求之監查**

- 1 財務大臣或內閣總理大臣認為本行及其幹部或職員之行為違反本法或其他法令或章程，或有違反之虞時，得要求本行之監事對該等行為及其他必要事項，進行監查並提出監查報告。
- 2 本行之監事於財務大臣或內閣總理大臣為前項規定之要求時，除應儘速對該要求之事項進行監查外，並應將該監查結果向財務大臣或內閣總理大臣及政策委員會提出監查結果之報告。

**第五十八條 報告等**

財務大臣或內閣總理大臣依據本行之業務執行情形，認為必要時，得要求本行報告或提出資料。



## Chapter IX Miscellaneous Provisions

### (Rules)

#### Article 59

The Bank of Japan shall, when having established rules regarding the organization or other matters other than those specified by this Act separately, report such rules to the Minister of Finance without delay. The same shall apply when making any change to the rules.

### (Dissolution)

#### Article 60

- (1) The dissolution of the Bank of Japan shall be specified separately by an Act.
- (2) In the case where the Bank of Japan has been dissolved, when the residual assets of the Bank exceed the amount of paid-up capital, the residual assets equivalent to the excess amount shall belong to the national treasury.

### (Jurisdiction over Cases Concerning Appointment of Special Agents)

#### Article 60-2

Cases concerning the appointment of special agents shall be under the jurisdiction of the District Court which exercises jurisdiction over the location of the head office of the Bank of Japan.

### (Mutatis Mutandis Application of the Act on General Incorporated Associations and General Incorporated Foundations)

#### Article 61

The provisions of Article 4 and Article 78 of the Act on General Incorporated Associations and General Incorporated Foundations (Act No. 48 of 2006) shall apply mutatis mutandis to the Bank of Japan.

### (Delegation of Authority)

#### Article 61-2

The Prime Minister shall delegate the authority under this Act (excluding Article 19) to the Commissioner of the Financial Services Agency except for those prescribed by a Cabinet Order.

### (Delegation to a Cabinet Order)

#### Article 62

In addition to what is prescribed in this Act, matters necessary to implement this Act shall be specified by a Cabinet Order.

## Chapter X Penal Provisions

#### Article 63

Those who have leaked or misappropriated secrets in violation of Article 29 shall be punished by imprisonment with work for not exceeding a year or a fine not exceeding five hundred thousand yen.

## 第九章 雜則

### 第五十九條 組織規程

除本法另有規定者外，本行於制定其他涉及組織之規程後，應儘速提交財務大臣。其變更時，亦同。

### 第六十條 解散

- 1 本行之解散，另以法律定之。
- 2 本行解散後，所剩資產超過已繳交之資本額部分，歸屬國庫。

### 第六十條之二 有關選任特別代理人之案件管轄

有關選任特別代理人之案件，歸屬本行總行所在地之管轄地方法院管轄之。

### 第六十一條 關於一般社團法人及一般財團法人法律之準用

關於一般社團法人及一般財團法人法律（平成十八年第四十八號法律）第四條及第七十八條之規定，於本行準用之。

### 第六十一條之二 權限之委任

內閣總理大臣將其依本法規定（第十九條除外）之權限（以政令訂定者除外），委任金融廳長官行使之。

### 第六十二條 政令之委任

除本法規定者外，本法施行之必要事項，另以政令定之。

## 第十章 罰則

### 第六十三條

違反第二十九條規定洩漏或盜用秘密者，處一年以下有期徒刑、拘役或五十萬日圓以下罰金。

**Article 64**

Those who have failed to conduct an audit pursuant to Article 57, paragraph 2, or have failed to make a report pursuant to the same paragraph or have made a false report shall be punished by a fine not exceeding five hundred thousand yen.

**Article 65**

The Bank of Japan's officers or employees shall be punished by a non-penal fine not exceeding five hundred thousand yen when falling under any of the following items:

- (i) Having failed to obtain the authorization from the Minister of Finance or from both the Minister of Finance and the Prime Minister, or the approval from the Minister of Finance, as required by this Act (excluding the provisions of Article 43, paragraph 1);
- (ii) Having failed to make a report to the Minister of Finance or to both the Minister of Finance and the Prime Minister as required by this Act, or having made a false report;
- (iii) Having failed to make public what is required by this Act, or having made it public falsely;
- (iv) Having neglected to register in violation of a Cabinet Order prescribed in Article 12, paragraph 1;
- (v) Having been engaged in other work that brings remuneration or having carried out commercial business or other business for the purpose of pecuniary gain in violation of Article 26, paragraph 1;
- (vi) Having conducted any business other than that specified as the business of the Bank of Japan in violation of Article 43, paragraph 1;
- (vii) Having violated Article 48;
- (viii) Having failed to keep the financial statements, the statement of accounts, or the Auditors' written opinions or having failed to make them available for public inspection in violation of Article 52, paragraph 3;
- (ix) Having failed to reserve a surplus as a reserve fund in violation of Article 53, paragraph 1;
- (x) Having disposed of a reserve fund in violation of Article 53, paragraph 3;

**第六十四條**

未依第五十七條第二項規定為監查或報告，或為虛偽不實之報告者，處五十萬日圓以下罰金。

**第六十五條**

本行幹部或職員違反下列各款規定者，處五十萬日圓以下罰鍰：

- 一、依本法規定（第四十三條第一項除外）應經財務大臣或財務大臣與內閣總理大臣認可，或經財務大臣承認之事項，而未經認可或承認者。
- 二、依本法規定應向財務大臣或財務大臣與內閣總理大臣提出之事項，而未提出或為虛偽不實之提出者。
- 三、依本法規定應公布之事項，而未公布或為虛偽不實之公布者。
- 四、違反第十二條第一項所定之政令，就應登記事項未為登記者。
- 五、違反第二十六條第一項之規定，而擔任其他有報酬之職務、從事營利事業或其他以金錢上之利益為目的之行為者。
- 六、違反第四十三條第一項之規定，而從事本行業務範圍以外之行為者。
- 七、違反第四十八條之規定者。
- 八、違反第五十二條第三項之規定，而未為財務報表、決算報告書或監事意見書之備置，或未供閱覽者。
- 九、違反第五十三條第一項之規定，而未累積公積金者。
- 十、違反第五十三條第三項之規定，而動用公積金者。

- (xi) Having paid dividends in violation of the proviso of Article 53, paragraph 4;
- (xii) Having failed to make a report as required in Article 56, paragraph 2 or having made a false report;
- (xiii) Having failed to submit a report or materials as required in Article 58 or having submitted a false report or false materials.

**Article 66**

Those who have violated Article 13 shall be punished by a non-penal fine not exceeding five hundred thousand yen.

- 十一、違反第五十三條第四項但書之規定，而擅自分配股息者。
- 十二、違反第五十六條第二項之規定，而未報告或為虛偽不實之報告者。
- 十三、違反第五十八條之規定，而未報告或提出資料，或為虛偽不實之提出者。

**第六十六條**

違反第十三條之規定者，處五十萬日圓以下罰鍰。

## 四、Reserve Bank Act 1959

### 澳大利亞準備銀行法

# Reserve Bank Act 1959

*Part I—Preliminary*

*Part II—Constitution, policy and management of the Reserve Bank*

*Division 1—Constitution of the Reserve Bank*

*Division 2—Policy and management of the Reserve Bank*

*Part III—The Reserve Bank Board and the Governor and Deputy Governor of the Bank*

*Part IIIA—The Payments System Board*

*Division 1—The members of the Payments System Board*

*Division 2—Meetings*

*Division 3—Other administrative provisions*

*Part IV—Central banking*

*Part V—The note issue*

*Part VII—The Reserve Bank Service*

*Part VIII—Miscellaneous*

# 澳大利亞準備銀行法

法務室 林男錡 譯

第 1 章 總則

第 2 章 準備銀行之組織、政策及管理

第 1 節 準備銀行之組織

第 2 節 準備銀行之政策及管理

第 3 章 準備銀行理事會及本行總裁與副總裁

第 3A 章 支付系統委員會

第 1 節 支付系統委員會成員

第 2 節 會議

第 3 節 其他行政規定

第 4 章 中央銀行業務

第 5 章 鈔券之發行

第 7 章 準備銀行人員

第 8 章 附則

# Reserve Bank Act 1959

No. 4, 1959

## Compilation No. 29

Compilation date: 14 April 2015

Includes amendments up to: Act No. 36, 2015

Registered: 21 April 2015

An Act relating to the Reserve Bank of Australia, and for other purposes

## Part I—Preliminary

### 1 Short title

This Act may be cited as the *Reserve Bank Act 1959*.

### 2 Commencement

This Act shall come into operation on a date to be fixed by Proclamation.

### 4 Repeal and saving

(1) The following Acts are repealed:

*Commonwealth Bank Act 1945*;

*Commonwealth Bank Act 1948*;

*Commonwealth Bank Act 1951*;

*Commonwealth Bank Act 1953*.

(2) Subsection (1) does not affect the operation of any amendment of an Act made by an Act referred to in that subsection or any provision for the citation of an Act as so amended.

### 5 Interpretation

(1) In this Act, unless the contrary intention appears:

# 澳大利亞準備銀行法

1959 年第 4 號

## 第 29 號彙編

編輯日：2015 年 4 月 14 日

包含之最新修正：2015 年第 36 號法案

登記日：2015 年 4 月 21 日

澳大利亞準備銀行及其他目的之法

## 第 1 章 總則

### 第 1 條 簡稱

本法稱為 *1959 年準備銀行法*。

### 第 2 條 施行

本法自公告所定之日施行。

### 第 4 條 廢止及保留

(1) 下列法律均予廢止：

*1945 年聯邦銀行法*；

*1948 年聯邦銀行法*；

*1951 年聯邦銀行法*；

*1953 年聯邦銀行法*。

(2) 第(1)項規定，不影響依前開法律而制定之法律，或引述前開法律之法條之修正效力。

### 第 5 條 解釋

(1) 除有相反之規定外，本法所稱：

**ADI** (authorised deposit-taking institution) means a body corporate that is an ADI for the purposes of the *Banking Act 1959*.

**APRA** means the Australian Prudential Regulation Authority.

**APRA member** has the same meaning as in the *Australian Prudential Regulation Authority Act 1998*.

**APRA staff member** has the same meaning as in the *Australian Prudential Regulation Authority Act 1998*.

**Australia** includes the Territories.

**Deputy Governor** means the Deputy Governor of the Bank.

**monetary and banking policy** means monetary and banking policy for the purposes of the Bank's functions or powers under this Act or any other Act, but does not include payments system policy.

**payment system** has the same meaning as in the *Payment Systems (Regulation) Act 1998*.

**payments system policy** means policy for the purposes of the Bank's functions or powers under:

- (a) the *Payment Systems (Regulation) Act 1998*; and
- (b) the *Payment Systems and Netting Act 1998*; and
- (c) Part 7.3 of the *Corporations Act 2001*.

**repealed Act** means an Act repealed by this Act or by the *Commonwealth Bank Act 1945*.

**staff member of the Reserve Bank Service** means:

- (a) a person appointed by the Bank under section 67; or
- (b) a person engaged by the Bank under section 68.

**statutory office** means the office of Governor or Deputy Governor.

**the Bank** or **the Reserve Bank** means the Reserve Bank of Australia.

**the former Commonwealth Bank of Australia** means the Commonwealth Bank of Australia established under the *Commonwealth Bank Act 1911* and continued in existence under the *Commonwealth Bank Act 1945*.

**the Governor** means the Governor of the Bank.

- (2) Unless the contrary intention appears, a reference in this Act to an Act includes a reference to regulations made under that Act.

## 6 Application to Territories

Subject to section 6A, this Act extends to all the Territories.

**收受存款機構**指依 1959 年銀行法所稱收受存款機構之法人。

**審慎監理局**指澳大利亞審慎監理局。

**審慎監理局成員**之定義與 1998 年澳大利亞審慎監理局法規定相同。

**審慎監理局職員**之定義與 1998 年澳大利亞審慎監理局法規定相同。

**澳大利亞**包括其領地。

**副總裁**指本行副總裁。

**貨幣及銀行政策**指依本法及其他法律所定，為本行職權範圍內之貨幣及銀行政策。但不包括支付系統政策。

**支付系統**之定義與 1998 年支付系統（管理）法規定相同。

**支付系統政策**指依下列法律所定，為本行職權範圍內之政策：

- (a) 1998 年支付系統（管理）法；及
- (b) 1998 年支付系統及淨額結算法；及
- (c) 2001 年公司法第 7.3 章。

**已廢止之法律**指依本法或 1945 年聯邦銀行法所廢止之法律。

**準備銀行職員**指：

- (a) 本行依第 67 條所任用之人；或
- (b) 本行依第 68 條所聘用之人。

**法定辦公室**指總裁或副總裁辦公室。

**本行或準備銀行**指澳大利亞準備銀行。

**前澳大利亞聯邦銀行**指依 1911 年聯邦銀行法設立，並依 1945 年聯邦銀行法存續之澳大利亞聯邦銀行。

**總裁**指本行總裁。

- (2) 除有相反之規定外，本法相關規定包括依本法訂定之法規。

## 第 6 條 領地之適用

除第 6A 條另有規定外，本法適用於全部領地。

**6A Cessation of application to Territory**

The Treasurer may, by notice published in the *Gazette*, declare that, on a date specified in the notice, this Act shall cease to extend to an external Territory specified in the notice, and, on and after the date specified in such a notice, this Act does not extend to the Territory so specified and a reference in this Act, other than this section, to a Territory does not include a reference to the Territory so specified.

**6B Application of Criminal Code**

*The Criminal Code* applies to all offences against this Act.

**Part II—Constitution, policy and management of the Reserve Bank****Division 1—Constitution of the Reserve Bank****7 The Reserve Bank of Australia**

Notwithstanding the repeal effected by subsection 4 (1), the body corporate established under the *Commonwealth Bank Act 1911* and continued in existence under the *Commonwealth Bank Act 1945*, under the name Commonwealth Bank of Australia:

- (a) is preserved and continues in existence as a body corporate under and subject to the provisions of this Act, under the name Reserve Bank of Australia, but so that the corporate identity of the body corporate shall not be affected;
- (b) shall have a seal; and
- (c) is capable of acquiring, holding and disposing of real and personal property and of suing and being sued.

Note: Subject to section 7A, the *Public Governance, Performance and Accountability Act 2013* applies to the Bank. That Act deals with matters relating to corporate Commonwealth entities, including reporting and the use and management of public resources.

**7A Application of the Public Governance, Performance and Accountability Act 2013**

*Accountable authority of Bank*

- (1) For the purposes of the *Public Governance, Performance and Accountability Act 2013*, the Governor is the accountable authority of the Bank.

*Provisions etc. which do not apply*

- (2) The following sections of that Act do not apply in relation to the Bank:

**第 6A 條 對領地之停止適用**

財政部長得以政府公報刊登公告，並於該公告指定之日，宣布本法於該公告指定之海外領地停止適用；且自該公告指定之日起，本法不適用於上述經指定之領地；除本條外，本法所稱領地，排除上述經指定之領地。

**第 6B 條 刑法之適用**

違反本法規定之行為，適用刑法之有關規定。

**第 2 章 準備銀行之組織、政策及管理****第 1 節 準備銀行之組織****第 7 條 澳大利亞準備銀行**

依 1911 年聯邦銀行法設立，並依 1945 年聯邦銀行法存續，名稱為澳大利亞聯邦銀行之法人，不受第 4 條第(1)項廢止規定之影響：

- (a) 依本法規定存續為法人，名稱改為澳大利亞準備銀行。但其法人同一性不受影響；
- (b) 應具印信；以及
- (c) 得取得、持有及處分動產與不動產，並具有訴訟能力。

備註：依第 7A 條規定，2013 年公共治理、績效及課責法適用於本行。該法規範聯邦個體相關事務，包括公共資源運用及管理。

**第 7A 條 2013 年公共治理、績效及課責法之適用**

本行課責當局

- (1) 依 2013 年公共治理、績效及課責法之規定，總裁為本行課責當局。

規定及其他事項之排除適用

- (2) 該法下列規定不適用於本行：



- (a) section 36 (which deals with budget estimates);
  - (b) section 54 (which deals with banking by corporate Commonwealth entities);
  - (c) section 55 (which deals with banking of relevant money by Ministers and officials);
  - (d) section 59 (which deals with investment by corporate Commonwealth entities).
- (3) Subject to subsections (4) and (5) of this section, a member of the Reserve Bank Board or the Payments System Board is taken, for the purposes of that Act, not to be an official (within the meaning of that Act) of the Bank.
- (4) The following members of the Reserve Bank Board or the Payments System Board are officials (within the meaning of that Act) of the Bank:
- (a) the Governor;
  - (b) the Deputy Governor;
  - (c) a member who is a staff member of the Reserve Bank Service.

*Provisions about general duties of officials*

- (5) Subdivision A of Division 3 of Part 2-2 of that Act (which deals with general duties of officials) applies in relation to a member of the Reserve Bank Board or the Payments System Board who is not referred to in subsection (4) of this section as if the member were an official (within the meaning of that Act) of the Bank.

Note: Section 29 of that Act (which is in Subdivision A of Division 3 of Part 2-2 of that Act, and deals with the duty to disclose interests) is affected by sections 7B and 7C.

- (7) Section 30 of that Act applies in relation to the following:
- (a) a member of the Reserve Bank Board appointed under paragraph 14 (1)(d) of this Act;
  - (b) a member of the Payments System Board referred to in paragraph 25A(d) of this Act;
- as if the member were a member of the accountable authority of the Bank.

Note: This means that the appointment of the member may be terminated if the member contravenes a duty in Subdivision A of Division 3 of Part 2-2 of the *Public Governance, Performance and Accountability Act 2013* or rules made for the purposes of that Subdivision.

*Annual financial statements of Bank*

- (8) The Governor may give annual financial statements for the Bank to the Auditor-General under paragraph 42 (1)(b) of the *Public Governance, Performance and Accountability Act 2013* only if the Reserve Bank Board has passed a resolution approving the financial statements.

- (a) 第 36 條（涉及預算估計數）；
  - (b) 第 54 條（涉及聯邦個體之銀行往來）；
  - (c) 第 55 條（涉及部長與政府官員對相關資金之銀行往來）；
  - (d) 第 59 條（涉及聯邦個體之投資）。
- (3) 除本條第(4)項及第(5)項另有規定外，依該法規範目的，理事會或支付系統委員會之成員（於該法之定義範圍內）均非本行官員。
- (4) 下列理事會或支付系統委員會之成員（於該法之定義範圍內）為本行官員：
- (a) 總裁；
  - (b) 副總裁；
  - (c) 為準備銀行職員之成員。

*官員一般職責之規定*

- (5) 該法第 2-2 章第 3 節第 A 小節（涉及官員一般職責之規定）適用於本條第(4)項未列入之理事會或支付系統委員會成員，並將該成員（於該法之定義範圍內）視為本行官員。

備註：該法第 29 條（規範於該法第 2-2 章第 3 節第 A 小節，涉及利益揭露之義務）受第 7B 條及第 7C 條之影響。

- (7) 該法第 30 條規定適用於下列成員，並將該成員視為本行課責當局之一：
- (a) 依本法第 14 條第(1)項第(d)款任命之理事會成員；
  - (b) 本法第 25A 條第(d)款所定之支付系統委員會成員。

備註：此表示成員如違反 2013 年公共治理、績效及課責法第 2-2 章第 3 節第 A 小節之規定或依該法所訂定之規則時，得被終止任命。

*本行年度財務報表*

- (8) 理事會決議通過本行年度財務報表後，總裁始得依 2013 年公共治理、績效及課責法第 42 條第(1)項第(b)款規定，向審計長提交該財務報表。

*Audit committee of Bank*

- (9) Despite any rules made for the purposes of section 45 of that Act, the charter setting out the functions of the audit committee must be approved by the Reserve Bank Board.

**7B Disclosure of interests by members of the Reserve Bank Board in relation to certain matters**

- (1) This section applies in relation to a member of the Reserve Bank Board if:
- (a) a meeting of the Board is considering either or both of the following matters:
    - (i) the monetary policy of the Bank;
    - (ii) the role of the Bank in financial system stability; and
  - (b) the member has a material personal interest that relates to the matter; and
  - (c) within the previous 12 months the member has disclosed, in writing, the member's interest to the Treasurer (whether the disclosure occurs before or after this section commences); and
  - (d) there has been no substantial change in the nature or composition of the interest since the disclosure.
- (2) The member may do either or both of the following:
- (a) be present during any consideration by the Board of the matter;
  - (b) vote on the matter.
- (3) The member is taken to have complied with section 29 of the *Public Governance, Performance and Accountability Act 2013*, and any rules made for the purposes of that section.
- (4) This section applies:
- (a) despite subsections 7A (1), (4) and (5) of this Act; and
  - (b) instead of any rules made for the purposes of subsection 29 (2) of the *Public Governance, Performance and Accountability Act 2013*.

**7C Other disclosures of material personal interests by members of the Reserve Bank Board and the Payments System Board**

- (1) This section applies in relation to a matter if:
- (a) for a member of the Reserve Bank Board—the matter is being considered at a meeting of the Reserve Bank Board and:
    - (i) the matter is not a matter referred to in paragraph 7B (1)(a); or
    - (ii) the matter is a matter referred to in paragraph 7B (1)(a), but the condition in paragraph 7B (1)(c) or (d) is not met in relation to the matter; or

*本行審計委員會*

- (9) 雖依該法第 45 條規定訂定規則，規範審計委員會職權之章程仍須經理事會同意。

**第 7B 條 理事會成員涉及特定事項之利益揭露**

- (1) 符合下列情形者，本條適用於理事會成員：
- (a) 理事會將開會審議下列 2 項事項之 1 項或全部：
    - (i) 本行貨幣政策；
    - (ii) 本行於金融體系穩定之角色；且
  - (b) 成員與該事項具重大個人利益關係；且
  - (c) 成員曾於過去 12 個月內，以書面向財政部長揭露其利益（無論於本條生效前或生效後揭露）；及
  - (d) 利益揭露後，其本質或組成並無實質異動。
- (2) 成員得為下列 2 項行為之 1 項或全部：
- (a) 於理事會審議該事項時出席；
  - (b) 就該事項行使投票權。
- (3) 成員應遵循 2013 年公共治理、績效及課責法第 29 條及依該條所訂定之規則。
- (4) 本條之適用：
- (a) 不受本法第 7A 條第(1)項、第(4)項及第(5)項規定影響；且
  - (b) 排除依 2013 年公共治理、績效及課責法第 29 條第(2)項所訂定之規則。

**第 7C 條 理事會及支付系統委員會成員涉及重大個人利益之其他揭露**

- (1) 本條適用於下列事項：
- (a) 就理事會成員而言—該事項於理事會會議審議，且：
    - (i) 該事項非第 7B 條第(1)項第(a)款所定事項；或
    - (ii) 該事項雖為第 7B 條第(1)項第(a)款所定事項，但不符合第 7B 條第(1)項第(c)款或第(d)款之要件；或

- (b) for a member of the Payments System Board—the matter is being considered at a meeting of the Payments System Board.
- (2) Sections 12, 14, 15 and 16D of the *Public Governance, Performance and Accountability Rule 2014* apply to each member of the Reserve Bank Board and the Payments System Board in relation to the matter as if:
- (a) the relevant Board were the accountable authority of the Bank and the member were a member of the accountable authority of the Bank; and
- (b) instead of referring to a material personal interest that relates to the affairs of the Bank, section 29 of the *Public Governance, Performance and Accountability Act 2013*, and sections 14 and 15 of that Rule, referred to a material personal interest that relates to the affairs of:
- (i) for a member of the Reserve Bank Board—the Reserve Bank Board; or
- (ii) for a member of the Payments System Board—the Payments System Board.
- (3) This section applies:
- (a) despite subsections 7A (1), (4) and (5) of this Act; and
- (b) instead of any rules made for the purposes of subsection 29 (2) of the *Public Governance, Performance and Accountability Act 2013* (other than as referred to in subsection (2) of this section).
- (4) This section does not otherwise affect subsection 7A (1) or (4) of this Act, or any rules made for the purposes of subsection 29 (2) of the *Public Governance, Performance and Accountability Act 2013*, to the extent that a member of the Reserve Bank Board or the Payments System Board referred to in subsection 7A (4) of this Act has a material personal interest that relates to the affairs of the Bank in a matter that is not being considered at a meeting of:
- (a) for a member of the Reserve Bank Board—the Reserve Bank Board; or
- (b) for a member of the Payments System Board—the Payments System Board.

Note: The member is required to comply with the rules for officials of an entity relating to the disclosure of such interests.

## 8 General powers

The Bank has such powers as are necessary for the purposes of this Act and any other Act conferring functions on the Bank and, in particular, and in addition to any other powers conferred on it by this Act and such other Acts, has power:

- (a) to receive money on deposit;

- (b) 就支付系統委員會成員而言—該事項於支付系統委員會會議審議。
- (2) 符合下列情形者，2014 年公共治理、績效及課責規則第 12 條、第 14 條、第 15 條與第 16D 條適用於理事會及支付系統委員會成員：
- (a) 案關委員會為本行課責當局，且其成員為本行課責當局之一；且
- (b) 2013 年公共治理、績效及課責法第 29 條及前開規則第 14 條與第 15 條所稱重大個人利益，係指與下列委員會而非與本行有關之重大個人利益事項：
- (i) 涉及理事會成員時—理事會；或
- (ii) 涉及支付系統委員會成員時—支付系統委員會。
- (3) 本條之適用：
- (a) 不受本法第 7A 條第(1)項、第(4)項及第(5)項規定影響；且
- (b) 排除依 2013 年公共治理、績效及課責法第 29 條第(2)項所訂定之規則（第 29 條第(2)項另有規定者不在此限）。
- (4) 本法第 7A 條第(4)項所定理事會及支付系統委員會成員，雖涉有與本行事務有關之重大個人利益事項，但該事項未於下列委員會審議時，本條不影響本法第 7A 條第(1)項或第(4)項規定，以及依 2013 年公共治理、績效及課責法第 29 條第(2)項所訂定規則之效力：
- (a) 涉及理事會成員時—理事會；或
- (b) 涉及支付系統委員會成員時—支付系統委員會。

備註：成員應遵循聯邦個體官員涉及前開利益之揭露規則。

## 第 8 條 一般權力

除本法及其他法律賦予本行之權力外，本行為落實本法及其他賦予本行職權之法律規範目的所需，有下列之權力：

- (a) 收受存款；

- (b) to borrow money;
- (c) to lend money;
- (d) to buy, sell, discount and re-discount bills of exchange, promissory notes and treasury bills;
- (e) to buy and sell securities issued by the Commonwealth and other securities;
- (f) to buy, sell and otherwise deal in foreign currency, specie, gold and other precious metals;
- (g) to establish credits and give guarantees;
- (h) to issue bills and drafts and effect transfers of money;
- (i) to underwrite loans; and
- (j) to do anything incidental to any of its powers.

## Division 2—Policy and management of the Reserve Bank

### 8A The Boards of the Bank

- (1) The Bank has 2 Boards:
  - (a) the Reserve Bank Board; and
  - (b) the Payments System Board.
- (2) The Reserve Bank Board is responsible for the Bank's monetary and banking policy, and the Bank's policy on all other matters, except for its payments system policy (see section 10).
- (3) The Payments System Board is responsible for the Bank's payments system policy (see section 10B).
- (4) Disagreements between the Boards are to be resolved in accordance with section 10C.

Note: See section 7A for how the *Public Governance, Performance and Accountability Act 2013* applies in relation to the 2 Boards.

### 9 Establishment of Reserve Bank Board

There shall be a Reserve Bank Board, which shall be constituted as provided by Part III.

### 10 Functions of Reserve Bank Board

- (1) Subject to this Part, the Reserve Bank Board has power to determine the policy of the Bank in relation to any matter, other than its payments system policy, and to take such action as is necessary to ensure that effect is given by the Bank to the policy so determined.

- (b) 借款；
- (c) 放款；
- (d) 匯票、本票及國庫券之買賣、貼現及重貼現；
- (e) 聯邦政府所發行之證券及其他證券之買賣；
- (f) 外幣、硬幣、黃金及其他貴金屬之買賣及其他交易；
- (g) 授信及保證；
- (h) 票據之發行及款項之移轉；
- (i) 放款之審核；及
- (j) 其他與本行權力有關事項。

## 第 2 節 準備銀行之政策及管理

### 第 8A 條 本行委員會

- (1) 本行設下列 2 個委員會：
  - (a) 理事會；及
  - (b) 支付系統委員會。
- (2) 理事會負責本行貨幣及銀行政策，以及支付系統政策以外之本行其他政策（參見第 10 條）。
- (3) 支付系統委員會負責本行支付系統政策（參見第 10B 條）。
- (4) 委員會之間有歧見時，依第 10C 條規定處理。

備註：2013 年公共治理、績效及課責法適用於本行委員會之方式，參見第 7A 條規定。

### 第 9 條 理事會之設立

準備銀行應設理事會，其組織於第 3 章定之。

### 第 10 條 理事會之職權

- (1) 依本章之規定，理事會除支付系統政策外，就本行任何事項，得決定應採取之政策，並得採行必要措施，以確保本行落實執行該項政策。

(2) It is the duty of the Reserve Bank Board, within the limits of its powers, to ensure that the monetary and banking policy of the Bank is directed to the greatest advantage of the people of Australia and that the powers of the Bank under this Act and any other Act, other than the *Payment Systems (Regulation) Act 1998*, the *Payment Systems and Netting Act 1998* and Part 7.3 of the *Corporations Act 2001*, are exercised in such a manner as, in the opinion of the Reserve Bank Board, will best contribute to:

- (a) the stability of the currency of Australia;
- (b) the maintenance of full employment in Australia; and
- (c) the economic prosperity and welfare of the people of Australia.

#### 10A Establishment of Payments System Board

There is to be a Payments System Board of the Reserve Bank which is to be constituted as provided in Part IIIA.

#### 10B Functions of Payments System Board

- (1) The Payments System Board has power to determine the Bank's payments system policy.
- (2) The Payments System Board has power to take whatever action is necessary to ensure that the Bank gives effect to the policy it determines.
- (3) It is the duty of the Payments System Board to ensure, within the limits of its powers, that:
  - (a) the Bank's payments system policy is directed to the greatest advantage of the people of Australia; and
  - (b) the powers of the Bank under the *Payment Systems (Regulation) Act 1998* and the *Payment Systems and Netting Act 1998* are exercised in a way that, in the Board's opinion, will best contribute to:
    - (i) controlling risk in the financial system; and
    - (ii) promoting the efficiency of the payments system; and
    - (iii) promoting competition in the market for payment services, consistent with the overall stability of the financial system; and
  - (c) the powers and functions of the Bank under Part 7.3 of the *Corporations Act 2001* are exercised in a way that, in the Board's opinion, will best contribute to the overall stability of the financial system.

(2) 理事會於其權力範圍內，應確保本行貨幣及銀行政策能謀取澳大利亞人民之最大福祉，並使本行依本法及 1998 年支付系統（管理）法、1998 年支付系統及淨額結算法與 2001 年公司法第 7.3 章以外之其他法律行使權力時，依理事會之意見，致力於達成下列目標：

- (a) 澳大利亞通貨之穩定；
- (b) 維持澳大利亞之充分就業；及
- (c) 澳大利亞之經濟繁榮及人民幸福。

#### 第 10A 條 支付系統委員會之設立

準備銀行應設支付系統委員會，其組織於第 3A 章定之。

#### 第 10B 條 支付系統委員會之職權

- (1) 支付系統委員會有決定本行支付系統政策之權力。
- (2) 支付系統委員會得採行必要措施，以確保本行落實執行其所定政策。
- (3) 支付系統委員會於其權力範圍內，負有確保下列事項之責：
  - (a) 本行支付系統政策能謀取澳大利亞人民之最大福祉；以及
  - (b) 本行依 1998 年支付系統（管理）法及 1998 年支付系統及淨額結算法行使權力時，依支付系統委員會之意見，致力於達成下列目標：
    - (i) 控制金融體系之風險；及
    - (ii) 促進支付系統之效率；及
    - (iii) 在符合整體金融穩定下，促進支付服務市場之競爭；以及
  - (c) 本行依 2001 年公司法第 7.3 章行使權力及職權時，依支付系統委員會之意見，致力於達成整體金融穩定。

**10C Resolving differences between the Boards**

- (1) If a policy determined by the Reserve Bank Board and a policy determined by the Payments System Board are inconsistent:
  - (a) the Reserve Bank Board's policy prevails; and
  - (b) the Payments System Board's policy has effect as if it were modified to remove the inconsistency.
- (2) If there is a disagreement between the Reserve Bank Board and the Payments System Board as to:
  - (a) whether there is an inconsistency of policy to which subsection (1) applies, or the extent of such an inconsistency; or
  - (b) the effect of paragraph (1)(b) on a policy of the Payments System Board; the disagreement is to be resolved as determined by the Governor.
- (3) If there is a disagreement between the Reserve Bank Board and the Payments System Board as to which of the Boards is responsible for determining the Bank's policy on a matter, the disagreement is to be resolved as determined by the Governor.

**11 Differences of opinion with Government on questions of policy**

- (1) The Government is to be informed of the Bank's policy as follows:
  - (a) the Reserve Bank Board is to inform the Government, from time to time, of the Bank's monetary and banking policy;
  - (b) the Payments System Board is to inform the Government, from time to time, of the Bank's payments system policy.
- (2) In the event of a difference of opinion between the Government and one of the Boards (the **relevant Board**) about whether a policy determined by the relevant Board is directed to the greatest advantage of the people of Australia, the Treasurer and the relevant Board shall endeavour to reach agreement.
- (3) If the Treasurer and the relevant Board are unable to reach agreement, the relevant Board shall forthwith furnish to the Treasurer a statement in relation to the matter in respect of which the difference of opinion has arisen.
- (4) The Treasurer may then submit a recommendation to the Governor-General, and the Governor-General, acting with the advice of the Federal Executive Council, may, by order, determine the policy to be adopted by the Bank.
- (5) The Treasurer shall inform the relevant Board of the policy so determined and shall, at the same time, inform the relevant Board that the Government accepts responsibility for the adoption by the Bank of that policy and will take such action (if any) within its powers as the Government considers to be necessary by reason of the adoption of that policy.
- (6) The relevant Board shall thereupon ensure that effect is given to the policy determined by the order and shall, if the order so requires, continue to ensure that effect is given to that policy while the order remains in operation.
- (7) The Treasurer shall cause to be laid before each House of the Parliament, within 15 sitting days of that House after the Treasurer has informed the relevant Board of the policy determined under subsection (4):

**第 10C 條 委員會間歧見之解決**

- (1) 理事會與支付系統委員會決定之政策不一致時：
  - (a) 以理事會之政策優先；且
  - (b) 支付系統委員會之政策，經修正除去不一致部分後，仍有效力。
- (2) 理事會與支付系統委員會就下列事項有歧見時，由總裁裁決：
  - (a) 是否有屬於第(1)項政策不一致之情形，或不一致之範圍；或
  - (b) 第(1)項第(b)款關於支付系統委員會政策之效力。
- (3) 理事會與支付系統委員會，就本行對某事項之政策，應由何委員會決定有歧見時，由總裁裁決。

**第 11 條 與政府間之政策歧見**

- (1) 本行之政策，應向政府通報如下：
  - (a) 理事會應隨時向政府通報本行貨幣及銀行政策；
  - (b) 支付系統委員會應隨時向政府通報本行支付系統政策。
- (2) 政府如對於本行任一委員會（下稱**相關委員會**）所決定之政策，能否謀取澳大利亞人民之最大福祉有歧見時，財政部長與相關委員會應盡力達成協議。
- (3) 財政部長如與相關委員會無法達成協議，相關委員會應立即就歧見部分，向財政部長提出說明。
- (4) 財政部長繼而得向總督提交建議書，總督於聽取聯邦行政委員會之意見後，得以命令決定本行應採取之政策。
- (5) 財政部長應將決策結果通知相關委員會，同時向相關委員會表明本行採取該項政策之責任由政府承擔，且為執行該項政策，政府於其權力範圍內，將採行其認為必要之措施。
- (6) 相關委員會應立即執行該命令所決定之政策，並於該命令要求時，於命令有效期間持續確保該項政策發生效力。
- (7) 財政部長將依第(4)項規定所為之決策通知相關委員會後，應於 15 個開議日內將下列文件送交國會：

- (a) a copy of the order determining the policy;
- (b) a statement by the Government in relation to the matter in respect of which the difference of opinion arose; and
- (c) a copy of the statement furnished to the Treasurer by the relevant Board under subsection (3).

## 12 Management of the Bank

- (1) There shall be a Governor of the Bank and a Deputy Governor of the Bank, who shall be appointed and hold office as provided by Part III.
- (2) Subject to sections 10 and 10B, the Bank shall be managed by the Governor.
- (3) The Deputy Governor shall perform such duties as the Governor directs and, in the event of a vacancy in the office of Governor, the Deputy Governor shall perform the duties of the Governor and shall have and may exercise the powers and functions of the Governor.

## 13 Governor and Secretary to Treasury to establish liaison

The Governor and the Secretary to the Department of the Treasury shall establish a close liaison with each other and shall keep each other fully informed on all matters which jointly concern the Bank and the Department of the Treasury.

## Part III—The Reserve Bank Board and the Governor and Deputy Governor of the Bank

### 14 Membership of Reserve Bank Board

- (1) The Reserve Bank Board shall consist of:
  - (a) the Governor;
  - (b) the Deputy Governor;
  - (c) the Secretary to the Department of the Treasury; and
  - (d) 6 other members, who shall be appointed in writing by the Treasurer in accordance with this section.
- (2) Of the 6 members appointed under paragraph (1)(d), at least 5 shall be persons who are not officials.
- (3) A member appointed under paragraph (1)(d) who is an official at the time of his or her appointment holds office during the pleasure of the Treasurer.
- (4) A member appointed under paragraph (1)(d) who is not an official:
  - (a) is to be appointed for a period, not exceeding 5 years, specified in the instrument of appointment; and
  - (b) holds office subject to good behaviour.

- (a) 決定政策之命令副本；
- (b) 政府就歧見部分之說明；及
- (c) 相關委員會依第(3)項規定，向財政部長提出之說明副本。

## 第 12 條 本行之管理

- (1) 本行設總裁及副總裁各 1 人，依第 3 章規定任命及任職。
- (2) 除第 10 條及第 10B 條規定外，本行由總裁管理之。
- (3) 副總裁應依總裁指示履行職責；總裁出缺時，副總裁應履行總裁之職責，並行使總裁之職權。

## 第 13 條 總裁與財政部秘書長之聯繫

總裁與財政部秘書長應建立密切之聯繫，並應相互告知本行及財政部共同關切之事項。

## 第 3 章 準備銀行理事會及本行總裁與副總裁

### 第 14 條 理事會成員

- (1) 理事會成員包含：
  - (a) 總裁；
  - (b) 副總裁；
  - (c) 財政部秘書長；
  - (d) 財政部長依本條規定以書面任命之其他成員 6 人。
- (2) 依第(1)項第(d)款任命之成員 6 人，應至少有 5 人非政府官員。
- (3) 依第(1)項第(d)款任命之成員，於任命時為政府官員者，其任期由財政部長定之。
- (4) 依第(1)項第(d)款任命之成員，於任命時非政府官員者：
  - (a) 應於任命文書中明定其任期，且任期不得超過 5 年；以及
  - (b) 應克盡職責。

(6) In this section:

**official** means:

- (a) a staff member of the Reserve Bank Service; or
- (b) a person appointed or engaged under the *Public Service Act 1999*.

## 15 Remuneration of members

- (1) A member of the Reserve Bank Board shall be paid such remuneration (if any) as is determined by the Remuneration Tribunal.
- (2) A member of the Reserve Bank Board shall be paid such allowances as are prescribed.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.
- (4) A reference in this section to a member of the Reserve Bank Board does not include a reference to the Governor or the Deputy Governor.

## 16 Declaration by members

- (1) A member of the Reserve Bank Board shall, before entering upon his or her duties or exercising any power under this Act, make, before a Justice of the Peace or a Commissioner for taking Affidavits, an oath or affirmation of allegiance in accordance with the form in the Schedule to the Constitution and a declaration of secrecy in accordance with the prescribed form.
- (2) However, the member does not have to do so if he or she is also a member of the Payments System Board and has made an oath or affirmation, and a declaration of secrecy, under section 25E.

## 17 Disqualifications from membership

- (1) A person who is a director, officer or employee of an ADI is not capable of appointment, or of continuing to act, as a member of the Reserve Bank Board.

## 17A Resignation

A member of the Reserve Bank Board appointed under paragraph 14 (1)(d) may resign his or her appointment by giving a written resignation to the Treasurer.

## 18 Termination of appointment

- (1) If a member of the Reserve Bank Board appointed under paragraph 14 (1)(d):
  - (a) becomes permanently incapable of performing his or her duties; or

(6) 本條所稱**政府官員**，指：

- (a) 準備銀行職員；或
- (b) 依 1999 年公務員法任命或聘用之人員。

## 第 15 條 成員之薪酬

- (1) 理事會成員支領之薪酬（如有支領），由薪酬仲裁庭定之。
- (2) 理事會成員支領規定之津貼。
- (3) 1973 年薪酬仲裁庭法適用於本條。
- (4) 本條所稱理事會成員，不包含總裁與副總裁。

## 第 16 條 成員之宣誓

- (1) 理事會成員依本法就職或行使職權前，應依憲法附則所定形式，於治安法官或監誓官前宣誓效忠，並依規定形式為保密聲明。
- (2) 理事會成員亦為支付系統委員會成員，且已依第 25E 條規定宣誓效忠並為保密聲明者，不必再為宣誓。

## 第 17 條 成員之消極資格

- (1) 收受存款機構之董事、職員或雇員，不得被任命或繼續擔任理事會成員。

## 第 17A 條 辭職

依第 14 條第(1)項第(d)款任命之成員，得以書面向財政部長辭去其職務。

## 第 18 條 解任

- (1) 依第 14 條第(1)項第(d)款任命之成員，有下列情形之一者，財政部長應將其解任：
  - (a) 永久不能執行其職務；或



- (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- (d) is absent, except on leave granted by the Reserve Bank Board in accordance with section 18A, from all meetings of the Reserve Bank Board held during 2 consecutive months or during any 3 months in any period of 12 months; or
- (e) fails to comply with his or her obligations under subsection 18A (3); the Treasurer shall terminate his or her appointment.

Note: The appointment of a member appointed under paragraph 14 (1)(d) may also be terminated under section 30 of the *Public Governance, Performance and Accountability Act 2013* (which deals with terminating the appointment of an accountable authority, or a member of an accountable authority, for contravening general duties of officials). That section applies to the member because of section 7A of this Act.

(2) In this section, **month** means any of the 12 months of the year.

### 18A Leave of absence

- (1) This section applies to a member appointed under paragraph 14 (1)(d).
- (2) The Reserve Bank Board may grant to a member leave of absence from a meeting of the Reserve Bank Board.
- (3) A member must not take part in a decision of the Reserve Bank Board granting, or refusing to grant, leave to the member.

### 20 Chairperson and Deputy Chairperson

- (1) The Governor shall be the Chairperson of the Reserve Bank Board and the Deputy Governor shall be the Deputy Chairperson of the Reserve Bank Board.

Note: For the manner in which the Chairperson and Deputy Chairperson may be referred to, see section 18B of the *Acts Interpretation Act 1901*.

### 21 Meetings of Reserve Bank Board

- (1) The Reserve Bank Board shall meet at such times and places as the Reserve Bank Board determines or as the Chairperson or the Deputy Chairperson directs.
- (2) Subject to section 21A, the Chairperson shall preside at all meetings of the Reserve Bank Board at which he or she is present and, in the absence of the Chairperson, the Deputy Chairperson shall preside.
- (3) 5 members form a quorum at a meeting of the Reserve Bank Board.

