

Contents

A. Structure of the Banking Industry	29
I. Universal banking.....	29
1. Private sector commercial banks.....	29
2. Public sector commercial banks.....	29
3. Credit cooperatives.....	30
II. Specialised banks.....	30
1. Mortgage banks (Hypothekenbanken, Realkreditinstitute) ...	30
2. Building and loan associations (Bausparkassen).....	30
3. Securities clearance houses (Wertpapiersammelbanken).....	30
4. Investment companies (Kapitalanlagegesellschaften)	31
5. Guarantee banks (Bürgschaftsbanken)	31
6. Banks with special functions.....	31
III. Number of banks in the German banking system	32
IV. Overview of Germany's largest banks.....	33
V. General trends in the banking sector	34
B. Supervisory Authorities.....	35
I. Overview of supervisory authorities in Germany	35
II. Federal Banking Supervisory Authority (FBSA).....	36
1. Organisation of the FBSA.....	36
2. Responsibilities of the FBSA	36
3. Functions of the FBSA	37
4. FBSA communications.....	37
5. Cooperation with the Bundesbank.....	38

III.	Bundesbank.....	39
1.	Organisation of the Bundesbank	39
2.	Responsibilities of the Bundesbank	40
3.	Functions of the Bundesbank.....	41
4.	Minimum reserve requirements	41
5.	Changes in the role of the Bundesbank with the introduction of the European Central Bank	42
IV.	Federal Securities Supervisory Office (FSSO).....	43
1.	Organisation of the FSSO.....	43
2.	Responsibilities of the FSSO	43
3.	Functions of the FSSO	43
4.	Cooperation with other authorities	44
C.	Banking Act.....	45
I.	Development of the Banking Act	45
II.	Harmonisation of European banking legislation.....	46
III.	Structure of the Banking Act.....	48
IV.	Scope of the Banking Act	48
V.	Institutions	48
VI.	Banks	49
1.	Definition of a bank	49
2.	Definition of banking business	49
VII.	Financial services institutions	50
1.	Definition of a financial services institution	50
2.	Definition of financial services business	50
VIII.	Securities trading enterprises.....	51

06	IX.	General exceptions.....	51
06	1.	Bundesbank and Kreditanstalt für Wiederaufbau	51
06	2.	Group companies.....	51
16	3.	Investment mediation and agency business.....	51
66	4.	Other enterprises, for whom banking and financial services business is risk-free or is insignificant.....	52
26	5.	Other exceptions.....	52
56	X.	Trading book institutions and non-trading book institutions	53
86	XI.	Other basic definitions	54
96	1.	Financial enterprise	54
07	2.	Financial holding companies.....	54
07	3.	Mixed activity enterprises.....	54
07	4.	Ancillary banking services enterprises	54
07	5.	Deposit-taking bank	55
78	6.	Securities trading bank	55
08	7.	Parent company	55
08	8.	Subsidiary	55
58	9.	Fellow subsidiary undertaking	55
18	XII.	Trading book and banking book	56
78	1.	General	56
88	2.	Definition of the trading book	56
08	3.	Exceptions to trading book.....	57
08	4.	Definition of the banking book.....	57
08	5.	Classification between trading and banking book	58
08	6.	Financial instruments.....	58
08	7.	Trading book criteria	59
09	8.	Transfers between trading book and banking book	59

XIII.	Own funds and liquidity.....	60
1.	General remarks.....	60
2.	Building block approach.....	60
3.	Dynamic character of capital.....	61
4.	Definition of Tier I capital.....	63
5.	Definition of Tier II capital.....	65
6.	Deductions from liable capital (sum of Tier I and Tier II capital).....	67
7.	Definition of Tier III capital.....	68
8.	Own funds limits.....	69
XIV.	Definition of loan and total trading book exposure.....	70
1.	Two-fold definition of a loan.....	70
2.	Loan as defined by Section 19 Subsect. 1 of the Banking Act.....	70
3.	Loan as defined by Section 21 Subsect. 1 of the Banking Act.....	78
4.	Total trading book exposure.....	80
5.	Exceptions to loan as defined by Section 19 Subsect. 1 of the Banking Act.....	82
6.	Provisions on the definition of a loan in the Ordinance on Large and Million Loans.....	84
7.	Exceptions to loan as defined by Section 21 Subsect. 1 of the Banking Act.....	87
XV.	Definition of borrower.....	88
XVI.	Treatment of large exposures.....	89
1.	Structure of the large exposure regulations.....	89
2.	Overview of large exposure limits.....	89
3.	Large exposure provisions for non-trading book institutions.....	90
4.	Large exposure provisions for trading book institutions.....	91
XVII.	Large exposure provisions for groups.....	95
XVIII.	Loans of DEM 3 million and over.....	96
1.	Structure of provisions for loans of DEM 3 million and over.....	96
2.	Reporting.....	96

XIX.	Loans to related parties	96
1.	Structure of provisions pertaining to loans to related parties	96
2.	Scope of provisions	96
3.	Exceptions	97
4.	Conditions.....	98
XX.	Information required of borrowers.....	98
1.	General remarks	98
2.	Disclosure, analysis and documentation	98
3.	Audit of compliance	99
4.	Exceptions to provisions.....	99
XXI.	Supervisory reporting as required by Section 24 of the Banking Act.....	101
1.	Overview of supervisory reporting required of institutions by Section 24 of the Banking Act.....	101
2.	Reporting requirements of members of the board of directors defined by Section 24 of the Banking Act.....	104
3.	Reporting requirements of financial holding companies defined by Section 24 of the Banking Act	104
XXII.	Organisational requirements.....	105
1.	General remarks	105
2.	Management and monitoring of risks	105
3.	Organisation of the business	105
4.	Documentation and storage of information.....	106
5.	Outsourcing.....	106
D.	Equity and Liquidity Principles	107
I.	General remarks.....	107
II.	Structure of Principle I.....	107
III.	Scope of Principle I.....	108
IV.	Capital adequacy.....	108
V.	Risk-weighted assets.....	109
VI.	Market risk position.....	109