- (b) 受破產宣告、申請依法減輕破產人或無法清償債務之人之債務、與債權人達成債務清償協議，或為債權人之利益而移轉其薪酬請求權；或
- (d) 未經理事會依第 18A 條規定同意，連續 2 個月或於 12 個月期間內有 3 個月未出席理事會會議；或
- (e) 未遵循第 18A 條第(3)項所定之職責。

備註：依第 14 條第(1)項第(d)款任命之成員，亦得依 2013 年公共治理、績效及課責法第 30 條規定（涉及課責當局或課責當局之成員，因違反政府官員一般職責之解任）予以解任。該條規定因本法第 7A 條規定，適用於理事會成員。

(2) 本條所稱**月**，指 1 年中 12 個月之任一月份。

### 第 18A 條 請假

- (1) 本條適用於依第 14 條第(1)項第(d)款任命之成員。
- (2) 理事會得同意成員於理事會會議請假。
- (3) 理事會為同意或不同意成員請假之決定時，該成員不得參與決定。

### 第 20 條 主席及副主席

- (1) 總裁為理事會之主席，副總裁為理事會之副主席。

備註：關於主席及副主席之稱謂，參見 1901 年法律解釋法第 18B 條。

### 第 21 條 理事會會議

- (1) 理事會會議應於理事會、主席或副主席所定之時間及地點召開。
- (2) 除第 21A 條另有規定外，理事會會議於主席出席時，由主席主持；主席缺席時，由副主席主持。
- (3) 理事會會議之法定出席人數為 5 人。

- (4) Questions arising at a meeting of the Reserve Bank Board shall be decided by a majority of the votes of the members present and voting.
- (5) The member presiding at a meeting of the Reserve Bank Board shall have a deliberative vote and, in the event of an equality of votes, shall also have a casting vote.

#### **21A Exclusion of Governor and Deputy Governor from certain deliberations**

- (1) The Governor and the Deputy Governor shall not be present during any deliberation of the Reserve Bank Board, or take part in any decision of the Reserve Bank Board, in relation to the determination or application of any terms or conditions on which the Governor or the Deputy Governor holds office.
- (2) Where the Governor and the Deputy Governor are required by subsection (1) not to be present during deliberations of the Reserve Bank Board, the members present shall appoint one of their number to preside.

#### **22 Secretary may nominate alternate to attend meetings of Reserve Bank Board**

- (1) The Secretary may, by writing, nominate a specified person who is an SES employee or acting SES employee in the Department to attend a particular meeting, or all meetings, of the Reserve Bank Board at which the Secretary is not present.
- (2) A person so nominated may attend a meeting to which the nomination applies and, if the person does so, he or she is taken, for the purposes of this Part, to be a member of the Reserve Bank Board.

#### **22A Conduct of meetings**

The Reserve Bank Board may regulate proceedings at its meetings as it considers appropriate. However, proceedings at a meeting must not be inconsistent with this Part.

*Note:* Section 33B of the *Acts Interpretation Act 1901* contains further information about the ways in which members may participate in meetings.

#### **22B Resolutions without meetings**

A resolution is taken to have been passed at a meeting of the Reserve Bank Board if:

- (a) the Reserve Bank Board has determined:
  - (i) that resolutions may be passed in accordance with this section; and
  - (ii) the method of indicating agreement with a resolution passed in accordance with this section; and

- (4) 理事會會議討論事項，由出席及參與表決成員之多數決定之。
- (5) 理事會會議擔任主席之成員有一般性投票權，於可否票數相同時，並有決定性投票權。

#### **第 21A 條 總裁及副總裁於特定審議事項之迴避**

- (1) 總裁及副總裁於理事會會議審議決定或適用其任職條件時，不得出席參與審議或決議。
- (2) 總裁及副總裁依第(1)項規定不能出席理事會會議時，由出席成員推派其中 1 人擔任主席。

#### **第 22 條 財政部秘書長得指定代理人參事會會議**

- (1) 財政部秘書長未能出席理事會會議時，得以書面指定該部高階文官或行使高階文官職權之職員，參加特定或全部理事會會議。
- (2) 前開經指定之人，得參加及出席理事會會議，並依本章規範目的，視為理事會成員。

#### **第 22A 條 會議之進行**

理事會認為適當時，得規範其會議程序。但會議程序不得違反本章規定。

備註：1901 年法律解釋法第 33B 條規定就成員參加會議方式有進一步規範。

#### **第 22B 條 未經會議之決議**

符合下列情形者，視為業經理事會會議通過之決議：

- (a) 理事會已決定：
  - (i) 得依本條規定通過之決議；及
  - (ii) 對依本條規定通過之決議表示同意之方式；且

- (b) without meeting, a majority of the members indicate agreement with the resolution in accordance with the method determined by the Reserve Bank Board; and
- (c) the majority would have constituted a quorum at a meeting of the Reserve Bank Board; and
- (d) all members were informed of the proposed resolution, or reasonable efforts were made to inform all members of the proposed resolution.

## 24 Governor and Deputy Governor

- (1) The Governor and the Deputy Governor:
  - (a) are to be appointed by the Treasurer; and
  - (b) shall be appointed for such period, not exceeding 7 years, as the Treasurer determines but are eligible for re-appointment; and
  - (c) hold office subject to good behaviour.

### 24A Terms and conditions of employment not provided for by Act

The Governor and the Deputy Governor hold office on such terms and conditions (including terms and conditions relating to remuneration and allowances) in relation to matters not provided for by this Act as are determined by the Reserve Bank Board.

### 24B Resignation

The Governor or the Deputy Governor may resign his or her appointment by giving a written resignation to the Treasurer.

## 25 Vacation of Office

- (1) If the Governor or the Deputy Governor:
  - (a) becomes permanently incapable of performing his or her duties; or
  - (b) engages in any paid employment outside the duties of his or her office; or
  - (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her salary for their benefit; the Treasurer shall terminate his appointment.
- (2) Section 30 of the *Public Governance, Performance and Accountability Act 2013* (which deals with terminating the appointment of an accountable authority, or a member of an accountable authority, for contravening general duties of officials) does not apply in relation to the Governor despite subsection 30 (6) of that Act.

- (b) 未經會議，但多數成員已依理事會所定方式表示同意決議；且
- (c) 多數成員已達理事會會議之法定出席人數；且
- (d) 提議之決議已通知或盡合理努力通知全部成員。

## 第 24 條 總裁及副總裁

(1) 總裁及副總裁：

- (a) 由財政部長任命；且
- (b) 其任期由財政部長定之，最長不得超過 7 年，期滿得再任；且
- (c) 應克盡職責。

### 第 24A 條 本法未規定之任職條件

本法未規定之總裁及副總裁任職條件（包含薪酬及津貼之條件），由理事會定之。

### 第 24B 條 辭職

總裁或副總裁得以書面向財政部長辭去其職務。

## 第 25 條 出缺

(1) 總裁或副總裁有下列情形之一者，財政部長應將其解任：

- (a) 永久不能執行其職務；或
- (b) 除現職外，另擔任其他有給職；或
- (c) 受破產宣告、申請依法減輕破產人或無法清償債務之人之債務、與債權人達成債務清償協議，或為債權人之利益而移轉其薪酬請求權。

(2) 2013 年公共治理、績效及課責法第 30 條規定（涉及課責當局或課責當局之成員，因違反政府官員一般職責之解任）不適用於總裁，不受該法第 30 條第(6)項之影響。

## Part IIIA—The Payments System Board

### Division 1—The members of the Payments System Board

#### 25A Membership of Payments System Board

The Payments System Board consists of the following members:

- (a) the Governor;
- (b) one representative of the Bank;
- (c) one representative of APRA;
- (d) up to 5 other members.

#### 25B Appointment of members

- (1) The member who is the representative of the Bank referred to in paragraph 25A(b) is to be appointed by the Governor. The person appointed must be a member of the Reserve Bank Board or a staff member of the Reserve Bank Service.
- (2) The member who is the representative of APRA referred to in paragraph 25A(c) is to be appointed by APRA. The person appointed must be an APRA member or an APRA staff member.
- (3) Each other member referred to in paragraph 25A(d) is to be appointed by the Treasurer for a period specified in the instrument of appointment. The period specified must not exceed 5 years.
- (4) All appointments under this section are to be in writing.
- (5) All appointments under this section are to be on a part-time basis.

Note 1: Members appointed under subsection (1) or (2) are not appointed for a specified period, however, their appointments can be terminated at any time (see section 25K).

Note 2: The Governor is an ex officio member of the Payments System Board (and so is not separately appointed to the Board).

#### 25C Chair of the Payments System Board

The Governor is the Chair of the Payments System Board.

#### 25D Deputy Chair of the Payments System Board

- (1) The member of the Payments System Board referred to in paragraph 25A(b) is the Deputy Chair of the Board.

## 第 3A 章 支付系統委員會

### 第 1 節 支付系統委員會成員

#### 第 25A 條 支付系統委員會成員

支付系統委員會成員包含：

- (a) 總裁；
- (b) 本行代表 1 人；
- (c) 審慎監理局代表 1 人；
- (d) 其他成員最多 5 人。

#### 第 25B 條 成員之任命

- (1) 第 25A 條第(b)款所定本行代表之成員，由總裁任命之。被任命之成員須為理事會成員或準備銀行職員。
- (2) 第 25A 條第(c)款所定審慎監理局代表之成員，由該局任命之。被任命之成員須為審慎監理局成員或職員。
- (3) 第 25A 條第(d)款所定之其他成員，由財政部長任命之，並於任命文書明定其任期，且任期不得超過 5 年。
- (4) 依本條所為之任命，應以書面為之。
- (5) 依本條所為之任命，係屬兼職性質。

備註 1：依第(1)項或第(2)項任命之成員並無特定任期，得隨時予以解任（參見第 25K 條）。

備註 2：總裁為支付系統委員會之當然成員（並非單獨任命）。

#### 第 25C 條 支付系統委員會之主席

總裁為支付系統委員會之主席。

#### 第 25D 條 支付系統委員會之副主席

- (1) 第 25A 條第(b)款所定之支付系統委員會成員，為該委員會之副主席。

- (2) The Deputy Chair is to act as the Chair during any period when:
- (a) the office of Governor is vacant; or
  - (b) the Governor is absent from Australia or is, for any reason, unable to perform the duties of Chair of the Payments System Board.
- (3) The Deputy Chair has, when acting as the Chair, all the powers, duties, rights and entitlements of the Chair of the Payments System Board.

### 25E Declaration by members

- (1) Each member of the Payments System Board must, before first starting to act as a member of the Board:
- (a) make an oath or affirmation of allegiance; and
  - (b) make a declaration of secrecy.
- However, the member does not have to do so if he or she is also a member of the Reserve Bank Board and has made an oath or affirmation, and a declaration of secrecy, under section 16.
- (2) The oath or affirmation of allegiance:
- (a) is to be in accordance with the form set out in the Schedule to the Constitution; and
  - (b) is to be made before a Justice of the Peace or a Commissioner for taking Affidavits.
- (3) The declaration of secrecy:
- (a) is to be in the prescribed form; and
  - (b) is to be made before a Justice of the Peace or a Commissioner for taking Affidavits.

## Division 2—Meetings

### 25F Meetings

- (1) The Payments System Board is to meet at times and places as determined by the Payments System Board or as directed by the Chair.
- (2) The Chair is to preside at all meetings of the Payments System Board at which he or she is present. In the Chair's absence, the Deputy Chair is to preside.
- (3) Five Members of the Payments System Board form a quorum at a meeting of the Payments System Board.
- (4) Questions arising at a meeting of the Payments System Board are to be decided by a majority of the votes of the members present and voting.
- (5) The member presiding at a meeting of the Payments System Board:

- (2) 副主席於下列期間擔任主席：
- (a) 主席出缺時；或
  - (b) 總裁不在澳大利亞，或因其他原因不能履行支付系統委員會主席之職責。
- (3) 副主席擔任主席時，擁有支付系統委員會主席之所有權力、職責及權利。

### 第 25E 條 成員之宣誓

- (1) 支付系統委員會成員首次擔任職務前，均應：
- (a) 宣誓效忠；並
  - (b) 為保密聲明。
- 但支付系統委員會成員亦為理事會成員，且已依第 16 條規定宣誓效忠並為保密聲明者，不必再為宣誓。
- (2) 宣誓效忠：
- (a) 應依憲法附則所定形式；並
  - (b) 應於治安法官或監誓官前為之。
- (3) 保密聲明：
- (a) 應依規定形式；並
  - (b) 應於治安法官或監誓官前為之。

## 第 2 節 會議

### 第 25F 條 會議

- (1) 支付系統委員會會議應於支付系統委員會或主席所定之時間及地點召開。
- (2) 支付系統委員會會議於主席出席時，由主席主持；主席缺席時，由副主席主持。
- (3) 支付系統委員會會議之法定出席人數為 5 人。
- (4) 支付系統委員會會議討論事項，由出席及參與表決成員之多數決定之。
- (5) 支付系統委員會會議擔任主席之成員：

- (a) has a deliberative vote; and
- (b) if necessary, also has a casting vote.

### 25G Conduct of meetings

The Payments System Board may regulate proceedings at its meetings as it considers appropriate. However, proceedings at a meeting must not be inconsistent with this Part.

Note: Section 33B of the *Acts Interpretation Act 1901* contains further information about the ways in which members may participate in meetings.

### 25H Resolutions without meetings

A resolution is taken to have been passed at a meeting of the Payments System Board if:

- (a) the Payments System Board has determined:
  - (i) that resolutions may be passed in accordance with this section; and
  - (ii) the method of indicating agreement with a resolution passed in accordance with this section; and
- (b) without meeting, a majority of the members indicate agreement with the resolution in accordance with the method determined by the Payments System Board; and
- (c) the majority would have constituted a quorum at a meeting of the Payments System Board; and
- (d) all members were informed of the proposed resolution, or reasonable efforts were made to inform all members of the proposed resolution.

## Division 3—Other administrative provisions

### 25I Remuneration

- (1) A member of the Payments System Board is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the member is to be paid the remuneration that is prescribed.
- (2) A member of the Payments System Board is to be paid the allowances that are prescribed.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

### 25J Leave of absence

The Payments System Board may grant leave of absence to another member of the Payments System Board on the terms and conditions that it determines.

- (a) 有一般性投票權；且
- (b) 必要時，並有決定性投票權。

### 第 25G 條 會議之進行

支付系統委員會認為適當時，得規範其會議程序。但會議程序不得違反本章規定。

備註：1901 年法律解釋法第 33B 條規定就成員參加會議方式有進一步規範。

### 第 25H 條 未經會議之決議

符合下列情形者，視為業經支付系統委員會會議通過決議：

- (a) 支付系統委員會已決定：
  - (i) 得依本條規定通過之決議；及
  - (ii) 對依本條規定通過之決議表示同意之方式；且
- (b) 未經會議，但多數成員已依支付系統委員會所定方式表示同意決議；且
- (c) 多數成員已達支付系統委員會會議之法定出席人數；及
- (d) 提議之決議已通知或盡合理努力通知全部成員。

## 第 3 節 其他行政規定

### 第 25I 條 薪酬

- (1) 支付系統委員會成員支領之薪酬，由薪酬仲裁庭定之。薪酬仲裁庭未規定薪酬時，成員支領規定之薪酬。
- (2) 支付系統委員會成員支領規定之津貼。
- (3) 1973 年薪酬仲裁庭法適用於本條。

### 第 25J 條 請假

支付系統委員會得於所定之條件下，同意其成員請假。

**25K Resignation**

A member of the Payments System Board (other than the Governor) may resign his or her appointment by giving a written resignation to:

- (a) if he or she is the member referred to in paragraph 25A(b)—the Governor; or
- (b) if he or she is the member referred to in paragraph 25A(c)—APRA; or
- (c) if he or she is a member referred to in paragraph 25A(d)—the Treasurer.

**25L Termination of appointment**

(1) The following provisions apply to the member of the Payments System Board referred to in paragraph 25A(b):

- (a) the Governor may, at any time, terminate the member's appointment;
- (b) the member's appointment is terminated automatically if he or she ceases to be a member of the Reserve Bank Board or a staff member of the Reserve Bank Service.

(2) The following provisions apply to the member of the Payments System Board referred to in paragraph 25A(c):

- (a) APRA may, at any time, terminate the member's appointment;
- (b) the member's appointment is terminated automatically if he or she ceases to be an APRA member or an APRA staff member.

(3) The Treasurer may terminate the appointment of a member of the Payments System Board referred to in paragraph 25A(d) for misbehaviour or physical or mental incapacity.

(4) The Treasurer must terminate the appointment of a member of the Payments System Board referred to in paragraph 25A(d) if:

- (a) the member becomes permanently incapable of performing his or her duties; or
- (b) the member:
  - (i) becomes bankrupt; or
  - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
  - (iii) compounds with his or her creditors; or
  - (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
- (c) the member is absent, except on leave of absence granted by the Payments System Board, from:
  - (i) 2 or more consecutive meetings of the Payments System Board; or
  - (ii) 3 or more meetings of the Payments System Board in any period of 12 months.

**第 25K 條 辭職**

支付系統委員會成員（除總裁外）得以書面向下列之人辭去其職務：

- (a) 第 25A 條第(b)款所定之成員—總裁；或
- (b) 第 25A 條第(c)款所定之成員—審慎監理局；或
- (c) 第 25A 條第(d)款所定之成員—財政部長。

**第 25L 條 解任**

(1) 下列規定適用於第 25A 條第(b)款所定之成員：

- (a) 總裁得隨時將其解任；
- (b) 當該成員已非理事會成員或準備銀行職員時，自動解任。

(2) 下列規定適用於第 25A 條第(c)款所定之成員：

- (a) 審慎監理局得隨時將其解任；
- (b) 當該成員已非審慎監理局成員或職員時，自動解任。

(3) 第 25A 條第(d)款所定之成員，有不當行為或身心狀況不適任時，財政部長得將其解任。

(4) 第 25A 條第(d)款所定之成員，有下列情形之一時，財政部長應將其解任：

- (a) 永久不能執行其職務；或
- (b) 該成員：
  - (i) 受破產宣告；或
  - (ii) 申請依法減輕破產人或無法清償債務之人之債務；或
  - (iii) 與債權人達成債務清償協議；或
  - (iv) 為債權人之利益而移轉其薪酬請求權；或
- (c) 該成員未經支付系統委員會同意而有：
  - (i) 連續 2 次以上未出席支付系統委員會會議；或
  - (ii) 於 12 個月期間內有 3 次以上未出席支付系統委員會會議。

Note: The appointment of a member referred to in paragraph 25A(d) may also be terminated under section 30 of the *Public Governance, Performance and Accountability Act 2013* (which deals with terminating the appointment of an accountable authority, or a member of an accountable authority, for contravening general duties of officials). That section applies to the member because of section 7A of this Act.

## 25M Payments System Board's report to the Minister

- (1) The Payments System Board must, as soon as practicable after 30 June in each year, prepare and give to the Minister a report that:
- (a) describes the standards determined under section 827D of the *Corporations Act 2001* during the financial year ending on that 30 June; and
  - (b) describes any variations made to standards determined under that section that were in force during the financial year ending on that 30 June; and
  - (c) describes any revocations of standards determined under that section that were in force for part of the financial year ending on that 30 June; and
  - (d) discusses developments in the clearing and settlement industry during the financial year ending on that 30 June that are relevant to Australia's financial stability.
- (2) Section 34C of the *Acts Interpretation Act 1901* does not apply in relation to a report under subsection (1).

## Part IV—Central banking

### 26 Reserve Bank to act as a central bank

The Reserve Bank:

- (a) is the central bank of Australia;

備註：第 25A 條第(d)款所定之成員，亦得依 2013 年公共治理、績效及責任法第 30 條規定（涉及課責當局或課責當局之成員，因違反政府官員一般職責之解任）予以解任。該條規定因本法第 7A 條規定，適用於支付系統委員會成員。

## 第 25M 條 支付系統委員會向財政職能部門組合之部長<sup>譯註</sup>提出報告

- (1) 支付系統委員會應於每年 6 月 30 日後，儘速向財政職能部門組合之部長提出報告：
- (a) 說明於該年 6 月 30 日結束之會計年度內，依 2001 年公司法第 827D 條所定之標準；且
  - (b) 說明依該條所定標準於該年 6 月 30 日結束之會計年度內之異動情形；且
  - (c) 說明依該條所定標準於該年 6 月 30 日結束之會計年度內之廢止情形；並
  - (d) 檢討於該年 6 月 30 日結束之會計年度內，與澳大利亞金融穩定有關之結算及清算產業發展情形。
- (2) 1901 年法律解釋法第 34C 條規定，不適用於依第(1)項規定所為之報告。

## 第 4 章 中央銀行業務

### 第 26 條 準備銀行為中央銀行

準備銀行：

- (a) 為澳大利亞中央銀行；

<sup>譯註</sup> 此處之部長（Minister）指財政職能部門組合之部長（Minister in the Treasury Portfolio）。澳大利亞聯邦政府分為 17 個職能部門組合（portfolio），每個職能部門組合由 1 個或多個部會組成，其中財政職能部門組合之部長包含財政部長，以及財政部長決定之其他部會首長。



- (b) shall carry on business as a central bank; and
- (c) subject to this Act and to the *Banking Act 1959* shall not carry on business otherwise than as a central bank.

## 27 Bank to be banker for Commonwealth

The Bank shall, in so far as the Commonwealth requires it to do so, act as banker and financial agent of the Commonwealth.

## 28 Capital

The capital of the Bank for the purposes of this Part shall be the aggregate of:

- (a) the capital of the former Commonwealth Bank of Australia for the purposes of Part V of the *Commonwealth Bank Act 1945* immediately before the commencement of this Act; and
- (b) such other sums as are transferred from the Reserve Bank Reserve Fund in pursuance of section 29.

## 29 Reserve Fund

- (1) The Bank shall have a reserve fund (to be called the Reserve Bank Reserve Fund), which shall consist of:
  - (a) the amount standing to the credit of the Commonwealth Bank Reserve Fund existing under the *Commonwealth Bank Act 1945* immediately before the commencement of this Act; and
  - (b) such other sums as are placed to its credit in pursuance of section 30.
- (2) The Reserve Bank Board may, from time to time, transfer from the Reserve Bank Reserve Fund to the capital of the Bank for the purposes of this Part such sums as the Reserve Bank Board determines.

## 30 Profits

- (1) Subject to subsection (2), the net profits of the Bank in each year shall be dealt with as follows:
  - (aa) such amount as the Treasurer, after consultation with the Reserve Bank Board, determines is to be set aside for contingencies; and
  - (a) such amount as the Treasurer, after consultation with the Reserve Bank Board, determines shall be placed to the credit of the Reserve Bank Reserve Fund; and
  - (b) the remainder shall be paid to the Commonwealth.
- (2) If the net profit of the Bank for a year is calculated on a basis that requires the inclusion of unrealised gains on assets during the year, the amount to which subsection (1) applies is to be worked out as follows:

- (b) 辦理中央銀行業務；及
- (c) 依本法及 1959 年銀行法規定，不得辦理中央銀行以外之業務。

## 第 27 條 本行為聯邦之銀行專業經營者

本行依聯邦之要求，為聯邦之銀行專業經營者及財務代理機構。

## 第 28 條 資本額

本章所稱之本行資本額為下列 2 項之總和：

- (a) 本法施行前，1945 年聯邦銀行法第 5 章所定前澳大利亞聯邦銀行之資本額；及
- (b) 依第 29 條規定，由準備銀行準備金轉撥之其他款項。

## 第 29 條 準備金

- (1) 準備銀行應有準備金（稱為準備銀行準備金），包含：
  - (a) 本法施行前，1945 年聯邦銀行法所定聯邦銀行準備金之貸方餘額；及
  - (b) 依第 30 條規定提撥之其他款項。
- (2) 理事會依本章規範目的，得隨時按其所定數額，將準備銀行準備金撥轉為本行資本。

## 第 30 條 利潤

- (1) 除第(2)項另有規定外，本行年度淨利分配如下：
  - (aa) 財政部長洽商理事會後，決定作為預備金之數額；及
  - (a) 財政部長洽商理事會後，決定撥入準備銀行準備金貸方款項之數額；及
  - (b) 其餘解繳聯邦。
- (2) 本行年度淨利之計算基準，如包括該年度未實現資本利得時，則第(1)項所定數額計算如下：

- (a) deduct from the net profit an amount equal to the total of all amounts of unrealised gains included in the net profit; and
- (b) if an asset in respect of which unrealised gains were included in the net profit for a previous year or years is realised during the year—add to the amount remaining after applying paragraph (a) the total amount of those unrealised gains.

## Part V—The note issue

### 32 Interpretation

In this Part, unless the contrary intention appears:

*Australian note* means a note issued under the *Australian Notes Act 1910*, under Part VII of the *Commonwealth Bank Act 1911*, under Part VI of the *Commonwealth Bank Act 1945* or under this Part as in force at any time.

### 34 Issue, re-issue and cancellation of notes

- (1) Subject to this Act, the Bank may:
  - (a) issue Australian notes;
  - (b) re-issue Australian notes; and
  - (c) cancel Australian notes.
- (2) Australian notes shall be printed by, or under the authority of, the Bank.

### 35 Denominations of notes

Australian notes may be issued in any of the following denominations, namely, One dollar, Two dollars, Five dollars, Ten dollars, Twenty dollars, Fifty dollars or One hundred dollars or in any other denomination that the Treasurer, by instrument in writing published in the *Gazette*, determines.

### 36 Notes to be legal tender

- (1) Australian notes are a legal tender throughout Australia.
- (2) For the purposes of subsection (1), an Australian note of a denomination specified in the first column of the following table has the value in the currency provided for by the *Currency Act 1965* that is set out in the second column of that table opposite to the denomination of that note:

- (a) 於淨利中扣除相當於全部未實現利得部分；及
- (b) 某項資產之先前年度未實現利得，已於本年度實現者—依第(a)款規定處理未實現利得部分後，於淨利餘額加回。

## 第 5 章 鈔券之發行

### 第 32 條 解釋

本章之**澳大利亞鈔券**，除有相反之規定外，指依 1910 年澳大利亞鈔券法、1911 年聯邦銀行法第 7 章、1945 年聯邦銀行法第 6 章或依本章規定所發行，於任何時間均具效力之鈔券。

### 第 34 條 鈔券之發行、重新發行或註銷

- (1) 本行得依本法之規定：
  - (a) 發行澳大利亞鈔券；
  - (b) 重新發行澳大利亞鈔券；及
  - (c) 註銷澳大利亞鈔券。
- (2) 澳大利亞鈔券應由本行或由本行授權印製。

### 第 35 條 鈔券之面額

澳大利亞鈔券得按下列面額發行：1 元、2 元、5 元、10 元、20 元、50 元、100 元，或財政部長決定並登載於政府公報之其他面額。

### 第 36 條 鈔券之法償效力

- (1) 澳大利亞鈔券於澳大利亞境內，具有法償效力。
- (2) 依第(1)項規定之目的，下表第 1 欄所列之各面額澳大利亞鈔券，其價值與相對應第 2 欄之 1965 年通貨法所定通貨相同。

Table	
First Column	Second Column
Ten shillings	One dollar
One pound	Two dollars
Five pounds	Ten dollars
Ten pounds	Twenty dollars
Twenty pounds	Forty dollars
Fifty pounds	One hundred dollars
One hundred pounds	Two hundred dollars
One thousand pounds	Two thousand dollars

### 37 Signature on notes

- (1) The Australian notes issued in pursuance of this Part shall bear the signature of the Secretary to the Department of the Treasury or of such other officer of the Department of the Treasury as the Treasurer directs, and the signature of the Governor or, if the Governor so directs, of the Deputy Governor, or a staff member of the Reserve Bank Service, specified by the Governor.
- (2) The signatures may be made in the handwriting of those persons or may be made by engraving or by any other process determined by the Bank.

### 43 Bank not to issue notes other than Australian notes

The Bank shall not issue bills or notes (other than Australian notes) intended for circulation as money.

### 44 Other persons not to issue notes

- (1) A person shall not issue a bill or note for the payment of money payable to bearer on demand and intended for circulation.

Penalty: 50 penalty units.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

- (2) A State shall not issue a bill or note for the payment of money payable to bearer on demand and intended for circulation.

對照表	
第 1 欄	第 2 欄
10 先令	1 元
1 鎊	2 元
5 鎊	10 元
10 鎊	20 元
20 鎊	40 元
50 鎊	100 元
100 鎊	200 元
1000 鎊	2000 元

### 第 37 條 鈔券之簽署

- (1) 依本章規定發行之澳大利亞鈔券，應由財政部秘書長或財政部長指定之該部其他高階官員簽署，以及由總裁或總裁指定之副總裁或準備銀行職員簽署。
- (2) 簽署得由前開人員親筆簽名，或以刻印或本行所定之其他方式為之。

### 第 43 條 本行不得發行澳大利亞鈔券以外之鈔券

本行不得發行澳大利亞鈔券以外之票券作為流通貨幣。

### 第 44 條 他人不得發行鈔券

- (1) 任何人不得發行持有人得憑以持兌及供流通使用之票券。違反本項規定者，科 50 單位罰金。

備註：刑法第 2 章規定刑事責任之基本原則。

- (2) 任何一州不得發行持有人得憑以持兌及供流通使用之票券。

## Part VII—The Reserve Bank Service

### 66 The Reserve Bank Service

The persons appointed, engaged or assisting the Bank under this Part constitute the Reserve Bank Service.

### 67 Appointment of staff

- (1) The Bank may appoint such staff as the Bank considers necessary for the performance of its functions.
- (2) The terms and conditions of appointment (including as to remuneration) are to be determined by the Bank.

### 68 Consultants and other people engaged to perform services

- (1) The Bank may engage consultants, or other people, that are suitably qualified to provide advice to it or perform services for it.
- (2) The terms and conditions of engagement (including as to remuneration) are to be determined by the Bank.

## Part VIII—Miscellaneous

### 74 Head office

- (1) The head office of the Bank shall be at Sydney in the State of New South Wales.

### 75 Agents etc.

In the exercise of its powers and the performance of its functions, the Bank may:

- (a) establish branches and agencies at such places, whether within or beyond Australia, as the Bank thinks fit;
- (b) arrange with a person to act as agent of the Bank in any place, whether within or beyond Australia; and
- (c) act as the agent of an ADI carrying on business within or beyond Australia.

### 76 Attorney of Bank

The Bank may, by instrument under its seal, appoint a person (whether in Australia or in a place beyond Australia) to be its attorney and a person so appointed may, subject to the instrument, do any act or execute any power or function which he or she is authorized by the instrument to do or execute.

## 第 7 章 準備銀行人員

### 第 66 條 準備銀行人員

準備銀行人員包含依本章規定任用、聘用或協助本行業務之人員。

### 第 67 條 職員之任用

- (1) 本行為行使職權所需，得任用職員。
- (2) 其任用條件（包含薪資），由本行定之。

### 第 68 條 顧問及其他聘用之人員

- (1) 本行得聘用顧問，或其他可提供諮詢或執行本行業務之適格人員。
- (2) 其聘用條件（包含薪資），由本行定之。

## 第 8 章 附則

### 第 74 條 總行

- (1) 本行總行設於新南威爾斯州之雪梨。

### 第 75 條 代理機構等

本行為行使權力及履行職權，得：

- (a) 於澳大利亞境內外本行認為適當之地點，設立分行或代理機構；
- (b) 安排人員於澳大利亞境內外擔任本行之代理人；及
- (c) 於澳大利亞境內外擔任收受存款機構之代理人。

### 第 76 條 本行之代理人

本行得以蓋用印信之文書，任命本行之代理人（不論該人位於澳大利亞境內或境外）；該受任之代理人依委任文書之內容，得於授權範圍內行使權力及職權。

**77 Guarantee by Commonwealth**

The Commonwealth is responsible for the payment of all moneys due by the Bank but nothing in this section authorizes a creditor or other person claiming against the Bank to sue the Commonwealth in respect of his or her claim.

**79 Taxation**

The Bank is not liable to taxation under any law of a State or of a Territory to which the Commonwealth is not subject and the income of the Bank is not liable to income tax under a law of the Commonwealth.

**79A Secrecy**

(1) In this section:

*court* includes a tribunal, authority or person having the power to require the production of documents or the answering of questions.

*financial institution* means a body (other than the Reserve Bank) that has at any time carried on, is carrying on, or proposes to carry on, a business that consists of, or includes, the provision of financial products or financial services (including a body that has previously carried on such a business but has ceased to exist).

*financial sector supervisory agency* means a person or body having the function, in Australia or in a foreign country, of supervising or regulating financial institutions.

*foreign central bank* means the central bank or monetary authority of a foreign country.

*officer* means:

- (a) the Governor, the Deputy Governor, the Secretary to the Department or any other member of the Reserve Bank Board; or
- (aa) a member of the Payments System Board; or
- (b) a staff member of the Reserve Bank Service; or
- (d) the Statistician or a member of the staff of the Australian Bureau of Statistics; or
- (e) any other person who, because of his or her employment or engagement, or in the course of that employment or engagement:
  - (i) has acquired protected information; or
  - (ii) has had access to protected documents.

*produce* includes permit access to.

**第 77 條 聯邦之保證**

聯邦對本行應付之一切款項負其責任。但本行之債權人或第三人，不得依本條規定向聯邦訴請給付。

**第 79 條 稅捐**

本行無須依不適用於聯邦之各州或領地法律繳納稅捐；本行之所得，依聯邦法律無須繳納所得稅。

**第 79A 條 保密條款**

(1) 本條之：

**法院**包含有權要求製作文件或回答問題之法庭、主管機關或個人。

**金融機構**指準備銀行以外之機構，其曾經營、正經營或準備經營之業務，涉及或包含金融商品或金融服務之提供（包含先前經營前開業務現已消滅之機構）。

**金融業監理機構**指於澳大利亞或外國具有監督或管理金融機構職權之個人或機構。

**外國中央銀行**指外國之中央銀行或貨幣當局。

**官員**指：

- (a) 總裁、副總裁、財政部秘書長或理事會其他成員；或
- (aa) 支付系統委員會成員；或
- (b) 準備銀行職員；或
- (d) 統計長或澳大利亞統計局之職員；或
- (e) 因僱傭或聘用，或於僱傭或聘用過程中有下列情形之其他人員：
  - (i) 已取得應保密之資訊；或
  - (ii) 已存取應保密之資訊。

**製作**包含允許存取。

**protected document** means a document given or produced (whether before or after the commencement of this section) under, or for the purposes of, this Act, the *Banking Act 1959*, the *Payment Systems (Regulation) Act 1998*, the *Payment Systems and Netting Act 1998* or the repealed *Banks (Shareholdings) Act 1972* and containing information relating to the affairs of:

- (a) a financial institution; or
- (b) a body corporate (including a body corporate that has ceased to exist) that has at any time been, or is, related (within the meaning of the *Corporations Act 2001*) to a financial institution that is a body corporate; or
- (c) a person who has been, is, or proposes to be, a customer of a financial institution;

It also includes a document given or produced under, or for the purposes of, the performance or exercise of the functions or powers of the Reserve Bank under Part 7.3 or 7.5A of the *Corporations Act 2001*. It does not however include any document to the extent that it contains information that has already been lawfully made available to the public from other sources.

**protected information** means information disclosed or obtained (whether before or after the commencement of this section) under, or for the purposes of, this Act, the *Banking Act 1959*, the *Payment Systems (Regulation) Act 1998*, the *Payment Systems and Netting Act 1998* or the repealed *Banks (Shareholdings) Act 1972* and relating to the affairs of:

- (a) a financial institution; or
- (b) a body corporate (including a body corporate that has ceased to exist) that has at any time been, or is, related (within the meaning of the *Corporations Act 2001*) to a financial institution that is a body corporate; or
- (c) a person who has been, is, or proposes to be, a customer of a financial institution;

It also includes information disclosed or obtained in the course of, or for the purposes of, the performance or exercise of the functions or powers of the Reserve Bank under Part 7.3 or 7.5A of the *Corporations Act 2001*. It does not however include any information that has already been lawfully made available to the public from other sources.

**Statistician** means the Australian Statistician referred to in subsection 5 (2) of the *Australian Bureau of Statistics Act 1975*.

**應保密之文件**指依本法、1959 年銀行法、1998 年支付系統（管理）法、1998 年支付系統及淨額結算法或（已廢止）1972 年銀行（控股）法規定或其規範目的所提出或製作（不論於本條規定施行前或後），並含有與下列對象相關資訊之文件：

- (a) 金融機構；或
- (b) 曾與或正與具法人資格之金融機構，（於 2001 年公司法規定範圍內）發生關連之法人（包含已消滅之法人）；或
- (c) 曾為、現為或計畫成為金融機構客戶之自然人；

應保密之文件包含準備銀行依 2001 年公司法第 7.3 章或第 7.5A 章規定，為行使權力或履行職權所提出或製作之文件。但不包含自他處取得且資訊已依法公開之文件。

**應保密之資訊**指依本法、1959 年銀行法、1998 年支付系統（管理）法、1998 年支付系統及淨額結算法或（已廢止）1972 年銀行（控股）法規定或其規範目的所揭露或取得（不論於本條規定施行前或後），並與下列對象相關之資訊：

- (a) 金融機構；或
- (b) 曾與或正與具法人資格之金融機構，（於 2001 年公司法規定範圍內）發生關連之法人（包含已消滅之法人）；或
- (c) 曾為、現為或計畫成為金融機構客戶之自然人；

應保密之資訊包含準備銀行依 2001 年公司法第 7.3 章或第 7.5A 章規定，為行使權力或履行職權所揭露或取得之資訊。但不包含自他處取得且已依法公開之資訊。

**統計長**指 1975 年澳大利亞統計局法第 5 條第(2)項所稱之澳大利亞統計長。

(2) Subject to this section, a person who is or has been an officer must not, except for the purposes of this Act, the *Banking Act 1959*, Part 7.3 or 7.5A of the *Corporations Act 2001*, section 62ZZD of the *Insurance Act 1973*, the *Payment Systems (Regulation) Act 1998*, the *Payment Systems and Netting Act 1998* or the repealed *Banks (Shareholdings) Act 1972*, directly or indirectly:

- (a) disclose to any person, or to a court, any protected information acquired by the first-mentioned person in the course of his or her duties as an officer; or
- (b) produce to any person, or to a court, a protected document.

Penalty: Imprisonment for 2 years.

Note 1: Subsection 4B (2) of the *Crimes Act 1914* allows a court to impose an appropriate fine instead of, or in addition to, a form of imprisonment.

Note 2: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

(3) Subsection (2) does not prohibit a person from disclosing protected information, or producing a protected document, if the person to whose affairs the information or document relates:

- (a) is the employer of the first-mentioned person; or
- (b) agrees in writing to the disclosure of the information or the production of the document, as the case may be.

(4) Subsection (2) does not prohibit a person from disclosing protected information or producing a protected document to:

- (a) a financial sector supervisory agency; or
- (b) a foreign central bank; or
- (c) any other person or body (including a foreign person or body) prescribed by the regulations;

if the first person is satisfied that disclosure of the information, or the production of the document, will assist that agency or bank, or that other person or body, to perform its functions or exercise its powers.

(5) Subsection (2) does not prohibit a person from disclosing protected information or producing a protected document to a person or body (including a foreign person or body) if the disclosure or production to that person or body is approved in writing by the Governor.

(5A) An approval under subsection (5) is not a legislative instrument.

(5B) The Governor may, in writing, delegate to the Deputy Governor, or an Assistant Governor of the Reserve Bank, the power to give approvals under subsection (5).

(6) Subsection (2) does not prohibit a person from disclosing protected information, or producing a protected document, to:

(2) 除依本法、1959 年銀行法、2001 年公司法第 7.3 章或第 7.5A 章、1973 年保險法第 62ZZD 條、1998 年支付系統（管理）法、1998 年支付系統及結算法，或已廢止之 1972 年銀行（控股）法規範目的外，現任或曾任官員者，依本條規定不得直接或間接：

- (a) 向他人或法院揭露擔任官員時所取得應保密之資訊；或
- (b) 為他人或法院製作應保密之文件。

違反本項規定者，處有期徒刑 2 年。

備註 1：1914 年犯罪法第 4B 條第 (2) 項規定允許法院易科或併科適當之罰金。

備註 2：刑法第 2 章規定刑事責任之基本原則。

(3) 如應保密之資訊或文件涉及下列人員之事務時，第 (2) 項規定未禁止其揭露應保密之資訊或製作應保密之文件：

- (a) 前開人員之雇主；或
- (b) （視具體情況而定）以書面同意揭露資訊或製作文件者。

(4) 如確信揭露應保密之資訊或製作應保密之文件，有助於下列人員或機構行使權力或履行職權時，第 (2) 項規定未禁止向下列人員或機構揭露應保密之資訊或製作應保密之文件：

- (a) 金融業監理機構；或
- (b) 外國中央銀行；或
- (c) 法規所定之其他個人或機構（包含外國個人或機構）。

(5) 如經總裁書面核准，第 (2) 項規定未禁止向其他個人或機構（包含外國個人或機構）揭露應保密之資訊或製作應保密之文件。

(5A) 依第 (5) 項規定所為之核准，非屬法律文件。

(5B) 總裁得以書面授權準備銀行副總裁或助理總裁行使第 (5) 項之核准權。

(6) 為本行依聯邦、州或領地之法律行使權力或履行職權之目的，第 (2) 項規定未禁止向下列人員揭露應保密之資訊或製作應保密之文件：

- (a) the Governor, the Deputy Governor or any other member of the Reserve Bank Board; or
  - (aa) a member of the Payments System Board; or
  - (b) a staff member of the Reserve Bank Service;
- for the purposes of the performance of the functions, or the exercise of the powers, of the Bank under a law of the Commonwealth, of a State or of a Territory.
- (6A) Subsection (2) does not prohibit a person from disclosing protected information, or producing a protected document, to the Australian Securities and Investments Commission if the person is satisfied that the disclosure of the information, or the production of the document, to that body will assist it to perform its functions or exercise its powers under Part 7.3 or 7.5A of the *Corporations Act 2001*.
- (6B) Subsection (2) does not prohibit a person from:
- (a) disclosing protected information that is information disclosed or obtained in the course of, or for the purposes of, the performance or exercise of the functions or powers of the Reserve Bank under Part 7.3 or 7.5A of the *Corporations Act 2001*; or
  - (b) producing a protected document that is a document given or produced under, or for the purposes of, the performance or exercise of the functions or powers of the Reserve Bank under Part 7.3 or 7.5A of the *Corporations Act 2001*;
- if the disclosure or production is:
- (c) to the Minister; or
  - (d) to the Secretary of the Department for the purpose of advising the Minister, or to an officer of the Department authorised by the Secretary for the purpose of advising the Minister.
- (7) Subsection (2) does not prohibit a person from disclosing information, or producing a document, if the information, or the information contained in the document, as the case may be, is in the form of a summary or collection of information that is prepared so that information relating to any particular person cannot be found out from it.
- (7A) If a person discloses information or produces a document under this section to another person, the first person may, by notice in writing given to the other person at the time of the disclosure or production, impose conditions to be complied with in relation to the information disclosed or the document produced.
- (7B) A notice under subsection (7A) is not a legislative instrument.
- (7C) A person commits an offence if the person fails to comply with a condition imposed under subsection (7A).  
Penalty: Imprisonment for 2 years.
- (8) A person who is or has been an officer cannot be required to disclose to a court any protected information, or to produce in a court a protected document, except when it is necessary to do so for the purposes of this Act, the Banking Act 1959, Part 7.3 or 7.5A of the *Corporations Act 2001*, the *Payment Systems (Regulation) Act 1998*, the *Payment Systems and Netting Act 1998* or the repealed *Banks (Shareholdings) Act 1972*.

- (a) 總裁、副總裁或理事會其他成員；或
  - (aa) 支付系統委員會成員；或
  - (b) 準備銀行職員。
- (6A) 如確信揭露應保密之資訊或製作應保密之文件，有助於澳大利亞證券及投資委員會依 2001 年公司法第 7.3 章或第 7.5A 章規定行使權力或履行職權時，第(2)項規定未禁止向該委員會揭露應保密之資訊或製作應保密之文件。
- (6B) 第(2)項規定未禁止：
- (a) 揭露準備銀行依 2001 年公司法第 7.3 章或第 7.5A 章規定，於行使權力或履行職權之過程，或基於行使權力或履行職權之目的，所揭露或取得應保密之資訊；或
  - (b) 製作準備銀行依 2001 年公司法第 7.3 章或第 7.5A 章規定，於行使權力或履行職權之過程，或基於行使權力或履行職權之目的，所提出或製作應保密之文件；
- 如該揭露或製作係：
- (c) 向財政職能部門組合之部長為之；或
  - (d) 向財政部秘書長或其授權人員為之，供其向財政職能部門組合之部長提供意見。
- (7) 如資訊或文件內含之資訊（視具體情況而定）係為摘要或彙總形式，而無法發現該資訊與特定人之關連時，第(2)項規定未禁止揭露資訊或製作文件。
- (7A) 依本條規定向他人揭露資訊或製作文件時，得於揭露或製作時以書面通知該他人關於該資訊或文件應遵循之條件。
- (7B) 依第(7A)項規定所為之通知，非屬法律文件。
- (7C) 未遵循依第(7A)項所定之條件，構成犯罪行為。  
違反本項規定者，處有期徒刑 2 年。
- (8) 除因本法、1959 年銀行法、2001 年公司法第 7.3 章或第 7.5A 章、1998 年支付系統（管理）法、1998 年支付系統及結算法或（已廢止）1972 年銀行（控股）法規範目的確有必要者外，法院不得要求現任或前任官員向其揭露應保密之資訊或製作應保密之文件。



- (9) A document that:
- (a) is a protected document; or
  - (b) contains protected information;
- is an exempt document for the purposes of section 38 of the *Freedom of Information Act 1982*.
- (9A) For the avoidance of doubt, information or a document that, as permitted by subsection 127(2A) of the *Australian Securities and Investments Commission Act 2001*, is disclosed to the Bank does not become, because of that disclosure, protected information or a protected document.

### 79B Secrecy: documents or information to which section 79A does not apply

- (1) Subject to this section, a staff member of the Reserve Bank Service, or an agent or other person carrying on any business of the Reserve Bank, must not:
- (a) permit a person to have access to, or give to a person copies of or extracts from, a document belonging to, or in the possession of, the Reserve Bank; or
  - (b) give to a person information relating to the business of the Reserve Bank;
- except by the direction or authority of the Reserve Bank or under compulsion or obligation of law.
- Penalty: 1 penalty unit.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

- (2) Paragraph (1)(b) does not apply to the giving to a person of information with respect to matters of a customer of the Reserve Bank if the person is the customer or the information is given at the direction or request of the customer.
- (3) Subsection (1) does not apply to:
- (a) a document that is a protected document for the purposes of section 79A; or
  - (b) information that is protected information for the purposes of that section.

### 82 Returns

The Bank shall furnish to the Treasurer such periodical statements as are prescribed.

### 83 Power to improve property and carry on business

Where the Bank holds any property (whether real or personal) or business as security for a loan or advance, and the property or business falls into the hands of the Bank, the Bank may maintain, repair or improve the property, or carry on the business, until the Bank can, in its discretion, dispose of the property or business in the best interests of the Bank.

- (9) 依 1982 年資訊自由法第 38 條之規範目的，下列文件排除適用：
- (a) 應保密之文件；或
  - (b) 內含應保密資訊之文件。
- (9A) 為避免滋生疑義，依 2001 年澳大利亞證券及投資委員會法第 127 條第(2A)項規定，允許向本行揭露之資訊或文件，不因揭露而成為應保密之資訊或文件。

### 第 79B 條 保密條款：不適用第 79A 條規定之文件或資訊

- (1) 依本條規定，準備銀行職員、代理人或其他執行準備銀行業務之人，除因準備銀行之指示或授權，或依法律強制規定或履行法律義務外，不得：
- (a) 允許他人取得準備銀行所有或掌管之文件，或給予該文件之影本或摘要；或
  - (b) 給予他人準備銀行業務相關之資訊。
- 違反本項規定者，科 1 單位罰金。

備註：刑法第 2 章規定刑事責任之基本原則。

- (2) 第(1)項第(b)款規定，對於準備銀行將其客戶之資訊提供予本人，或依客戶之指示或請求提供資訊時，不適用之。
- (3) 第(1)項規定不適用於：
- (a) 依第 79A 條規定應保密之文件；或
  - (b) 依前開條文規定應保密之資訊。

### 第 82 條 報告

本行應依規定格式向財政部長提交定期報表。

### 第 83 條 改良財產及經營企業之權力

本行因借貸或墊款而持有財產（不論為動產或不動產）或企業為擔保時，該財產或企業嗣後移屬本行後，本行得保存、修繕或改良該財產，或繼續經營該企業，至本行得以最有利條件處分該財產或企業為止。

**84 Execution of contracts**

- (1) Contracts on behalf of the Bank may be made, varied or discharged in accordance with the succeeding provisions of this section, and all contracts so made are effectual in law, and are binding upon the Bank and on all other parties to the contract, their heirs, assigns, executors or administrators, as the case may be.
- (2) A contract which, if made between private persons, would be by law required to be in writing under seal may be made, varied or discharged in the name and on behalf of the Bank in writing under the seal of the Bank.
- (3) A contract which, if made between private persons, would be by law required to be in writing and signed by the parties to be charged therewith may be made, varied or discharged in the name and on behalf of the Bank in writing signed by any person acting with the express or implied authority of the Bank.
- (4) A contract which, if made between private persons, would by law be valid although made by parol only and not reduced into writing, may be made, varied or discharged by parol in the name and on behalf of the Bank by a person acting with the express or implied authority of the Bank.
- (5) Nothing in this section invalidates a contract executed on behalf of the Bank by a duly appointed attorney of the Bank if the contract would be valid if executed by the attorney on his or her own behalf.

**85 The Reserve Bank's seal**

- (1) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Bank affixed to a document and shall presume that it was duly affixed.
- (2) The Bank's seal is to be kept in such custody as the Reserve Bank Board directs, and is not to be used except as authorised by the Reserve Bank Board.

**85A Judicial notice of statistical information published by Bank**

- (1) All courts, judges and persons acting judicially are to take judicial notice of statistical information contained in a publication issued in the name of, by, or under the authority of, the Bank.
- (2) A publication purporting to be issued in the name of, by, or under the authority of, the Bank is to be taken, in any judicial or other proceeding, to have been so issued unless the contrary is proved.

**第 84 條 契約之履行**

- (1) 得依本條以下各項規定，代表本行訂立、修改或解除各種契約。前開契約具有法律效力，並對於本行、契約之相對人、繼受人、受讓人、執行人及管理人（視具體情況而定）均有拘束力。
- (2) 法律規定私人間所締結之契約應以書面並蓋章為之者，得以本行名義代表本行以書面蓋用本行印信為訂立、修改或解除。
- (3) 法律規定私人間所締結之契約應以書面並由雙方簽名為之者，得由本行明示或默示授權之人，以本行名義代表本行以書面簽名為訂立、修改或解除。
- (4) 法律規定私人間所締結之契約得以口頭約定不需書面為之者，得由本行明示或默示授權之人，以本行名義代表本行以口頭為訂立、修改或解除。
- (5) 契約由代理人以其名義締結即生效力者，由本行正式任命之代理人代表本行締結之契約，不因本條規定而無效。

**第 85 條 準備銀行之印信**

- (1) 各法院、法官及司法人員，對於加蓋於文件上之本行印信，應予司法認證，並推定為合法加蓋。
- (2) 本行印信應依理事會指示之方式保管，非經理事會之授權，不得擅自蓋用。

**第 85A 條 本行發布統計資訊之司法認證**

- (1) 各法院、法官及司法人員，對於以本行名義發布、由本行發布或經本行授權發布，登載於出版品之統計資訊，應予以司法認證。
- (2) 於司法或其他程序中，除有反證外，以本行名義發布、由本行發布或經本行授權發布之出版品，將被視為如此發布。

**86 Priority of debts due by other ADIs**

Notwithstanding anything contained in any law relating to the winding-up of companies, but subject to subsection 13A (3) of the *Banking Act 1959*, debts due to the Bank by an ADI shall, in the winding-up, have priority over all other debts.

**87 Validity of acts and transactions of Bank**

The validity of an act or transaction of the Bank shall not be called in question in any legal proceedings on the ground that any provision of this Act has not been complied with.

**89 Regulations**

The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act or for the conduct of business by the Bank and, in particular, prescribing penalties not exceeding 10 penalty units for offences against the regulations.

**第 86 條 對收受存款機構債權之優先權**

依 1959 年銀行法第 13A 條第(3)項規定，不論法律對公司清算之規定為何，本行對收受存款機構之債權，於清算時優先於其他一切債權而受清償。

**第 87 條 本行行為及交易之效力**

於法律程序中，不得以未遵循本法之規定為由，對本行行為或交易之有效性提出質疑。

**第 89 條 法規**

總督得於不抵觸本法規定範圍內，訂定法規規範本法應規定或得規定、對於本法之施行或生效有必要或有助益，或本行業務經營之事項，並特別就違反前開法規之犯罪行為，訂定不超過 10 單位之罰金。

五、Central Bank of  
Malaysia Act 2009  
馬來西亞中央銀行法

**Central Bank of Malaysia Act 2009****馬來西亞中央銀行法**

法務室 鄭靜馨 譯

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# Central Bank of Malaysia Act 2009

[25 November 2009

except paragraph 23(8)(b) and sections 61 to 66.]

## PART I PRELIMINARY

### Short title and commencement

1. (1) This Act may be cited as the Central Bank of Malaysia Act 2009.
- (2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette* and the Minister may appoint different dates for the coming into operation of different parts or different provisions of this Act.

### Interpretation

2. (1) In this Act, unless the context otherwise requires—
  - "Bank" means Bank Negara Malaysia or in English, the "Central Bank of Malaysia";
  - "Board" means the Board of Directors of the Bank;
  - "Board Audit Committee" means the Board Audit Committee established under paragraph 21 (1)(b);
  - "Board Governance Committee" means the Board Governance Committee established under paragraph 21 (1) (a);
  - "Board Risk Committee" means the Board Risk Committee established under paragraph 21 (1)(c);
  - "capital instruments" means preference shares, loan stocks, subordinated term debts or other instruments approved by the Bank to be eligible as capital;
  - "constituent document", in relation to a body corporate or unincorporate, means any document or instrument, under or by which the body is constituted, established, incorporated, or its governing and administrative structure, the scope of its functions, business, powers or duties are set out, whether contained in one or more but not limited to the following documents or instruments:

# 馬來西亞中央銀行法

2009 年 8 月 19 日訂定

(除第 23 條第(8)項(b)款及第 61 條至第 66 條外，  
其餘條文自 2009 年 11 月 25 日施行)

## 第 1 章 序論

### 第 1 條 簡稱及施行日

- (1) 本法得簡稱為 2009 年馬來西亞中央銀行法。
- (2) 本法施行日由部長指定，於政府公報公告之；部長得就不同之章節及條文，分別指定施行日。

### 第 2 條 用詞解釋

- (1) 除非文義另有所指，本法用詞作如下解釋——
  - 「本行」指馬來西亞中央銀行或英文所稱「Central Bank of Malaysia」；
  - 「理事會」指本行之理事會；
  - 「審計委員會」指依第 21 條第(1)項(b)款成立之審計委員會；
  - 「治理委員會」指依第 21 條第(1)項(a)款成立之治理委員會；
  - 「風險委員會」指依第 21 條第(1)項(c)款成立之風險委員會；
  - 「資本工具」指優先股、借貸股票、次順位債券或其他本行核准得計入資本之工具；
  - 「組織文件」指法人或非法人實體據以組成、設立、註冊，或規範其治理及經營架構、功能、業務、權限或職責範圍之文件或書件，包括但不限於下列文件或書件：

- (a) statute;
- (b) charter;
- (c) memorandum of association;
- (d) articles of association;
- (e) constitution;
- (f) rules or by-laws; and
- (g) partnership agreement;

"Deputy Governor" means a Deputy Governor of the Bank;

"derivative" means any agreement, including an option, a swap, futures or forward contract, whose market price, value, delivery or payment obligations is derived from, referenced to or based on, but not limited to, securities, commodities, assets, rates (including interest rates, profit rates or exchange rates) or indices;

"director" means a director of the Bank appointed under subsection 16(1), and includes the Governor and the Deputy Governors;

"financial collateral" means any of the following that is subject to an interest or a right that secures payment or performance of an obligation in respect of a qualified financial agreement or that is subject to a title transfer credit support agreement:

- (a) cash or cash equivalents, including negotiable instruments and demand deposits;
- (b) security, a securities account or a right to acquire securities; or
- (c) futures agreement or futures account;

"financial institution" means a person carrying on a financial business regulated under the laws enforced by the Bank and in addition includes any—

- (a) person who operates any payment system or issues any payment instrument; and
- (b) person carrying on any other financial business as the Minister may prescribe;

"financial markets" includes the money market, the foreign exchange market, the capital market and the derivatives market;

"Financial Stability Executive Committee" means the Financial Stability Executive Committee established under section 37;

- (a) 章程；
- (b) 組織規程；
- (c) 組織簡則；
- (d) 組織章程；
- (e) 組織書；
- (f) 組織規章；及
- (g) 合夥契約書；

「副總裁」指本行之副總裁；

「衍生性商品」指其市價、價值或交割義務係自證券、商品、資產、比率（包括利率、獲利率或匯率）、指數或其他利益等所衍生之契約，包括選擇權契約、交換契約、期貨或遠期契約等；

「理事」指依第 16 條第(1)項任命之本行理事，以及總裁與副總裁；

「金融擔保品」指下列利益或權利，用以擔保合格金融契約之債務履行，或作為所有權移轉信用擔保契約之標的：

- (a) 現金或約當現金，包括可轉讓票據與活期存款；
- (b) 證券、證券帳戶或取得證券之權利；或
- (c) 期貨契約或期貨帳戶；

「金融機構」指從事本行主管法律所規範管理之金融業務之人，以及下列之人——

- (a) 經營支付系統或發行支付工具之人；及
- (b) 從事部長得予指定之金融業務之人；

「金融市場」包括貨幣市場、外匯市場、資本市場、及衍生性商品市場；

「金融穩定執行委員會」指依第 37 條成立之金融穩定執行委員會；



"financing" means the giving of any advance, loan, credit or other facility in whatever form or by whatever name called, including the giving of a guarantee or undertaking of any surety obligations for another person and where such financing is extended in accordance with the Shariah shall include, and may be in the form of, without limitation, any sale or purchase arrangement, joint venture arrangement, deferred payment sale, return sharing arrangement or any other financing arrangement made in accordance with the Shariah;

"foreign currency" means currency notes or coins which are legal tender in any country, territory or place outside Malaysia and any reference to foreign currency in this Act includes a reference to any right to receive foreign currency in respect of any credit or balance at a bank or any other similar institution in or outside Malaysia;

"Governor" means the Governor of the Bank;

"international financial institution" means any institution which is established in or outside Malaysia by more than one country, central bank or monetary authority in relation to financial or monetary matters and includes the Asian Development Bank, the Bank for International Settlements, the International Bank for Reconstruction and Development, the International Monetary Fund, the Islamic Development Bank and the Islamic Financial Services Board;

"Islamic financial business" means any financial business in ringgit or other currency which is subject to the laws enforced by the Bank and consistent with the Shariah;

"Islamic financial institution" means a financial institution carrying on Islamic financial business;

"Minister" means the Minister charged with the responsibility for finance;

"Monetary Policy Committee" means the Monetary Policy Committee established under section 23;

"officer" means any officer of the Bank appointed under section 83;

"payment systems" means any system or arrangement for the transfer, clearing or settlement of funds or securities;

"prescribed" means prescribed under the Act from time to time by order published in the *Gazette*;

「融通」指給予任何形式或名義之預付款、貸款、信用或其他授信額度，包括提供保證或為他人承擔保證債務；依伊斯蘭律法承作之融通亦屬之，包括但不限於買賣合約、合資契約、遞延付款銷售、收益分攤或其他合於伊斯蘭律法之融通；

「外國貨幣」指在馬來西亞以外之國家、領土或地區，具有法償效力之鈔券或硬幣；本法所稱外國貨幣，包括請求馬來西亞境內外之銀行或類似機構，支付外國貨幣之債權或餘額；

「總裁」指本行總裁；

「國際金融機構」指在馬來西亞境內或境外，由超過1個國家、中央銀行或貨幣主管機關等與金融或貨幣事務相關之組織共同設立之機構，包括亞洲開發銀行、國際清算銀行、國際復興開發銀行、國際貨幣基金、伊斯蘭開發銀行及伊斯蘭金融服務委員會；

「伊斯蘭金融業務」指本行主管法律所規範，且合於伊斯蘭律法之令吉或其他貨幣之金融業務；

「伊斯蘭金融機構」指從事伊斯蘭金融業務之金融機構；

「部長」指財政部長；

「貨幣政策委員會」指依第23條設立之貨幣政策委員會；

「職員」指依第83條任命之本行職員；

「支付系統」指處理資金或證券之移轉、結算及清算之系統或相關安排；

「規定」指依本法作成規定，以令發布並刊登於政府公報之行為；

"qualified financial agreement" means—

(a) a master agreement in respect of one or more qualified financial transactions under which if certain events specified by the parties to the agreement occur—

(i) the transactions referred to in the agreement terminate or may be terminated;

(ii) the termination values of the transactions under paragraph (a) are calculated or may be calculated; and

(iii) the termination values of the transactions under paragraph (a) are netted or may be netted, so that a net amount is payable,

and where an agreement is also in respect of one or more transactions that are not qualified financial transactions, the agreement shall be deemed to be a qualified financial agreement only with respect to the transactions that are qualified financial transactions and any permitted enforcement by the parties of their rights under such agreement;

(b) an agreement relating to financial collateral, including a title transfer credit support agreement, with respect to one or more qualified financial transactions under a master agreement referred to in paragraph (a); or

(c) any other agreement in respect of a financial transaction that may be entered into by parties in the financial markets that is prescribed as a qualified financial agreement by the Bank, other than a standardized derivative or an agreement in respect of securities transactions entered into under the rules of a stock exchange and approved clearing house as defined in subsection 2 (1) of the Capital Markets and Services Act 2007;

"qualified financial transaction" means—

(a) a derivative, whether to be settled by payment or delivery; or

(b) a repurchase, reverse repurchase or buy-sell back agreement with respect to securities;

"related corporation", in relation to a corporation, means a corporation which is deemed to be related to the first-mentioned corporation under section 6 of the Companies Act 1965;

"repealed Act" means the Central Bank of Malaysia Act 1958;

「合格金融契約」指——

(a) 涵蓋 1 筆或數筆合格金融交易之主契約。

當事人約定之事件發生時——

(i) 契約約定之交易終止或得終止；

(ii) (a)款交易終止時，計算其價值或得計算其價值；及

(iii) (a)款交易終止時，其價值抵銷或得抵銷，並產生應付淨額，

此外，當同一契約涵蓋 1 筆或數筆不合格金融交易時，僅就合格金融交易及當事人因此取得之契約權利部分，認定其為合格金融契約；

(b) 與金融擔保品有關之契約，包括以(a)款之主契約所涵蓋之 1 筆或數筆合格金融交易為擔保標的，作成之所有權移轉信用擔保契約；或

(c) 金融市場當事人可能締結之其他金融交易契約，並經本行指定為合格金融契約者。但不包括標準化衍生性商品契約，或依 2007 年資本市場及服務法第 2 條第(1)項之證券交易所及許可結算機構所訂規則作成之證券交易。

「合格金融交易」指——

(a) 衍生性商品交易，不論係款項之清算或商品之交割；或

(b) 證券之附買回交易、附賣回交易或買斷式回購交易；

「關係企業」指 1965 年公司法第 6 條所定，與另一公司相關之公司；

「廢止法」指 1958 年馬來西亞中央銀行法；

"return" includes any form of rental, profit, dividend or benefit, including any fee or gift, payable or to be given in relation to financing extended in accordance with the Shariah;

"Shariah Advisory Council" means the Shariah Advisory Council on Islamic Finance established under section 51;

"specified" means specified under the Act from time to time in writing;

"supervisory authority" means any authority, body or agency in or outside Malaysia other than the Bank which is responsible for the supervision or oversight of any financial institution, financial market, capital market intermediary or participant or payment system;

"title transfer credit support agreement" means an agreement under which title to property has been provided for the purpose of securing the payment or performance of an obligation in respect of a qualified financial agreement;

(2) For the purposes of this Act—

"Board Committees" refers collectively to the committees of the Board established under section 21;

"financial business" refers collectively to conventional financial business and Islamic financial business;

"financial system" refers collectively to financial institutions, capital market intermediaries or participants, financial markets and payment systems in Malaysia.

(3) For the purposes of this Act—

(a) a power to prescribe includes the power to make different provisions in the order, for different persons or different classes, categories or descriptions of persons; and

(b) a power to specify includes the power to specify differently for different persons or different classes, categories or descriptions of persons.

(4) A reference to a financial institution or person includes a reference to a class, category or description of such institution or person.

(5) Where under this Act, power is given to the Bank to require any person, or where any person is required under this Act, to submit to the Bank any data, information or document—

(a) the Bank may specify that the data, information or document shall be submitted, within a period, at such intervals, in the manner or form as the Bank may set out in the specification; and

「收益」包括租金、利潤、股利及利益，含依伊斯蘭律法辦理融通所應取得或即將收取之費用或餽贈；

「伊斯蘭諮詢委員會」指依第 51 條設立之伊斯蘭金融業務諮詢委員會；

「指定」指依本法以書面所為之指定；

「監理機關」指馬來西亞境內外，負責監管金融機構、金融市場、資本市場中介或參與者或支付系統之機關或實體。但不包括本行；

「所有權移轉信用擔保契約」指以財產所有權擔保合格金融契約債務履行之契約。

(2) 為本法之目的——

「理事會所屬委員會」指依第 21 條成立之理事會所有附屬委員會；

「金融業務」指傳統金融業務及伊斯蘭金融業務；

「金融體系」指馬來西亞之金融機構、資本市場中介或參與者、金融市場及支付系統。

(3) 為本法之目的——

(a) 規定權包括對於不同人或不同層級、類別或屬性之人訂定不同規定之權限；及

(b) 指定權包括對不同人或不同層級、類別或屬性之人為不同指定之權限。

(4) 金融機構或人包括單一層級、類別或屬性之機構或人。

(5) 本法明文規定他人應向本行提出資料、資訊或文件，或授權本行得命他人提出資料、資訊或文件時——

(a) 本行得指定提出之期間、頻率、方式或格式；及

- (b) such person shall not submit any data, information or document—
  - (i) which he knows, or has reason to believe, to be false, incomplete, inaccurate or misleading; or
  - (ii) in respect of which there is a material error or omission.

## PART II

### THE BANK, ITS OBJECTS AND FUNCTIONS

#### The Bank established under Central Bank of Malaysia Act 1958

3. (1) Notwithstanding the repeal of the Central Bank of Malaysia Act 1958 by section 99, the body corporate established under the repealed Act under the name "Bank Negara Malaysia" or, in English, "Central Bank of Malaysia" shall continue to be in existence under and subject to the provisions of this Act.
- (2) The Bank is the same body corporate established under the repealed Act.
- (3) The Bank shall continue to have perpetual succession and a common seal and may sue and be sued in its own name.
- (4) The Bank shall have its Head Office in Kuala Lumpur and may open branches and appoint agents and correspondents in or outside Malaysia.
- (5) The Bank may, by instrument, under its common seal, appoint a person whether in or outside Malaysia to be its attorney, and the person so appointed may, subject to the instrument, do any act or execute any power or function which he is authorized by the instrument to do or execute.

#### Central bank for Malaysia

4. The Bank shall be the central bank for Malaysia.

#### Principal objects and functions of the Bank

5. (1) The principal objects of the Bank shall be to promote monetary stability and financial stability conducive to the sustainable growth of the Malaysian economy.
- (2) The primary functions of the Bank are as follows:
  - (a) to formulate and conduct monetary policy in Malaysia;
  - (b) to issue currency in Malaysia;

- (b) 資料、資訊或文件有下列情形之一者，相對人不應提出——
  - (i) 相對人知悉或有理由知悉其內容有不實、不全、不正確或錯誤之情形；或
  - (ii) 其內容有重大錯誤或缺漏。

## 第 2 章 本行、本行之目標及職權

### 第 3 條 依 1958 年馬來西亞中央銀行法設立本行

- (1) 雖然第 99 條廢止 1958 年中央銀行法，但依該廢止法設立之「馬來西亞中央銀行」或英文所稱「Central Bank of Malaysia」，依本法繼續存在。
- (2) 本行與依廢止法所設立之法人具同一性。
- (3) 本行應永久存續，並製有機關印信，並得以自己名義為訴訟之原告或被告。
- (4) 本行總行設於吉隆坡，並得於馬來西亞境內外設分行、代表處或辦事處。
- (5) 本行得以蓋用印信之委任書，於馬來西亞境內外委任代理人；代理人得於委任書授權範圍內，作成行為、行使權限及辦理業務。

### 第 4 條 馬來西亞中央銀行

本行為馬來西亞之中央銀行。

### 第 5 條 本行之首要目標及職權

- (1) 本行之首要目標為促進貨幣及金融之穩定，以利於馬來西亞經濟可持續成長。
- (2) 本行主要職權如下：
  - (a) 制定及執行馬來西亞貨幣政策；
  - (b) 發行馬來西亞貨幣；

- (c) to regulate and supervise financial institutions which are subject to the laws enforced by the Bank;
  - (d) to provide oversight over money and foreign exchange markets;
  - (e) to exercise oversight over payment systems;
  - (f) to promote a sound, progressive and inclusive Capital General Reserve Fund financial system;
  - (g) to hold and manage the foreign reserves of Malaysia;
  - (h) to promote an exchange rate regime consistent with the fundamentals of the economy; and
  - (i) to act as financial adviser, banker and financial agent of the Government.
- (3) The Bank shall have all the powers necessary, incidental or ancillary to give effect to its objects and carry out its functions.
- (4) The Bank in giving effect to its objects and carrying out its functions under this Act shall have regard to the national interest.

### PART III FINANCIAL PROVISIONS

#### Capital

6. (1) The capital of the Bank shall be one hundred million ringgit.
- (2) The capital may be increased by such amount as the Minister may approve from time to time and the Government shall subscribe and pay the amount of the increase to the Bank.
- (3) The payment of the increase in capital referred to in subsection (2) may be made by way of transfer from the General Reserve Fund as the Minister may from time to time approve.

#### General Reserve Fund

7. (1) There shall be a General Reserve Fund which shall include the amount standing to the credit of the General Reserve Fund established under section 7 of the repealed Act immediately before the coming into operation of this Act and such other amounts as are placed to the credit of the General Reserve Fund under this Act.
- (2) At the end of each financial year, the net profit of the Bank for that year shall be determined after allowing for the expenses of operations in giving effect to its objects, carrying out its functions and conducting its business or affairs, including contributions to staff welfare, provident and pension funds, grants or other contributions to such persons as may be provided by this Act or other written law and after provision has been made for bad and doubtful debts, diminution in value of assets and other contingencies as are usually provided for by banks.

- (c) 監理本行主管法律所轄之金融機構；
  - (d) 監管貨幣及外匯交易市場；
  - (e) 監管支付系統；
  - (f) 提升金融體系之健全、發展及包容性；
  - (g) 持有及管理馬來西亞外匯準備；
  - (h) 推動符合經濟基本面之匯率制度；及
  - (i) 擔任政府之金融顧問、銀行及財務管理人。
- (3) 本行應具備達成本行目標及行使職權所必要之權力。
- (4) 本行依本法達成本行目標及行使職權，應考慮國家利益。

### 第 3 章 財務規定

#### 第 6 條 資本

- (1) 本行資本額為 1 億令吉。
- (2) 本行資本得隨時經部長核准後增加之，增加部分由政府認足撥付。
- (3) 第(2)項增加資本之撥付，得隨時經部長核准，自普通公積金中轉撥之。

#### 第 7 條 普通公積金

- (1) 本行應設普通公積金；依廢止法第 7 條所設之普通公積金，其於本法施行前之金額，應計入本法普通公積金。
- (2) 每一會計年度終了，本行於認列與本行目標、職掌、業務及事務等有關之費用，包括員工福利、退休基金及公積金、本法或其他成文法規定對員工之補助或給與，並提列對呆帳、壞帳、資產貶值及銀行業通常會提列之其他或有負債等準備後，始能決定其當年度淨利。

- (3) The Bank may transfer any amount from the net profit to any contingency reserve, fluctuation reserve or such other reserve as the Board deems prudent or necessary.
- (4) The net profit of the Bank less any unrealized gains and after the transfers under subsection (3) shall be dealt with as follows:
  - (a) such amount as the Minister, on the recommendation of the Board, so determines shall be placed to the credit of the General Reserve Fund; and
  - (b) the remainder shall be paid to the Government:
 Provided that—
  - (i) in the case of any year at the end of which the General Reserve Fund is less than the capital of the Bank, the whole of the net profit shall be credited to the General Reserve Fund; and
  - (ii) in the case of any year at the end of which the General Reserve Fund is not less than the capital of the Bank, but less than twice the capital of the Bank, not less than thirty per centum of the net profit shall be credited to the General Reserve Fund.
- (5) Nothing in this section shall prevent the Bank from transferring such amounts from the General Reserve Fund to any contingency reserve, fluctuation reserve or such other reserve as the Board deems prudent or necessary.

#### Financial year

- 8. The financial year of the Bank shall begin on the first day of January and end on the thirty-first day of December of each year.

#### Requirement to keep accounts and other records

- 9. The Bank shall cause proper accounts and other records to be kept in respect of its business, affairs and operations and shall, as soon as practicable, after the end of each financial year, cause to be prepared financial statements for that financial year.

#### Accounting standards

- 10. In preparing its financial statements, the Bank shall comply with accounting standards to the extent that it is, in the opinion of the Board, appropriate to do so, having regard to the objects and functions of the Bank.

- (3) 本行得自淨利撥轉金額至意外損失準備、變動準備或理事會認為審慎必要之其他準備。
- (4) 本行淨利扣除未實現利益並依第(3)項撥轉後，所餘部分處理如下：
  - (a) 理事會提議，經部長核定之一定金額，應記入「普通公積金」之貸方；及
  - (b) 於下列情形，淨利之餘數應解繳政府——
    - (i) 任一年底「普通公積金」低於本行資本時，淨利應全數記入「普通公積金」之貸方；且
    - (ii) 任一年底「普通公積金」未低於本行資本，但低於本行資本之兩倍時，淨利的三分之一以上應記入「普通公積金」之貸方。
- (5) 本條規定並未禁止本行自「普通公積金」撥轉金額至意外損失準備、變動準備及理事會認為審慎必要之其他準備。

#### 第 8 條 會計年度

本行之會計年度自每年1月1日起至12月31日止。

#### 第 9 條 會計及其他紀錄之製作保存

本行應就本行之業務、事務及營運，為適當之記帳，並於每年會計年度終了後，儘速編製該年度之財務報表。

#### 第 10 條 會計準則

本行編製財務報表時，應於理事會認為適當，且與本行目標及職掌相關之範圍內，遵循會計準則。

**External audit**

11. The Auditor General shall audit the accounts of the Bank.

**Statement of assets and liabilities**

12. (1) The Bank shall, immediately after the fifteenth day and after the last day of each month, prepare and publish a statement of its assets and liabilities as at the close of business on such days respectively or, if either of those days is a holiday, then at the close of business on the last business day preceding those days.

(2) A copy of the statement made under subsection (1) shall be submitted to the Minister.

**Preparation and publication of financial statements and report**

13. (1) The Bank shall within three months from the close of its financial year—  
 (a) submit to the Minister a copy of the financial statements of the Bank prepared under section 9 and certified by the Auditor General, and such statements shall then be published in the *Gazette*; and  
 (b) submit to the Minister a report by the Board on the working of the Bank throughout the year and such report shall be published by the Bank.  
 (2) The financial statements of the Bank and the report referred to in paragraph (1)(b) shall be laid before the Senate and the House of Representatives or if the Senate and the House of Representatives are not then sitting, at the sitting of the following meeting of the Senate and the House of Representatives.

## PART IV GOVERNANCE OF THE BANK

**Board of Directors**

14. (1) There shall be a Board of Directors of the Bank.

(2) The Board shall—

- (a) be responsible for the general administration of the affairs and business of the Bank and the approval of the budget and operating plan of the Bank;
- (b) have oversight of the management of the Bank and keep under constant review the performance of the Bank in giving effect to its objects, carrying out its functions and the use of the resources of the Bank; and

**第 11 條 外部稽核**

本行帳目應受主計長之稽核。

**第 12 條 資產負債表**

(1) 每月 15 日及月底日營業結束後，本行應即編製各該日營業終了時之資產負債表，並公開之；各該日如遇假日，則編製前一營業日營業終了時之資產負債表。

(2) 依第(1)項製作之資產負債表，應送部長一份。

**第 13 條 財務報表及報告之準備與公開**

(1) 本行應於會計年度終了 3 個月內，辦理下列事宜——

(a) 將本行依第 9 條編製，經主計長簽證之財務報表送部長一份，並將其刊載於政府公報；及

(b) 由理事會向部長提出本行過去 1 年之工作報告，本行並應公開該報告。

(2) 本行之財務報表及第(1)項(b)款之報告應送參議院及眾議院，如遇參議院及眾議院休會期間，則於下次會期提出。

## 第 4 章 本行之治理

**第 14 條 理事會**

(1) 本行應設理事會。

(2) 理事會應負責——

(a) 本行一般事務之管理及營運，以及核定本行預算及營運計畫；

(b) 監管本行之經營管理，經常檢視本行在達成目標、辦理職掌事項及運用資源各方面之績效；及

- (c) be responsible for such other matters as provided under this Act.
- (3) The Board shall consist of the following members:
  - (a) the Governor;
  - (b) not more than three Deputy Governors; and
  - (c) not less than five but not more than eight directors appointed under subsection 16 (1).
- (4) The Board may require the Bank to produce any book or document and shall have access to any information which is necessary or relevant for the carrying out of its functions under this Act.
- (5) For the purposes of carrying out its functions under this Act, the Board may issue by-laws as are necessary and expedient in relation to the administration, affairs and business of the Bank or in respect of any other matters as set out in this Act.

#### Governor and Deputy Governor

15. (1) The Governor shall be appointed by the Yang di-Pertuan Agong and the Deputy Governors by the Minister.
- (2) The Governor and Deputy Governors shall be persons of impeccable reputation with proven experience and recognized knowledge in monetary or financial matters.
  - (3) The Governor and Deputy Governors shall be appointed on such terms and conditions as provided for in their respective letters of appointment.
  - (4) The Governor shall be appointed for a term of five years and the Deputy Governors shall each be appointed for a term of three years.
  - (5) The Governor and Deputy Governors shall be eligible for reappointment.
  - (6) The Governor shall manage the Bank and may, unless otherwise provided under this Act or any other written law, exercise all powers and do all acts which may be exercised or done by the Bank under this Act or any written law.
  - (7) During the absence of the Governor or inability of the Governor to act due to any cause, the Deputy Governor designated by the Board, on the recommendation of the Board Governance Committee, shall manage the Bank and exercise all powers and do all acts which may be exercised or done by the Governor under subsection (6).
  - (8) The Governor and Deputy Governors shall, unless provided otherwise under this Act, devote the whole of their professional time to the service of the Bank and while holding office shall not occupy any other office or employment whether remunerated or not:
 

Provided that they may if so appointed with the approval of the Minister—

    - (a) become directors, governors or members of a board, Appointment of director by whatever name called, or of a committee or task force of any international financial institution or international organization which the Government or Bank participates in or is a member of or to which the Government has adhered or given support or approval;

- (c) 其他本法規定由理事會掌理之事項。
- (3) 理事會由下列成員組成：
  - (a) 總裁；
  - (b) 副總裁不超過 3 位；及
  - (c) 依第 16 條第(1)項任命之理事 5 人至 8 人。
- (4) 理事會得要求本行製作任何書件，並取得或使用其依本法行使職權所需或相關之任何資訊。
- (5) 理事會為行使本法所定職權，於必要且適當時，得就本行之營運、事務及業務，或其他本法所定事項，訂定規定。

#### 第 15 條 總裁及副總裁

- (1) 總裁由最高元首任命之，副總裁由部長任命之。
- (2) 總裁及副總裁應為聲譽卓越人士，且在貨幣或金融領域具備公認之經驗及專業。
- (3) 總裁及副總裁依其派令所載之條件任命之。
- (4) 總裁之任期為 5 年，副總裁之任期為 3 年。
- (5) 總裁及副總裁任期屆滿均得連任。
- (6) 總裁綜理本行行務，本法或其他成文法規定本行得行使之權限及得為之行為，除本法或其他成文法另有規定外，由總裁行使或為之。
- (7) 總裁缺位或因任何原因不能行使職權時，由理事會指定治理委員會推薦之副總裁綜理本行行務，並行使第(6)項之總裁職權。
- (8) 除本法另有規定外，總裁及副總裁應專任，任職期間不得兼任其他有給或無給之職務或工作。但經部長許可者，得兼任下列職務——
  - (a) 政府或本行參與或加入會員之國際金融機構或國際組織，或政府附隨、支持或認可之國際金融機構或國際組織，其理事、總裁、董事或其他職銜，或委員會或任務組之成員；



- (b) become directors of any corporation which is established by the Bank under this Act or of any corporation in Malaysia which the Bank has acquired or holds shares in;
  - (c) become members of any committee or commission referred to in subsection 70 (1); or
  - (d) become members of any charitable or educational organisation.
- (9) Notwithstanding subsection (8) or any other provision in this Act, the Governor or Deputy Governors may be appointed by any written law to exercise such powers, discharge such duties, and perform such functions under any written law, and to be conferred with such title of office as may be set out in such written law.
- (10) The Governor and Deputy Governors shall be accountable to the Board for their acts and decisions.
- (11) The Governor may resign from office by notice in writing under his hand addressed to the Yang di-Pertuan Agong and in the case of a Deputy Governor by notice in writing under his hand addressed to the Minister.

#### Appointment of director

16. (1) The directors referred to in paragraph 14 (3)(c) shall be appointed by the Yang di-Pertuan Agong on the advice of the Minister on such terms and conditions as provided for in their respective letters of appointment.
- (2) Before giving advice on an appointment of a person to the office of director under subsection (1), the Minister shall have regard to—
- (a) that person's probity and standing;
  - (b) that person's knowledge, skill and experience in banking, economics or finance; and
  - (c) the likelihood of any conflict between the interests of the Bank and any interest which that person has or represents.
- (3) A director shall, at all times, act honestly and in the best interest of the Bank and use reasonable diligence in the discharge of the duties of his office.
- (4) A director shall not make improper use of any information acquired or exercise any improper influence by virtue of his position as a director to gain, directly or Disqualification of Governor, Deputy Governor and director indirectly, an advantage for himself or for any other person.
- (5) A director shall not act as representative or delegate on the Board from any commercial, financial, agricultural, industrial or other interests with which he may be connected:
- Provided that the prohibition shall not extend to any director holding or for the time being acting in the office of Secretary General to the Treasury.

- (b) 本行依本法所設立之公司，或本行取得或持有股份之馬來西亞公司，其董事；
  - (c) 第 70 條第(1)項所定委員會之成員；或
  - (d) 任何慈善或教育機構之成員。
- (9) 無論第(8)項或本法其他條文如何規定，總裁或副總裁得依成文法規定之任命，行使職權，履行職責，並依法執行職務，兼任該成文法所授予之職銜。
- (10) 總裁及副總裁應就其行為及決策對理事會負責。
- (11) 總裁得以親自簽署之書面通知向最高元首請辭；副總裁得以親自簽署之書面通知向部長請辭。

#### 第 16 條 理事之任命

- (1) 第 14 條第(3)項(c)款之理事，由部長就其任職條件提供意見，最高元首以記載任職條件之派令任命之。
- (2) 部長對第(1)項理事之任職條件提供意見前，應考慮候選人下列事項——
- (a) 其節操及聲望；
  - (b) 其在於銀行業務、經濟及金融等領域之知識、專業及經驗；且
  - (c) 其本人或其代表之利益，與本行產生利益衝突之可能性。
- (3) 不論何時，理事執行職務，應秉持忠誠，謀求本行最佳利益，並應勤謹盡職。
- (4) 理事不得不得當使用因其職位取得之資訊或影響力，直接或間接獲取其本人或其他第三人之利益。
- (5) 理事不得在理事會為與其相關之商業、金融、農業、工業或其他利益團體代言。但理事同時擔任財政部秘書長時，不受前開規定限制。

- (6) Except as provided in paragraph 17 (2)(a), a director appointed under subsection (1) shall hold office for a term of three years and shall be eligible for reappointment.
- (7) The directors appointed under subsection (1) shall be paid by the Bank such remuneration and allowances as may be approved by the Minister.
- (8) A director may resign from office by notice in writing under his hand addressed to the Yang di-Pertuan Agong.

#### **Disqualification of Governor, Deputy Governor and director**

- 17.(1) No person shall be appointed or shall remain as Governor, Deputy Governor or other director of the Bank if he—
- (a) is or becomes a member of the Senate or House of Representatives or any Legislative Assembly;
  - (b) subject to paragraph (2)(a), is or becomes a public officer;
  - (c) subject to paragraph (2)(b), is or becomes an officer or a director of any entity under the supervision of the Bank;
  - (d) is convicted of a criminal offence involving dishonesty or of any criminal offence for which he has been sentenced to imprisonment;
  - (e) is or becomes bankrupt or suspends payment or compounds with his creditors;
  - (f) is or becomes involved in any activity which may interfere with his independence in discharging his duties; or
  - (g) is not a Malaysian citizen.
- (2) Notwithstanding subsection (1)—
- (a) a director appointed under subsection 16 (1) may be the person holding the office of Secretary General to the Treasury, and notwithstanding subsection 16 (6) shall remain a member of the Board for so long as he holds the office of Secretary General to the Treasury or for such lesser time as may be provided in his letter of appointment; and
  - (b) a Deputy Governor appointed with the approval of the Board to the board of any body corporate established or acquired by the Bank under section 48 shall not be required to vacate his office as member of the Board.
- (3) The Yang di-Pertuan Agong may terminate the appointment of the Governor or any director appointed under subsection 16 (1), and the Minister may terminate the appointment of any Deputy Governor, if he—

- (6) 除第 17 條第(2)項(a)款規定外，理事依第(1)項任命者，任期為 3 年，並得連任。
- (7) 理事依第(1)項任命者，由本行支付經部長核定之報酬及津貼。
- (8) 理事得以親自簽署之書面通知，向最高元首請辭。

#### **第 17 條 總裁、副總裁及理事之不適格**

- (1) 下列人員不得充任或續任本行總裁、副總裁或理事——
- (a) 參議院、眾議院或其他立法機構之議員；
  - (b) 除第(2)項(a)款之情形外，公務人員；
  - (c) 除第(2)項(b)款之情形外，本行監理機構之職員或董事；
  - (d) 因違反誠信之犯罪經判決確定，或其他犯罪經判處有期徒刑確定者；
  - (e) 破產、暫停付款或與債權人和解者；
  - (f) 涉及可能影響其獨立履行職務之情事者；或
  - (g) 非馬來西亞公民。
- (2) 雖然有第(1)項之規定——
- (a) 財政部秘書長得依第 16 條第(1)項任命，於財政部秘書長任職期間或派令所定之較短期間內，為本行理事，不受第 16 條第(6)項之限制；及
  - (b) 副總裁經理事會同意，於本行依第 48 條成立或取得之法人擔任董事者，毋須解除其理事職務。
- (3) 總裁、副總裁及理事有下列情事之一者，得解任之；總裁及依第 16 條第(1)項任命之理事由最高元首解任，副總裁由部長解任——

- (a) becomes of unsound mind or incapable of carrying out his duties;
- (b) is guilty of serious misconduct in relation to his duties;
- (c) is absent, except on leave granted by the Minister in the case of the Governor, or by the Governor in the case of all other directors, from all meetings of the Board held during two consecutive months or during any three months in any period of twelve months;
- (d) fails to comply with his obligations under section 20; or
- (e) is disqualified under subsection (1).