VII.	Regulations for trading book institutions	110
1.	General remarks	110
2.	Types of risk	110
3.	Counterparty risk	111
4.	Market price risk	112
5.	Counterparty risk in the banking book	113
6.	Counterparty risk in the trading book	120
7.	Market price risks in the trading book	123
8.	Non-linear option risks	130
9.	Total currency position	135
10.	Commodities position	138
VIII.	Regulations for non-trading book institutions	140
1.	General remarks	140
2.	Counterparty risk in the banking book	140
3.	Foreign exchange risk	141
4.	Commodities risk	141
5.	Options risk	141
IX.	Internal models	141
1.	General remarks	141
2.	Value at risk	141
3.	FBSA requirements for models	142
4.	Capital charge	143
X.	Principles II and III	143
1.	General remarks	143
2.	Principle II	143
3.	Principle III	144
4.	Reporting	145
5.	Rough draft for new liquidity principle	146

E.	Minimum Requirements for Credit Institutions for the Execution of Trading Transactions and Basle Interest Rate Risk Management Principles	148
I.	General remarks.....	148
II.	Structure of the Minimum Requirements	148
III.	Scope of the Minimum Requirements.....	149
	1. Basic rule	149
	2. Definition of trading transactions.....	149
	3. Definition of derivatives	149
	4. Business not included in Minimum Requirements	149
IV.	General requirements	150
	1. Responsibility of board of directors	150
	2. General conditions.....	151
	3. New products	151
	4. Employee qualifications and conduct.....	152
	5. Conditions in line with the market	153
V.	Risk control and risk management.....	153
	1. Overview of general risk management principles	153
	2. Definitions	154
	3. Risk control and risk management system	154
	4. Limiting risks.....	155
	5. Credit risk	156
	6. Market price risk	156
	7. Liquidity risks	156
	8. Legal risks.....	157
	9. Operating risks	157
VI.	Organisation of trading activity	158
	1. Segregation of duties	158
	2. Trading	161
	3. Settlement and internal control	162
	4. Accounting.....	163
	5. Monitoring	163

VII.	Internal audit	164
1.	Audit areas and frequency of audit.....	164
2.	Reporting to the board.....	164
3.	Circularisation of counterparties	164
VIII.	Principles for management of interest rate risk	165
F.	Accounting Requirements for Banks	166
I.	Legal basis for accounting for banks	166
1.	Structure of accounting requirements.....	166
2.	Legislation for accounting for banks.....	167
II.	Accounting basics.....	168
1.	Preparation and presentation of financial statements	168
2.	Components of the financial statements	168
3.	Management report	168
4.	Schedules.....	168
5.	Prior year figures.....	168
III.	Evidence and disclosure requirements.....	169
1.	General remarks.....	169
2.	Securities	169
3.	Netting.....	173
4.	Provisions and reserves	173
5.	Cross-caption off-setting	175
6.	Maturity	176
7.	Accrued interest	177
IV.	Valuation.....	177
1.	General remarks.....	177
2.	Fixed asset valuation	178
3.	Current asset valuation	180
4.	Liabilities and provisions.....	181
5.	Capital	181
6.	Write-ups	181

V.	Foreign exchange conversion	182
	1. Rules for foreign currency conversion.....	182
	2. Treatment of foreign exchange differences.....	183
VI.	Notes and management report	185
	1. Notes to the financial statements.....	185
	2. Management report.....	185
VII.	Consolidated financial statements.....	187
	1. General remarks	187
	2. Requirement to prepare consolidated financial statements	187
	3. Exemption from preparation of consolidated financial statements	188
	4. Inclusion in and exclusion from consolidation.....	188
VIII.	Recent Developments	189
	1. Implementation of two new laws.....	189
	2. Law on Control and Transparency in Companies.....	189
	3. Law to Facilitate the Raising of Capital.....	190
G.	Securities Trading Act and Rules for Staff Transactions	192
I.	General remarks.....	192
II.	Structure of the Securities Trading Act.....	192
III.	Scope of the Securities Trading Act.....	192
IV.	Securities services provider	193
	1. Definition of a securities services provider.....	193
	2. Definition of services relating to securities.....	193
	3. Exceptions to securities services providers	194
V.	Reporting to the FSSO	195
	1. Reporting as defined by Section 9 of the Securities Trading Act	195
	2. Ad-hoc publicity.....	195
	3. Changes in holdings of voting rights in listed companies...	196

VI.	Insider trading	196
1.	Definition of insider securities	196
2.	Definition of insider	197
3.	Ban on insider trading	197
VII.	Rules of conduct	198
1.	General remarks	198
2.	General rules of conduct	198
3.	Specific rules of conduct	199
4.	Organisational duties	200
VIII.	Rules for banks for staff transactions	201
H.	Establishing a Bank or a Financial Services Institution in Germany	202
I.	Subsidiary	202
1.	Application for a licence to engage in banking or financial services	202
2.	Refusal of a licence	203
II.	Branch of an enterprise domiciled in another state of the EEA ...	203
III.	Branch of an enterprise domiciled abroad	204
IV.	Representative office of an institution domiciled abroad	205
V.	Branch of an enterprise domiciled in a third country	205
I.	Audit	206
I.	General remarks	206
II.	Audit of financial statements	206
III.	Securities audit	208
IV.	Special audit under the provisions of Section 44 of the Banking Act	210