#### **Vacancies in office of Governor, Deputy Governor or director**

18. If the office of the Governor or any Deputy Governor or any other director becomes vacant before the expiry of the term for which he has been appointed, another person may be appointed by the Yang di-Pertuan Agong in the case of the Governor or a director appointed under subsection 16 (1), or by the Minister in the case of a Deputy Governor, for the unexpired period of the term of office of the person in whose place he is appointed.

#### **Meetings of Board**

19. (1) The Governor shall be the chairman of the Board and in his absence, the directors present shall elect a chairman among the directors appointed under subsection 16 (1) and the person so elected shall preside and have all the powers of the chairman.
- (2) The Board may meet as often as necessary but not less than once in each month.
- (3) The chairman or any other director may, at any time, call a meeting of the Board.
- (4) The person calling a meeting shall ensure that—
- (a) each director is given at least three days' notice of the meeting; or Disclosure of interest
  - (b) if the meeting is to be convened as a matter of urgency, the directors agree to waive the requirement under paragraph (a).
- (5) At any meeting of the Board, the quorum shall be five directors, the majority of whom shall be directors appointed under subsection 16 (1) and decisions shall be adopted by a simple majority of the votes of the directors present and voting:  
Provided that in the case of an equality of votes, the chairman shall have a casting vote.
- (6) The chairman of the Board may authorize a director to use live video, television links or other appropriate communication or multimedia facilities to participate in any meeting of the Board where, prior to the meeting, the director, by notification to the chairman, has requested for such authorization and the director shall be treated as being present for the meeting.

- (a) 心智不健全或不能勝任其職務；
- (b) 因與職務相關之不當行為經判決有罪；
- (c) 總裁未經部長許可，理事未經總裁許可，連續兩個月或 12 個月中有 3 個月缺席理事會；
- (d) 未遵守第 20 條所定之義務；或
- (e) 有第(1)項不得充任或續任之情事。

#### **第 18 條 總裁、副總裁或理事之出缺**

總裁、副總裁於任期屆滿前出缺者，其剩餘任期，總裁或依第 16 條第(1)項任命之理事，得由最高元首任命他人續任；副總裁得由部長任命他人續任。

#### **第 19 條 理事會會議**

- (1) 總裁為理事會主席。總裁缺席時，由出席成員互推依第 16 條第(1)項任命之理事 1 人主持會議，並行使主席職權。
- (2) 理事會於必要時開會，但每月至少開會 1 次。
- (3) 主席或其他理事，得隨時召集理事會。
- (4) 理事會召集人應確保會議之召集係——
- (a) 於會議 3 日前通知各理事；或
  - (b) 因緊急情事召集會議，經理事同意無須遵守(a)款規定。
- (5) 理事會開會時，應有依第 16 條第(1)項任命之理事 5 人以上之出席，出席成員過半數之同意作成決議；可否同數時，取決於主席。
- (6) 理事得於會前請求理事會主席同意其使用直播視訊、電視連線、其他適當之傳輸方式或多媒體設施，參加理事會；經主席同意並以前開方式參與者，視為親自出席。

- (7) A resolution in writing, signed by all of the directors, shall be as valid and effectual as if it had been passed at a meeting of the Board duly convened and held and any such resolution may consist of several documents in like form, each signed by one or more directors.

#### **Disclosure of interest**

- 20.(1) A director who has any direct or indirect interest in any dealing or business with the Bank or in the exercise or proposed exercise by the Bank of a power shall disclose that interest at the first meeting of the Board at which he is present after the relevant facts have come to his knowledge.
- (2) A disclosure under subsection (1) shall be recorded in the minutes of the meeting of the Board and, after the disclosure, the director—
- shall not be present at, or take part in, any deliberation or decision of the Board with respect to that dealing or business or the exercise or proposed exercise of the power; and
  - shall be disregarded for the purpose of constituting a quorum of the Board for any such deliberation or decision.
- (3) No act or proceeding of the Board shall be invalidated on the ground of the contravention of subsection (1) by a director.
- (4) A director who fails to comply with subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit.

#### **Board committees**

- 21.(1) The Board shall establish the following committees of the Board:
- the Board Governance Committee;
  - the Board Audit Committee; and
  - the Board Risk Committee.
- (2) Each Board Committee shall be responsible for such matters and shall have such functions as provided under this Act.
- (3) The Board Governance Committee shall have the following functions:
- to recommend members of the Monetary Policy Committee, Assessor Committee and other committees of the Bank as may be appointed or established by the Bank from time to time;
  - to examine and recommend to the Board the budget and operating plan of the Bank for approval; and

- (7) 經各理事簽署之書面決議，視為經合法召開之理事會議決議，該書面決議得由 1 位以上理事分別簽署之類似格式文件組成。

#### **第 20 條 利益揭露**

- 理事對本行交易、業務或職權之行使，有直接或間接利害關係時，應於知悉相關事實後，在第一次出席之理事會揭露之。
- 依第(1)項之揭露，應記載於理事會議事錄。揭露後，該理事——
  - 不得出席、參與理事會與該交易、業務或職權行使有關之審議或決定；及
  - 就該項審議或決定，不計入應出席理事之法定人數。
- 理事會作成之行為及進行之程序，不因理事違反第(1)項而無效。
- 理事未遵守第(1)項之規定者，構成犯罪，經法院判決，科 1 百萬令吉以下之罰金。

#### **第 21 條 理事會各附屬委員會**

- 理事會應成立下列附屬委員會：
  - 治理委員會；
  - 審計委員會；及
  - 風險委員會。
- 附屬委員會之職掌及功能依本法規定。
- 治理委員會具有下列功能：
  - 推薦貨幣政策委員會、諮詢委員會及本行設立之其他委員會成員；
  - 審查本行預算及營業計畫，並提報理事會核准；及

- (c) to be responsible for such other matters as provided under this Act.
- (4) The functions of the Board Audit Committee shall be to assist the Board in its oversight of—
  - (a) the integrity of the accounts and financial statements of the Bank;
  - (b) the effectiveness of the internal control system of the Bank;
  - (c) the performance of the internal audit function of the Bank; and
  - (d) the compliance by the Bank with legal and regulatory requirements.
- (5) The functions of the Board Risk Committee shall be to assist the Board in its oversight of the review and management of the enterprise risks of the Bank.
- (6) Each Board Committee shall consist of at least three directors appointed under subsection 16 (1).
- (7) Unless the Board determines otherwise, the procedures of each Board Committee shall be as set out in the First Schedule.

## PART V

### MONETARY FUNCTIONS AND OPERATIONS OF THE BANK

#### Monetary policy

- 22.(1) In promoting monetary stability, the Bank shall pursue a monetary policy which serves the interests of the Monetary Policy Committee country with the primary objective of maintaining price stability giving due regard to the developments in the economy.
- (2) The monetary policy of the Bank shall be formulated and implemented autonomously by the Bank, without any external influence.

#### Monetary Policy Committee

- 23.(1) There shall be a committee of the Bank to be known as the "Monetary Policy Committee" which shall have the responsibility for formulating the monetary policy and the policies for the conduct of monetary policy operations.
- (2) The Monetary Policy Committee shall consist of the Governor, the Deputy Governors and not less than three but not more than seven other members.
- (3) Members of the Monetary Policy Committee may be appointed from amongst directors appointed under subsection 16 (1) or officers and such members shall be appointed by the Board on the recommendation of the Board Governance Committee.

- (c) 其他本法規定事項。

- (4) 審計委員會之功能，為協助理事會監督——
  - (a) 本行會計及財務報表之誠信；
  - (b) 本行內部控制系統之有效性；
  - (c) 本行內部稽核功能之運作情形；及
  - (d) 本行對法令規章之遵循情形。
- (5) 風險委員會之功能為協助理事會監管本行組織風險之監察及管理。
- (6) 各附屬委員會由至少 3 位依第 16 條第(1)項任命之理事組成。
- (7) 除理事會另有決定外，各附屬委員會之會議規則規定於第 1 附件。

### 第 5 章 本行之貨幣政策職掌及操作

#### 第 22 條 貨幣政策

- (1) 為促進貨幣穩定，本行應追求合於國家利益之貨幣政策，主要目標在維持物價穩定，並適當考慮經濟發展。
- (2) 本行貨幣政策應由本行獨立制定與執行，不受外界干擾。

#### 第 23 條 貨幣政策委員會

- (1) 本行應設「貨幣政策委員會」，負責制定貨幣政策及其操作執行之政策。
- (2) 貨幣政策委員會由總裁、副總裁及其他 3 至 7 位委員組成。
- (3) 貨幣政策委員會之委員，由理事會依治理委員會之提名，自依第 16 條第(1)項任命之理事或其他職員中任命之。

- (4) In addition to subsection (3), the Minister may appoint any other person as a member of the Monetary Policy Committee on the recommendation of the Board Governance Committee.
- (5) The Board Governance Committee, in recommending any person to be a member of the Monetary Policy Committee, shall at all times be satisfied that the person has the expertise and experience relevant to the responsibility and functions of the Monetary Policy Committee and be a person of probity, competence and sound judgment.
- (6) The members of the Monetary Policy Committee, other than the Governor and Deputy Governors, may each be appointed for a term not exceeding three years and shall be eligible for reappointment.
- (7) The Governor and Deputy Governors shall remain as members of the Monetary Policy Committee for so long as the Governor or Deputy Governors hold office as Governor or Deputy Governor.
- (8) No person shall be appointed as a member of the Monetary Policy Committee or shall remain as a member if he—
  - (a) is or becomes a member of the Senate or House of Representatives or any Legislative Assembly;
  - (b) *is or becomes an officer or a director of any entity nyf. under the supervision of the Bank;*
  - (c) is or becomes a public officer unless otherwise approved by the Board or in the case of a person appointed under subsection (4), the Minister;
  - (d) is convicted of a criminal offence involving dishonesty or of any criminal offence for which he has been sentenced to imprisonment;
  - (e) is or becomes bankrupt or suspends payment or compounds with his creditor;
  - (f) is or becomes involved in any activity which may interfere with his independence in discharging his duties; or
  - (g) is not a Malaysian citizen.
- (9) The Board, or in the case of a person appointed under subsection (4), the Minister, may remove a member of the Monetary Policy Committee if—
  - (a) the Board or the Minister, as the case may be, is satisfied that he is guilty of serious misconduct in relation to his duties as a member of the committee;
  - (b) he becomes of unsound mind or incapable of carrying out his duties; or
  - (c) he is disqualified under subsection (8).
- (10) The monetary policy of the Bank shall be formulated only at a duly convened meeting of the Monetary Policy Committee.
- (11) The Monetary Policy Committee shall be chaired by the Governor or in the absence of the Governor, by the Deputy Governor designated by the Board under subsection 15 (7).

- (4) 除第(3)項外，部長亦得依治理委員會之提名，任命其他人士為貨幣政策委員會委員。
- (5) 治理委員會提名之貨幣政策委員會委員，應為具有與貨幣政策委員會職責相關之專業及經驗、廉潔適任，且具良好判斷力之人士。
- (6) 總裁、副總裁以外之貨幣政策委員會委員，每位任期不得超過3年，並得連任。
- (7) 總裁、副總裁於其任職期間，為貨幣政策委員會之當然委員。
- (8) 下列人員不得充任或續任貨幣政策委員會委員——
  - (a) 參議院、眾議院或其他立法機構之議員；
  - (b) 受本行監理單位之職員或董事；
  - (c) 公務人員。但經理事會同意或部長依第(4)項任命者，不在此限；
  - (d) 因違反誠信之犯罪經判決確定，或其他犯罪經判處有期徒刑確定者；
  - (e) 破產、暫停付款或與債權人和解者；
  - (f) 涉及可能影響其獨立履行職務之情事者；或
  - (g) 非馬來西亞公民。
- (9) 貨幣政策委員會委員有下列情事之一者，理事會得解任之。但由部長依第(4)項任命者，由部長解任之——
  - (a) 有權解任之理事會或部長，確信其有涉及職務之嚴重不當行為；
  - (b) 心智不健全或不能勝任其職務；或
  - (c) 有第(8)項不得充任或續任之情事。
- (10) 本行之貨幣政策僅得於貨幣政策委員會依程序召集之會議中作成。
- (11) 總裁為貨幣政策委員會之主席，總裁缺席時，由理事會依第15條第(7)項指定之副總裁為主席。

(12) The First Schedule shall apply to the Monetary Policy Committee.

#### **Publication of monetary policy statement**

24. Following each meeting of the monetary policy Committee, the Bank shall publish a monetary policy statement on the decision made at the meeting and the rationale for such decision.

#### **Monetary policy operations**

25. (1) In this Part, "monetary policy operations" means any transaction undertaken by the Bank to manage liquidity in the financial system.
- (2) The Monetary Policy Committee shall establish general principles, guidelines, and terms and conditions for the monetary policy operations carried out by the Bank under this Part.

#### **Conduct of monetary policy operations**

26. (1) The Bank shall conduct monetary policy operations to implement the decisions of the Monetary Policy Committee.
- (2) For the purpose of conducting monetary policy operations, the Bank—
- (a) may issue securities in its own name provided that the total amount of securities issued shall not at any time exceed the amount of the foreign reserves;
  - (b) may purchase, sell and redeem securities issued by the Bank pursuant to paragraph (a);
  - (c) may require a reserve to be held at the Bank by each financial institution;
  - (d) shall have the powers set out in section 75, in particular paragraphs (c), (d), (e), (f), (g), (h), (i) and (l); and
  - (e) may undertake such other financial transactions involving currencies, securities, precious metals or other commodities or financial instruments as approved by the Monetary Policy Committee.
- (3) The terms and conditions of a requirement under paragraph (2)(c) may include—
- (a) the principles and method for the determination of reserve;
  - (b) the penalty which shall not exceed one-tenth of one per centum of the amount of the deficiency for every day during which the deficiency continues or other sanctions for any non-compliance with the requirement;
  - (c) in the case of—

(12) 貨幣政策委員會應適用第 1 附件之規定。

#### **第 24 條 貨幣政策聲明之公布**

本行應於每次貨幣政策委員會會議後，公布貨幣政策聲明，說明會議之決策及其作成之理由。

#### **第 25 條 貨幣政策操作**

- (1) 本章之貨幣政策操作，係指本行為管理金融體系之流動性所為之交易。
- (2) 貨幣政策委員會就本行依本章所為之貨幣政策操作，應訂定操作之原則、指引及條件。

#### **第 26 條 貨幣政策操作之執行**

- (1) 本行應從事貨幣政策操作，以執行貨幣政策委員會之決策。
- (2) 為執行貨幣政策操作，本行——
- (a) 得以本行名義發行證券，總發行餘額不得超過外匯準備；
  - (b) 得買賣及贖回本行依(a)款發行之證券；
  - (c) 得要求各金融機構於本行提存準備金；
  - (d) 具有第 75 條所定職權，尤其是該條(c)款、(d)款、(e)款、(f)款、(g)款、(h)款、(i)款及(l)款之職權；及
  - (e) 得經貨幣政策委員會許可，承作其他涉及貨幣、證券、貴金屬、其他商品或金融工具之金融交易。
- (3) 第(2)項(c)款之規定事項得包括——
- (a) 決定準備金之原則及方法；
  - (b) 未足額提存期間，每日按當日不足額之 1/100 金額，處以 1/10 以下罰鍰；或其他未遵循規定之裁罰方式；
  - (c) 本行對於準備金所支付之收益或利息——

- (i) an Islamic financial institution, the returns which may be given; or
- (ii) any other financial institution, the interest which may be paid, by the Bank on the reserve.

## PART VI FINANCIAL STABILITY FUNCTIONS AND POWERS OF THE BANK

### Chapter 1

#### *Powers for promoting financial stability*

#### **Dual financial system**

27. The financial system in Malaysia shall consist of the conventional financial system and the Islamic financial system.

#### **Financial stability powers under the laws**

28. The powers conferred upon the Bank under this Act and the written laws set out in the Second Schedule are for the purposes of promoting financial stability.

#### **Interpretation**

29. For the purposes of this Chapter, "risk to financial stability" means a risk which in the opinion of the Bank disrupts, or is likely to disrupt, the financial intermediation process including the orderly functioning of the money market and foreign exchange market, or affects, or is likely to affect, public confidence in the financial system or the stability of the financial system.

#### **Information for purposes of financial stability**

30. (1) In the interest of financial stability, the Bank may request any supervisory authority or Government agency in Malaysia overseeing the following persons to submit to the Bank any information or document relating to the activities, financing, accounts, transactions, customers' accounts or any other information of such persons which the Bank considers necessary for giving effect to the financial stability object under this Act:

- (i) 對伊斯蘭金融機構支付之收益；或
- (ii) 對其他金融機構支付之利息。

## 第 6 章 本行之金融穩定功能與職權

### 第 1 節 促進金融穩定職權

#### **第 27 條 雙軌之金融體系**

馬來西亞之金融體系由傳統金融體系及伊斯蘭金融體系組成。

#### **第 28 條 法定金融穩定職權**

本法及第 2 附件所列之成文法賦予本行之職權，其目的係為促進金融穩定。

#### **第 29 條 名詞定義**

為達本節之目的，「對金融穩定之風險」係指本行所認定，擾亂或可能擾亂金融中介活動之風險，包括擾亂貨幣市場及外匯市場運作秩序之風險；以及影響或可能影響民眾對金融體系或金融穩定信心之風險。

#### **第 30 條 為金融穩定之目的蒐集資訊**

- (1) 為利金融穩定，本行認為必要時，得要求主管下列機構或人員之其他馬來西亞監理機關或政府機關，提供有關各該機構或人員之業務、融通、帳戶、交易、客戶帳戶等之資訊或文件，或提供其他本行認為有助於達成本法金融穩定目標之資訊或文件：



- (a) any financial institution;
  - (b) any participant, intermediary, exchange, depository or provider of clearing, settlement or other services in the financial markets;
  - (c) any other person which in the opinion of the Bank may pose a risk to financial stability; or
  - (d) any related corporation of a person referred to in paragraph (a), (b) or (c).
- (2) Where any person referred to in paragraph (1)(a), (b), (c) or (d) is not under the supervision or oversight of any supervisory authority or Government agency, the Bank shall by order in writing require such person to submit the information or document required under subsection (1).

#### Measures for financial stability

- 31.(1) Where the Bank considers it necessary in the interest of financial stability, the Bank may—
- (a) specify measures, which in the opinion of the Bank would contribute to the resilience of the financial system or limit the accumulation of any risk to financial stability, to a class, category or description of persons engaging in financial intermediation; or
  - (b) issue an order in writing requiring any person within a class, category or description of persons, including a class, category or description of persons engaging in financial intermediation, to take such measures as the Bank may consider necessary or appropriate to avert or reduce any risk to financial stability.
- (2) Before issuing an order under paragraph (1)(b), the Bank shall give the person an opportunity to make representation.
- (3) Notwithstanding subsection (2), an order under paragraph (1)(b) may be issued first and the opportunity to make representations shall be given immediately after the order has been issued if any delay would aggravate the risk to financial stability.
- (4) An order issued under paragraph (1)(b) may be amended or modified where the representation is made after the order is issued.
- (5) The person referred to in subsection (1) shall comply with such measure or order from the date as the Bank may specify notwithstanding the provisions of any other written law or of any obligations under any contract, agreement or arrangement to the contrary.

- (a) 金融機構；
  - (b) 參加人、中介人、交易所、保管人，或結算與清算服務之提供人，或其他金融服務提供人；
  - (c) 本行認為對金融穩定構成風險之人；或
  - (d) (a)款至(c)款所定機構或人員之關係企業。
- (2) 第(1)項(a)款至(d)款所定之機構或人員，未受監理機關或政府機關監督或管理時，本行應以書面命令，命其提供第(1)項所定之資訊或文件。

#### 第 31 條 金融穩定措施

- (1) 本行認為有利於金融穩定時，得採取下列措施
- (a) 對從事金融中介活動之特定層級、類別或屬性之人，指定其採取本行認為有助於強化金融體系之韌性，或限制金融體系風險累積之措施；或
  - (b) 發布書面命令，規定特定層級、類別或屬性之人，包括從事金融中介活動之特定層級、類別或屬性之人，採取本行認為適於避免或降低金融體系風險之措施。
- (2) 發布第(1)項(b)款之命令前，本行應給予相對人陳述意見之機會。
- (3) 未立即作成第(1)項(b)款之命令，有增加金融體系風險之虞時，本行得先作成命令，再立即給予相對人陳述意見之機會，不受第(2)項之限制。
- (4) 相對人於第(1)項(b)款之命令作成後提出意見者，本行得修正該命令。
- (5) 即使其他成文法有相反之規定，或其依契約或協議有相反之義務，第(1)項所定之人仍應自相關規定發布日起，遵循本行所定之措施或命令。

- (6) The Bank may conduct due diligence or require such person to submit any document or information or appoint an auditor or any other person approved by the Bank to carry out an assessment, to determine whether the person has complied with such measure or order under subsection (1).
- (7) The remuneration of the auditor or such other person as approved by the Bank under subsection (6) and other expenses relating to such assessment shall be paid by the person referred to in subsection (1).
- (8) Notwithstanding subsection (5), any measure or order issued under subsection (1) shall not affect the enforcement by the parties of their rights under a qualified financial agreement.
- (9) Any person who fails to comply with subsection (5) or any requirements imposed by the Bank under subsection (6) commits an offence and shall, on conviction, be liable to a fine not exceeding ten million ringgit or to imprisonment for a term not exceeding ten years or to both.

#### **Power for averting or reducing risk to financial stability**

32. (1) Without prejudice to section 31, the Bank may, for the purpose of averting or reducing any risk to financial stability—
- (a) provide liquidity assistance to any financial institution;
  - (b) enter into arrangements with other central banks to provide liquidity assistance to subsidiaries or branches outside Malaysia of any financial institution established in Malaysia; or
  - (c) in the case of any financial institution which has ceased to be viable or which the Bank considers likely to become non-viable—
    - (i) purchase or subscribe to the shares or other capital instruments issued by such financial institution;
    - (ii) provide financing to any other financial institution or a body corporate established by the Bank under paragraph 48 (1)(d) to purchase the whole or part of the business, assets, liabilities, shares or other capital instruments of such financial institution;
- or

- (6) 為判斷第(1)項所定之人是否遵循本行所定之措施或命令，本行得進行盡職調查、要求該等人員提出文件或資訊，或指派稽核人員或其他經本行核准人員進行評估。
- (7) 第(6)項之稽核人員或其他經本行核准人員之報酬，及其他評估相關費用應由第(1)項之人負擔。
- (8) 不論第(5)項如何規定，依第(1)項所定之措施或命令，不影響合格金融契約之各當事人行使其契約權利。
- (9) 任何人未遵守第(5)項或本行依第(6)項所提之要求者，構成犯罪，經法院判決，應科 1 百萬令吉以下罰金，或處或併處 10 年以下有期徒刑。

#### **第 32 條 預防或降低金融體系風險之職權**

- (1) 在不影響第 31 條之規定下，本行為預防或降低金融體系之風險，得——
- (a) 對金融機構提供流動性協助；
  - (b) 與其他中央銀行締結合約，對設立於馬來西亞之金融機構，其國外附屬機構或分行，提供流動性協助；或
  - (c) 當金融機構無法繼續經營，或本行認為其有無法繼續經營之虞時，得——
    - (i) 購買或認購其股份，或該金融機構發行之其他資本工具；
    - (ii) 對其他金融機構或本行依第 48 條第(1)項(d)款設立之機構提供融通，以購買該金融機構全部或部分之業務、資產、負債、股份或資本工具；或

- (iii) subject to subsection 38 (2), by order published in the Gazette, vest in the Bank, a body corporate established by the Bank under paragraph 48 (1) (d), another financial institution or any other person the whole or part of the business, assets or liabilities of, or all or any of the shares or other capital instruments issued by, such financial institution.
- (1A) The enforcement by the parties of their rights under a qualified financial agreement shall not be affected by the making of an order for the vesting of, the whole or part of the business, assets or liabilities of, or all or any of the shares or other capital instruments issued by, a financial institution pursuant to subparagraph (1)(c)(iii).
- (2) Notwithstanding the definition of "financial institution" in subsection 2 (1), the financial institution for purposes of paragraph 1(a) shall include any financial institution which is under the supervision or oversight of any other supervisory authority or is not under the supervision or oversight of the Bank or any other supervisory authority.

#### Due diligence

33. In relation to a financial institution referred to in paragraph 32 (1)(a) or (b) or any of its related corporations, the Bank may conduct due diligence and examine, take possession of or make copies or extracts of any books, documents, accounts and transactions of the financial institution or any of its related corporations or require such institution or any of its related corporations to submit any information or document the Bank requires prior to the tabling of any proposal at a meeting of the Financial Stability Executive Committee under subparagraph 38 (1) (a)(ii) or prior to providing any liquidity assistance or during the period where any such assistance is being provided.

#### Liquidity assistance under paragraph 32 (1) (a) or (b)

34. Liquidity assistance under paragraph 32 (1)(a) or (b) may be provided by way of—
- (a) financing against such form of security as the Bank may consider sufficient;
  - (b) purchase or commitment to purchase assets of the financial institution;
  - (c) lending or exchanging assets of the Bank against assets of the financial institution;
  - (d) guarantees or indemnities; or
  - (e) such other arrangements as the Bank may consider appropriate, upon such terms and conditions as the Bank thinks fit in the circumstances.

- (iii) 依第 38 條第(2)項之規定，作成命令並刊登於政府公報，將該金融機構全部或部分之業務、資產、債務、股份或其他資本工具，移轉本行、依第 48 條第(1)項(d)款設立之機構、其他金融機構或人。
- (1A) 合格金融契約之相對人，行使其契約權利時，不受第(1)項(c)款(iii)目移轉全部或部分之業務、債務、股份或其他資本工具之命令之影響。
- (2) 不論第 2 條第(1)項對金融機構如何定義，第(1)項(a)款之金融機構，包括其他監理機關監理之金融機構，以及未受本行或其他監理機關監理之機構。

#### 第 33 條 審慎監理

本行得對第 32 條第(1)項(a)款或(b)款的金融機構或其關係企業，進行盡職檢查與查核，檢查其帳簿、文件、帳戶與交易，及持有或複製該等資料之全部或一部；並得命該等機構或其關係企業，於本行向第 38 條第(1)項(a)款(ii)目之金融穩定執行委員會提案前，或本行提供流動性協助前及提供協助期間，向本行提出資訊或文件。

#### 第 34 條 第 32 條第(1)項(a)款或(b)款之流動性協助

第 32 條第(1)項(a)款或(b)款之流動性協助，本行得以下列方式提供之，並訂定適當之承作條件——

- (a) 對足額合格擔保品，提供資金融通；
- (b) 購買或承諾購買該金融機構之資產；
- (c) 將本行與該金融機構之資產進行借貸或交換；
- (d) 保證或補償損失；或
- (e) 其他本行認為適當之安排。

**Additional provisions relating to subparagraph 32 (1)(c)(i)**

35. (1) The Bank may, as it deems necessary, in exercising its powers under in subparagraph 32 (1)(c) relation to a financial institution, by order in writing—
- (a) remove from office, with effect from such date as may be specified in the order, any director, officer or employee of the financial institution;
  - (b) vary or terminate the contract of service of any director, officer or employee of the financial institution as may be specified in the order; or
  - (c) appoint any person as a director, officer or employee of the financial institution subject to such terms and conditions as the Bank may specify.
- (2) Before exercising its powers under subsection (1), the Bank shall give the director, officer or employee of the financial institution an opportunity to make representation.
- (3) This section shall have full force and effect notwithstanding—
- (a) any conflict or inconsistency between this section and any other provision of this Act;
  - (b) anything contained in any law including the law by or under which the financial institution is constituted, established, incorporated or registered; or
  - (c) anything contained in the constituent document of the financial institution or in any contract entered into by or on behalf of the financial institution or in any contract affecting the shares or other capital instruments issued by or otherwise relating to the financial institution.

**Additional provisions relating to subparagraph 32 (1)(c) (iii)**

36. (1) The Third Schedule shall apply in relation to an order of the Bank under subparagraph 32 (1)(c)(iii) and such order shall be binding on all persons to whom the order is made or who are affected by the order regardless that such persons had no notice of any circumstances which led to the making of the order, or had no opportunity to be heard by, or make any representation to, the Bank regarding the order.
- (2) This section shall have full force and effect notwithstanding—
- (a) any conflict or inconsistency between this section and any other provision of this Act;
  - (b) anything contained in any law including the law by or under which the financial institution is constituted, established, incorporated or registered; or

**第 35 條 第 32 條第(1)項(c)款(i)目之補充規定**

- (1) 本行對金融機構行使第 32 條第(1)項(c)款(i)目之職權，如認有必要，得以書面命令——
- (a) 解任金融機構之董事、職員或受僱人，並指定生效日期；
  - (b) 變更或終止金融機構與其董事、職員或受僱人之任職契約；或
  - (c) 依本行所定條件，聘僱金融機構之董事、職員或受僱人。
- (2) 本行行使第(1)項之職權前，應給予金融機構之董事、職員或受僱人陳述意見之機會。
- (3) 儘管有下列情形，本條仍有完全之效力——
- (a) 與本法其他條文衝突或不一致；
  - (b) 其他法律，包括金融機構據以組織、設立或登記之法律，對本條所定事項有相關規定；或
  - (c) 金融機構之組織文件、簽署之契約，或涉及金融機構發行之股份或資本工具之契約，對本條所定事項有相關規定或約定。

**第 36 條 第 32 條第(1)項(c)款 (iii) 目之補充規定**

- (1) 本行依第 32 條第(1)項(c)款(iii)目作成之命令，適用第 3 附件之規定，相對人及所有可能受影響之人均應受該命令拘束，不論是否事前受到告知，或是否有向本行陳述意見之機會。
- (2) 儘管有下列情形，本條仍有完全之效力——
- (a) 與本法其他條文衝突或不一致；
  - (b) 其他法律，包括金融機構據以組織、設立或登記之法律，對本條所定事項有相關規定；或

- (c) anything contained in the constituent document of the financial institution or in any contract entered into by or on behalf of the financial institution or in any contract affecting the shares or other capital instruments issued by or otherwise relating to the financial institution.
- (3) Where the Bank makes an order to a financial institution referred to in subparagraph 32 (1)(c)(iii), the Bank shall give notice of such order by publication in at least two daily newspapers published in Malaysia, one of which shall be in the national language.
- (4) The notice under subsection (3) shall include the transacted price of the transfer and the right of any affected person to appeal under subsection (11) on the transacted price to the Assessor Committee constituted under subsection (12).
- (5) The transacted price referred to in subsection (4) shall be determined by an independent valuer.
- (6) Subject to subsection (14), the transferee and the transferor shall mutually agree on the person to be appointed by the Bank as the independent valuer under subsection (5).
- (7) Where an agreement under subsection (6) cannot be reached between the transferee and the transferor within a period the Bank determines to be reasonable, the appointment of an independent valuer shall be made by the Minister upon the matter being referred to him by the Bank and the decision of the Minister shall be final.
- (8) The remuneration of the independent valuer appointed under subsection (6) or (7) shall be payable out of the transacted price unless otherwise determined by the Bank.
- (9) In determining the transacted price under subsection (5) for the business, assets, liabilities, shares or other capital instruments of the transferor, the independent valuer shall—
- (a) have regard to matters which the independent valuer considers relevant including the prevailing market conditions for sale or disposal of similar business, assets, liabilities, shares or other capital instruments of the transferor; and
  - (b) disregard any benefit derived from any special financial assistance provided directly or indirectly by the Bank or the Government to the transferor.
- (10) Notwithstanding subsection (9), where the transferor is insolvent and the whole of the business, assets or liabilities of the transferor are vested under subparagraph 32 (1)(c)(iii), a consideration of one ringgit shall be deemed to be reasonable as the transacted price under subsection (5).

- (c) 金融機構之組織文件、簽署之契約，或涉及金融機構發行之股份或資本工具之契約，其內容對本條所定事項有相關規定或約定。
- (3) 本行對金融機構作成第 32 條第(1)項(c)款(iii)目之命令時，應於兩家以上在馬來西亞發行之新聞紙公告命令內容，其中一家並應以馬國語為之。
- (4) 第(3)項之公告，應包括移轉之交易價格，以及受影響之人得依第(11)項規定，就交易價格向第(12)項之評價委員會申訴等內容。
- (5) 第(4)項之交易價格應由獨立估價師決定之。
- (6) 除第(14)項規定之情形外，受讓人及讓與人應對第(5)項獨立估價師之人選達成合意，再由本行指派之。
- (7) 受讓人及讓與人無法於本行所定之合理期間，達成第(6)項之合意時，獨立估價師由本行提名，報請部長指派確定。
- (8) 依第(6)項及第(7)項指派之獨立估價師之應付報酬，除本行另有規定外，不列入交易價格。
- (9) 依第(5)項決定讓與人之業務、資產、債務、股份或其他資本工具等之交易價格時，獨立估價師應——
- (a) 考量在主要市場出售或轉讓類似業務、資產、債務、股份或其他資本工具之情形；且
  - (b) 不得考量本行或政府直接或間接提供讓與人之財務協助所衍生之利益。
- (10) 縱有第(9)項之規定，於讓與人不能支付其債務，並依第 32 條第(1)項(c)款(iii)目移轉全部或部分之業務、資產、債務、股份時，以 1 令吉作為第(5)項之交易價格應被視為是合理的。

- (11) Any person aggrieved by the transacted price may, within twenty-one days from the date of publication of the notice under subsection (3), appeal on the transacted price to the Assessor Committee constituted under subsection (12) by submitting the appeal in writing to the Bank.
- (12) Where any person appeals under subsection (11), the Bank shall constitute an Assessor Committee consisting of three independent persons as members of the Assessor Committee, drawn from a panel of ten persons appointed by the Minister on the recommendation of the Board Governance Committee, and refer the appeal to the Assessor Committee.
- (13) The Assessor Committee constituted under subsection (12) may determine its own procedures.
- (14) Where the vesting under subparagraph 32 (1)(c)(iii) is to be in the Bank or a body corporate established by the Bank under paragraph 48 (1) (d), the independent valuer referred to in subsection (5) shall be appointed by the Minister.
- (15) A vesting of the business, assets, liabilities, shares or other capital instruments of a transferor under subparagraph 32 (1)(c)(iii) shall take effect despite any appeal under subsection (11), or any decision made by the Assessor Committee.
- (16) The Bank may, as it deems necessary, in exercising its powers under subparagraph 32 (1)(c)(iii) in relation to a transferor, by order in writing—
  - (a) remove from office, with effect from such date as may be specified in the order, any director, officer or employee of the transferor;
  - (b) vary or terminate the contract of service of any director, officer or employee of the transferor as may be specified in the order; or
  - (c) appoint any person as a director, officer or employee of the transferor subject to such terms and conditions as the Bank may specify.
- (17) Before exercising its powers under subsection (16), the Bank shall give the director, officer or employee of such transferor an opportunity to make representation.
- (18) For purposes of this section—
 

"transacted price" means the price at which the whole or part of the business, assets or liabilities of, or all or any of the shares or other capital instruments of a financial institution referred to in subparagraph 32 (1)(c) (iii) is vested in the transferee;

- (11) 因交易價格受有損害之人，得於第(3)項公告之日起 21 日內，繕具書面申訴書，經本行向第(12)項之評價委員會申訴。
- (12) 本行接獲第(11)項之申訴，應組成評價委員會並送請該會審議。部長應依治理委員會之推薦，任命 10 人組成爭端解決小組，並由其中 3 名獨立成員組成評價委員會。
- (13) 依第(12)項組成之評價委員會得自行決定審議程序。
- (14) 本行或本行依第 48 條第(1)項(d)款設立之機構，依第 32 條第(1)項(c)款(iii)目為受讓人時，第(5)項之獨立估價師應由部長指派。
- (15) 讓與人依第 32 條第(1)項(c)款(iii)目移轉其全部或部分之業務、資產、債務、股份或其他資本工具時，移轉之效力不受第(11)項之申訴或評價委員會之決定影響。
- (16) 本行行使第 32 條第(1)項(c)款(iii)目之職權時，得視需要，以書面命令——
  - (a) 解任讓與人之董事、職員或受僱人，並指定生效日期；
  - (b) 變更或終止讓與人與其董事、職員或受僱人之任職契約；或
  - (c) 依本行所定條件，聘僱讓與人之董事、職員或受僱人。

本行行使第(16)項之職權前，應給予讓與人之董事、職員或受僱人陳述意見之機會。
- (18) 為達成本條之目的——
 

「交易價格」指第 32 條第(1)項(c)款(iii)目，金融機構移轉其全部或部分之業務、資產、債務、股份或其他資本工具之價格；

"transferee" means the Bank, a body corporate established by the Bank under paragraph 48 (1)(d), a financial institution, or any other person, as the case may be, in which is vested under subparagraph 32 (1)(c)(iii) the whole or part of the business, assets or liabilities of, or all or any of the shares or other capital instruments issued by the financial institution which has ceased to become viable or which the Bank considers likely to become non-viable;

"transferor" means the financial institution under subparagraph 32 (1)(c)(iii) which has ceased to become viable or which the Bank considers likely to become non-viable, the shareholders of such financial institution or the holders of the capital instruments of such financial institution, as the case may be.

### Financial Stability Executive Committee

37. (1) For the purposes of section 38, there shall be a committee of the Bank to be known as the "Financial Stability Executive Committee".
- (2) The Financial Stability Executive Committee shall consist of the Governor, one Deputy Governor and not less than three but not more than five other members appointed by the Minister on the recommendation of the Board from amongst directors appointed under subsection 16 (1) or other persons.
- (3) The Board, in recommending any person to be a member of the Financial Stability Executive Committee, shall at all times be satisfied that the person has the expertise and experience relevant to the responsibility and functions of the Financial Stability Executive Committee and be a person of probity, competence and sound judgment.
- (4) The Secretary General to the Treasury shall be informed of and be invited to all meetings of the Financial Stability Executive Committee.
- (5) When the Secretary General to the Treasury or his representative attends a meeting of the Financial Stability Executive Committee referred to in subsection (4) he attends as a member of the Financial Stability Executive Committee.
- (6) Where any proposal made by the Bank under subsection 38 (1) is in respect of a person or financial institution under the supervision or oversight of another supervisory authority, the head of that supervisory authority shall be informed and the head of that supervisory authority or his representative shall be present at the meeting of the Financial Stability Executive Committee as a member.
- (7) The absence of the Secretary General to the Treasury or his representative at any meeting of the Financial Stability Executive Committee or the head of any supervisory authority concerned or his representative, as the case may be, at any meeting of the Financial Stability Executive Committee shall not invalidate the decision made at such meeting of the Committee.

「受讓人」指本行、本行依第 48 條第(1)項(d)款設立之機構、金融機構或其他人，依第 32 條第(1)項(c)款(iii)目受讓無法繼續經營，或本行認定其有無法繼續經營之虞之金融機構，其全部或部分之業務、資產、債務、股份或其他資本工具者；

「讓與人」指第 32 條第(1)項(c)款(iii)目無法繼續經營，或本行認定其有無法繼續經營之虞之金融機構及其股東或資本工具持有人。

### 第 37 條 金融穩定執行委員會

- (1) 為達成第 38 條之目的，本行應組成金融穩定執行委員會。
- (2) 金融穩定執行委員會由總裁、1 位副總裁，其他 3 至 5 位委員組成。總裁及副總裁以外之委員，由理事會提名依第 16 條第(1)項任命之理事或其他人，由部長任命之。
- (3) 理事會提名之金融穩定執行委員會委員，應具有與該職務及該會職掌相關之專業及經驗，且廉潔、適任並具良好判斷力。
- (4) 金融穩定執行委員會應通知並邀請財政部秘書長參加會議。
- (5) 財政部秘書長或其代理人出席第(4)項之金融穩定執行委員會會議時，具有金融穩定執行委員會委員身分。
- (6) 本行依第 38 條(1)項所提之議案，涉及其他監理機關主管之人員或金融機構時，應通知該機關首長出席金融穩定執行委員會會議，該首長或其代理人應以委員會委員身分出席。
- (7) 財政部秘書長或其代理人、監理機關之首長或其代理人缺席金融穩定執行委員會會議，不影響決議之效力。

- (8) The Financial Stability Executive Committee shall be chaired by the Governor or, in the absence of the Governor, by the Deputy Governor designated by the Board under subsection 15 (7).
- (9) The Financial Stability Executive Committee shall meet as required by the Bank and at any meeting of the Financial Stability Executive Committee the quorum shall be three members, including the Governor or, in the absence of the Governor, the Deputy Governor designated by the Board under subsection 15 (7).
- (10) The Financial Stability Executive Committee may determine its own procedures.

#### **Powers and functions of the Financial Stability Executive Committee**

38.(1) The Bank shall table the following proposals at a meeting of the Financial Stability Executive Committee:

- (a) a proposal in respect of a person or financial institution, as the case may be, which is under the supervision or oversight of any other supervisory authority, or is not under the supervision or oversight of the Bank or any other supervisory authority—
  - (i) under paragraph 31 (1)(a) for a measure to be specified to a class, category or description of persons engaging in financial intermediation or under paragraph 31 (1)(b) for an order to be issued to such person within a class, category or description of persons; or
  - (ii) under paragraph 32 (1)(a) for the provision of liquidity assistance to such financial institution;
- (b) a proposal under paragraph 32 (1)(b) to enter into arrangements in relation to subsidiaries or branches outside Malaysia of a financial institution established in Malaysia;
- (c) a proposal under subparagraph 32 (1)(c)(i) for the purchase or subscription of shares or other capital instruments of a financial institution;
- (d) a proposal under subparagraph 32 (1)(c)(ii) for the provision of financing for the purchase of business, assets, liabilities, shares or other capital instruments of another financial institution; and
- (e) a proposal under subparagraph 32 (1)(c)(iii) for an order to vest the business, assets, liabilities, shares or other capital instruments of a financial institution in the Bank, a body corporate established by the Bank under paragraph 48 (1)(d), another financial institution or any other person.

- (8) 本行總裁為金融穩定執行委員會主席，總裁缺席時，由第 15 條第(7)項之指定副總裁擔任。
- (9) 金融穩定執行委員會應依本行要求集會，法定出席人數為 3 人，其中並應包括本行總裁或第 15 條第(7)項之指定副總裁。
- (10) 金融穩定執行委員會得自行訂定會議程序。

#### **第 38 條 金融穩定執行委員會之職權及功能**

- (1) 本行應於金融穩定執行委員會提出下列議案：
  - (a) 對其他監理機關監理之金融機構或人員，或不受本行或其他監理機關監理之金融機構或人員，採取下列措施——
    - (i) 依第 31 條第(1)項(a)款對從事金融中介活動者，其中之特定層級、類別或屬性者，指定其採取特定措施或依第 31 條第(1)項(b)款對其作成命令；或
    - (ii) 依第 32 條第(1)項(a)款對該等金融機構提供流動性協助；
  - (b) 依第 32 條第(1)項(b)款，就設立於馬來西亞之金融機構，其國外附屬機構或分行之相關事宜，簽署協定；
  - (c) 依第 32 條第(1)項(c)款(i)目購買或認購金融機構之股份或其他資本工具；
  - (d) 依第 32 條第(1)項(c)款(ii)目提供融通，以供購買其他金融機構之業務、資產、債務、股份或資本工具；及
  - (e) 作成第 32 條第(1)項(c)款(iii)目之命令，將金融機構之業務、資產、債務、股份或發行之其他資本工具，移轉本行、本行依第 48 條第(1)項(d)款設立之機構、其他金融機構或人員。



- (2) The Financial Stability Executive Committee may decide to accept any proposal tabled at the meeting of the Committee under subsection (1), reject the proposal or require the Bank to table another proposal for the consideration of the Committee and the Bank shall act in accordance with the decision of the Committee.

### Nature of relief

- 39.(1) In any civil proceedings before any court in relation to any order issued by the Bank under subsection 31 (1) or subparagraph 32 (1)(c)(iii) or any other action, arrangement, scheme or measures of the Bank in connection with financial stability related or consequent to any such order or in relation to any other matter under this Chapter, the court shall, subject to subsection (2) and the provisions of this Act, have power to make all such orders as it has power to make in proceedings between parties, and otherwise to give such appropriate relief as the case may require.
- (2) In any civil proceedings against the Bank, in relation to any order issued by the Bank under subsection 31 (1) or subparagraph 32 (1)(c)(iii) or any other action, arrangement, scheme or measures of the Bank in connection with financial stability related or consequent to any such order or in relation to any other matter under this Chapter—
- (a) if any relief is sought as might in proceedings between parties be granted by way of injunction or specific performance, the court shall not grant an injunction or make an order for specific performance; and
- (b) for the recovery of land or other property, the court shall not make an order for the recovery of the land or the delivery of the property.
- (3) The court shall not in any civil proceedings in relation to any order issued by the Bank under subsection 31 (1) or subparagraph 32 (1)(c)(iii) or any other action, arrangement, scheme or measures of the Bank in connection with financial stability related or consequent to any such order or in relation to any other matter under this Chapter grant any injunction or make any order against an officer of the Bank if the effect of granting the injunction or making the order would be to give any relief against the Bank which could not have been obtained in proceedings against the Bank.
- (4) Any order issued under subsection 31 (1) or subparagraph 32 (1)(c)(iii) shall have effect in accordance with the provisions of this Part and, notwithstanding any legal proceedings instituted pursuant to subsection (2), shall be binding on any person to whom the order is issued.

- (2) 金融穩定執行委員會得通過或不通過依第(1)項提出之議案，或要求本行提出其他議案，本行應依該會決議辦理。

### 第 39 條 保全處分之性質

- (1) 就與本行依第 31 條第(1)項或第 32 條第(1)項(c)款(iii)目所作命令有關之民事程序，或有關該等命令或本節其他規定之本行金融穩定作為、安排、方案或措施，於民事程序已繫屬但尚未進行訴訟前，法院有權依第(2)項及本法規定，於當事人間作成如同訴訟中所為命令，否則應依必要情形給予適當之保全。
- (2) 以本行為對造之民事程序，涉及本行依第 31 條第(1)項或第 32 條第(1)項(c)款 (iii) 目作成之命令，或有關該等命令或本節其他規定之本行金融穩定作為、安排、方案或措施者——
- (a) 法院不得依聲請核發禁制令或命為一定行為之保全處分；且
- (b) 有關土地或其他財產之回復，法院不得裁定命回復土地或交付財產。
- (3) 就本行依第 31 條第(1)項或第 32 條第(1)項(c)款 (iii) 目作成之命令，或有關該等命令或本節其他規定之本行金融穩定作為、安排、方案或措施等，如法院於相關之民事程序或訴訟中，對本行職員核發禁制令或其他命令，將會產生與不得對本行核發之禁制令或其他保全處分相同之效果者，法院不得為之。
- (4) 依第 31 條第(1)項或第 32 條第(1)項(c)款(iii)目作成之命令，依本節之規定發生效力，相對人應受拘束，不受第(2)項法律程序之影響。

**Arrangements with other supervisory authorities**

40. (1) For the purposes of promoting financial stability, the Bank may—
- (a) enter into arrangements to co-operate with other supervisory authorities and co-ordinate financial stability measures with such supervisory authorities; and
  - (b) obtain any information or document from, or share any information or document with, any other supervisory authority if the Bank considers it necessary that such information or document be so obtained or shared.
- (2) Where the Bank shares any information or document under paragraph (1)(b)—
- (a) with any supervisory authority in Malaysia, such information or document shall not be disclosed to any person except with the written consent of the Bank; or
  - (b) with any supervisory authority outside Malaysia, such supervisory authority shall give an appropriate undertaking for protecting the confidentiality of such information or document and the purposes for which the information or document may be used.

**Advice or recommendations on financial stability to supervisory authorities**

41. The Bank may, in the interest of financial stability advise, or make recommendations to any supervisory authority in Malaysia on—
- (a) the implications of any written law, policies or measures proposed by such authority which may affect financial stability; and
  - (b) appropriate measures or safeguards to take for purposes of promoting financial stability.

**Confidentiality**

42. (1) Except as provided in paragraph 40 (1)(b) and section 86, any information or document submitted by any person under section 30 shall be confidential as between the person and the Bank.
- (2) Any person who is required to submit any information or document under section 30 and any supervisory authority in Malaysia from which information or document is to be obtained by the Bank under paragraph 40 (1)(b) shall provide such information or document, notwithstanding the provisions of any written law whether enacted before or after the commencement of this Act or any oath, undertaking, or requirement of secrecy to the contrary or of any obligation under any contract, agreement or arrangement whether express or implied to the contrary.

**第 40 條 與其他監理機關之協議**

- (1) 為促進金融穩定，本行得——
- (a) 與其他監理機關締結合作協議，並相互協調金融穩定措施；及
  - (b) 於本行認為必要時，向其他監理機關取得，或與其分享資訊或文件。
- (2) 本行依第(1)項(b)款分享資訊或文件時——
- (a) 對象為馬來西亞之監理機關者，非經本行書面同意，該等文件或資訊不得向其他人揭露；或
  - (b) 對象為馬來西亞境外之監理機關者，該監理機關對保護該等資訊或文件之機密性及其使用目的，應給予適當之承諾。

**第 41 條 對監理機關提供金融穩定之意見或建議**

- 為利於金融穩定，本行得就下列事項，對馬來西亞之監理機關提供意見或建議——
- (a) 該監理機關擬訂之措施、政策或成文法，對金融穩定可能之影響；及
  - (b) 為促進金融穩定，可採取之適當措施或防護機制。

**第 42 條 機密性**

- (1) 除第 40 條第(1)項(b)款及第 86 條另有規定外，本行與相關人員依第 30 條提出之資訊或文件，應予保密。
- (2) 不論其他成文法於本法施行前或施行後如何規定，或其是否有相反之誓言、承諾或保密義務，或其依契約、協議、協約等有明示或默示之相反義務，依第 30 條被要求提出資訊或文件之人，及依第 40 條第(1)項(b)款本行得向其取得資訊或文件之馬來西亞監理機關，均有提出資訊及文件之義務。

- (3) Any person shall not, in complying with the requirement to submit any information or document under subsection (2), be treated as being in breach of any such contract, agreement or arrangement.

## Chapter 2

### *Money market and foreign exchange market*

#### **Rules, guidelines, etc., for money market, etc.**

- 43.(1) The Bank may issue rules, codes, standards, principles or guidelines for the purposes of regulating, developing, or maintaining orderly conditions or the integrity of, the money market, the foreign exchange market or the market for the derivatives related to the currencies, securities and other financial instruments traded in these markets.
- (2) Without prejudice to the generality of subsection (1), rules, codes, standards, principles or guidelines may be issued in respect of the money market, the foreign exchange market or the market for the derivatives related to the currencies, securities and other financial instruments traded in these markets—
- (a) to ensure orderly dealings in such markets;
  - (b) to impose obligations and duties on participants of such markets or any system established or operated, including those pursuant to subsection 44 (1); and
  - (c) on the issuance or acquisition, holding or disposal of financial instruments in such markets.
- (3) The Bank may, subject to such terms and conditions as the Bank may impose, appoint a self-regulatory organization established for the foreign exchange market or the market for the derivatives related to the currencies, securities and other financial instruments traded in these markets for the purposes of—
- (a) promoting the regulation, development and maintenance of orderly conditions or the integrity of such markets; and
  - (b) rendering such assistance as the Bank may specify in the exercise of its powers under subsection (1) or exercising such powers on behalf of the Bank.
- (4) The appointment referred to in subsection (3) shall be published in the *Gazette*.
- (5) The Bank shall enter into arrangements with supervisory authorities in Malaysia to co-ordinate on the regulation of derivatives or financial instruments in the money market which are within the supervision and oversight of the supervisory authorities.

- (3) 任何人依第(2)項規定提出資訊或文件之行為，不會被視為違反契約、協議或協約。

## 第 2 節 貨幣市場及外匯市場

### 第 43 條 貨幣市場等之規則、指引

- (1) 為管理、發展貨幣市場、外匯市場或涉及貨幣、證券及其他金融工具交易之衍生性商品市場，或為維持該等市場之秩序或健全性，本行得訂定規則、辦法、標準、原則或指引。
- (2) 在不妨害第(1)項一般性效力之前提下，得就貨幣市場、外匯市場或涉及貨幣、證券及其他金融工具交易之衍生性商品市場，訂定關於下列事項之規則、辦法、標準、原則或指引——
  - (a) 為確保市場之交易秩序；
  - (b) 對市場參與者或系統賦予義務，包括依第 44 條第(1)項設立或營運之系統；及
  - (c) 於該等市場發行、取得、持有或處分金融工具。
- (3) 為達下列目的，本行得依本行所定條件，指定外匯市場或涉及貨幣、證券及其他金融工具交易之衍生性商品市場成立之自律組織——
  - (a) 促進該等市場之管理、發展及市場秩序或健全性之維持；及
  - (b) 協助或代表本行行使第(1)項之職權。
- (4) 第(3)項之指定應刊登於政府公報。
- (5) 為協調執行貨幣市場衍生性商品或金融工具之管理，本行應與馬來西亞各監理機關就其監管範疇簽訂協議。

**The Bank may establish system for funds, debt securities, etc.**

- 44.(1) The Bank or any body corporate established or acquired by the Bank under paragraph 48(1)(c) or any person authorized by the Bank may establish or operate any system, electronic or otherwise, as may be necessary—
- (a) to facilitate the transferring, clearing and settlement of funds and debt securities;
  - (b) to facilitate the tendering, issuance, borrowing and lending of debt securities;
  - (c) to provide information to any person relating to the money market or to the tender, issue, trading and offer, or bid prices of debt securities or any other related information relating to debt securities;
  - (d) for the central handling of debt securities deposited with the Bank by means of entries in debt securities accounts without physical delivery of certificates;
  - (e) for the carrying out of any other activity related to any of the systems in paragraphs (a) to (d); and
  - (f) for the dissemination of information relating to paragraphs (a) to (e), in such markets, as the case may be.
- (2) The Bank may function as a depository or paying agent or undertake any other ancillary or incidental function related to the establishment or operation of any of the systems referred to in subsection (1).
- (3) For purposes of this section, "debt securities" includes—
- (a) stock issued under the Loan (Local) Act 1959;
  - (b) Treasury Bills issued under the Treasury Bills (Local) Act 1946;
  - (c) investments under the Government Funding Act 1983 ;
  - (d) securities issued by the Bank under paragraph 26 (2) (a);
  - (e) debentures, as defined in the Companies Act 1965, denominated and payable in ringgit issued by the Government of any State, any public authority, any statutory body, any corporation including a private or a public company, or such other persons who under their constituent documents may issue such debentures that are tendered, deposited, cleared or settled through any system established or operated by the Bank pursuant to this section; and

**第 44 條 本行得建立基金、債券等系統**

- (1) 本行及其他本行依第 48 條第(1)項(c)款設立或取得之法人，或其他經本行許可之人，得根據需要建立或營運任何電子或其他系統——
  - (a) 辦理資金、債券之轉移、結算或清算業務；
  - (b) 辦理債券之標售、發行及借貸業務；
  - (c) 向貨幣市場之關係人或投標人提供資訊，包括債券之發行、交易、買賣價格及其他債券相關資訊；
  - (d) 集中處理由本行以帳戶登錄方式保管之無實體債券；
  - (e) 執行其他與(a)款至(d)款所建系統有關之業務；及
  - (f) 發布(a)款至(e)款相關訊息。
- (2) 本行得擔任保管人、付款代理人，或辦理其他與第(1)項各系統之建立或營運相關之輔助或附隨業務。
- (3) 本條之「債券」，包括——
  - (a) 依 1959 年（本地）貸款法發行之股票；
  - (b) 依 1946 年（本地）國庫券法發行之國庫券；
  - (c) 依 1983 年政府籌資法進行之投資；
  - (d) 本行依第 26 條第(2)項(a)款發行之證券；
  - (e) 1965 年公司法所定債券，由州政府、公共機構、法定機構、民營或公營公司或其他依組織章程得發行債券之人所發行，以令吉計價與兌付，經由本行依本條建立或營運之系統辦理標售、保管、結算或清算之債券；及

- (f) such securities or debentures as may be approved by the Minister on the recommendation of the Board that are tendered, deposited, cleared or settled through any system established or operated by the Bank or any body corporate established or acquired by the Bank or any person authorized by the Bank pursuant to this section.

### Chapter 3

#### *Financial services and other functions*

##### **Co-operation with financial institutions**

45. The Bank shall use its best endeavours in co-operation with financial institutions in Malaysia to—
- (a) promote and maintain banking and financial services for the public; and
  - (b) foster high standards of banking and finance in Malaysia.

##### **Clearing houses and settlement of balances between financial institutions**

46. (1) In order to facilitate the clearing of cheques and other credit or payment instruments for financial institutions or any person approved by the Bank, the Bank or any body corporate established or acquired under paragraph 48 (1)(c) may, at an appropriate time and in conjunction with such institutions or person, establish a clearing house in Kuala Lumpur and in such other place as the Bank or the body corporate may consider necessary.
- (2) A financial institution or any person approved by the Bank shall settle, in such manner as the Bank or the body corporate may from time to time specify by notice in writing, all balances between itself and any other financial institution or any person approved by the Bank arising out of the general clearances effected in Kuala Lumpur and such other places as the Bank or a body corporate established or acquired under paragraph 48 (1)(c) may specify.

##### **Credit bureau**

47. (1) The Bank may establish a credit bureau to collect, in such manner and to such extent as the Bank thinks fit, credit information (including information on and relating to the rejection of any cheque by a paying bank by reason of insufficiency of funds in the account of the drawer of the cheque) or any other information which the Bank considers relevant in the assessment of the creditworthiness of the customers of any financial institution.

- (f) 經理事會提案，部長許可，由本行、本行設立或取得之法人或本行依本條許可之人，所建立或營運之系統，辦理其標售、保管、結算或清算業務之證券或債券。

### 第 3 節 金融服務及其他功能

#### 第 45 條 與金融機構合作

本行應盡其所能，與馬來西亞之金融機構合作下列事項——

- (a) 促進及維持金融業之大眾服務；及
- (b) 提升馬來西亞金融業之水準。

#### 第 46 條 結算機構與金融機構間資金之清算

- (1) 為辦理各金融機構及其他本行許可之人間，票據及其他信用或支付工具之結算業務，本行或其他本行依第 48 條第(1)項(c)款設立或取得之法人，於必要時，得與該等機構或經許可之人，適時在吉隆坡或其他本行或前述機構認為適當之地點，設立結算所。
- (2) 經本行許可之金融機構或任何人，應根據在吉隆坡及其他由本行或本行依第 48 條第(1)項(c)款設立或取得之法人所在地點，辦理結算後所產生之應收應付差額，依本行或該等法人書面公告之方式，辦理清算。

#### 第 47 條 信用局

- (1) 本行得設立信用局，以本行認為適當之方式及範圍，蒐集信用資訊（包括支票發票人因存款不足，遭付款行退票之資訊及其相關資訊），或其他任何本行認為與金融機構客戶信用狀況之評估相關之資訊。

- (2) Notwithstanding section 86, the Bank may disclose, in such manner and to such extent as the Bank thinks fit, the credit information to—
- (a) any financial institution for the purpose of assisting in assessing the creditworthiness of its existing and potential customers or for the purpose of assisting a financial institution to assess the eligibility of a customer to maintain or open a current account with the financial institution being a financial institution authorized by the Bank to operate a current account, provided that the information disclosed by the Bank shall be secret between the Bank and the financial institution unless the financial institution is requested by a customer to disclose the information in respect of the customer's account;
  - (b) a customer of a financial institution in respect of his own account, or as the Bank thinks fit, to a customer or any person in respect of any account in which such customer or person has incurred any financial obligation, for the purpose of verifying the accuracy of the credit information provided by the financial institution, or for any other purpose as the Bank thinks fit, provided that the information disclosed by the Bank to such customer or person in respect of any account in which such customer or person has incurred any financial obligation shall be secret between the Bank and the customer or person concerned;
  - (c) any credit reporting agency which is registered under any law relating to credit reporting agencies, as the Bank thinks fit, for the purpose of providing credit reporting or credit assessment services, or for any other purpose as the Bank thinks fit, provided that the information disclosed by the Bank shall be secret between the Bank and the credit reporting agency and provided further that the consent of the customer shall be obtained for the disclosure of the information in respect of his account;
  - (d) such other person as the Bank thinks fit, in order to compile information or data or conduct research for the purpose of giving effect to the objects and carrying out the functions of the Bank under this Act, provided that any publication by the Bank or such other person of the information, data or research shall be consolidated or aggregated and shall not in any manner lead to the identification of any customer of a financial institution to which such information, data or research relate; and
  - (e) such other person as the Bank considers necessary in respect of the account of a customer of a financial institution, for any purpose as the Bank thinks fit, provided that the customer of the financial institution has given his or its consent for the disclosure of the information in respect of his or its account.
- (3) No action, suit, prosecution or other proceeding shall lie or be brought, instituted or maintained in any court or before any other authority against the Bank on account of or in respect of any act done or statement made or omitted to be done or made under this section if the act or statement was done or made or omitted to be done or made in good faith.

- (2) 儘管有第 86 條之規定，本行得以本行認為適當之方式及範圍，依下列規定提供信用資訊——
- (a) 供金融機構評估現有客戶或潛在客戶之信用；或供金融機構評估客戶持有或開立帳戶之適格性。除客戶要求提供其帳戶相關資訊外，金融機構不得對外揭露本行提供之資訊；
  - (b) 向金融機構客戶提供其帳戶之信用資訊；或本行認為適當時，提供金融機構借款客戶或任何人所有帳戶之信用資訊，該信用資訊不得對外揭露，以驗證金融機構提供的信用資訊準確性；
  - (c) 依法登記之信用報告機構，得依本行認為適當方式，提供信用報告或信用評估服務，或其他本行認為適當之目的範圍內提供信用資訊報告。本行提供之資訊，除客戶同意揭露關於其帳戶之資訊者外，不得向第三人揭露；
  - (d) 為有效達成本行目標及行使本行職權，本行對合適人員提供信用資訊，以便於彙編信息或數據或進行研究。本行或該人員對於資訊、資料或研究之公開，應以綜合或彙整之方式提供，不得識別相關之個人資料；及
  - (e) 在金融機構客戶同意揭露其帳戶資訊下，本行對認定合適之人，提供該等金融帳戶資訊。
- (3) 本行依本條所作之行為或不行為，作成之說明或不為說明，如係基於誠信，任何人不得向本行提出訴訟、司法或其他法律程序。

- (4) Any director, officer or employee of the Bank, a financial institution or a credit reporting agency or any person referred to in paragraph (2)(d) or (e) to whom any credit information has been disclosed who fails to comply with the conditions provided for in the same provision commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit.

#### **Establishment of body corporate, etc.**

48.(1) Notwithstanding section 76, the Bank may—

- (a) establish a body corporate for the purpose of training, research and development of human resource in relation to banking and financial services;
- (b) establish a body corporate for the purposes of providing financial counselling, debt management services and education on financial management;
- (c) establish a body corporate or acquire, hold or sell shares of a body corporate, wholly or partly, to operate payment systems or issue payment instruments, and undertake any other ancillary or incidental function or activity, for the purpose of promoting and developing payment systems and payment instruments in Malaysia;
- (d) establish a body corporate or acquire or hold shares of a body corporate, wholly or partly, for the purposes of subparagraph 32 (1)(c) (i), (ii) or (iii);
- (da) establish a body corporate or acquire or hold shares of a body corporate, wholly or partly, for the purposes of carrying out the functions of a bridge institution under any written law enforced by the Bank; and
- (e) with the approval of the Minister on the recommendation of the Board, and subject to section 50, establish a body corporate or acquire, hold or sell shares of a body corporate, wholly or partly, for the purposes of giving effect to its objects and carrying out its functions under this Act.

(2) The Bank may—

- (a) grant, donate or provide financing as may be necessary for the establishment or operations of a body corporate established under paragraphs (1)(a) and (b) and create and manage a fund to meet the expenses of such body corporate;
- (b) provide financing as may be necessary for the establishment or operations of a body corporate established or acquired under paragraph (1)(c) or (d); and

- (4) 本行理事、職員或聘僱人員、金融機構、信用報告機構或其他依第(2)項(d)款或(e)款，由本行向其揭露資訊之人，違反第(2)項規定者，經法院判決，得科 1 百萬令吉以下罰金。

#### **第 48 條 法人之設立等**

(1) 不論第 76 條之規定，本行得——

- (a) 設立法人，辦理銀行及金融服務業務之研究訓練及人力培養業務；
- (b) 設立提供金融業務諮詢、債務管理服務及金融管理教育法人；
- (c) 為提升、發展馬來西亞之支付系統及支付工具，設立法人或取得、持有、出售法人之股份，專營或兼營支付系統之營運、支付工具之發行及其他附隨或輔助業務；
- (d) 專為或兼為達成第 32 條第 1 項(c)款(i)至(iii)目之目的，而設立法人或取得、持有法人股份；
- (da) 專為或兼為辦理本行主管之成文法所定過渡銀行之業務，而設立法人或取得、持有法人股份；及
- (e) 專為或兼為達成本行目標及行使本行職權之目的，經理事會提案，部長核定，於第 50 條規定之範圍內，設立法人或取得、持有法人股份。

(2) 本行得——

- (a) 對第(1)項(a)款及(b)款法人之設立或營運，提供捐助、贈與或必要之融通，並得設立基金，以支應該等機構營運所需費用；
- (b) 必要時，對第(1)項(c)款及(d)款法人之設立或營運，提供融通；及

- (c) subject to section 50, provide financing as may be necessary for the establishment or operations of a body corporate established or acquired under paragraph (1)(e).
- (3) The Bank may only provide financing under paragraph (2)(b) to a body corporate established or acquired under paragraph (1)(c) which is wholly owned by the Bank.
- (4) The Bank may only provide financing under paragraph (2)(b) to a body corporate established or acquired under paragraph (1)(d) which is wholly owned by the Bank or jointly owned by the Bank and the Government.
- (5) The Moneylenders Act 1951 shall not apply to a body corporate established under paragraphs (1) (d) and (da).

#### Financing for special purposes

49. The Bank, with the approval of the Minister on the recommendation of the Board, may establish funds to provide financing through financial institutions on such terms and conditions as the Bank thinks necessary—
- (a) in the event of any exigent circumstances or *force majeure*; and
  - (b) to any segment of the economy for the purposes of promoting financial inclusion.

#### Limit on investment and financing

50. The value of shares held by the Bank under paragraph 48 (1)(e) together with the financing made under paragraph 48 (2)(c) and funds established under section 49 shall not in the aggregate at any time exceed two times the General Reserve Fund.

## PART VII ISLAMIC FINANCIAL BUSINESS

### Chapter 1

#### *Shariah Advisory Council*

#### Establishment of Shariah Advisory Council

51. (1) The Bank may establish a Shariah Advisory Council on Islamic Finance which shall be the authority for the ascertainment of Islamic law for the purposes of Islamic financial business.

- (c) 於必要時，對第(1)項(c)款法人之設立或營運，依第 50 條規定提供融通。

- (3) 本行依第 2 項(b)款提供融通時，得僅對本行依第(1)項(c)款之設立或取得，且百分之百持股之法人提供融通。
- (4) 本行依第 2 項(b)款提供融通時，得僅對本行依第(1)項(d)款之設立或取得，且由本行單獨或與政府共同持有其全部股份之法人提供融通。
- (5) 1951 年放款人法對依第(1)項(d)款及 (da) 款設立之法人，不適用之。

#### 第 49 條 特別目的之融通

有下列情事時，本行得由理事會提案，經部長同意，設立基金，經由金融機構，依本行認為適當之融通條件提供融通——

- (a) 有緊急情況或發生不可抗力之天然災害；及
- (b) 為各經濟階層，推動普惠金融。

#### 第 50 條 投資及融通之限制

本行依第 48 條第(1)項(c)款持有之股份或價值，與依第 48 條第(2)項(c)款提供之融通，及依第 49 條設立之基金，其總金額不得超過普通公積金之兩倍。

## 第 7 章 伊斯蘭金融業務

### 第 1 節 伊斯蘭諮詢委員會

#### 第 51 條 伊斯蘭諮詢委員會之設立

- (1) 本行得就伊斯蘭金融業務，設立伊斯蘭諮詢委員會，確認適用於伊斯蘭金融業務之伊斯蘭律法。



- (2) The Shariah Advisory Council may determine its own procedures.

#### Functions of Shariah Advisory Council

- 52.(1) The Shariah Advisory Council shall have the following functions:
- (a) to ascertain the Islamic law on any financial matter and issue a ruling upon reference made to it in accordance with this Part;
  - (b) to advise the Bank on any Shariah issue relating to Islamic financial business, the activities or transactions of the Bank;
  - (c) to provide advice to any Islamic financial institution or any other person as may be provided under any written law; and
  - (d) such other functions as may be determined by the Bank.
- (2) For the purposes of this Part, "ruling" means any ruling made by the Shariah Advisory Council for the ascertainment of Islamic law for the purposes of Islamic financial business.

#### Appointment of members to Shariah Advisory Council

- 53.(1) The Yang di-Pertuan Agong may, on the advice of the Minister after consultation with the Bank, appoint from amongst persons who are qualified in the Shariah or who have knowledge or experience in the Shariah and in banking, finance, law or such other related disciplines as members of the Shariah Advisory Council.
- (2) If a judge of the High Court, the Court of Appeal or the Federal Court, or a judge of the Shariah Appeal Court of any State or Federal Territory, is to be appointed under subsection (1), such appointment shall not be made except—
- (a) in the case of a judge of the High Court, the Court of Appeal or the Federal Court, after consultation by the Bank with the Chief Justice; and
  - (b) in the case of a judge of the Shariah Appeal Court of any State or Federal Territory, after consultation by the Bank with the Chief Shariah Judge of the respective State or Federal Territory, as the case may be.
- (3) A member of the Shariah Advisory Council appointed under subsection (1) shall hold office on such terms and conditions as may be provided in their respective letters of appointment, and shall be eligible for reappointment.
- (4) The members of the Shariah Advisory Council shall be paid such remuneration and allowances as may be determined by the Board from the funds of the Bank.

- (2) 伊斯蘭諮詢委員會得自行訂定議事程序。

#### 第 52 條 伊斯蘭諮詢委員會之功能

- (1) 伊斯蘭諮詢委員會之功能如下：
- (a) 查明適用於所有金融事務之伊斯蘭律法，並依據適用法律作出裁定；
  - (b) 對本行之伊斯蘭金融業務、活動或交易提供意見；
  - (c) 對伊斯蘭金融機構或其他成文法所定之人提供意見；及
  - (d) 其他本行核定之功能。
- (2) 為本章之目的，「裁定」係指伊斯蘭諮詢委員會確認適用於伊斯蘭金融業務之伊斯蘭律法，而作出之裁定。

#### 第 53 條 伊斯蘭諮詢委員會成員之任命

- (1) 最高元首得諮詢本行意見後，依據部長建議，任命嫻熟伊斯蘭知識之人士，或對伊斯蘭金融、法律或相關領域具有專業知識之人士為伊斯蘭諮詢委員會之成員。
- (2) 高等法院、上訴法院、聯邦法院、聯邦或州伊斯蘭上訴法院等之法官，應先經下列程序，始得依第(1)項予以任命——
- (a) 高等法院、上訴法院或聯邦法院之法官，由本行洽商首席大法官意見；及
  - (b) 聯邦或州伊斯蘭上訴法院之法官，由本行洽商該州或聯邦之首席伊斯蘭法官意見。
- (3) 依第(1)項任命之伊斯蘭諮詢委員會成員，其任期及任職條件依其派令之記載，並得連任。
- (4) 伊斯蘭諮詢委員會成員之報酬及津貼，由理事會決定，並由本行支付之。

**Secretariat to Shariah Advisory Council**

54. The Bank may—

- (a) establish a secretariat and such other committees as it considers necessary to assist the Shariah Advisory Council in carrying out its functions; and
- (b) appoint any officer of the Bank or any other person to be a member of the secretariat or such other committees.

**The Bank and Islamic financial institutions to consult Shariah Advisory Council**

55. (1) The Bank shall consult the Shariah Advisory Council on any matter—

- (a) relating to Islamic financial business; and
- (b) for the purpose of carrying out its functions or conducting its business or affairs under this Act or any other written law in accordance with the Shariah,

which requires the ascertainment of Islamic law by the Shariah Advisory Council.

(2) Any Islamic financial institution in respect of its Islamic financial business, may—

- (a) refer for a ruling; or
- (b) seek the advice,

of the Shariah Advisory Council on the operations of its business in order to ascertain that it does not involve any element which is inconsistent with the Shariah.

**Reference to Shariah Advisory Council for ruling from court or arbitrator**

56. (1) Where in any proceedings relating to Islamic financial business before any court or arbitrator any question arises concerning a Shariah matter, the court or the arbitrator, as the case may be, shall—

- (a) take into consideration any published rulings of the Shariah Advisory Council; or
- (b) refer such question to the Shariah Advisory Council for its ruling.

(2) Any request for advice or a ruling of the Shariah Advisory Council under this Act or any other law shall be submitted to the secretariat.

**第 54 條 伊斯蘭諮詢委員會之秘書處**

本行得——

- (a) 於必要時，設秘書處或其他委員會協助伊斯蘭諮詢委員會執行職務；及
- (b) 指派本行職員或其他人作為秘書處或其他委員會之成員。

**第 55 條 本行及伊斯蘭金融機構向伊斯蘭諮詢委員會諮詢**

(1) 本行應徵詢伊斯蘭諮詢委員會，以確認適用於下列事務之伊斯蘭律法——

- (a) 與伊斯蘭金融業務相關者；及
- (b) 為使依本法或其他成文法執行職務或辦理業務時，能合於伊斯蘭律法。

(2) 伊斯蘭金融機構辦理伊斯蘭金融業務，為查明其相關作業未違反伊斯蘭律法，得向伊斯蘭諮詢委員會——

- (a) 申請作成裁定；或
- (b) 尋求諮詢意見。

**第 56 條 法院或仲裁人申請伊斯蘭諮詢委員會作成裁定**

(1) 在法院或仲裁程序中，相關伊斯蘭金融業務涉及伊斯蘭律法時，關於伊斯蘭律法之相關問題，法院或仲裁人應——

- (a) 將伊斯蘭諮詢委員會已公開之裁定納入考量；或
- (b) 申請伊斯蘭諮詢委員會就該等問題作成裁定。

(2) 依本法或其他成文法向伊斯蘭諮詢委員會申請裁定時，應向該會秘書處提出。

**Effect of Shariah rulings**

57. Any ruling made by the Shariah Advisory Council pursuant to a reference made under this Part shall be binding on the Islamic financial institutions under section 55 and the court or arbitrator making a reference under section 56.

**Shariah Advisory Council ruling prevails**

58. Where the ruling given by a Shariah body or committee constituted in Malaysia by an Islamic financial institution is different from the ruling given by the Shariah Advisory Council, the ruling of the Shariah Advisory Council shall prevail.

**Chapter 2***Powers of the Bank***The Bank to issue circulars, guidelines, etc., on Shariah matters**

59. (1) The Bank may issue such written circulars, guidelines or notices on any Shariah matter relating to the Islamic financial business carried on by any Islamic financial institution in accordance with the advice or ruling of the Shariah Advisory Council.
- (2) An Islamic financial institution shall comply with any written circulars, guidelines or notices issued by the Bank under subsection (1) and within such time as may be set out in the circulars, guidelines or notices.
- (3) Any person who fails to comply with any circulars, guidelines or notices issued by the Bank under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding three million ringgit.

**Promotion of Malaysia as an international Islamic financial centre**

60. (1) The Bank shall, in co-operation with the Government or any Government agency, statutory body, supervisory authority or international or supranational organization, develop and promote Malaysia as an international Islamic financial centre.
- (2) For the purposes of subsection (1), the Bank may—

**第 57 條 伊斯蘭諮詢委員會裁定之效力**

伊斯蘭諮詢委員會依本章作成之裁定，對第 55 條之伊斯蘭金融機構及第 56 條之法院或仲裁人具有拘束力。

**第 58 條 伊斯蘭諮詢委員會之裁定有優先效力**

伊斯蘭金融機構對於馬來西亞設立之伊斯蘭教團體或委員會所作成之裁定，與伊斯蘭諮詢委員會對其所作成之裁定，意見不同時，伊斯蘭諮詢委員會之裁定具有優先效力。

**第 2 節 本行之職權****第 59 條 本行得對伊斯蘭事務發布通函、指引等**

- (1) 伊斯蘭金融機構依伊斯蘭諮詢委員會建議或裁定，辦理伊斯蘭金融業務，所涉及之伊斯蘭事務，本行得發布書面通函、指引或通知。
- (2) 伊斯蘭金融機構應遵循本行依第(1)項發布之書面通函、指引或通知；並須在通函、指引或通知所載的時間內遵守。
- (3) 任何人未遵循本行依第(1)項發布之書面通函、指引或通知者，經法院判決，應科 3 百萬令吉以下之罰金。

**第 60 條 推動馬來西亞成為國際伊斯蘭金融中心**

- (1) 本行應與政府或政府機關、法定機構、監理機關、國際或跨國組織等合作，發展及推動馬來西亞成為國際伊斯蘭金融中心。
- (2) 為達到第(1)項之目的，本行得採取下列發展及推動馬來西亞成為國際伊斯蘭金融中心可能需之措施——

- (a) establish a secretariat or other committees to assist the Government or any organization, council, agency or committee established by the Government; and
  - (b) generally take such measures or facilitate such actions or provide financing,
- as may be necessary for the development and promotion of Malaysia as an international Islamic financial centre.

## PART VIII CURRENCY

[Note: Section 61 to Section 66 of this Part have not come into force yet. In this regard, Part III of the repealed Central Bank of Malaysia Act 1958 containing Section 18 to Section 27A are still in force notwithstanding the repeal of that Act.]

### **Unit of currency**

61. (1) *The unit of currency in Malaysia shall be the ringgit, which shall be divided into one hundred sen.*
- (2) *The abbreviated form of the ringgit shall be "RM" or "MYR".*

### **Right to issue, print or mint currency**

62. (1) *The Bank shall be the sole authority to issue currency notes and coins in Malaysia and such notes and coins shall only be printed or minted by or under the authority of the Bank.*
- (2) *The Government, any State Government, public authority, financial institution, other institution or person shall not issue, print, mint or authorize the printing or minting of currency or any document or token payable to bearer on demand being documental tokens, which in the opinion of the Bank, are likely to pass as legal tender.*

### **Legal tender**

63. *Only currency notes and coins issued by the Bank shall be legal tender in Malaysia.*

### **The Bank may call in currency**

64. (1) *The Bank may, from time to time, on giving not less than a month's notice in the Gazette of its intention to do so, call in any of the currency notes or coins issued by the Bank.*
- (2) *Upon the expiration of the notice, all currency notes or coins to which the notice applies shall cease to be legal tender, but the Bank shall continue to be liable to pay any such currency notes or coins on presentation at the offices of the Bank.*

- (a) 設立秘書處或其他委員會，協助政府或政府設立之其他組織、議事會、機關或委員會；及
- (b) 採取相關措施、協助相關作為及提供融通。

## 第 8 章 通用貨幣

(註：本章第 61 條至第 66 條尚未生效。因此，即使 1958 年馬來西亞中央銀行法已經廢止，該廢止法第 18 條至第 27A 條仍繼續有效)

### **第 61 條 通用貨幣單位**

- (1) 馬來西亞通用貨幣單位為令吉，100 分為 1 令吉。
- (2) 令吉之縮寫為 RM 或 MYR。

### **第 62 條 通用貨幣之發行、印製及鑄造權**

- (1) 馬來西亞之紙幣及硬幣由本行專屬發行，本行得自行或授權他人印製或鑄造。
- (2) 政府、各州政府、公共機構、金融機構、其他機構或人員，均不得自行或授權他人發行、印製、鑄造通用貨幣或其他本行認為可能流通如法償貨幣之無記名見票即付票券或憑證。

### **第 63 條 法償貨幣**

馬來西亞境內，唯有本行發行之紙幣及硬幣為法償貨幣。

### **第 64 條 本行得收回通用貨幣**

- (1) 本行得隨時於一個月前於政府公報公告，收回本行發行之紙幣或硬幣。
- (2) 公告收回之紙幣及硬幣於公告期滿時，失其法償效力。但向本行之營業所提出該等紙幣及硬幣時，本行仍有支付義務。

***The Bank may buy and sell ringgit***

65. *The Bank shall at its discretion buy and sell ringgit against gold or any foreign currency eligible for inclusion in the foreign reserves set out under this Act.*

***Exchange rate regime for ringgit***

66. (1) *The exchange rate regime for the ringgit shall be determined by the Minister on the recommendation of the Bank.*
- (2) *The Bank shall autonomously conduct foreign exchange operations for the efficient and effective functioning of the exchange rate regime and the foreign exchange market.*

## PART IX FOREIGN RESERVES

**Duty of the Bank to hold and manage foreign reserves**

67. (1) It shall be the duty of the Bank at all times to hold and manage foreign reserves for the purposes of giving effect to its objects, carrying out its functions under this Act and maintaining public confidence.
- (2) Subject to section 68, the foreign reserves held and Policies and guidelines on foreign reserves Banker and financial agent to Government Advice to, and acting generally as agent for, Government managed under subsection (1) shall consist of the following:
- (a) gold or other precious metals;
  - (b) foreign currency;
  - (c) securities of, or guaranteed by—
    - (i) governments or agencies of such governments; or
    - (ii) international financial institutions;
  - (d) any readily available drawing facility of such international financial institutions;
  - (e) bills of exchange; and
  - (f) such other securities and other financial instruments including derivatives.

**Right to issue, print or mint currency**

68. The Bank shall hold and manage the foreign reserves in accordance with the policies and guidelines established by the Board.

**第 65 條 本行得買賣令吉**

本行應自行衡酌決定，以令吉買賣黃金或其他本法規定得作為外匯準備之外國貨幣。

**第 66 條 令吉之匯率制度**

- (1) 令吉之匯率制度應由本行擬訂，部長核定。
- (2) 為使匯率制度及外匯交易市場有效率及效益地運作，本行應獨立進行外匯操作。

## 第 9 章 外匯準備

**第 67 條 本行持有及管理外匯準備之義務**

- (1) 為達到本法所定之本行目標、行使本行職權並保持公眾信心，本行應持有及管理外匯準備。
- (2) 依第 68 條之規定，第(1)項本行持有及管理之外匯準備包括：
- (a) 黃金或其他貴金屬；
  - (b) 外國貨幣；
  - (c) 下列機構發行或保證之證券——
    - (i) 政府或政府機關；或
    - (ii) 國際金融機構；
  - (d) 國際金融機構隨時得動用之提款機制；
  - (e) 匯票；及
  - (f) 其他證券或金融工具，包括衍生性金融商品。

**第 68 條 外匯準備之政策及指引**

本行應依理事會訂定之政策及指引，持有及管理外匯準備。

## PART X RELATIONS WITH GOVERNMENT

### Banker and financial agent to Government

69. (1) In its function as banker and financial agent to the Government, the Bank—
- (a) shall keep account of Government moneys that it receives and disburses; and
  - (b) may undertake the issue and management of securities, Treasury Bills and other financial instruments publicly issued by the Government.
- (2) The Bank shall not charge the Government for any expenses incurred for the services provided under subsection (1).

### Advice to, and acting generally as agent for, Government

70. (1) The Governor or any Deputy Governor with the approval of the Minister or any officer of the Bank with the approval of the Governor, may upon request of the Government, act as a member of any committee or commission appointed by the Government to advise or enquire into any matter affecting monetary, financial, banking or currency matters in Malaysia or outside Malaysia.
- (2) The Bank, where it is appropriate and consistent with its objects and the provisions of this Act and if it is within its competence and expertise—
- (a) shall, upon request by the Government or where the Bank considers it necessary in the interest of the economy, advise the Government on economic matters;
  - (b) may, upon request of the Government, act as a member of any committee affecting economic matters in Malaysia;
  - (c) may, upon request of the Government, represent the Government as its agent in all dealings, negotiations or transactions relating to monetary, financial, banking, currency or economic matters with any government or authorities outside Malaysia to which the Government has adhered or given support or approval; or
  - (d) may act generally as agent to the Government on such terms and conditions to be agreed between the Bank and the Government.

## 第 10 章 與政府之關係

### 第 69 條 政府之銀行及財務代理人

- (1) 作為政府之銀行及財務代理人，本行——
- (a) 應置政府帳簿，記錄政府之收支；及
  - (b) 得受託發行或管理證券、國庫券及其他政府公開發行之金融工具。
- (2) 本行不得向政府收取根據第(1)項提供服務所生之費用。

### 第 70 條 向政府提供意見並擔任其代理人

- (1) 總裁或經部長核可之副總裁，或其他經總裁核可之本行職員，得依政府之要求，由政府任命，擔任任何委員會之成員，對影響貨幣、金融、銀行或馬來西亞境內外貨幣之事務，提供意見或進行調查。
- (2) 於適當且合於本行目標及本法規定，並於本行職權及專業範圍內，本行——
- (a) 於政府請求，或本行認為對經濟利益有必要時，應就經濟事務向政府提供建議；
  - (b) 得依政府之請求，於影響馬來西亞經濟事務之委員會擔任委員；
  - (c) 得依政府之要求，擔任政府代理人，處理與政府附隨、支持或認可之馬來西亞境外政府或機關間，所有關於貨幣、金融、銀行、通用貨幣或經濟事務之商業往來、協商或交易；或
  - (d) 得依本行與政府約定之條款，為政府之一般代理人。

**Temporary financing to Government**

- 71.(1) The Board may extend temporary financing to the Government on terms prevailing in the market in respect of temporary deficiencies of budget revenue.
- (2) All financing extended under subsection (1) shall be repaid as soon as possible and shall in any event be payable not more than three months after the end of the financial year of the Government in which it is extended; and if after that date any such financing remains outstanding, the power of the Bank to extend further financing in any subsequent financial year shall not be exercisable unless and until the outstanding financing has been repaid.
- (3) The aggregate amount of financing extended by the Bank under subsection (1) and securities issued by the Government, purchased by the Bank excluding any such securities acquired in the course of, or held solely for, monetary policy operations, shall not at any time exceed twelve and a half per centum of the estimated receipts of the Federation shown in the statement laid before the House of Representatives pursuant to Article 99 of the Federal Constitution for the financial year of the Government in which the financing is extended.

**Issues of policy**

- 72.(1) The Bank shall keep the Minister informed of policies relating to its principal objects.
- (2) In the event of a difference of opinion between the Minister and the Bank relating to its principal objects, the Minister and the Bank shall endeavour to reach an agreement.
- (3) If the Minister and the Bank are unable to reach an agreement, the Board shall furnish to the Minister a statement in relation to the matter in respect of which the difference of opinion has arisen.
- (4) The Minister shall then submit a recommendation together with the statement furnished by the Board under subsection (3) to the Cabinet.
- (5) Acting on the recommendation of the Minister and the statement furnished by the Board, the Cabinet may determine the policy to be adopted by the Bank.
- (6) The Minister shall inform the Bank of the policy as determined under subsection (5) and that the Government accepts responsibility for the policy.
- (7) The Bank shall then give effect to the policy as determined under subsection (5).
- (8) If the Board objects to the policy as determined under subsection (5), the Board may submit its objections and reasons therefor in writing to the Minister who shall cause the same together with the policy as determined under subsection (5) to be laid before the House of Representatives, or, if the House of Representatives is not then sitting, at the sitting of the following meeting of the House of Representatives.

**第 71 條 對政府之暫時性融通**

- (1) 理事會得依市場條件對暫時預算收入短缺的政府提供暫時性融通。
- (2) 依第(1)項承作之融通，應儘速償還，最遲不得超過政府會計年度結束後3個月，屆期如未償還，本行於後續會計年度不再提供融通，直到償還融資。
- (3) 本行依第(1)項提供之融通及本行購買政府發行之證券中排除貨幣政策操作目的購入或持有部分，其總金額不得逾承作融通年度，依聯邦憲法第 99 條提報眾議院之政府財務報表所列預估收入之 12.5%。

**第 72 條 政策議題**

- (1) 本行應使部長知悉與本行首要目標相關之政策。
- (2) 部長與本行對於本行首要目標意見不同時，雙方應盡力達成共識。
- (3) 部長與本行無法達成共識時，理事會應就意見歧異部分，向部長提出說明。
- (4) 部長應提出建議，併第(3)項理事會提出之說明，向內閣提出。
- (5) 內閣審酌部長之建議及理事會之說明後，得決定本行採行之政策。
- (6) 依第(5)項決定之政策，部長應通知本行，並由政府承擔政策責任。
- (7) 本行應落實依第(5)項決定之政策。
- (8) 理事會如反對依第(5)項決定之政策，得附具理由以書面向部長提出，部長應併同前開政策向眾議院提出。眾議院休會時，則在下次會期提出。

## PART XI OTHER POWERS OF THE BANK

### Compliance with the Shariah

73. (1) The Bank may, in giving effect to its objects, carrying out its functions or conducting its business or affairs under this Act or any other written law, put in place such arrangements or take such measures as may be approved by the Shariah Advisory Council to ensure that such functions, business or affairs are in accordance with the Shariah.
- (2) Without prejudice to the generality of subsection (1), where any arrangements or measures under subsection (1) require—
- (a) the establishment of a corporation or a partnership;
  - (b) the entering into any commercial, agricultural or industrial undertaking; or
  - (c) transaction involving trade, bailment, sale, purchase, lease or sale and lease back, agency, endowment or other business or dealing involving services, intellectual property, commodities, other assets or properties,
- which is prohibited or not authorized by this Act, the Bank may, only for the purpose of carrying out its functions or conducting its business or affairs in accordance with the Shariah, put in place such arrangements or take such measures.

### Acquisition of immovableimmovable property

74. The Bank may purchase, acquire or lease property—
- (a) for the purposes of carrying out its functions or conducting its business or affairs in accordance with the Shariah pursuant to section 73;
  - (b) for the provision or future provision of—
    - (i) business premises for the Bank and its agencies and any clearing houses established pursuant to section 46;
    - (ii) residences for the Governor, Deputy Governors, officers and employees; and
    - (iii) amenities for the promotion of the welfare of officers and employees; or

## 第 11 章 本行其他職權

### 第 73 條 遵循伊斯蘭律法

- (1) 本行為依本法或其他成文法達成本行之目標、執行職務或辦理業務及事務，落實協議或採取伊斯蘭諮詢委員會核可之措施，以確保這些職務、業務或事務合於伊斯蘭律法。
- (2) 在無礙於第(1)項適用之一般性前提下，本行為依伊斯蘭律法執行職務、辦理業務及事務，落實協議或採取相關措施，第(1)項之協議或措施得要求辦理下列本法所禁止或未授權之業務——
- (a) 設立公司或合夥；
  - (b) 從事商業、農業或工業；或
  - (c) 涉及貿易、寄託、銷售、買賣、租賃、售後回租、代辦、捐贈或其他涉及服務、智慧財產權、商品、其他資產或財產之業務或交易。

### 第 74 條 不動產之取得

- 本行得依下列規定買入、取得或租賃不動產——
- (a) 為遵循伊斯蘭律法而依第 73 條執行職務或辦理業務及事務；
  - (b) 於現在或未來供下列用途使用者——
    - (i) 本行及其代理人以及依第 46 條設立之結算機構使用之商業不動產；
    - (ii) 本行總裁、副總裁、職員及聘僱人員之住所；及
    - (iii) 為促進職員及聘僱人員福利之設施；或



(c) as may be provided in any provision of this Act.

### General powers of the Bank

75. The Bank, where it is consistent with its objects, functions and other provisions in this Act, may—

- (a) enter into contracts;
- (b) acquire, purchase, take, hold and enjoy movable or immovable property of every description and may convey, assign, surrender, yield up, charge, mortgage, demise, lease, rent, reassign, transfer or otherwise dispose of, or deal with, any movable or immovable property or any interest vested in the Bank upon such terms as the Bank deems fit;
- (c) purchase, sell, repurchase, lend or borrow currencies, securities, gold, other precious metals or other commodities or enter into derivatives;
- (d) exchange the currencies, securities, gold, other precious metals or other commodities or financial instruments referred to in paragraph (c) for other currencies, securities, gold, other precious metals or other commodities or financial instruments;
- (e) purchase, sell, discount and rediscount bills of exchange, Treasury bills or promissory notes drawn in or outside Malaysia and maturing within one year from the date of acquisition or such other period as may be approved by the Minister;
- (f) purchase, sell or repurchase any certificate of deposit issued by any financial institution;
- (g) act as agent, correspondent or banker for, or open and maintain accounts for, or accept deposits of gold, other precious metals or money in any currency from, any central bank, monetary authority, international financial institution, international monetary authority or other financial institutions outside Malaysia;
- (h) open accounts for, and accept deposits of gold, other precious metals or money in any currency from—

(c) 其他本法規定之情形。

### 第 75 條 本行之一般職權

於不牴觸本行目標、職權及本法其他規定之前提下，本行得——

- (a) 締結契約；
- (b) 取得、買入、承受、持有、享有各種動產或不動產；轉讓、讓與、讓渡、讓出、擔保、抵押、出租、租賃、再轉讓、移轉、拋棄、處理動產、不動產或其他本行利益；
- (c) 買入、售出、買回、借出或借入貨幣、證券、黃金、其他貴金屬與其他商品或簽訂衍生性商品契約；
- (d) 將(c)款所述貨幣、證券、黃金、其他貴金屬、其他商品或其他金融工具兌換成其他貨幣、證券、黃金、其他貴金屬，或其他商品或其他金融工具；
- (e) 買入、售出、貼現及重貼現於馬來西亞境內外開立，且取得日 1 年內或部長許可其他期限內到期之票據、國庫券、本票；
- (f) 買入、售出或買回任何金融機構發行之存單；
- (g) 為其他中央銀行、貨幣主管機關、國際金融機構、國際貨幣機構或馬來西亞境外之金融機構，擔任其經紀人、聯行或往來銀行，為該等機構開立或維持帳戶，或接受其黃金、其他貴金屬或任何幣別貨幣之金錢寄託；
- (h) 為下列之人開立帳戶並接受其黃金、其他貴金屬或任何幣別貨幣之金錢寄託——

- (i) the Government, any State Government, public authority or financial institution; or
- (ii) any other person in Malaysia with the prior approval of the Minister;
- (i) open and maintain accounts, place deposits of gold, other precious metals or money in any currency with any financial institution in or outside Malaysia, central bank, monetary authority, international financial institution or international monetary authority;
- (j) undertake on behalf of customers and correspondents the purchase, sale, collection and payment of securities, currencies and credit instruments in and outside Malaysia, and the purchase or sale of gold and other precious metals;
- (k) accept from customers for custody securities and other articles of value;
- (l) accept assets, including book entry securities, as collateral;
- (m) borrow money, establish credits and provide guarantees and indemnities in any currencies, in or outside Malaysia;
- (n) issue demand drafts and other kinds of remittances made payable at its own offices and branches or at the offices of agents or correspondents;
- (o) invest in securities on behalf of staff and pension funds and other internal funds of the Bank; and
- (p) do generally all such things as may be commonly done by bankers.

#### Business which the Bank may not transact

76. Unless otherwise provided in this Act, the Bank may not—

- (a) engage in trade or otherwise have a direct interest in any commercial, agricultural, industrial or any other undertaking except in the course of the satisfaction of debts due to the Bank provided that any such interest shall be disposed of at the earliest suitable opportunity;
- (b) provide financing upon security of any shares;
- (c) purchase the shares of any corporation;

- (i) 政府、州政府、公務主管機關或金融機構；或
- (ii) 任何在馬來西亞境內並經部長事前許可之人；

- (i) 向馬來西亞境內外金融機構、中央銀行、貨幣主管機關、國際金融機構或國際貨幣機構，開立或維持帳戶、存放黃金、其他貴金屬或任何幣別之金錢；
- (j) 受託為客戶及聯行買入、賣出、收回及付出證券、貨幣及馬來西亞境內外之信用工具，以及買入或售出黃金及貴金屬；
- (k) 為客戶保管證券及其他有價值物品；
- (l) 接受包括證券在內之資產所為之擔保；
- (m) 於馬來西亞境內外，提供任何幣別之金錢借貸、授信、保證及保障；
- (n) 發行即期匯票及其他得於本行之營業所、分行、本行之代理人或聯行之營業所兌付之匯款憑證；
- (o) 為員工、退休基金及其他本行內部基金投資證券；及
- (p) 其他一般銀行通常辦理之業務。

#### 第 76 條 本行不得從事之業務

除本法另有規定者外，本行不得——

- (a) 透過交易或以其他方式與任何對商業、農業、工業或其他團體有直接利益關係，但為清償本行債務者，不在此限，惟應儘速處分之；
- (b) 為股權證券擔保提供融通；
- (c) 買入任何公司之股份；

(d) extend unsecured financing or financing secured otherwise than as set out in this Act:

Provided that in the event of any debt due to the Bank becoming in the opinion of the Bank endangered, the Bank may secure such debt on any immovable or movable property of the debtor and may acquire such property, which shall, however, be resold at the earliest suitable moment;

(e) draw or accept bills payable otherwise than on demand; and

(f) accept for discount, or as security for any financing extended by the Bank, bills or notes signed by members of the Board or by the officers or employees of the Bank.

### Measures to safeguard monetary and financial stability

77.(1) Notwithstanding the provisions of this Act, the Board may, for the purpose of giving effect to the objects of the Bank or safeguarding the balance of payments position, by notice in writing give directions to, or impose requirements on, any person including financial institutions in respect of or relating to—

(a) transactions between residents, non-residents or residents and non-residents, in ringgit or foreign currency, or involving gold, other precious metals, securities or other financial instruments including derivatives; or

(b) the receipt, surrender or retention of foreign currency, gold or other precious metals:

Provided that any direction given or requirement imposed shall not affect the enforcement by the parties of their rights under a qualified financial agreement.

(2) For the purposes of this section—

"foreign currency" shall have the meaning as in subsection 2 (1) and in addition includes any document of a kind intended to enable the person to whom the document is issued to obtain foreign currency from some other person on the credit of the person issuing it, and in particular to any traveller's cheque or other draft or letter of credit so intended;

"non-resident" means—

(a) any person other than a resident;

(b) an overseas branch, subsidiary, regional office, sales office or representative office of a resident company;

(d) 承作本法未規定之無擔保融通或擔保融通：

本行認債權有無法受清償之虞時，得以債務人所有之不動產或動產確保債權，並得取得此等財產，惟應儘快於適當時機再出售之；

(e) 簽發或接受見票即付票據以外之票據；及

(f) 為理事、本行職員或聘僱人員簽署之票據辦理貼現，或接受該等票據作為本行融通之擔保。

### 第 77 條 確保貨幣及金融穩定之措施

(1) 不論本法如何規定，理事會為使本行有效達成目標，並確保國際收支平衡，得以書面向任何人或金融機構提出關於下列事項之指示或要求；但任何指示或要求均不應影響合格金融契約當事人權利之行使——

(a) 居民與居民間、非居民與非居民間及居民與非居民間，以令吉或外國貨幣作成之交易，或涉及黃金、其他貴金屬、證券或包括衍生性商品在內之其他金融工具之交易；或

(b) 接受、讓渡或持有外國貨幣、黃金或其他貴金屬。

(2) 基於本條之目的——

「外國貨幣」應與第 2 條第(1)項定義相同，並且包括任何使簽發文件者能向其他人取得外國貨幣之文件，特別是具有此種目的之旅行支票或其他匯票或信用狀；

「非居民」係指——

(a) 居民以外之人；

(b) 國內公司之國外分行、附屬機構、地區辦公室、銷售辦公室或代表處；

(c) Embassies, Consulates, High Commissions, supranational or international organizations;

(d) a Malaysian citizen who has obtained permanent resident status of a country or territory outside Malaysia and is residing outside Malaysia; or

(e) any other person as may be specified by the Bank to be a non-resident; "person" means a natural person, any corporation, statutory body, local authority, society, trade union, co-operative society, partnership or any other body, organization, association or group of persons, whether corporate or unincorporated and in addition includes the Government, any State Government or any other government;

"resident" means—

(a) a citizen of Malaysia, excluding a citizen who has obtained permanent resident status in a country or territory outside Malaysia and is residing outside Malaysia;

(b) a non-citizen of Malaysia who has obtained permanent resident status in Malaysia and is ordinarily residing in Malaysia;

(c) a body corporate incorporated or established, or registered with or approved by any authority, in Malaysia;

(d) an unincorporated body registered with or approved by any authority in Malaysia;

(e) the Government or any State Government; or

(f) any other person as may be specified by the Bank to be a resident;

"securities" means shares, stock, bonds, notes (other than promissory notes), debentures, debenture stock, units under a unit trust scheme, shares in an oil royalty, a secondary security and coupons whether in scripless form or in bearer certificates, including certificates of title to securities or any letter of allotment which may be renounced, any letter of rights, any warrants conferring an option to acquire a security, any deposit certificate in respect of securities and such other documents conferring, or containing evidence of, rights to securities as the Bank may prescribe;

"transactions" include—

(c) 大使館、領事館、高級專員公署、超國家或國際組織；

(d) 取得馬來西亞以外國家或領土之永久居留權，且居住於馬來西亞境外之馬來西亞公民；或

(e) 其他本行指定為非居民之人；

「人」係指自然人、公司、法律主體、地方自治團體、協會、貿易組織、合作社、合夥或其他任何主體、組織、協會、群體，不論係法人或非法人，並另包括政府、州政府或其他任何政府；

「居民」係指——

(a) 馬來西亞公民。但不包括取得馬來西亞以外國家或領土之永久居留權，且居住於馬來西亞境外者；

(b) 非馬來西亞公民，取得馬來西亞永久居留權且經常居住於馬來西亞者；

(c) 在馬來西亞設立或經馬來西亞主管機關許可或註冊之法人；

(d) 經馬來西亞主管機關許可或註冊之非法人團體；

(e) 政府或州政府；或

(f) 其他本行指定為居民之人；

「證券」係指股份、股票、債券、票據（本票除外）、公司債、債權股證、信託基金之單位、股份、石油產地權利金之股份、次順位證券或息票，不論係無實體或證書形式，包括對證券之權利證明、得放棄之配股通知、權利證明、取得證券選擇權之保證、證券之存摺、及其他賦予或取得本行規定之證券之權利之證明；

「交易」包括——

- (a) buying or selling;
  - (b) borrowing or lending;
  - (c) payment, transfer or settlement;
  - (d) issuance, transfer or substitution of securities;
  - (e) giving or obtaining financial guarantee, indemnity or similar undertaking in respect of any debt, obligation or liability;
  - (f) any act which involves, is in association with, or is preparatory to, the matters in paragraphs (a), (b), (c), (d), (e) and (g); or
  - (g) issuance of publication of advertisement of the matters in paragraphs (a), (b), (c), (d) and (e).
- (3) Any person who fails to comply with the directions or requirements of the Board under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten million ringgit or to imprisonment for a term not exceeding ten years or to both.

#### Record of international accounts

- 78.(1) For the purposes of giving effect to its objects and carrying out its functions under this Act, the Bank shall maintain a record of international accounts containing such data and information as the Bank may determine.
- (2) For the purpose of maintaining the record of international accounts, the Bank shall have the power to require in writing at any time persons which, in the opinion of the Bank, having in their possession or under their custody or control, or has within their capacity to obtain, compile or submit, any data, information or document relating to the record of international accounts—
- (a) to submit such data, information or document to the Bank; or
  - (b) to attend before an officer of the Bank to answer any enquiries in relation to such data, information or document.
- (3) Any person who is required to submit any data, information or document under this section shall ensure that—
- (a) such data, information or document submitted pursuant to any requirement under paragraph (2)(a); or
  - (b) any answer to any enquiry pursuant to any requirement under paragraph (2)(b),
- is true, correct, complete and not misleading.

- (a) 買入或售出；
  - (b) 借入或借出；
  - (c) 支付、移轉或清算；
  - (d) 證券之發行、移轉或替換；
  - (e) 對於任何債務，給與或取得財務保證、賠償或類似承諾；
  - (f) 任何與(a)、(b)、(c)、(d)、(e)及(g)款事務或其準備有關之行為；或
  - (g) 公開發行(a)、(b)、(c)、(d)及(e)款事務之廣告。
- (3) 任何人未遵循理事會依第(1)項所為之指示或要求者，構成犯罪，經法院判決，科 1 千萬令吉以下之罰金，或處或併處 10 年以下有期徒刑。

#### 第 78 條 國際帳戶之紀錄

- (1) 為達成本法所定本行目標及行使本行職權，本行應維持國際帳戶紀錄，記載本行所定之資料及資訊內容。
- (2) 為維護國際帳戶之紀錄，本行得隨時以書面命本行認為持有、保有或控制有關國際帳戶紀錄之資料、資訊或文件之人，或得取得、蒐集或提出該等資料、資訊或文件之人——
- (a) 向本行提供資料、資訊或文件；或
  - (b) 親自向本行職員回復有關資料、資訊或文件之問題。
- (3) 依本條被命提供資料、資訊或文件之人，應確保下列內容之真實、正確、完整且無誤導性——
- (a) 依第(2)項(a)款要求提供之資料、資訊或文件；或
  - (b) 對依第(2)項(b)款提出之問題之回復。

- (4) Any person who is required to submit any data, information or document under this section shall comply with such requirement, notwithstanding the provisions of any written law whether enacted before or after the commencement of this Act or any oath, undertaking, or requirement of secrecy to the contrary or of any obligation under any contract, agreement or arrangement whether express or implied to the contrary.
- (5) Any person shall not, in complying with the requirement to submit any information or document under subsection (4), be treated as being in breach of any such contract, agreement or arrangement.
- (6) The Bank may publish in any manner it deems fit, consolidated statements of all or any part of the record of international accounts, aggregating the data, information or particulars in documents received or obtained under subsection (2), provided that such publication shall not in any manner lead to the identification of any person to which such data, information, or particulars relate.
- (7) Notwithstanding section 88 or any other written law but without prejudice to subsection (6), any data, information or document received or obtained by the Bank under subsection (2) shall only be disclosed by the Bank for the purposes of maintaining the record of international accounts, giving effect to its principal objects or carrying out its primary functions under section 5, and shall not be otherwise disclosed by the Bank to any other person.
- (8) For the purposes of this section—
- (a) "person" means a natural person, any corporation, statutory body, local authority, society, trade union, co-operative society, partnership or any other body, organization, association or group of persons, whether corporate or unincorporate and in addition includes the Government, any State Government or any other government;
- "record of international accounts" refers collectively to the records of balance of payments and international investment position of Malaysia;
- "record of balance of payments" means a record of economic and financial transactions of Malaysia with any country, territory or place outside Malaysia during a period deemed appropriate by the Bank;
- "record of international investment position" means the position of financial assets and liabilities of Malaysia with any country, territory or place outside Malaysia as at a date deemed appropriate by the Bank; and

- (4) 任何依本條被命提供資料、資訊及文件之人，應遵循該等要求，不論其他成文法於本法施行前或施行後如何規定，或其是否有相反之誓言、承諾或保密義務，或其依契約、協議、協約等有明示或默示之相反義務。
- (5) 依第(4)項提供資訊或文件之人，不得被認為違反契約、協議或協約。
- (6) 本行得以本行認為適合之方式，公布國際帳戶紀錄之一部或全部，及經彙總之依第(2)項收受或取得之資料、資訊及文件，且公布之形式不得識別個人資料。
- (7) 不論第 88 條及其他成文法如何規定，在不妨害第(6)項效力之前提下，本行依第(2)項所收受或取得之資料、資訊或文件，僅得於維護國際帳戶紀錄、達成第 5 條所定目標及行使該條所定職權之必要範圍內揭露，除此之外，不得向任何人揭露。
- (8) 為本條之目的——
- (a) 「人」係指自然人、公司、法律主體、地方自治團體、協會、貿易組織、合作社、合夥或其他任何主體、組織、協會、群體，不論係法人或非法人，並另包括政府、州政府或其他任何政府；
- 「國際帳戶紀錄」係指國際收支及馬來西亞國際投資部位之集合紀錄；
- 「國際收支紀錄」係指馬來西亞與其他國家、領土或其他境外地區，於本行認為適當之一定期間內，所為之經濟及金融交易紀錄；
- 「國際投資部位紀錄」係指於本行認為適當之日期，馬來西亞與其他國家、領土或其他境外地區間之金融資產及債務部位；及

- (b) the Bank may determine—
- (i) the economic and financial transactions which may be included or excluded from the record of balance of payments;
  - (ii) the external financial assets and liabilities of Malaysia which may be included or excluded from the record of international investment position; and
  - (iii) any territory or place as being in or outside Malaysia.
- (9) Any person who fails to comply with the requirements of the Bank under subsection (2), (3) or (4) commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit.

## PART XII INTERNATIONAL MATTERS

### International co-operation

79. The Bank may—

- (a) participate in any arrangement, scheme, programme or initiative with any other central banks, monetary authorities or international financial institutions or authorities outside Malaysia to promote bilateral, regional and international monetary, financial or economic co-operation; or
- (b) with the approval of the Minister on the recommendation of the Board, fund or provide financing in whole or in part for the arrangement, scheme, programme or initiative referred to in paragraph (a).

### Membership in international organizations

80. The Bank shall exercise the rights and perform the obligations arising from the—

- (a) membership of Malaysia in the International Monetary Fund under the Bretton Woods Agreements Act 1957 ;
- (b) membership of the Bank in the Islamic Financial Services Board pursuant to the Islamic Financial Services Board Act 2002 ; and
- (c) membership of Malaysia or the Bank in any international organization in respect of which provision is made in any federal law.

(b) 本行得決定——

- (i) 國際收支紀錄得包括或排除經濟及金融交易；
  - (ii) 國際投資部位紀錄得包括或排除馬來西亞對外金融資產及債務；及
  - (iii) 任何領土或地區係屬馬來西亞境內或境外。
- (9) 任何人未遵循本行依第(2)項、第(3)項及第(4)項所為之命令者，構成犯罪，經法院判決，科 1 百萬令吉以下罰金。

## 第 12 章 國際事務

### 第 79 條 國際合作

本行得——

- (a) 為促進雙邊、區域及國際間之貨幣、金融或經濟合作，參與馬來西亞境外其他中央銀行、貨幣主管機關、國際金融機構或主管機關之協定、方案、計畫或共同倡議；或
- (b) 由理事會提議，經部長許可，對(a)款之協定、方案、計畫或倡議，提供全部或部分之資金或融通。

### 第 80 條 國際組織之會籍

本行應行使下列會籍之權利，並履行其義務——

- (a) 依 1957 年布列敦森林協定法所定，馬來西亞於國際貨幣基金之會籍；
- (b) 依 2002 年伊斯蘭金融服務委員會法，本行於伊斯蘭金融服務委員會之會籍；及
- (c) 依聯邦法律規定，馬來西亞或本行於國際組織之會籍。

### **Participation in Bank for International Settlements and other international financial institutions**

81. The Bank may acquire, hold and sell shares of—

- (a) the Bank for International Settlements; and
- (b) any other international financial institution,

and exercise the rights and perform the obligations arising from its membership or participation in the Bank for International Settlements and such other international financial institution.

### **Regulations or directions to discharge Government's international obligations under United Nations Security Council Resolutions**

82. (1) Where the Security Council of the United Nations decides, in pursuance of Article 41 of the Charter of the United Nations, on measures to be employed to give effect to any of its decision and calls upon the Government of Malaysia to apply such measures, the Bank may, in relation to the measures that are within the functions and duties of the Bank, with the approval of the Minister, make regulations for, or issue directions in writing to any financial institution or class of financial institutions to enable those measures to be effectively applied.
- (2) Any financial institution for which the regulations are made or to which directions are issued under subsection (1) shall comply with the regulations or directions notwithstanding any other duty imposed on the financial institution by any contract or law or international agreement.
- (3) Any financial institution shall not, in carrying out any act in compliance with the regulations made or directions issued under subsection (1), be treated as being in breach of any such contract or law or international agreement.
- (4) Any financial institution who fails to comply with subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit.

## **PART XIII**

### **OFFICERS AND EMPLOYEES**

#### **Officers and employees of the Bank**

83. (1) The Bank may appoint such officers and employees as it considers to be necessary for the efficient conduct of the business of the Bank.

### **第 81 條 參與國際清算銀行及其他國際金融機構**

本行得取得、持有及出售下列機構之股份，並行使及履行因該等機構會籍或因參與該等機構所衍生之權利義務——

- (a) 國際清算銀行；及
- (b) 任何其他國際金融機構。

### **第 82 條 依聯合國安全理事會決議履行政府國際義務之規定或指令**

- (1) 聯合國安全理事會依聯合國憲章第 41 條，對於落實其決議所採行措施，要求馬來西亞政府適用該等措施作成決議時，本行得經部長許可，就該等措施涉及本行職權及任務範圍內，對金融機構之全部或一部，訂定規定或發布書面指令，以有效落實。
- (2) 依第(1)項訂定之規定或發布之書面指令，受規範之金融機構均應遵循，不論契約、法律或國際協定是否對該金融機構賦予其他之義務。
- (3) 金融機構遵循依第(1)項訂定之規定或發布之書面指令所為行為，不得視為違反契約、法律或國際協定。
- (4) 金融機構未遵循第(2)項之規定者，構成犯罪，得科 10 萬令吉以下罰金。

## **第 13 章 職員與聘僱人員**

### **第 83 條 本行之職員與聘僱人員**

- (1) 為有效率執行業務之需要，本行得任命職員與聘僱人員。



- (2) Officers and employees of the Bank shall hold office for such period, receive such salaries and allowances and shall be subject to such by-laws on conduct and discipline and other terms and conditions of service as may be determined by the Board.
- (3) The Bank may, with the approval of the Minister, out of the funds of the Bank establish and maintain a pension and provident fund for its officers and employees, which in this subsection includes the Governor and the Deputy Governors, and their dependants.
- (4) There shall continue to be a Bank Negara Malaysia Staff Welfare Account which shall include the amount standing to the credit of the Bank Negara Malaysia Staff Welfare Account created under subsection 15 (5) of the repealed Act immediately before the coming into operation of this Act and such other amounts as are placed to the credit of the Bank Negara Malaysia Staff Welfare Account under this Act.
- (5) The Bank Negara Malaysia Staff Welfare Account shall be utilized for such purposes conducive to the welfare of the officers and employees of the Bank, including their dependants, as may from time to time be provided in trust directions to be issued by the Board with the approval of the Minister, and such directions may provide for the manner and the procedure for the making of the grant, financing or other payments from the Bank Negara Malaysia Staff Welfare Account.

#### **Financing for housing, vehicles, studies and scholarships**

84. (1) Without prejudice to subsections 83 (4) and (5), but subject to subsections (2), (3) and (4), the Bank shall not extend financing to an officer or employee.
- (2) The Bank may extend financing to an officer or employee upon such terms and conditions as the Board may determine—
    - (a) for the purchase, erection, alteration, renovation or enlargement of a house in which he resides or intends to reside;
    - (b) to discharge a mortgage or encumbrance on such a house; or
    - (c) for the purchase of a vehicle.
  - (3) The Bank may, where the Governor is satisfied that special or compassionate circumstances exist or the purpose is appropriate, extend financing to an officer or employee on such terms and conditions as the Governor may determine, not exceeding at any one time an amount equal to three months' salary of the officer or employee.

- (2) 本行職員與聘僱人員於任職期間，受領之薪資及津貼，應受人事管理法令及理事會所訂服務條款之規範。
- (3) 本行得經部長許可，以本行資金設立並維持本行職員及聘僱人員（包括總裁、副總裁）及其眷屬之退休基金及公積金。
- (4) 馬來西亞中央銀行員工福利帳戶應持續設置。依廢止法第 15 條第(5)項開立之馬來西亞中央銀行員工福利帳戶，於本法施行前之餘額，應計入前述帳戶之餘額。
- (5) 馬來西亞中央銀行員工福利帳戶之運用，應有利於本行職員及聘僱人員，包括其眷屬之福利。理事會得經部長許可，發布信託指令，規定有關由該帳戶提供贈與、融通或其他給與之方式及程序。

#### **第 84 條 房屋、汽車與就學貸款及獎學金**

- (1) 非依第(2)項至第(4)項之規定，本行不得提供職員或聘僱人員之貸款，但不影響第 83 條第(4)項及第(5)項規定之效力。
- (2) 本行得依理事會所訂條件，提供職員及聘僱人員下列目的之貸款——
  - (a) 自住或擬自住房屋之購買、建造、改建、裝修或增建；
  - (b) 清償房屋抵押貸款或債務；或
  - (c) 購買汽車。
- (3) 總裁認為有特殊情事、急難救助或其他正當事由時，本行得依總裁核定之條件，提供職員及聘僱人員貸款，單次金額不得超過其 3 個月薪資總額。

- (4) The Bank may extend financing for studies or scholarships to any officer or employee of the Bank or any child, including a step-child or adopted child of such officer or employee, or to any suitable person, in accordance with such terms and conditions as may be approved by the Board generally or in any particular case.

#### **Remuneration not to be related to profits**

85. No salary, fee, wage, or other remuneration, or allowance, paid by the Bank shall be computed by reference to the profits of the Bank.

### **PART XIV GENERAL**

#### **Preservation of secrecy**

86. (1) Without prejudice to section 88, and except for the purpose of the performance of his duties or the carrying out of his functions or when lawfully required to do so by any court or under any law, no person who is or has been director, officer, or employee of the Bank or member of the Shariah Advisory Council or any committee appointed under this Act shall disclose to any person any information relating to the business or affairs of the Bank or of a financial institution or of a customer of the Bank or of a financial institution which he has acquired in the performance of his duties or the carrying out of his functions.
- (2) Any person who fails to comply with subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding three million ringgit or to imprisonment for a term not exceeding three years or to both.

#### **Immunity**

87. (1) No action, suit, prosecution or other proceeding shall lie or be brought, instituted, or maintained in any court or before any other authority against—

- (4) 本行得對本行職員或聘僱人員、其子女，包括繼子女及養子女，或其他適當之人，依理事會對通案或個案許可之條件，提供就學貸款或獎學金。

#### **第 85 條 薪酬不得與獲利相關**

本行支付之薪資、費用、工資或其他報酬及津貼，不以本行獲利作為計算之參考。

### **第 14 章 一般性規定**

#### **第 86 條 保密**

- (1) 在不影響第 88 條規定效力之前提下，除為履行義務或行使職權、法院依法要求或依法律規定外，現任或曾任本行理事、職員、聘僱人員、伊斯蘭諮詢委員會成員及其他依本法任命之委員，不得向任何人揭露其因履行義務或行使職權所知悉，關於本行或金融機構之業務或事務，或本行或金融機構客戶之業務或事務有關資訊。
- (2) 違反第(1)項規定者，構成犯罪，科 3 百萬令吉以下罰金，或處或併處 3 年以下有期徒刑。

#### **第 87 條 免責**

- (1) 下列人員依本法所為之行為或陳述、不行為或不為陳述，或所作成之書面命令、指示、通知或其他發布事項，如係基於誠信原則，任何人不得對其提出訴訟、起訴或其他向法院或其他權責機關（構）提起之程序——

- (a) any officer or employee of the Bank;
  - (b) any person lawfully acting on behalf of the Bank, or on behalf of any such officer or employee, in his capacity as a person acting on such behalf; or
  - (c) any person appointed pursuant to this Act, for or on account of, or in respect of, any act done or statement made or omitted to be done or made, or purporting to be done or made, in pursuance or in execution of, or intended pursuance or execution of, this Act, any order in writing, direction, instruction, notice or other thing issued under this Act: Provided that such act or such statement was done or made, or was omitted to be done or made, in good faith.
- (2) In this section, the expression "officer" includes the Governor, the Deputy Governors and the other directors.

#### Power to report suspected offence

- 88.(1) Where the Bank in the course of the exercise of any of its powers, or the discharge of any of its duties, or the performance of any of its functions, under this Act, or under any law enforced by the Bank referred to in the Second Schedule or other written law, suspects that any person has committed any offence under this Act, or any of the Acts referred to in the Second Schedule, or any other written law, it shall be lawful for the Bank to give information of such commission to a police officer in charge of a police station or to any other police officer, or to convey any or all information in relation to such offence to any financial institution or other person affected by such offence, or to any authority or person having power to investigate under, or enforce, the provision of the law under which the offence is suspected by the Bank to have been committed.
- (2) Subsection (1) shall have full force and effect, notwithstanding anything inconsistent with, or contrary to it, in the Act or any law enforced by the Bank referred to in the Second Schedule or in any other written law.

#### Power to compound

- 89.(1) The Governor may, with the consent in writing of the Public Prosecutor, offer in writing to compound any offence punishable under this Act or any regulations made under this Act, by accepting from the person reasonably suspected of having committed the offence, such sum of money as he thinks fit not exceeding the amount of the maximum fine to which that person would have been liable if he had been convicted of the offence, within such time as may be specified in the offer.
- (2) An offer under subsection (1) may be made at any time after the offence has been committed, but before any prosecution for it has been instituted, and if the amount specified in the offer is not paid within the time specified in the offer or within such extended period as the Governor may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

- (a) 本行職員或聘僱人員；
  - (b) 依法代表本行、本行職員或聘僱人員之人，於其代理權限範圍內；或
  - (c) 依本法任命之人。
- (2) 本條之「職員」包括總裁、副總裁及其他理事。

### 第 88 條 告發犯罪嫌疑之職權

- (1) 本行依本法、第 2 附件所載由本行執行之法律或其他成文法規定，於行使職權、履行義務或執行業務過程中，發現有觸犯本法、第 2 附件所載法律或其他成文法所定罪行之嫌犯時，得向警察局主管或其他警官，提供犯罪相關資訊，或將犯罪資訊之全部或一部，通知受犯罪影響之金融機構、人士，或其他依法對觸犯該項罪刑有調查權或執法權之機關或人員。
- (2) 不論本法、第 2 附件所載由本行執行之法律，或其他成文法有無不一致或相反之規定，第(1)項規定應具有完整之效力。

### 第 89 條 和解權

- (1) 觸犯本法或本法授權規定，有得予處罰之犯罪嫌疑人，總裁經檢察官之書面同意時，得對其提出書面和解要約；於該要約所定期間內，犯罪嫌疑人繳交不超過其犯該罪最高可判處之罰金，經總裁認為適當者，得成立和解。
- (2) 第(1)項之和解要約，得於犯罪行為作成後至起訴前提出。相對人未於和解要約所定之期間，或本行總裁核可之延長期間內支付和解金額者，得隨時起訴之。

- (3) Where an offence has been compounded under subsection (1), no prosecution shall be instituted in respect of the offence against the person to whom the offer to compound was made, and any document or thing seized in connection with the offence may be released by the Bank, subject to such terms and conditions as the Bank thinks fit.
- (4) All sums of money accepted under subsection (1) shall be paid into the Federal Consolidated Fund.

### Prosecution

90. No prosecution in respect of any offence under this Act shall be instituted except by or with the written consent of the Public Prosecutor.

### Offence by body corporate

91. (1) If a body corporate commits an offence under this Act or any regulations made under this Act, any person who at the time of the commission of the offence was a director, chief executive officer, chief operating officer, manager, secretary or other similar officer of the body corporate or was purporting to act in any such capacity or was in any manner or to any extent responsible for the management of any of the affairs of the body corporate or was assisting in such management—
- (a) may be charged severally or jointly in the same proceedings with the body corporate; and
- (b) if the body corporate is found to have committed the offence, shall be deemed to have committed that offence unless, having regard to the nature of his functions in that capacity and to all circumstances, he proves—
- (i) that the offence was committed without his knowledge, consent or connivance; and
- (ii) that he had taken all reasonable precautions and exercised due diligence to prevent the commission of the offence.
- (2) If any person would be liable under this Act to any punishment or penalty for his act, omission, neglect or default, he shall be liable to the same punishment or penalty for every such act, omission, neglect or default of any employee or agent of his, or of the employee of the agent, if the act, omission, neglect or default was committed—

- (3) 犯罪行為依第(1)項達成和解後，不得對和解要約之相對人就該犯罪行為提起告訴；因該犯罪被扣押之文件或物品，於本行認為條件適當時發還。
- (4) 依第(1)項收取之和解金，應全數撥入聯邦綜合基金。

### 第 90 條 起訴

觸犯本法規定者，非由檢察官起訴或經其書面同意，不得起訴。

### 第 91 條 法人犯罪

- (1) 法人犯本法或本法授權命令所定之罪，該法人當時董事、執行長、營運長、經理人、秘書長及其他職務相當之人、實質上行使相當職權之人或其他對法人事務負管理職責或協助管理之人——
- (a) 得與法人於同一訴訟程序中合併起訴，或分別起訴；及
- (b) 法人如經認定犯罪，上列人員視為犯相同之罪，除非依其職務性質，且在所有情況下，其能證明——
- (i) 其對該犯罪不知情、無同意或縱容之情形；及
- (ii) 其已合理防範，且採行適當措施以防止犯罪之發生。
- (2) 任何人因其行為、不行為、疏忽或違約，依本法應受懲處或罰款者，對於其受僱人或代理人，以及其代理人之受僱人於下列情形之犯罪，應受相同處罰——

- (a) by that person's employee in the course of his employment;
- (b) by the agent when acting on behalf of that person; or
- (c) by the employee of the agent in the course of his employment by the agent or otherwise on behalf of the agent acting on behalf of that person.

#### **The Bank may be represented by officer or employee of the Bank in civil proceedings**

92. Notwithstanding the provisions of any written law—

- (a) in any civil proceedings by or against the Bank; or
- (b) in any other civil proceedings in which the Bank is required or permitted by the court to be represented, or to be heard, or is otherwise entitled to be represented or to be heard,

any officer or employee of the Bank authorized by the Governor for the purpose, may, on behalf of the Bank, institute such proceedings or appear as an advocate therein and may make all appearances and applications and do all acts in respect of such proceedings on behalf of the Bank.

#### **Fees and charges**

93. Subject to subsection 69 (2), the Bank may impose such fees or charges as it deems appropriate for the services provided by the Bank or the Shariah Advisory Council in relation to its functions under this Act or any other written law.

#### **Power to make regulations**

94. (1) The Bank may, with the approval of the Minister, make regulations for the better carrying out of the objects and purposes of this Act.
- (2) Without prejudice to the generality of subsection (1), regulations may be made—
- (a) to give effect to section 78;
  - (b) to provide for administrative penalties pursuant to section 98;
  - (c) to provide that any act or omission in contravention of any provision of the regulations shall be an offence; and
  - (d) to provide for the imposition of penalties for any offence under the regulations which shall not exceed one million ringgit or to imprisonment for a term not exceeding one year or to both.

- (a) 受僱人在其任職期間；
- (b) 代理人以本人名義為行為時；或
- (c) 代理人之受僱人在其任職期間所為之代理行為，或代理該代理人以本人名義所為行為。

#### **第 92 條 職員或聘僱人員得於民事訴訟程序代表本行**

不論成文法之規定，經總裁授權之職員或聘僱人員，得以本行名義進行下列程序或擔任訴訟代理人，並得代表本行出庭提出聲請及所有與該程序相關之行為——

- (a) 本行於民事程序為原告或被告；或
- (b) 本行經法院要求或允許，或經授權於其他民事程序出席或聽證。

#### **第 93 條 收費**

除第 69 條第(2)項規定外，本行或伊斯蘭諮詢委員會提供與本法或其他成文法所定本行職掌相關之服務，本行認為適當者，得收取費用。

#### **第 94 條 訂定法規之權力**

- (1) 為達成本法目標及目的，本行經部長同意，得訂定法規。
- (2) 在不影響第(1)項一般性規定效力之前提下，本行得訂定下列法規——
  - (a) 有助於達成第 78 條者；
  - (b) 第 98 條之行政罰；
  - (c) 違反何種規定之行為或不行為構成犯罪；及
  - (d) 對違反本行法規者，明定科 1 百萬令吉以下罰金，或處或併處 1 年以下有期徒刑。

**Power to issue guidelines, etc.**

95. The Bank may, for—

- (a) giving effect to its objects and carrying out its functions or conducting its business or affairs;
  - (b) giving full effect to any provision of this Act; or
  - (c) the further, better or more convenient implementation of the provisions of this Act,
- generally in respect of this Act, or in respect of any particular provision of this Act, or generally in respect of the conduct of the Bank, issue such guidelines, by-laws, circulars, standards or notices as the Bank may consider necessary or expedient.

**Exemptions**

96. The Minister may, on the recommendation of the Bank and provided that it is not inconsistent with the objects and functions of the Bank, by order published in the *Gazette*, exempt any particular person or any class, category or description of persons, from all or any of the provisions of this Act, for such duration, and subject to such conditions, as the Minister may specify in the order.

**Power to amend Schedule**

97. The Minister may, on the recommendation of the Bank, from time to time by order published in the *Gazette* amend any provision in the First, Second or Third Schedule and upon such publication, such provision as amended, shall come into full force and effect and shall be deemed to be an integral part of this Act as from the date of such publication, or from such later date as may be specified in the order.

**Power to impose administrative penalty**

98. (1) The Bank may, by regulations made under section 94, impose administrative penalties on any person for any delay in complying with any directive, guideline, standard, circular, specification, order or notice issued by the Bank in respect of any provision of this Act.
- (2) The Bank shall, before making a decision to impose any administrative penalty on any person, serve on him a written notice calling on him to show cause why the administrative penalty should not be imposed on him.
- (3) If a satisfactory explanation is not received within fourteen days from the date of the written notice, the Bank may impose an administrative penalty in an amount not exceeding five hundred ringgit for each day of non-compliance and such amount shall not in total exceed the sum of five thousand ringgit.

**第 95 條 發布指引之權力**

本行於認為必要或適當時，得就本法、本法特定條文或本行之行為發布指引、細則、通函、標準或通知——

- (a) 為達成本行目標，執行本行職權或辦理業務或事務；
- (b) 使本法任何規定充分發揮作用；或
- (c) 更深入、順暢或便利地執行本法規定。

**第 96 條 豁免**

部長得依本行建議，在不違反本行目標及職權範圍內，發布命令登載於政府公報，於命令所定期間及條件，對特定人或群體、特定領域或特定階層之人，免除本法全部或部分條文之適用。

**第 97 條 修正附件之權力**

部長得依本行建議，發布命令登載於政府公報，修正第 1、第 2 及第 3 附件，修正之規定於登載公報時，發生效力，並自登載公報之日或該命令指定之較晚期日起，視為本法之一部分。

**第 98 條 行政裁罰之權力**

- (1) 本行得依第 94 條訂定之法規，對延遲遵循本行依本法所定之指令、指引、標準、通函、規格、命令或公告者，處行政罰。
- (2) 本行決定處行政罰前，應以書面通知相對人陳述意見。
- (3) 書面通知後 14 日內未接獲相對人之充分意見，本行得對其未遵循本行規定之行為，按日處 500 令吉以下罰鍰，但累計總額不得超過 5000 令吉。

## PART XV REPEAL, SAVINGS AND TRANSITIONAL

### Repeal

99. The Central Bank of Malaysia Act 1958 is repealed.

### Savings and transitional

100. Notwithstanding the repeal of the Central Bank of Malaysia Act 1958 under section 99—

- (a) Part III of the repealed Act shall continue to remain in full force and effect until such date to be appointed by the Minister in accordance with subsection 1 (2) for the coming into operation of Part VIII of this Act;
- (b) subparagraphs 30 (1)(oo)(ii), (iii), (iiia), (iv) and (v) of the repealed Act shall continue to remain in full force and effect until such date to be appointed by the Minister by notification in the Gazette for the repeal to take effect;
- (c) the capital of the Bank under the repealed Act which on the coming into operation of this Act stands at one hundred million ringgit of which the amount of twenty million ringgit being the capital of the Bank which was subscribed and paid up by the Government under subsection 6 (2) of the repealed Act on the establishment of the Bank and the additional amount of eighty million ringgit which was subsequently subscribed and paid up by the Government pursuant to subsection 6 (3) of the repealed Act shall continue to remain as the capital of the Bank under this Act;
- (d) the person holding office under the repealed Act immediately before the coming into operation of this Act as—
  - (i) Governor;
  - (ii) Deputy Governor;
  - (iii) director; or
  - (iv) officer or employee of the Bank,
 shall be deemed to have been appointed under this Act and shall continue to hold such office for the unexpired period of the term of office of such person under the repealed Act at the time of the repeal of that Act under section 99;

## 第 15 章 廢止、保留及過渡條款

### 第 99 條 廢止

1958 年馬來西亞中央銀行法廢止之。

### 第 100 條 保留及過渡條款

雖然 1958 年馬來西亞中央銀行法依第 99 條廢止——

- (a) 於部長依第 1 條第(2)項指定本法第 8 章生效日之前，廢止法第 3 章之規定仍繼續有效；
- (b) 於部長指定廢止之日登載於政府公報公告生效前，廢止法第 30 條第(1)項(oo)款(ii)目、(iii)目、(iiia)目、(iv)目及(v)目仍繼續有效；
- (c) 本法施行前，依廢止法實收之本行資本額 1 億令吉，其中本行設立時依廢止法第 6 條第(2)項，由政府認購及撥付之 2 千萬令吉，以及其後依廢止法第 6 條第(3)項，由政府額外認購及撥付之 8 千萬令吉，依本法規定仍為本行資本；
- (d) 本法施行前，依廢止法擔任下列職務之人，於該法依第 99 條廢止後，視為已依本法任命並繼續擔任原本職務，至其依廢止法規定之任期屆滿為止——
  - (i) 總裁；
  - (ii) 副總裁；
  - (iii) 理事；或
  - (iv) 本行之職員及聘僱人員。

- (e) the Head Office and any branches opened, or any agent, correspondent or attorney appointed under the repealed Act shall be deemed to be opened and appointed under or in accordance with this Act;
- (f) the Syariah Advisory Council established and its members appointed under the repealed Act shall be deemed to be established and appointed, as the case may be, under or in accordance with this Act;
- (g) currency notes and coins issued under the repealed Act and which are legal tender immediately before the coming into operation of this Act shall continue to be legal tender in Malaysia at their face value as provided in section 24 of the repealed Act and every contract, sale, payment, bill, note, instrument and security for money and every transaction, dealing, matter and thing relating to money or involving the payment of, or the liability to pay, any money which but for this paragraph would have been made, executed, entered into, done and had for in, and in relation to currency notes and coins issued under the repealed Act shall be deemed to be validly made, executed, entered into, done and had for in and in relation to currency notes and coins issued under this Act;
- (h) currency notes and coins issued under the repealed Act which have ceased to be legal tender shall not be affected by this Act and any obligation of the Bank relating to the currency notes and coins under the repealed Act shall continue to be in force under this Act;
- (i) subsidiary legislation and any approval, direction, decision, exemption, trust directions, recommendation, specification and other executive act made or done under the repealed Act and in force or having effect immediately before the coming into operation of this Act, shall be deemed to have been made or done under the corresponding provisions of this Act, and shall continue to remain in full force and effect in relation to the person to whom it applied until amended or replaced;
- (j) any directive, notice or circular issued, or any act or thing done, by the Bank in relation to Islamic financial business, or any ruling made by the Syariah Advisory Council established under section 16B of the repealed Act before the coming into operation of this Act shall be deemed to have been validly issued, done or made under this Act and shall continue to remain in full force and effect in relation to the person to whom it applied until amended or replaced;

- (e) 依廢止法設立之總行、分行，任命之代理人、特派員、受任人，視為已依本法設立及任命；
- (f) 依廢止法設立及任命之伊斯蘭諮詢委員會及其成員，視為已依本法設立及任命；
- (g) 本法施行前，依廢止法發行且具有法償效力之鈔券或硬幣，於本法施行後，依廢止法第 24 條規定，在馬來西亞境內，依其面額仍具法償效力；個別契約、銷售、帳單、本票、票據，有對價關係之證券及質押，與金錢相關之買賣、交易、事務或物品，以及上述各事項之後續支付、債務、金錢之給付、執行及締結等，與依廢止法發行之鈔券或硬幣有關者，視為有效作成、執行及締結，並與依本法發行之鈔券或硬幣有關。
- (h) 依廢止法發行之鈔券及硬幣，已失其法償效力者，不受本法之影響。本行依廢止法就該鈔券及硬幣有關之義務，依本法仍有效；
- (i) 廢止法之輔助法令、許可、指示、決定、豁免、信託指令、建議、規定及其他依法所為之執行行為，於本法施行後，視為已依本法相關規定訂定或作成，於修正或取代前，對適用對象繼續有效力；
- (j) 本法施行前，本行就有關伊斯蘭金融事務所發布指令、公告或通函，或作成之行為，或依廢止法第 16B 條設立之伊斯蘭諮詢委員會作成之裁示，視為依本法有效作成，於修正或取代前，對受規範對象繼續有效；



- (k) any securities issued by the Bank under—
  - (i) subparagraph 30 (1)(bb)(i) of the repealed Act and any right or liability relating to the securities shall continue under the repealed Act until the obligation is discharged; and
  - (ii) subparagraph 30 (1)(bbb)(i) of the repealed Act and any right or liability relating to the securities shall be deemed to continue to be issued under or in accordance with this Act;
- (l) all transactions, dealings, contracts, powers of attorney or arrangements lawfully executed or entered into and all business lawfully done, under or in accordance with the repealed Act with any other person shall be deemed to have been lawfully and validly executed, entered into or done, under or in accordance with this Act, and accordingly, any right or liability under such transaction, dealing or business existing immediately before the coming into operation of this Act, shall be deemed to continue to be lawful and valid under this Act;
- (m) nothing shall affect any person's liability to be prosecuted or punished for offences committed under the repealed Act immediately before the coming into operation of this Act;
- (n) any pending legal proceedings, criminal prosecution, investigation or disciplinary proceedings under the repealed Act shall be continued under the repealed Act;
- (o) any body corporate, clearing house, credit bureau or any systems established or operated by the Bank under the repealed Act shall be deemed to have been established or operated under or in accordance with this Act;
- (p) any securities or shares subscribed, acquired or held by the Bank under the repealed Act shall be deemed to have been lawfully and validly subscribed, acquired or held by the Bank under or in accordance with this Act;
- (q) any trust deed or deed issued or executed under the repealed Act shall be deemed to have been lawfully and validly issued or executed under or in accordance with this Act;
- (r) any reserve held by banking institutions or Islamic banks at the Bank pursuant to paragraph 37 (1)(c) or (d) of the repealed Act, as the case may be, shall be deemed to be held under or in accordance with this Act;
- (s) any obligation pursuant to any grants, loans or other payments made by the Bank under the Bank Negara Malaysia Staff Welfare Account established under subsection 15 (5) or any scholarships granted by the Bank under section 49 of the repealed Act shall continue to remain in force under the repealed Act until the obligation is discharged;

- (k) 本行依下列規定發行之證券——
  - (i) 依廢止法第 30 條第(1)項(bb)款(i)目發行，與該證券有關之權利義務，於債務清償前仍存續；及
  - (ii) 依廢止法第 30 條第(1)項(bbb)款(i)目發行，與該證券有關之權利義務，視為已依本法發行；
- (l) 依廢止法與他人作成之交易、往來、契約、授權書、其他合法作成、締結及執行之約定及所有合法業務，視為已依本法合法有效作成，且本法施行前該等交易或業務所生之權利，依本法規定視為持續合法有效；
- (m) 本法施行前觸犯廢止法規定，應受起訴或處罰之行為人，其責任不受影響；
- (n) 依廢止法未決之法律程序、刑事訴訟、偵查、或懲戒程序，依廢止法規定應繼續進行；
- (o) 依廢止法設立或營運之法人、結算機構、信用局或系統，視為已依本法設立或營運；
- (p) 本行依廢止法認購、取得或持有之證券、股份，視為已依本法認購、取得或持有；
- (q) 依廢止法發行或執行之信託契據或證書，視為已依本法合法有效發行或執行；
- (r) 銀行機構或伊斯蘭銀行依廢止法第 37 條第(1)項(c)款或(d)款持有，存放於本行之準備，視為依本法之規定持有；
- (s) 依廢止法第 15 條第(5)項設立之馬來西亞中央銀行員工福利帳戶，本行自該帳戶支付之贈與、貸款或其他給與，及依廢止法第 49 條核發之獎學金，依廢止法繼續有效，直到債務清償為止；

- (t) any loan provided by the Bank under section 49 of the repealed Act shall continue to remain in force under the repealed Act until the loan is settled;
- (u) the General Reserve Fund established under section 7 of the repealed Act, any pension and provident fund established under subsection 15 (3) of the repealed Act and the Bank Negara Malaysia Staff Welfare Account established under subsection 15 (5) of the repealed Act shall be deemed to have been established under or in accordance with this Act and any moneys standing in or due to be paid to the funds shall be transferred to and be deemed to be part of the General Reserve Fund, pension and provident fund and Bank Negara Malaysia Staff Welfare Account, as the case may be, established under this Act;
- (v) any movable, immovable property and asset purchased, acquired, leased or held by the Bank under the repealed Act shall be deemed to have been purchased, acquired, leased or held under or in accordance with this Act;
- (w) any reference to the repealed Act in any written law shall be construed as a reference to this Act and any reference to any specific provision of the repealed Act in any written law shall be construed as a reference to a provision of this Act which corresponds as nearly as may be to such specific provision;
- (x) any membership of the Bank in any organization or to any committee or commission appointed by the Government or participation in any bilateral, regional or international co-operation or scheme under the repealed Act, as the case may be, shall continue to be in force under this Act for the unexpired period of the membership or participation;
- (y) any act required to be done under the repealed Act shall be deemed to be required to be done under or in accordance with this Act; and
- (z) any other right, benefit, privilege, obligation or liability acquired, accrued or incurred under the repealed Act, including any obligation to preserve secrecy, shall not be affected by this Act and shall continue to remain in force as if this Act had not been enacted.

- (t) 本行依廢止法第 49 條承作之貸款，依廢止法繼續有效，直到清償為止；
- (u) 依廢止法第 7 條設立之普通公積金，第 15 條第(3)項設立之退休基金及公積金，以及第 15 條第(5)項設立之馬來西亞中央銀行員工福利帳戶，應視為已依本法設立，各該帳戶餘額及應支付予各該帳戶之款項，應依具體情形移轉，並視為依本法設立之普通公積金、退休基金、公積金及馬來西亞中央銀行員工福利帳戶之一部分；
- (v) 本行依廢止法購買、取得、出租或持有之動產、不動產及其他資產，視為已依本法購買、取得、出租或持有；
- (w) 成文法援引廢止法時，視為援引本法；援引廢止法之特定條文時，視為援引本法與該特定條文相近之條文；
- (x) 廢止法所定本行於個別組織之會籍，或政府任命本行擔任個別委員會之成員，或參加雙邊、地區性或國際間共同合作計畫者，本行之會籍及參與依本法繼續有效，至任期或計畫時程屆滿；
- (y) 依廢止法應為之行為，視為依本法應為之行為；及
- (z) 依廢止法取得、累積或產生之權利、利益、特殊權益、義務或債務，包括保密義務，不受本法影響，且應繼續有效。

**FIRST SCHEDULE**  
[Sections 21 and 23]

1. Unless otherwise provided in this Act, the Board shall appoint any member to act as a chairman to preside over the meetings of the committee.
2. A member of any of the committees may at any time resign his office by giving a written notice of at least thirty days to the Bank.
3. The provision on quorum and frequency of meetings of the committees shall be as follows:

Committee (1)	Quorum (2)	Frequency of meetings (3)
Board Governance Committee	Not less than two-thirds of the members of the Board Governance Committee	At least two times a year
Board Audit Committee	Not less than two-thirds of the members of the Board Audit Committee	At least four times a year
Board Risk Committee	Not less than two-thirds of the members of the Board Risk Committee	At least two times a year
Monetary Policy Committee	Not less than two-thirds of the members of the Monetary Policy Committee of whom two must be the Governor (or in the absence of the Governor, the Deputy Governor designated by the Board under subsection 15 (7)) and a Deputy Governor	At least six times a year

4. Notwithstanding column (3) of paragraph 3, the committees shall also meet as and when required or directed by the chairman.
5. The chairman may authorize a member to use live video, television links or other appropriate communication or multimedia facilities to participate in any meeting of the committee where, prior to the meeting, the member, by notification to the chairman, has requested for such authorization and such member shall be treated as being present for the meeting.
6. Except for the Monetary Policy Committee established under section 23, a resolution in writing, signed by all of the members of the other committees shall be as valid and effectual as if it had been passed at a meeting of any of the committees duly convened and held and any such resolution may consist of several documents in like form, each signed by one or more members.
7. Unless otherwise provided in this Act, any committee may act notwithstanding any vacancy in its membership and its proceedings shall not be invalidated by—
  - (a) the absence of any member;
  - (b) any defect afterwards discovered in the appointment or qualification of any member or the constitution of the committee;

**第 1 附件**

〔第 21 條及第 23 條〕

1. 除本法另有規定外，理事會應指定理事擔任主席，主持委員會會議事。
2. 委員得隨時辭職，但應於 30 日前以書面通知本行。
3. 各委員會之法定開會人數及開會頻率如下：

委員會(1)	法定開會人數(2)	開會頻率(3)
治理委員會	2/3 以上委員	1 年至少 2 次
審計委員會	2/3 以上委員	1 年至少 4 次
風險委員會	2/3 以上委員	1 年至少 2 次
貨幣政策委員會	2/3 以上委員，並包括總裁（總裁缺席時，應由理事會依第 15 條第(7)項指定之副總裁出席）及 1 位副總裁	1 年至少 6 次

4. 不論第 3 點第(3)欄如何規定，當主席召集會議時，委員會即應開會。
5. 委員得於會前請求主席同意其使用直播視訊、電視連線、其他適當之傳輸方式或多媒體設施，參加委員會會議。經主席同意並以前開方式參與者，視為親自出席。
6. 除第 23 條之貨幣政策委員會外，經各委員簽署之書面決議，視為經合法召開之委員會會議決議，該書面決議得由 1 位以上委員分別簽署之類似格式文件組成。
7. 除非本法另有規定，委員出缺時，委員會仍得行使職權，已進行之程序不因下列情事而無效——
  - (a) 委員之缺席；
  - (b) 事後發現委員之資格或任命有瑕疵，或委員會之組成有瑕疵；

- (c) any omission, defect or irregularity in the convening or conduct of a meeting; or
- (d) the presence or participation of a person who is not a member of the committee.
- 8. A committee may determine for any particular reason or on a particular occasion that the decisions of the committee would be by vote.
- 9. Any advice given by any member, the deliberations and decisions of the meetings of the committees including any dissenting views of members or any result of any vote under paragraph 8 shall be recorded in the minutes of the meetings. The deliberations, proceedings and the decisions of the committees shall be confidential and except as otherwise provided in section 86 shall not be disclosed to any person outside the committee.
- 10. The chairman may, with the concurrence of all the members of the committee, invite any officer or person to attend and participate in the discussions of the committee.
- 11. A committee may, if it deems necessary in carrying out its functions, call upon any officer or person to provide any information or document which is relevant to the functions of such committee.
- 12. A committee may appoint an officer to act as secretary to the committee.
- 13. The Board may make further by-laws on the procedures relating to the meetings of the committees.

## SECOND SCHEDULE

### [Section 28]

- 1. Islamic Banking Act 1983
- 2. Takaful Act 1984
- 3. Banking and Financial Institutions Act 1989 [
- 4. Insurance Act 1996
- 5. Money-Changing Act 1998
- 6. Anti-Money Laundering and Anti-Terrorism Financing Act 2001
- 7. Development Financial Institutions Act 2002
- 8. Payment Systems Act 2003

## THIRD SCHEDULE

### [Section 36]

### Interpretation

- 1. In this Schedule, unless the context otherwise requires—

- (c) 會議之召集及開會程序有遺漏、瑕疵或不法之情事；或
- (d) 非委員會之人員出席或參與會議。

- 8. 委員會得決定於何種情形或基於何種理由，以投票作成決定。
- 9. 委員之意見、委員會之審議及決定，包括委員之反對意見或依第 8 點投票之結果，應記載於會議紀錄。委員會之審議、議事程序及決定，應予保密，除第 86 條另有規定外，不得向委員會以外之人揭露。
- 10. 主席得經全體委員同意，邀請職員或其他人士出席或參與委員會之討論。
- 11. 委員會認對其執行職務有必要時，得邀請職員或任何人士提出有關該會業務之資訊或文件。
- 12. 委員會得任命職員為該會秘書。
- 13. 理事會得對委員會之會議程序為進一步之規定。

## 第 2 附件

### [ 第 28 條 ]

- 1. 1983 年伊斯蘭銀行法
- 2. 1984 年回教保險法
- 3. 1989 年銀行及金融機構法
- 4. 1996 年保險法
- 5. 1998 年貨幣兌換法
- 6. 2001 年洗錢及資恐防制法
- 7. 2002 年金融機構發展法
- 8. 2003 年支付系統法

## 第 3 附件

### [ 第 36 條 ]

### 1. 用詞解釋

除非文義另有所指，本附件之——

"claim" means any claim, defence, counterclaim, set-off, legal or other proceeding, action, equity or equitable interest of any kind by an obligor or any third party against a transferor, or in respect of any business, asset or liability, whether present or future, or whether vested or contingent; "disclosed claim" means any specific claim disclosed by the transferor to the transferee in writing prior to the vesting date;

"disclosed obligation" means an obligation or liability owed to the obligor by the transferor under or with respect to an asset and which obligation or liability is disclosed by the transferor to the transferee in writing prior to the vesting date;

"interest in land" means—

(a) any interest in land, whether registered or registrable, including one to which the Strata Titles Act 1985 applies and which is capable of being transferred under Part Fourteen of the National Land Code or relating to the State of Sabah, Part V of the Land Ordinance or relating to the State of Sarawak, Part VII of the Land Code;

(b) any Registrar's caveat, lien holder's caveat or other caveat; or

(c) any other rights or entitlements relating to land;

"obligor" means any person who owes a duty or obligation of any nature, whether present or future, or whether vested or contingent, to the transferor under or with respect to an asset, including without limitation, an obligor under any financing or security arrangement or other chose-in-action;

"registered interest" means any right or interest—

(a) in a charge to which section 108 of the Companies Act 1965 applies and is duly registered in accordance with that section;

(b) in land which is duly registered under the Strata Titles Act 1985, the National Land Code, the Land Ordinance relating to the State of Sabah or the Land Code relating to the State of Sarawak;

(c) in a ship which is duly registered under the Merchant Shipping Ordinance 1952; or

(d) duly registered under any other law or under foreign law;

"Registration Authority" includes—

(a) the registrar of any court;

(b) the Registrar of Companies as designated under subsection 7 (1) of the Companies Act 1965;

(c) the Registrar as defined under section 5 of the National Land Code, the Registrar as defined under section 4 of the Land Ordinance relating to the State of Sabah or the Registrar under the Land Code relating to the State of Sarawak, as the case may be;

「債權」指對債務人之請求權、抗辯權、反訴、抵銷、法律或其他程序、訴訟、資產或公平利益，讓與人對第三人有關其業務、資產與負債之上開權利或利益等，不論係現在或未來，確定或未確定者；

「已揭露債權」指讓與人於移轉日前書面向受讓人揭露之債權；

「已揭露債務」指讓與人所負債務或義務，並於移轉日前書面向受讓人揭露者；

「土地利益」指——

(a) 對土地之利益，不論登記與否，包括適用 1985 年地層權利法之利益、得依國家土地法第 14 章移轉之利益，及沙巴州土地條例第 5 章或沙勞越州土地法第 7 章規定之利益；

(b) 土地登記官之通知，包括留置權人通知或其他通知；或

(c) 其他關於土地之權利；

「債務人」指對讓與人負有與資產相關債務之人，不論債務之性質、現在或未來之債務，法定債務或任意債務。債務人包括但不限於融通債務人、擔保債務人或其他權利動產之債務人；

「登記利益」指對下列標的之權利或利益——

(a) 適用 1965 年公司法第 108 條並依該法登記之擔保；

(b) 依 1985 年地層權利法、國家土地法、沙巴州土地條例或沙勞越州土地條例登記之土地；

(c) 依 1952 年商船條例登記之船舶；或

(d) 依其他國內法或國外法登記者；

「登記機關」包括——

(a) 法院之登記處；

(b) 依 1965 年公司法第 7 條第(1)項指定之公司登記處；

(c) 國家土地法第 5 條、沙巴州土地條例第 4 條或沙勞越州土地法所定之登記處；

- (d) the registrar of Malaysian ships appointed under subsection 14 (1) of the Merchant Shipping Ordinance 1952 and includes the Registrar General of Ships as appointed under subsection 14 (1) of the Ordinance; or
  - (e) a central depository, an authorized depository agent or any person maintaining a register or record of ownership, interest or security;
- "transferee" has the same meaning assigned to it in subsection 36(18);  
 "transferor" has the same meaning assigned to it in subsection 36(18);  
 "vesting date" means the date stated on a vesting order as the date on which any business, assets, liabilities, or shares or other capital instruments vest or are deemed to vest in the transferee;  
 "vesting order" means an order made under subparagraph 32 (1)(c)(iii) and includes a replacement vesting order made under paragraph 11 of this Schedule.

#### **Vesting order**

2. (1) Where the Bank makes a vesting order, the vesting order shall be in accordance with this Schedule.
- (2) A vesting order may be in such form as determined by the Bank from time to time and shall take effect in accordance with this Schedule.
  - (3) A vesting order stating that any business, assets, liabilities, shares or other capital instruments to be vested shall be conclusive evidence of such vesting as of the vesting date.
  - (4) Where a vesting order is made, the transferor and transferee, as the case may be, shall not be required to—
    - (a) notify or obtain the approval of their shareholders or creditors in a general meeting or otherwise notwithstanding any contract or law including without limitation sections 132C, 132D and 132E of the Companies Act 1965 or anything in their constituent documents; or
    - (b) make a take-over offer or be required to acquire the shares of other shareholders of the transferor or its borrowers notwithstanding anything to the contrary in any contract or law.
  - (5) Subject to subsection 32(1A), a vesting order may restrict or prevent the termination of any agreements or transactions in accordance with their terms subject to such conditions as may be imposed in the vesting order.
  - (5A) Where a vesting order is made and a qualified financial agreement is transferred pursuant to such order, the transferee shall assume all rights and obligations under any qualified financial agreement of the transferor from whom such agreement was transferred.
  - (5B) Where the qualified financial agreement is transferred to a transferee, the enforcement by the parties of their rights under such qualified financial agreement shall be in accordance with the terms of such agreement as if the transferee had always been a party to such agreement.
  - (5C) Where the qualified financial agreement of the transferor is transferred to a transferee and where a person is a counterparty to two or more qualified financial transactions under a qualified financial agreement with the transferor, all or none of such qualified financial transactions shall be transferred to the transferee.

- (d) 1952 年商船條例第 14 條第(1)項指定之馬來西亞船舶登記處，包括依第 14 條第(1)項指定之船舶總登記處；或

- (e) 集中保管人、經許可之集中保管代理人或其他經營登記處或記錄產權、擔保利益之人。

「受讓人」指本法第 36 條第(18)項所定之受讓人；

「讓與人」指本法第 36 條第(18)項所定之讓與人；

「移轉日」指依移轉命令將業務、資產、負債、股份或其他資本工具移轉受讓人之日；

「移轉命令」指依第 32 條第(1)項(c)款(iii)目作成之命令，並包括依本附件第 11 點作成之取代命令。

#### **2. 移轉命令**

- (1) 本行作成之移轉命令，其內容應符合本附件規定。
- (2) 移轉命令之格式由本行訂定，並依據本附件規定生效。
- (3) 記載移轉業務、資產、負債、股份或其他資本工具之命令，對於移轉日之移轉具有完全且充分之證據力。
- (4) 移轉命令作成時，不得要求讓與人與受讓人——
  - (a) 於股東會或其他場合，取得股東或債權人之同意，不論契約或法律如何約定或規定，包括但不限於 1965 年公司法第 132C 條、132D 條及第 132E 條之規定及其他法定文件之約定；或
  - (b) 提出收購之要約，取得其他股東或借款人之股份，不論契約或法律有無相反之約定或規定。
- (5) 依第 32 條第(1A)項，移轉命令得明定於特定情形，限制或禁止依其原訂條款終止契約或交易。
- (5A) 移轉命令作成後，依該命令移轉之合格金融契約，受讓人取得讓與人對該契約之一切權利和義務。
- (5B) 合格金融契約移轉予受讓人後，關於當事人契約權利之行使，受讓人視為自始即為契約之當事人。
- (5C) 合格金融契約移轉予受讓人後，依該契約和讓與人有兩個以上合格金融交易之人，金融交易應一併移轉或不移轉予受讓人。

- (5D) Where a qualified financial agreement relating to financial collateral that applies to any property of the transferor is transferred, that property shall be transferred to the transferee.
- (6) A vesting order may make other provisions for the purposes of, or in connection with, the vesting of any business, assets, liabilities, shares or other capital instruments of the transferor.
- (7) A vesting order may require or permit—
  - (a) a transferor to provide a transferee with information and assistance; or
  - (b) a transferee to provide a transferor with information and assistance.
- (8) Any person in complying with the vesting order for the purposes of subparagraph (7) shall not be treated as being in breach of any law, contract, agreement or arrangement.
- (9) The powers under this Schedule are without prejudice to, and in addition to any other rights and powers of the Bank.

#### Notice

- 3. (1) The Bank shall serve the vesting order made under subparagraph 32 (1)(c) (iii) to the transferor and transferee in such manner as the Bank may deem appropriate.
- (2) The directors of a financial institution shall inform the members of the financial institution that an order under subparagraph 32 (1)(c)(iii) has been made against the financial institution not later than thirty days after the order has been received by the financial institution.
- (3) No director of a financial institution shall be liable to be sued in any court or before any other authority for not being able to carry out his duty under subsection 132 (1) of the Companies Act 1965 in relation to any act necessary to effect the vesting of the business, assets, liabilities, shares or other capital instruments of the financial institution from the date an order under subparagraph 32 (1)(c)(iii) is made by the Bank.

#### Vesting of business, assets or liabilities

- 4. (1) No provision in any law including subsection 4 (3) of the Civil Law Act 1956 or agreement limiting or prohibiting the right of the transferor or requiring any consent to assign, sell, dispose of, novate or transfer any business, assets or liabilities shall insofar as such limitation, prohibition or consent requirement is concerned, have any application or effect in respect of any order made by the Bank under subparagraph 32 (1)(c)(iii).
- (2) Where the Bank makes a vesting order—
  - (a) in the case where an asset is held by the transferor alone immediately before the vesting date, such asset shall on and from the vesting date vest in the transferee; and

- (5D) 與金融擔保品相關之合格金融交易移轉時，擔保品應一併移轉。
- (6) 移轉命令得就移轉業務、資產、負債、股份或其他資本工具等相關事宜作成其他規定。
- (7) 移轉命令得要求或准許——
  - (a) 讓與人提供受讓人資訊或協助；或
  - (b) 受讓人提供讓與人資訊或協助。
- (8) 任何人不因遵守移轉命令有關第(7)項之規定，被認為違反法律或契約。
- (9) 本附件有關本行職權之規定，並未增加或減少本行原有之職權。

#### 3. 通知

- (1) 本行得以本行認為適當之方式，將依第 32 條第(1)項(c)款(iii)目作成之命令送達相對人。
- (2) 金融機構收受依第 32 條第(1)項(c)款(iii)目作成命令之 30 日內，該機構之董事應通知其會員。
- (3) 自本行依第 32 條第(1)項(c)款(iii)目作成移轉命令之日起，就移轉金融機構之業務、資產、負債、股份及其他資本工具所需之行為，金融機構之董事不因無法依 1965 年公司法第 132 條第(1)項執行職務，而負有責任，亦不得因此被列為相關訴訟案件之被告。

#### 4. 業務、資產或負債之移轉

- (1) 法律或契約有限制或禁止讓與人權利之規定，或要求應取得讓與、出售、拋棄、取代或移轉業務、資產、負債之同意等規定，均不影響本行依第 32 條第(1)項(c)款(iii)目作成命令之效力。前開法律包括 1956 年民法第 4 條第(3)項之規定。
- (2) 本行作成移轉命令時——
  - (a) 移轉日前讓與人單獨所有之資產，自移轉日起歸受讓人所有；且

- (b) in the case where the asset is held jointly by the transferor with another person immediately before the vesting date, such asset shall on and from the vesting date vest in the transferee in accordance with subparagraph (5) jointly with that other person.
- (3) Where the assets vested in a transferee in accordance with this Schedule include any financing, the transferee is deemed to have given the financing or issued the guarantee, as the case may be, notwithstanding that the financing or guarantee had been drawn down or issued by the transferor.
- (4) Where the security for any financing that is vested under this Schedule in the transferee includes a share—
  - (a) for the purposes of paragraph 6A (9)(b) of the Companies Act 1965, the transferee, shall be deemed to hold an interest in the share only by way of security for the purposes of a transaction entered into in the ordinary course of business in connection with the lending of money; and
  - (b) the interest of the transferee in the share shall be disregarded for the purposes of section 6A of the Companies Act 1965.
- (5) The transferee shall, on and from the vesting date for any assets, acquire all of the transferor's present and future rights, title and interests in, and disclosed obligations with respect to, such asset, free of any encumbrance, caveat, prohibitory order, injunction or claim save for any registered interest existing as at the vesting date and disclosed claims.
- (6) On and from the vesting date for a liability—
  - (a) the transferee shall assume and be vested with that liability and becomes liable, instead of the transferor, to discharge that liability;
  - (b) the transferor shall be deemed to have been released and discharged from that liability; and
  - (c) any depositor, creditor or other person who is owed that liability shall be deemed to have consented to and accepted the assumption by the transferee of that liability.
- (7) Without prejudice to subparagraphs (1), (2), (3), (4), (5) and (6) in relation to any business, assets or liabilities, as the case may be, vested in the transferee—
  - (a) each obligor with respect to such assets, shall be deemed to have released and discharged the transferor from all the disclosed obligations with respect to such assets;
  - (b) any person having any right, title or interest in such assets, shall be deemed to have consented to and accepted the vesting in the transferee of all the disclosed obligations with respect to such assets;
  - (c) an existing agreement or instrument, whether in the form of a deed, will or otherwise, or order of any court, under or by virtue of which, the transferor has title or ownership of or rights to such assets shall be construed and shall have effect as if for any reference in it to the transferor there were substituted a reference to the transferee;
  - (d) an existing agreement or instrument in relation to such assets to which the transferor was a party shall have effect insofar as it is applicable to the disclosed obligations, disclosed claims and registered interests as if the transferee had been a party to it instead of the transferor;

- (b) 移轉日前讓與人與他人共有之資產，自移轉日起，受讓人依第(5)項規定與他人共有。
- (3) 依本附件移轉受讓人之資產內容包含放款者，視為自始由受讓人提供放款或作成保證。
- (4) 依本附件移轉受讓人之放款，以證券為擔保時——
  - (a) 為達到 1965 年公司法第 6A 條第(9)項(b)款規定之目的，受讓人於擔保與金錢借貸有關，依一般業務流程作成之交易範圍內，對該股份有利益關係；且
  - (b) 受讓人對股份之利益關係視為不具有 1965 年公司法第 6A 條之利益關係。
- (5) 受讓人自資產移轉日起，取得讓與人對該資產現在及未來之權利與利益，並承受與該資產相關之已揭露債務；免除任何權利設定之負擔、警示、禁止令、強制令或請求權之限制，除非於移轉日前已登記之利益及已揭露債權。
- (6) 自移轉日起，債務——
  - (a) 應由受讓人承受並負清償義務；
  - (b) 讓與人免除清償債務之義務；及
  - (c) 存款人、債權人或其他被積欠債務之人，視為同意並接受由受讓人承受債務。
- (7) 在不影響第(1)項至第(6)項關於移轉至受讓人之業務、資產、負債之前提下——
  - (a) 視為資產之債務人已免除讓與人對該等資產之已揭露債務；
  - (b) 對持有該資產之權利或利益之人，視為同意將對該資產之已揭露債務，移轉予受讓人；
  - (c) 依既有之書面或其他形式之契約、文書或法院命令，讓與人對於資產有所有權或其他權利者，該等契約、文書或命令提及讓與人部分，由受讓人取代之。
  - (d) 涉及資產之既有契約或文書，讓與人為當事人者，讓與人之已揭露債務及債權與登記利益，視為自始以受讓人為當事人；



- (e) an existing instruction, order, mandate, power of attorney, authority, undertaking or consent in relation to an account which was given to the transferor, either alone or jointly with another person, shall be deemed to have effect, as if given to the transferee either alone or jointly with such other person, as the case may be;
- (f) if any security were held immediately before the vesting date by the transferor, or by a nominee of or trustee for the transferor, as security for the payment or discharge of any liability of any person, such security shall be held by the transferee, that nominee or trustee, as the case may be, as the nominee of, or trustee for, the transferee with the same priority as the transferor, and to the extent of that liability, shall be available to the transferee as security for the payment or discharge of that liability, and if any such security extends to future advances or future liabilities, shall be held by and be available to the transferee as security for future advances by or future liabilities to the transferee in the same manner in all respects as future advances by or future liabilities to the transferor were secured thereby immediately before the vesting date;
- (g) in addition to any other right, power or remedy granted to the transferee in this Schedule, the transferee shall have the rights, powers and remedies (and in particular the rights and powers as to taking or resisting legal or other proceedings or making or resisting applications to any authority) for ascertaining, protecting or enforcing the rights, title, interests and disclosed obligations vested in the transferee including those rights, title, interests or obligations in respect of any legal or other proceedings or applications to any authority pending immediately before the vesting date by or against the transferor, and resisting any disclosed claims or registered interests as if they had at all times been the rights, title, interests or obligations of the transferee;
- (h) a judgment or award obtained by the transferor and not fully satisfied before the vesting date shall be enforceable by the transferee;
- (i) no acquisition by the transferee or disposal by the transferor, shall be void or voidable by reason of the application of any law;
- (j) where any—
  - (i) profit or other return; or
  - (ii) interest,
 payable under any agreement is to be determined by reference to the cost of funds or base lending rate or other reference point of the transferor, or is no longer determinable as provided in the agreement, the return or interest payable under such agreement shall be as prescribed by regulations made under section 94 or in any particular case, as the transferee may agree with the obligor;

- (e) 以讓與人為相對人，或以讓與人及其他人為共同相對人，作成關於帳戶之指示、命令、指令、指定代理、授權、承諾、同意者，視為對受讓人作成；
- (f) 移轉日前由讓與人持有，及讓與人之受任人或信託受託人為其持有之擔保品，保證他人債務之履行者，該等擔保品應分別由受讓人持有，或由讓與人之受任人或信託受託人為其持有，並享有相同之受償優先順位。如擔保品擔保範圍包括未來之墊付或債務，擔保品應由受讓人持有並擔保受讓人未來之墊付或債權，如同擔保讓與人未來之墊付或債權；
- (g) 除受讓人依本附件所有之權利、權限或救濟外，讓與人之權利義務移轉予受讓人後，受讓人應有相同之權利、權限或救濟（特別是司法程序實施權或向主管機關申請或對抗之權），以確認、保護、行使該等權利、利益及已揭露債務，包括移轉日前讓與人提起或對讓與人提起之司法程序或向主管機關之申請程序，如同該等權利、利益或義務自始為受讓人所有；
- (h) 讓與人於移轉日前獲得之判決，尚未執行完畢者，受讓人得執行之；
- (i) 不論其他法律如何規定，讓與人之處分及受讓人之取得均為有效且不得撤銷；
- (j) 依契約應支付之——
  - (i) 利益、收益；或
  - (ii) 利息，
 係參考資金成本、基準放款利率或讓與人之其他參考指標決定者，或已無法依契約條款決定時，應付之收益或利息應依第 94 條訂定之辦法給付；或於情況特殊時，依受讓人與債務人合意之內容給付；

- (k) where the custody of any goods, things or documents is held by the transferor as bailee immediately before the vesting date, such goods, things or documents shall be deemed to have passed to the transferee and the rights and disclosed obligations of the transferor under any contract of bailment shall be transferred free of any claim save for disclosed claims;
  - (l) a negotiable instrument or order for payment of money given to or drawn on or accepted by the transferor, whether so given, drawn or accepted before, on or after the vesting date, shall have the same effect on and from the vesting date, as if it had been given to or drawn on or accepted by the transferee; and
  - (m) any account between the transferor and its customer shall become an account between the transferee and the customer, subject to the conditions and incidents as theretofore, and such account to be deemed for all purposes to be a single continuing account.
- (8) Without prejudice to subparagraphs (1), (2), (3), (4), (5), (6) and (7), a vesting of any business, assets or liabilities in the transferee shall not, unless otherwise provided for in the vesting order—
- (a) be regarded as placing—
    - (i) the transferee;
    - (ii) the transferor;
    - (iii) any person deriving title from the transferee; or
    - (iv) any other person,
      - in breach of or default under, any contract, agreement, undertaking, guarantee, indemnity or any other arrangement, or in breach of confidence;
  - (b) be regarded as giving rise to a right or duty for any person to—
    - (i) terminate, cancel, modify or replace an agreement;
    - (ii) enforce or accelerate the performance of an obligation; or
    - (iii) require the performance of an obligation not otherwise arising for performance;
  - (c) be regarded as placing the transferor, the transferee or any other person in breach of any law or agreement prohibiting, restricting or regulating the assignment, sale, disposal or transfer of any asset or disclosure of information;
  - (d) release a surety from an obligation;
  - (e) invalidate or discharge a contract or security; or

- (k) 讓與人於移轉日前受託保管貨物、物品或文件時，該等貨物、物品或文件視為交付給受讓人，且讓與人依寄託契約所有之權利及已揭露債務亦隨同移轉，讓與人不再受拘束；
  - (l) 向讓與人簽發、交付可轉讓票據或支付金錢之指令，或經讓與人接受者，不論係於移轉日之前或之後為之，自移轉日起，視為係向受讓人簽發、交付或由受讓人接受；及
  - (m) 讓與人與其客戶間之帳戶，轉變為受讓人與該等客戶間之帳戶，依據在此之前之條件及附加條款，此一帳戶被作為單一存續帳戶之用。
- (8) 在不影響第(1)項至第(7)項之前提下，除移轉命令另有規定外，不因業務、資產或負債之移轉而產生下列效果——
- (a) 使下列之人被認定違反任何契約、協議、承諾、保證、保障或其他安排，或違反保密義務——
    - (i) 受讓人；
    - (ii) 讓與人；
    - (iii) 從受讓人取得權利之人；或
    - (iv) 其他任何人；
  - (b) 使任何人有權利或義務為下列行為——
    - (i) 終止、撤銷、修正、取代協議；
    - (ii) 執行或加速債務的履行；或
    - (iii) 履行債務；
  - (c) 使讓與人、受讓人或其他任何人被認定為違反有關讓與、出售、拋棄或移轉資產或揭露資訊之契約或法律之禁止、限制或規範；
  - (d) 解除擔保責任；
  - (e) 使契約或擔保無效或解除之；或

- (f) be regarded as terminating, cancelling or varying any rights, privileges, exemptions (including any tax exemptions) or priorities to which the transferor was entitled and which by virtue of this Schedule has vested in the transferee.
- (9) Without prejudice to the generality of subparagraphs (1), (2), (3), (4), (5), (6), (7), and (8) but subject to paragraph 4, in any proceedings brought by or against any transferee in respect of any business, assets or liabilities vested in the transferee pursuant to this Schedule, no person shall, unless such claim is a disclosed claim, raise as a claim or defence to such proceedings any of the following matters:
  - (a) that, that person has had or would have had a set-off or counterclaim against the transferor or any other person;
  - (b) that any person had a prior interest, whether legal or equitable, in the business, assets or liabilities;
  - (c) that any person was a party to or privy to any fraud, duress, coercion, undue influence or misrepresentation;
  - (d) that there was a mistake of law or fact;
  - (e) that any agreement to which the business, assets or liabilities relates was in furtherance of an illegal purpose or that any consideration given or received thereunder was unlawful, or that the object of the agreement which constitutes or is one of the constituents of the business, assets or liabilities is unlawful;
  - (f) that there was a total failure of or no consideration or there was any partial failure of consideration;
  - (g) that the person who executed, is deemed to have executed or who is a party to, any document of title for the assets or written contract which evidences, gives rise to or secures the asset or liability, did not understand the document;
  - (h) that the person who executed, is deemed to have executed or who is a party to, any document of title for the asset or written contract which evidences, gives rise to or secures the asset or liability did not have the capacity or the authority to do the same; and
  - (i) that there is an error in any statement of account issued by the transferor or any other person in respect of the liability or any debt to which the assets relate.

#### **Vesting of shares or other capital instruments**

- 5. (1) A vesting order shall provide for the vesting of any shares or other capital instruments of a financial instruments institution which has ceased to be viable or which the Bank considers likely to become non-viable under subparagraph 32 (1)(c)(iii) to take effect free from any trust, liability, adverse claim or other encumbrances.
- (2) A vesting order for the vesting of any shares or other capital instruments may provide for—

- (f) 原為讓與人所有，依本附件移轉受讓人之權利、特權、豁免（包括稅捐豁免）或優先權等，被認定為終止、撤銷或變更。
- (9) 不影響第(1)項至第(8)項規定之一般性效力，但適用第4點之前提下，關於依本附件移轉受讓人之業務、資產或負債，受讓人提出或以受讓人為被告之法律訴訟，除非是已揭露之債權，任何人不得於法律訴訟提出下列主張或答辯：
  - (a) 對讓與人或其他人主張抵銷或提出反訴；
  - (b) 對該業務、資產或債務有優先利益，不論係財產上或法律上利益；
  - (c) 任何人為詐欺、脅迫、強迫、不當影響或虛假陳述之當事人或利害關係人；
  - (d) 有法律上或事實上之錯誤；
  - (e) 與移轉業務、資產或負債相關之契約，具有不法目的，或提出或取得之對價為不合法，或契約之標的為移轉業務、資產或債務之一部分，且不合法；
  - (f) 無對價或對價之全部或一部無效；
  - (g) 資產所有權文件或設定資產或債務擔保之契約文件，其當事人或執行人不了解文件內容；
  - (h) 資產所有權文件或設定資產或債務擔保之契約文件，其當事人或執行人無為相關行為之權限；及
  - (i) 讓與人或其他與債務或資產相關之人，出具不實之財務報告。

#### **5. 股份或其他資本工具之移轉**

- (1) 第 32 條第(1)項(c)款 (iii) 目所定無法繼續經營或本行認定其有無法繼續經營之虞之金融機構，移轉命令應規定其股份及資本工具之移轉，其效力不受信託、債務、抗辯權或其他負擔之影響。
- (2) 關於股份及資本工具之移轉命令得規定——

- (a) the extinguishment of rights of holders of warrants or other instruments that entitle the holder to acquire shares in the financial institution which has ceased to be viable or which the Bank considers likely to become non-viable under subparagraph 32 (1)(c)(iii);
- (b) the financial institution which has ceased to be viable or which the Bank considers likely to become non-viable under subparagraph 32 (1)(c)(iii) to not issue any further shares, warrants, or such other securities which are convertible or exchangeable into shares in such financial institution;
- (c) any shares or capital instruments of a financial institution which has ceased to be viable or which the Bank considers likely to become non-viable under subparagraph 32 (1)(c)(iii) to be converted from one form or class to another; or
- (d) the removal from the official list of any stock exchange the shares of the transferor or a particular class of securities of the transferor.

#### **Preservation of rights**

- 6. (1) A person who is precluded from making a claim against any transferee or is precluded from raising a defence against that transferee under this Schedule, shall be entitled to seek compensation against the transferor in respect of such claim.
- (2) Where the court is satisfied that the person referred to in subparagraph (1) has a claim against the transferor including any prior equitable interest in the assets which that person could have raised or claimed but is precluded by subparagraph 4 (9) that person shall be entitled to such compensation from the transferor in respect of such claim as the court considers fair and reasonable.

#### **Additional provisions on land**

- 7. (1) Notwithstanding the provisions of the National Land Code, the Land Ordinance relating to the State of Sabah, the Land Code relating to the State of Sarawak or any other law, any caveat, prohibitory order or any other encumbrance which was entered, endorsed, registered or lodged, prior to, on or after, the vesting date shall not prevent a vesting of any interest in land of the transferor to the transferee.
- (2) Where a vesting order vests in the transferee, any interest in land—
  - (a) in Peninsular Malaysia, on receipt of—
    - (i) payment of the prescribed fee; and
    - (ii) the vesting order,
 the Registrar under the National Land Code shall, without the need for any further application or filing of any further document, make a memorial on the register document of title and make such other entries and generally do all things as may be necessary to give effect to the vesting;

- (a) 認股權證持有人權利之消滅，或其他使持有人有權取得第 32 條第(1)項(c)款 (iii) 目所定無法繼續經營或有無法繼續經營之虞之金融機構股份之文書，其權利之消滅；
- (b) 第 32 條第(1)項(c)款(iii)目所定無法繼續經營或有無法繼續經營之虞之金融機構，不得再發行股份、認股權證或其他可轉換為該等金融機構股份之證券；
- (c) 第 32 條第(1)項(c)款(iii)目所定無法繼續經營或有無法繼續經營之虞之金融機構，其股份或資本工具之形式或類別轉換；或
- (d) 讓與人之股份或特定種類之證券，自證券交易所下市。

#### **6. 權利保留**

- (1) 依本附件不得向受讓人主張權利或提出抗辯之人，得就該等主張向讓與人請求損害賠償。
- (2) 第(1)項之人對讓與人之請求權，包括其原得主張對該資產既有之衡平利益，但依第 4 點第(9)項排除者，經向法院證明前開情形，且法院認為其向讓與人請求損害賠償為公平合理時，得請求之。

#### **7. 土地之特別規定**

- (1) 不論國家土地法、沙巴州土地條例或沙勞越州土地法或其他法律、警示、強制令，或其他締結、擔保、登記與提存等約定，於移轉日或該日之前或之後作成者，均不影響讓與人對土地之利益移轉予受讓人。
- (2) 移轉命令將土地利益移轉受讓人時——
  - (a) 在馬來西亞半島，國家土地法所定之登記處，於收受下列兩者後，毋須其他申請或填寫任何其他文件，即應於物權登記簿作成登記或其他相關紀錄，並作成其他使移轉生效之必要行為——
    - (i) 規定之費用；及
    - (ii) 移轉命令；

- (b) in Sabah, on receipt of—
  - (i) payment of the prescribed fee; and
  - (ii) the vesting order,
 the Registrar under the Land Ordinance relating to the State of Sabah shall, without the need for any further application or filing of any further document, make a memorial on the register document of title and make such other entries and generally do all things as may be necessary to give effect to the vesting; and
- (c) in Sarawak, on receipt of—
  - (i) payment of the prescribed fee; and
  - (ii) the vesting order,
 the Registrar under the Land Code relating to the State of Sarawak shall, without the need for any further application or filing of any further document, make a memorial on the register document of title and make such other entries and generally do all things as may be necessary to give effect to the vesting.
- (3) Notwithstanding any provision in the National Land Code, the Land Ordinance relating to the State of Sabah, the Land Code relating to the State of Sarawak or any other law, a vesting order shall be effective to vest an interest in land in the transferee as of the vesting date and shall be conclusive evidence of such vesting.

#### Other Registration Authorities to give effect to vesting order

8. (1) Notwithstanding the provisions of any other law, any Registration Authority other than the Registrar under the National Land Code, the Registrar under the Land Ordinance relating to the State of Sabah and the Registrar under the Land Code relating to the State of Sarawak, shall, on receipt of—
- (a) payment of the prescribed fee; and
  - (b) the vesting order,
- without the need for any further application or filing of any further documents, do all things and make all entries or memorials in any register or record kept by the Registration Authority as may be necessary to give effect to the vesting of any business, assets or liabilities, shares or other capital instruments referred to in subparagraph 32 (1)(c)(iii) to which the vesting order relates.
- (2) For the purpose of this paragraph, subsection 112A (1) of the Companies Act 1965 shall be deemed to apply to the transferee as if for the word "thirty" in that subsection the words "one hundred and eighty" had been substituted.

#### Automatic substitution in any legal or other proceedings

9. Notwithstanding the provisions of any other law, every registrar of courts shall automatically upon receipt of a copy of the vesting order do all things and make all entries in any register or record kept by such registrar as may be necessary to give effect to the automatic substitution of the transferee in place of the transferor as a party in any legal or other proceedings.

- (b) 在沙巴州，沙巴州土地條例所定之登記處，於收受下列兩者後，毋須其他申請或填寫任何其他文件，即應於物權登記簿作成登記或其他相關紀錄，並作成其他使移轉生效之必要行為——
  - (i) 規定之費用；及
  - (ii) 移轉命令；
- (c) 在沙勞越州，土地法所定之登記處，於收受下列兩者後，毋須其他申請或填寫任何其他文件，即應於物權登記簿作成登記或其他相關紀錄，並作成其他使移轉生效之必要行為——
  - (i) 規定之費用；及
  - (ii) 移轉命令。
- (3) 不論國家土地法、沙巴州土地條例、沙勞越州土地法或其他法律如何規定，移轉命令於移轉日即發生移轉土地利益予受讓人之效力，也是移轉的最終證明。

#### 8. 其他登記機關對移轉命令之協力

- (1) 不論法律如何規定，國家土地法第 5 條、沙巴州土地條例第 4 條或沙勞越州土地法所定之登記處以外之登記機關，於收受下列兩者後，毋須其他申請或填寫任何其他文件，即應於所維護之登記簿或記錄，作成登記或紀錄，並作成其他使移轉生效之必要行為，移轉係指依第 32 條第(1)項(c)款(iii)目作成之業務、資產、負債、股份其他資本工具之移轉——
- (i) 規定之費用；及
  - (ii) 移轉命令。
- (2) 為達成本點之目的，1965 年公司法第 112A 條第(1)項對受讓人亦有適用，但該項之「30」視為以「180」取代之。

#### 9. 法律訴訟或其他程序之自動承受

不論其他法律如何規定，登記處或法院於收受移轉命令之影本時，應於登記簿或其維護之紀錄作成登記、紀錄，或為其他必要行為，使受讓人在法律訴訟或其他程序中自動成為當事人。

**Immunity of Registration Authority**

10. A Registration Authority shall not be liable to any person in respect of the making of any memorial on or entry in the register document of title or any other register or record in reliance of the vesting order.

**Replacement vesting order**

11. (1) The Bank may, by order published in the Gazette, make a new vesting order (in this paragraph referred to as "replacement vesting order") to replace any vesting order it has previously made in order to rectify any omission or error in the vesting order.
- (2) Any replacement vesting order made by the Bank under subparagraph (1) stating that any business, assets, liabilities, shares or other capital instruments have been vested in the transferee shall be conclusive evidence of such vesting as of the vesting date stipulated in the replacement vesting order.
- (3) If any law stipulates a time period within which a vesting of any of the assets stated to be the subject of a replacement vesting order made under subparagraph (1) shall be registered or filed, that period shall commence from the date the replacement vesting order is made.
- (4) Any act done by a transferee, transferor or any other person, in reliance of a vesting order previously made shall not be affected by any omission or error rectified in a replacement vesting order made under subparagraph (1).
- (5) For the purposes of this Act, any reference to a vesting order shall be deemed to include a reference to a replacement vesting order made under subparagraph (1).

**Transfer of foreign assets and foreign liabilities**

12. (1) This paragraph applies in relation to foreign assets and foreign liabilities held by the transferor.
- (2) For the purposes of this paragraph—  
 "foreign assets" means assets of the transferor outside Malaysia;  
 "foreign law" means the law of the country or territory outside Malaysia in which the assets of the transferor are situated or liabilities of the transferor are to be discharged;  
 "foreign liabilities" means the liabilities of the transferor to be discharged outside Malaysia.
- (3) The transferor and transferee shall each take any necessary steps to ensure that the vesting of any foreign assets or foreign liabilities of the transferor is effective under foreign law where such vesting is not wholly effective by virtue of the vesting order.
- (4) Until the vesting of foreign assets or foreign liabilities is effective under foreign law, the transferor shall—

**10. 登記機關之免責**

登記機關不因依移轉命令，於物權登記簿、其他登記文件或紀錄，作成註記或登記，而須對任何人負責。

**11. 移轉命令之取代**

- (1) 本行得依據登載於政府公報之命令（本點稱之為「取代命令」），作成新的移轉命令，取代先前作成之移轉命令，以補正原有命令之遺漏或錯誤。
- (2) 本行依第(1)項作成之取代命令，載明業務、資產、負債、股份或其他資本工具已移轉受讓人者，於取代命令明定之日期，對移轉具有完整之證明力。
- (3) 若法律對移轉資產訂有一定期間，如該資產為第(1)項取代命令之標的時，該期間自取代命令作成之日起算。
- (4) 讓與人、受讓人或其他人依先前作成之移轉命令，所為之任何行為，其效力不受第(1)項取代命令對其遺漏或錯誤之修正所影響。
- (5) 為達本法之目的，本法所稱移轉命令，均包括第(1)項之取代命令。

**12. 外國資產或債務之移轉**

- (1) 本點對於讓與人持有之外國資產或債務之移轉，適用之。
- (2) 為本點之目的——  
 「外國資產」指讓與人於馬來西亞境外之資產；  
 「外國法」指於馬來西亞以外之國家或領土，讓與人資產所在地或債務履行地之法律；  
 「外國債務」指讓與人應於馬來西亞境外履行之債務。
- (3) 外國資產或外國債務之移轉，無法僅依移轉命令發生效力者，讓與人與受讓人應採取必要之行為，以確保外國資產或外國債務之移轉依外國法為有效。
- (4) 除非外國資產或外國債務之移轉依外國法為有效，讓與人應——

- (a) hold the assets as a trustee for the benefit of the transferee together with any additional asset or right accruing by virtue of the original asset or right; and
- (b) discharge any liability on behalf of the transferee.
- (5) The transferee must meet any expenses of the transferor in complying with this paragraph.
- (6) An obligation imposed by this paragraph is enforceable as if created by contract between the transferor and transferee.

- (a) 以受託人身分，為受讓人之利益持有資產，以及衍生之資產或權利；及
- (b) 代表受讓人清償債務。
- (5) 受讓人應補償讓與人因遵守本點規定所支出之費用。
- (6) 依本點所負債務得予強制執行，如同該債務係依兩造約定所產生。

附錄 The Central Bank of  
the Republic of China  
(Taiwan) Act  
中華民國中央銀行法



## The Central Bank of the Republic of China (Taiwan) Act

Chapter I General Provisions

Chapter II Organization

Chapter III Operations

Chapter IV Budget and Financial Statement

Chapter V Appendix

## 中華民國中央銀行法

第一章 總則

第二章 組織

第三章 業務

第四章 預算及決算

第五章 附則

## The Central Bank of the Republic of China (Taiwan) Act

Promulgated on May 23, 1935

Amended on November 8, 1979

Articles 23 and 44 amended on May 21, 1997

(Article 23 amendment effected on July 7, 1999)

Articles 18-1, 18-2 and 18-3 added, Articles 32 and 35 amended on June 5, 2002

Article 11-1 added, Articles 3, 6, 9, 11 and 38 amended on April 27, 2011

Article 25 amended on January 8, 2014

### Chapter I General Provisions

#### (Status of the Bank)

##### Article 1

The Central Bank of the Republic of China (Taiwan) (hereafter called the Bank) shall be a government bank and an agency under the Executive Yuan.

#### (Objectives of the Bank's Operations)

##### Article 2

The primary objectives of the Bank's operations shall be:

1. To promote financial stability;
2. To guide sound banking operations;
3. To maintain the stability of the internal and external value of the currency;
4. To foster economic development within the scope of the above objectives.

## 中華民國中央銀行法

中華民國 24 年 5 月 23 日國民政府制定公布全文 36 條

中華民國 68 年 11 月 8 日總統臺統（一）義字第 5573 號令修正公布全文 44 條

中華民國 86 年 5 月 21 日總統華總（一）義字第 8600115460 號令修正公布第 23 條及第 44 條條文（中華民國 88 年 6 月 22 日行政院臺 88 財字第 24060 號令定第 23 條於 88 年 7 月 7 日施行）  
中華民國 91 年 6 月 5 日總統華總（一）義字第 09100113090 號令公布增訂第 18 條之 1 至第 18 條之 3 條文；並修正第 32 條及第 35 條條文

中華民國 100 年 4 月 27 日總統華總一義字第 10000079371 號令公布增訂第 11 條之 1 條文；並修正第 3 條、第 6 條、第 9 條、第 11 條及第 38 條條文

中華民國 103 年 1 月 8 日總統華總一義字第 10300000611 號令修正公布第 25 條條文

### 第一章 總則

#### （本行定位）

**第 一 條** 中央銀行（以下簡稱本行）為國家銀行，隸屬行政院。

#### （經營目標）

**第 二 條** 本行經營之目標如左：

- 一、促進金融穩定。
- 二、健全銀行業務。
- 三、維護對內及對外幣值之穩定。
- 四、於上列目標範圍內，協助經濟之發展。

**(Head Office, Branch Offices and Representative Offices)****Article 3**

The Bank shall have its Head Office at the seat of the Central Government and may establish domestic branch offices and representative offices; and, if necessary, may establish representative offices overseas. The establishment and dissolution of branch offices and representative offices shall be authorized by the Board of Directors and reported to the Executive Yuan for approval.

**(Capital of the Bank)****Article 4**

The capital of the Bank shall be appropriated from the National Treasury. It shall be fully owned by the Central Government and nontransferable.

**Chapter II Organization****(Board of Directors)****Article 5**

The Bank shall have a Board of Directors consisting of eleven to fifteen directors to be nominated by the Executive Yuan and appointed by the President. A Board of Executive Directors composed of five to seven executive directors shall be designated among the directors.

The Governor of the Bank, the Minister of Finance and the Minister of Economic Affairs shall be ex officio directors and executive directors. Among the directors, there shall be at least one each from the agricultural, the industrial and commercial, and the banking sectors.

Except for the ex officio directors, the directors shall be appointed for a term of five years, and may be reappointed upon the expiration of such term.

**(Powers and Functions of the Board of Directors)****Article 6**

The powers and functions of the Board of Directors shall be as follows:

1. To examine and approve policies concerning money, credit and foreign exchange;
2. To examine the adjustment of the Bank's capital;
3. To approve the operation plans of the Bank;

**(總行及分支機構)**

**第 三 條** 本行設總行於中央政府所在地，並得於國內設立分行及辦事處；必要時得於國外設立辦事處。分行及辦事處之設立、裁撤，須經理事會決議，報請行政院核准。

**(本行資本)**

**第 四 條** 本行資本，由國庫撥給之。其資本全部為中央政府所有，不得轉讓。

**第二章 組織****(理事會)**

**第 五 條** 本行設理事會，置理事十一人至十五人，由行政院報請總統派充之，並指定其中五人至七人為常務理事，組織常務理事會。

前項理事，除本行總裁、財政部長及經濟部長為當然理事，並為常務理事外，應有實際經營農業、工商業及銀行業者至少各一人。

除當然理事外，理事任期為五年，期滿得續派連任。

**(理事會職權)**

**第 六 條** 理事會之職權如下：

- 一、有關貨幣、信用及外匯政策事項之審議及核定。
- 二、本行資本額調整之審議。
- 三、本行業務計畫之核定。

4. To examine the budget estimate and financial statements of the Bank;
5. To examine and approve major by-laws and regulations of the Bank;
6. To examine or approve the establishment, adjustment and dissolution of the Bank's administrative units, branch offices, representative offices and subsidiary institutions;
7. To approve the appointment and the removal of the heads of the Bank's administrative units, branch offices, representative offices and subsidiary institutions;
8. To examine matters proposed by the Directors.

The Board of Directors may delegate all or part of the above powers and functions to the Board of Executive Directors. The resolution of the Board of Executive Directors shall be reported to the Board of Directors for record and approval.

The Board of Directors shall establish rules and regulations of board meetings. Such rules and regulations shall be reported to the Executive Yuan for record.

#### (Board of Supervisors)

##### Article 7

The Bank shall have a Board of Supervisors, composed of five to seven supervisors to be nominated by the Executive Yuan and appointed by the President. The Minister of Directorate-General of Budget, Accounting and Statistics of the Executive Yuan shall be an ex officio supervisor.

Except for the ex officio supervisor, the supervisors shall be appointed for a term of three years and may be re-appointed upon the expirations of such term. The Board of Supervisors shall have a chairman to be elected from among the supervisors.

#### (Powers and Functions of the Board of Supervisors)

##### Article 8

The powers and functions of the Board of Supervisors shall be as follows:

1. To examine the Bank's assets and liabilities;
2. To audit the Bank's accounts;
3. To examine the reserves for the issuance of currency by the Bank;
4. To examine the amount of currency issued by the Bank;
5. To examine and approve the Bank's financial statements;
6. To investigate any case involving violation of this Act and the by-laws and regulations of the Bank. The result of such investigation shall be referred to the Board of Directors for corrective action.

四、本行預算及決算之審議。

五、本行重要規章之審議及核定。

六、本行內部單位、分行、辦事處及附屬機構設立、調整及裁撤之審議或核定。

七、本行內部單位、分行、辦事處及附屬機構主管任免之核定。

八、理事提議事項之審議。

前項各款職權，理事會得以一部或全部授權常務理事會。常務理事會之決議，應報請理事會追認。

理事會應訂定會議規則，並報請行政院備查。

#### (監事會)

**第七條** 本行設監事會，置監事五人至七人，由行政院報請總統派充之。行政院主計長為當然監事。除當然監事外，監事任期為三年，期滿得續派連任。

監事會置主席一人，由監事互推之。

#### (監事會職權)

**第八條** 監事會之職權如左：

- 一、本行資產、負債之檢查。
- 二、本行帳目之稽核。
- 三、本行貨幣發行準備之檢查。
- 四、本行貨幣發行數額之查核。
- 五、本行決算之審核。
- 六、違反本法及本行章則情事之調查，並提請理事會予以糾正。

**(Governor and Deputy Governors)****Article 9**

The Bank shall have a Governor with the rank of special appointment and two Deputy Governors with the rank equivalent to Grade 14; all of whom shall be appointed for a term of five years and may be reappointed upon the expiration of such term.

The provision of the preceding paragraph that the rank of Deputy Governor is equivalent to Grade 14 shall apply to Deputy Governors appointed after the revision of this Act, amended on 8 April 2011, has come into force.

**(Duties of Governor and Deputy Governors)****Article 10**

The Governor shall be the chief executive in directing and supervising the operations of the Bank, shall carry out resolutions of the Board of Directors, and shall represent the Bank on all occasions. The Deputy Governors shall assist the Governor in the execution of the above duties.

The Governor shall be the chairman of the Board of Directors and the Board of Executive Directors. Whenever the Governor is unable to attend in person, the Deputy Governor designated to act for the Governor shall be the chairman.

**(Administrative Units and the Ranks and Quotas of the Bank's Personnel)****Article 11**

Administrative units established in the Head Office of the Bank shall be named as Department or Office.

The ranks and quotas of the Bank's personnel shall be tabulated separately.

**(Personnel Management)****Article 11-1**

Except for the appointment, removal, remuneration, retirement and indemnity of the Governor and Deputy Governors as specified in this Act and other laws, the regulations for the appointment, dismissal, remuneration, bonus, welfare, performance rating, incentives and discipline, retirement, indemnity, severance and other personnel management matters related to the Bank's personnel shall be proposed by the Bank, authorized by the Board of Directors and reported to the Executive Yuan for approval.

**(總裁、副總裁)**

**第 九 條** 本行置總裁一人，特任；副總裁二人，職務比照簡任第十四職等，任期均為五年；期滿得續任命之。

前項副總裁職務比照簡任第十四職等之規定，於本法中華民國一百年四月八日修正之條文施行後任命之副總裁適用之。

**(總裁、副總裁職務)**

**第 十 條** 總裁綜理行務，執行理事會之決議，對外代表本行；副總裁輔佐總裁處理行務。

總裁為理事會及常務理事會之主席，總裁缺席時，由代理總裁職務之副總裁代理之。

**(內部單位及編制)**

**第 十 一 條** 本行總行所設內部單位定名為局、處、室。本行各職稱之職等及員額，另以編制表定之。

**(人事管理)**

**第十一條之一** 除本法及其他法律就總裁、副總裁之任免、俸給、退職及撫卹有特別規定者外，本行人員之任（派）免、薪給、獎金、福利、考核、獎懲、退休、撫卹、資遣及其他人事管理事項之準則，由本行擬訂，經理事會決議後，報請行政院核定。

### Chapter III Operations

#### (Business Counterparties)

##### Article 12

Unless otherwise specified by law, the Bank's operations shall be circumscribed to business with the following organizations:

1. Government agencies.
2. Banks and other financial institutions.
3. International and foreign financial institutions.

#### (Issuance of National Currency)

##### Article 13

The currency of the Republic of China (Taiwan) shall be issued by the Bank. The currency issued by the Bank shall be the national currency, and shall be legal tender for all payments within the territory of the Republic of China (Taiwan).

The Bank shall establish plants under its management to carry out the printing and minting of the currency.

#### (Delegation of Issuance of National Currency)

##### Article 14

The Bank may, whenever necessary, delegate other government banks to issue currency in designated regions on its behalf, to be regarded as national currency. The assets and liabilities pertaining to the issuance of such currency shall be for the account of the Bank.

#### (Specifications of Notes and Coins)

##### Article 15

The basic monetary unit of the national currency is Yuan and the subsidiary currencies are Chiou and Fen. Ten Fens equal to one Chiou and ten Chious equal to one Yuan.

The denomination, composition, form, and pattern of the notes and coins issued by the Bank shall be proposed by the Bank, for approval by the Executive Yuan.

The Bank shall make public the specifications of notes and coins prior to issuance.

### 第三章 業務

#### (業務對象)

**第十二條** 本行業務，除法令另有規定外，其範圍如左：

- 一、政府機關。
- 二、銀行及其他金融機構。
- 三、國際及國外金融機構。

#### (發行國幣)

**第十三條** 中華民國貨幣，由本行發行之。

本行發行之貨幣為國幣，對於中華民國境內之一切支付，具有法償效力。

貨幣之印製及鑄造，由本行設廠專營並管理之。

#### (委託發行國幣)

**第十四條** 本行於必要時得分區委託公營銀行代理發行貨幣，視同國幣；其有關發行之資產與負債，均屬於本行。

#### (券幣規格)

**第十五條** 國幣之基本單位為圓，輔幣為角、分，拾分為壹角，拾角為壹圓。

本行所發行紙幣及硬幣之面額、成分、形式及圖案，由本行擬定，報請行政院核定之。

本行應將紙幣及硬幣之規格於發行前公告之。

**(Reserves against Currency Issuance)****Article 16**

Against currency issued by the Bank and its delegated banks, reserves in full equivalent value shall be maintained in gold, silver, foreign exchange, and eligible bills and securities.

The issuance of coins shall be exempt from reserves.

**(Publication of the Amount and Reserve Status of Currency)****Article 17**

The amount and reserve status of currency issued by the Bank and its delegated banks shall be made public in regular intervals.

**(Exchange and Redemption of Currency)****Article 18**

The Bank shall exchange stained or damaged notes and coins deemed to be unfit for circulation in accordance with certain standards, and destroy them according to law.

The Bank may redeem currency issued. Currency redeemed shall no longer be legal tender. However, the redemption period shall not be less than one year, during which time holders may exchange redeemed currency with the Bank.

**(Maximum Amount of National Currency Carried into or out of the Territory of the ROC)****Article 18-1**

The maximum amount of national currency that may be carried or mailed into or out of the territory of the Republic of China (Taiwan) shall be prescribed by the Bank.

Currency in excess of the aforesaid maximum cannot be transported into or out of the territory.

**(Handling of Counterfeit or Altered Currency)****Article 18-2**

When financial institutions or other enterprises which are authorized to engage in foreign exchange operations receive counterfeit or falsified national currency or foreign currency, they shall retain, void and destroy those currencies, save that suspicion of criminal involvement shall be reported to the judicial authority. Regulations on handling counterfeit or falsified currency shall be stipulated by the Bank.

**(發行準備)**

**第十六條** 本行發行及委託發行之貨幣，應以金銀、外匯、合格票據及有價證券，折值十足準備。硬幣免提發行準備。

**(公告國幣數額及準備狀況)**

**第十七條** 本行發行及委託發行之貨幣數額及準備狀況，應定期公告之。

**(國幣之收兌)**

**第十八條** 本行對污損或破損而不適流通之紙幣及硬幣，應按所定標準予以收兌，並依法銷燬之。  
本行對已發行之貨幣，得公告予以收回。經公告收回之貨幣，依公告規定失其法償效力。但公告收回期間不得少於一年，期內持有人得向本行兌換等值之貨幣。

**(國幣出入境限額)**

**第十八條之一** 攜帶或寄送國幣出入境之限額，由本行定之。  
攜帶或寄送國幣出入境超過本行依前項規定所定限額者，其超過部分，應予退運。

**(偽變造貨幣之處理)**

**第十八條之二** 金融機構及經本行指定辦理外匯業務之其他事業經收之國幣或外國貨幣有偽造或變造者，除有犯罪嫌疑，應報請司法機關偵辦外，應予截留、作廢並銷燬；其處理辦法，由本行定之。

**(Issuance of Gold and Silver Coins and Commemorative Notes and Coins)****Article 18-3**

The Bank may issue gold and silver coins and commemorative notes and coins. Regulations governing the issuance of gold and silver coins and commemorative notes and coins shall be stipulated by the Bank.

The sale or resale price of aforesaid notes and coins may be higher than their denomination.

**(Accommodations)****Article 19**

The Bank may provide the following accommodations to banks:

1. Rediscounts of eligible bills, with maturity not exceeding 90 days for industrial and commercial bills, and 180 days for agricultural bills.
2. Temporary advances not exceeding 10 days.
3. Refinancing of secured loans not exceeding 360 days.

The Bank may impose limits on rediscounts or other accommodations to banks.

**(Establishment of Funds)****Article 20**

The Bank, in order to assist economic development, may establish various funds, using savings deposits re-deposited by financial institutions and other special funds to refinance medium and long-term loans disbursed by banks.

**(Publication of the Interest Rates of the Bank's Rediscounts and other Accommodations)****Article 21**

The interest rates of the Bank's rediscounts and other accommodations shall be determined by the Bank in the light of prevailing financial and economic conditions, and made public. However, a branch office of the Bank may establish its own interest rates on rediscounts and accommodations according to special local financial conditions, with prior approval by the Head Office, and make them public.

**(發行金銀幣及紀念券幣)**

**第十八條之三** 本行得發行金銀幣及紀念性券幣；其發行辦法，由本行定之。

前項券幣，得高於面額另定價格發售或轉售。

**(融通)**

**第十九條** 本行得對銀行辦理左列各項融通：

- 一、合格票據之重貼現，其期限：工商票據不得超過九十天；農業票據不得超過一百八十天。
- 二、短期融通，其期限不得超過十天。
- 三、擔保放款之再融通，其期限不得超過三十六十天。

本行對銀行之重貼現及其他融通，得分別訂定最高限額。

**(設立基金)**

**第二十條** 本行為協助經濟建設，得設立各種基金，運用金融機構轉存之儲蓄存款及其他專款，辦理對銀行中、長期放款之再融通。

**(公告重貼現率及融通利率)**

**第二十一條** 本行之重貼現率及其他融通利率，由本行就金融及經濟狀況決定公告之。但各地區分行得因所在地特殊金融狀況，酌定其重貼現率及其他融通利率，報經總行核定公告之。



**(Exception Management on the Interest Rates of Banks' Deposits and Loans)****Article 22**

The Bank may, at its discretion and in the light of financial and economic conditions, prescribe an upper limit for the interest rates of bank deposits, and approve the range of interest rates on bank loans as proposed by the Bankers Association.

**(Deposit Reserve Ratios)****Article 23**

The Bank shall receive and keep reserves against deposits and other liabilities of financial institutions which are regulated by the Banking Act, and may, at its discretion, adjust various deposit and other liability reserve ratios under the following maximum limits in accordance with the regulation governing adjustment and audit thereof, which shall be stipulated by the Bank:

1. Checking deposits: 25%
2. Demand deposits: 25%
3. Savings deposits: 15%
4. Time deposits: 15%
5. Other liabilities: 25%

The scope of aforesaid other liabilities shall be prescribed by the Bank.

The Bank may, whenever necessary and from a specific date, impose on the increment of the checking deposits, demand deposits and other liabilities, a marginal reserve ratio which shall not be bound by the maximum limits on paragraph 1 of this Article.

The Bank may charge the financial institutions having insufficient reserves, on the portion of the shortfall, a penalty interest rate not higher than two times of that prescribed in Article 21 on unsecured temporary advances as stated in subparagraph 2, paragraph 1 of Article 19.

**(Reserves for Indemnity Deposited by Investment and Trust Companies)****Article 24**

The Bank shall, in conformity with law, receive and keep reserves for indemnity deposited by investment and trust companies.

**(Minimum Ratio of Banks' Liquid Assets to Liabilities)****Article 25**

The Bank, after consulting with the Financial Supervisory Commission, may at its discretion, prescribe for banks a minimum ratio of their liquid assets to various liabilities.

**(存放款利率之例外管理)**

**第二十二條** 本行得視金融及經濟狀況，隨時訂定銀行各種存款之最高利率，並核定銀行公會建議之各種放款利率之幅度。

**(存款準備率)**

**第二十三條** 本行收管應適用銀行法規定之金融機構存款及其他各種負債準備金，並得於左列最高比率範圍內隨時調整各種存款及其他負債準備金比率，其調整及查核辦法，由本行定之：

- 一、支票存款，百分之二十五。
- 二、活期存款，百分之二十五。
- 三、儲蓄存款，百分之十五。
- 四、定期存款，百分之十五。
- 五、其他各種負債，百分之二十五。

前項其他各種負債之範圍，由本行另定之。

本行於必要時對自一定期日起之支票存款、活期存款及其他各種負債增加額，得另訂額外準備金比率，不受前項所列最高比率之限制。

本行對繳存準備金不足之金融機構，得就其不足部分按第十九條第一項第二款無擔保短期融通，依第二十一條所定之利率加收一倍以下之利息。

**(信託賠償準備)**

**第二十四條** 本行依法收管信託投資公司繳存之賠償準備。

**(銀行最低流動準備比率)**

**第二十五條** 本行經洽商金融監督管理委員會後，得隨時就銀行流動資產與各項負債之比率，規定其最低標準。

**(Open Market Operations - Purchasing and Selling Bonds)****Article 26**

The Bank may, in the light of financial conditions, purchase and sell in the open market the bonds issued or guaranteed by the government, financial bonds issued by banks and bills accepted or guaranteed by banks.

**(Open Market Operations - Issuing Certificates of Deposits and Savings Bonds)****Article 27**

The Bank may, for the purpose of regulating monetary conditions, issue certificates of deposits, savings bonds and short-term bonds, and may purchase and sell them in the open market.

**(Credit Control - Maximum Loanable Ratios of Secured Loans)****Article 28**

The Bank may, whenever necessary, prescribe maximum loanable ratios selectively on the items used as collateral or mortgage of secured loans extended by banks.

**(Credit Control - Amount of Down-payment and Term of Credit)****Article 29**

The Bank may, whenever necessary, prescribe and regulate the amount of down-payment and the term of credit extended by banks for the purchase or construction of buildings and the purchase of durable consumer goods.

**(Administration of Accommodations Extended by Banks to Securities Dealers or Securities Finance Companies)****Article 30**

The Bank shall prescribe and regulate the accommodations extended by banks to securities dealers or securities finance companies.

**(Credit Control - Limit on Credit Lines)****Article 31**

The Bank may, whenever it deems that the monetary and credit conditions so warrant, prescribe a limit on various kinds of credit extended by all, or any category of, financial institutions.

**(公開市場操作－買賣債券)**

**第二十六條** 本行得視金融狀況，於公開市場買賣由政府發行或保證債券及由銀行發行之金融債券與承兌或保證之票據。

**(公開市場操作－發行定存單及儲蓄券)**

**第二十七條** 本行為調節金融，得發行定期存單、儲蓄券及短期債券，並得於公開市場買賣之。

**(信用管制－擔保放款最高貸放率)**

**第二十八條** 本行於必要時，得就銀行辦理擔保放款之質物或抵押物，選擇若干種類，規定其最高貸放率。

**(信用管制－付現條件及信用期限)**

**第二十九條** 本行於必要時，得就銀行辦理購建房屋及購置耐久消費品貸款之付現條件及信用期限，予以規定，並管理之。

**(銀行對證券商或證金公司融通之管理)**

**第三十條** 本行就銀行辦理對證券商或證券金融公司之融通，訂定辦法管理之。

**(信用管制－最高貸放限額)**

**第三十一條** 本行認為貨幣及信用情況有必要時，得對全體或任何一類金融機構，就其各類信用規定最高貸放限額。

**(Exchange of Negotiable Instruments and Clearance of Accounts among Banks)****Article 32**

The Bank shall establish clearing houses for checks and settlement of accounts among banks at the sites of Head Office or branch offices. The Bank may delegate government banks to carry out this function in places where the Bank has no branch office. Regulations governing checks clearance and settlement of accounts among banks shall be stipulated by the Bank.

**(International Monetary Reserves and its Management)****Article 33**

The Bank shall hold international monetary reserves, and undertake the overall management of foreign exchange.

**(Adjustment of the Demand for and Supply of Foreign Exchange)****Article 34**

The Bank may, in the light of the balance of payments situation, take measures to adjust the demand for and supply of foreign exchange with a view to maintaining an orderly foreign exchange market.

**(Foreign Exchange Operations)****Article 35**

The Bank shall undertake the following foreign exchange operations:

1. To draw up plans for foreign exchange management and on anticipated receipts and payments;
2. To authorize and supervise banks and other enterprises engaged in foreign exchange operations;
3. To settle the purchase and sale of foreign exchange;
4. To examine and approve private outward and inward remittances;
5. To supervise private enterprises' foreign borrowings guaranteed by authorized banks, with reference to their management and their repayment schedule;
6. To purchase and sell foreign currencies, bills of exchange and securities;
7. To calculate, compile, analyse and report the receipts and payments of foreign exchange;
8. Other operations relating to foreign exchange.

Regulations governing requirements of application, the examination procedure, approval of authorization, the scope of operations, withdrawal of authorization, and other matters which banks and other enterprises applying to engage in foreign exchange operations must comply with, shall be stipulated by the Bank.

**(票據交換及劃撥結算)**

**第三十二條** 本行得於總行及分行所在地設立票據交換所，辦理票據交換及各銀行間之劃撥結算。在未設分行地點，並得委託其他公營銀行辦理；票據交換及各銀行間劃撥結算業務管理之辦法，由本行定之。

**(國際貨幣準備及調度)**

**第三十三條** 本行持有國際貨幣準備，並統籌調度外匯。

**(調節外匯供需)**

**第三十四條** 本行得視對外收支情況，調節外匯供需，以維持有秩序之外匯市場。

**(外匯業務)**

**第三十五條** 本行辦理左列外匯業務：

- 一、外匯調度及收支計畫之擬訂。
- 二、指定銀行及其他事業辦理外匯業務，並督導之。
- 三、外匯之結購與結售。
- 四、民間對外匯出、匯入款項之審核。
- 五、民營事業國外借款經指定銀行之保證、管理及其清償、稽催之監督。
- 六、外國貨幣、票據及有價證券之買賣。
- 七、外匯收支之核算、統計、分析與報告。
- 八、其他有關外匯業務事項。

銀行及其他事業申請辦理外匯業務應具備之條件、審查程序、核准指定、業務範圍、廢止指定及其他應遵行事項之辦法，由本行定之。

**(Fiscal Agency and Depository Services for National Treasury)****Article 36**

The Bank shall effect the operations of the National Treasury and manage the National Treasury's cash accounts. It shall also manage the Central Governmental agencies' cash accounts, bills, securities, including receipts and payments, safekeeping and transfers, and the safekeeping of their other asset documents.

The Bank may delegate, whenever necessary, the operations mentioned above to other financial institutions in places where the Bank has no branch office.

**(Floatation and Redemption of Government Bonds and Treasury Bills)****Article 37**

The Bank shall undertake the floatation and the redemption of government bonds, issued domestically or abroad, and treasury bills. The Bank may delegate, whenever necessary, the above to other financial institutions.

**(Financial Examination)****Article 38**

In conformity with the powers and functions authorized by this Act, the Bank, if necessary, may undertake the inspection of the operations of financial institutions and the targeted examination of such operations as outlined in Chapter 3 of this Act; and may direct financial institutions to prepare and submit, within a prescribed period of time, accurate financial reports, property inventories or other relevant documents and reports.

If the responsible person(s) or staff member(s) of a financial institution or its branch office commits any of the following acts when the Bank dispatches officials to inspect or examine its operations, or directs the financial institution to prepare and submit accurate financial reports, property inventories or other relevant documents and

reports in accordance with the preceding paragraph, the financial institution or its branch office shall be liable to an administrative fine of Two Million New Taiwan Dollars (NT\$2,000,000) to Ten Million New Taiwan Dollars (NT\$10,000,000), imposed by the Bank:

1. Refusing to be inspected or examined;
2. Concealing or destroying account books and documents related to business or financial conditions;

**(經理國庫)**

**第三十六條** 本行經理國庫業務，經管國庫及中央政府各機關現金、票據、證券之出納、保管、移轉及財產契據之保管事務。

前項業務，在本行未設分支機構地點，必要時得委託其他金融機構辦理。

**(公債與國庫券之發售及還本付息)**

**第三十七條** 本行經理中央政府國內外公債與國庫券之發售及還本付息業務；必要時得委託其他金融機構辦理。

**(金融檢查)**

**第三十八條** 本行依本法賦與之職責，於必要時，得辦理金融機構業務之查核及各該機構與本章規定有關業務之專案檢查；並得要求其於限期內據實提報財務報告、財產目錄或其他有關資料及報告。

金融機構或其分支機構之負責人或職員於本行依前項規定派員查核或檢查有關事項，或要求其於限期內據實提報財務報告、財產目錄或其他有關資料及報告時，有下列情形之一者，由本行處金融機構或其分支機構新臺幣二百萬元以上一千萬元以下罰鍰：

- 一、拒絕接受查核或檢查。
- 二、隱匿或毀損有關業務或財務狀況之帳冊文件。

3. Refusing to reply or providing false information to inquiries made by the examiner without justifiable reasons;

4. Failure to provide accurate and complete financial reports, property inventories or other relevant documents or reports in a timely manner.

The financial institution or its branch office shall seek recourse from the responsible person after paying such administrative fines.

#### (Economic Research)

##### Article 39

The Bank shall, to coordinate the formulation of financial policies and the execution of its operations, regularly collect economic information, compile financial statistics and conduct financial and economic research.

### Chapter IV Budget and Financial Statement

#### (Budget)

##### Article 40

Before the beginning of each fiscal year, the Bank shall prepare a budget estimate. The budget estimate shall be examined by the Board of Directors and processed in accordance with the Budget Act.

#### (Financial Statement)

##### Article 41

After the close of each fiscal year, the Bank shall settle all accounts and prepare financial statements. The financial statements shall be examined by the Board of Directors, examined and approved by the Board of Supervisors, and processed in accordance with the Financial Statement Act.

#### (Legal Reserve)

##### Article 42

At the close of each fiscal year, the Bank shall set aside fifty per cent of its net profit as legal reserve. In case the amount of the accumulated legal reserve equals or exceeds the Bank's current capital, the percentage herein prescribed may, subject to the resolution of the Board of Directors and the concurrence of the Board of Supervisors, be reduced to a level no lower than twenty per cent.

三、對檢查人員詢問無正當理由不為答復或答復不實。

四、屆期未提報財務報告、財產目錄或其他有關資料、報告，或提報不實、不全。

金融機構或其分支機構經受罰後，對應負責之人應予求償。

#### (經濟研究)

**第三十九條** 本行為配合金融政策之訂定及其業務之執行，應經常蒐集資料，編製金融統計，辦理金融及經濟研究工作。

### 第四章 預算及決算

#### (預算)

**第四十條** 本行應於會計年度開始前，擬編預算，提經理事會議決後，依預算法規定辦理。

#### (決算)

**第四十一條** 本行應於會計年度終了後，辦理決算，提經理事會議決，監事會審核，依決算法規定辦理。

#### (法定盈餘公積)

**第四十二條** 本行每屆決算，於純益項下提百分之五十為法定盈餘公積。法定盈餘公積達當年度資本額時，經理事會議決，監事會同意，得將定率減低。但不得低於百分之二十。

**(Accounting for the Gain or Loss from the Change of Exchange Rate)**

**Article 43**

The gain or loss from the Bank's assets or liabilities denominated in gold, silver, foreign currencies and other

forms of international reserve, resulted from changes in parity of the national currency, or changes in the value, parity or exchange rate of these assets and liabilities relative to the national currency, shall not be listed in the Bank's annual income statement.

Any gain from the above changes shall be posted in the Exchange Reserve Account, and any loss shall be offset in the balance of that Account.

**Chapter V Appendix**

**(Effective Date)**

**Article 44**

This Act shall become effective on the date of promulgation.

The effective date of the Article 23 amendment shall be prescribed by the Executive Yuan.

*[ Remarks : This Act is made in Chinese which shall prevail in case of any discrepancy between the English translation and the Chinese original. ]*

**(匯兌損益之會計處理)**

**第四十三條** 本行以黃金、白銀、外幣及其他國際準備計算之資產或負債，如其價值因國幣平價之改變，或此類資產、負債對國幣之價值、平價或匯率改變而發生利得或損失，均不得列為本行年度損益。

前項變動所生之利得，應列入兌換準備帳戶；其損失應由兌換準備帳戶餘額抵沖。

**第五章 附 則**

**(施行日期)**

**第四十四條** 本法自公布日施行。

本法修正條文第二十三條施行日期，由行政院定之。

## 本行出版各國中央銀行法選譯明細

年度	名 稱	選 譯 國 家 (國 家 數)
64	美國聯邦準備法	美國 (含聯準法及相關法規) (1 國)
65	各國中央銀行法選譯	加拿大、英國、法國、義大利、日本、印尼、印度、約旦、韓國、泰國 (10 國)
81	各國中央銀行法選譯 (第一輯)	英國、德國、法國、瑞士、瑞典、丹麥、比利時、日本、韓國、新加坡、泰國、澳洲、紐西蘭 (13 國) (附我國央行法)
82	各國中央銀行法選譯 (第二輯)	美國 (含聯準法及相關法規)、加拿大 (2 國)
92	各國中央銀行法選譯 (九十二年版)	歐盟、德國、英國、法國、瑞士、瑞典、芬蘭、日本、韓國、新加坡、馬來西亞、澳洲、加拿大、墨西哥 (14 國) (附我國央行法、日本及韓國央行法原文)
93	各國中央銀行法選輯 (2003 年版) 《中英對照本》 Collections of Central Bank Acts of Selected Countries (2003 Edition)	同上
98	各國中央銀行法選譯 (續編)	義大利、荷蘭、比利時、盧森堡、葡萄牙、捷克、巴西、俄羅斯、印度、菲律賓 (10 國) (附我國央行法)
98	各國中央銀行法選輯 (續編) 《中英對照本》 Collections of Central Bank Acts of Selected Countries (Volume II)	同上

年度	名 稱	選 譯 國 家 (國 家 數)
102	各國中央銀行法選輯 (2013 年版) (上冊) 《中英對照本》 Collections of Central Bank Acts of Selected Countries (2013 Edition) (Volume 1)	美國、英國 (2 國)
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