



Bundesanstalt für Finanzdienstleistungsaufsicht

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Act Establishing the Federal Financial Supervisory Authority (Bundesanstalt für Finanzdienstleistungsaufsicht – BaFin) (Finanzdienstleistungsaufsichtsgesetz – FinDAG)

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This translation is furnished for information purposes only. The original German text is binding in all respects.

Part I

Establishment, supervision, functions

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Section 1

Establishment

(1) A federal institution with legal personality governed by public law is established as part of the portfolio of the Federal Ministry of Finance as of 1 May 2002 by merging the Federal Banking Supervisory Office (Bundesaufsichtsamt für das Kreditwesen), the Federal Insurance Supervisory Office (Bundesaufsichtsamt für das Versicherungswesen), and the Federal Securities Supervisory Office (Bundesaufsichtsamt für den Wertpapierhandel). This new authority bears the name “Federal Financial Supervisory Authority” (Supervisory Authority).

(2) The Supervisory Authority's offices are located in Bonn and in Frankfurt am Main.

(3) For actions against the Supervisory Authority, its office is deemed to be in Frankfurt am Main. In proceedings under the Act on Breaches of Administrative Regulations (Gesetz über Ordnungswidrigkeiten), the Supervisory Authority's office is deemed to be in Frankfurt am Main. Sentence 1 shall not be applicable to legal actions arising from contracts of employment with public officials or to legal disputes that fall within the purview of the labour courts.

(4) The Supervisory Authority is exempt from the payment of court fees in proceedings before courts of law.

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Section 2

Legal and technical supervision

The Supervisory Authority is subject to legal and technical supervision by the Federal Ministry of Finance (Federal Ministry).

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Section 3

Forum for financial market supervision

A Forum for Financial Market Supervision is established at the Supervisory Authority, to which the Supervisory Authority and the Deutsche Bundesbank belong. The Federal Ministry may participate in its meetings. The Forum is chaired by the Supervisory Authority. The Forum for Financial Market Supervision coordinates cooperation with the Deutsche Bundesbank in supervisory matters. It also advises in matters of integrated financial services supervision that are of importance to the stability of the financial system.

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Section 4

Functions and cooperation

(1) The Supervisory Authority takes over the functions previously allocated to the Federal Banking Supervisory Office, the Federal Insurance Supervisory Office and the Federal Securities Supervisory Office. It shall also fulfil those functions transferred to it by other provisions, including advisory activities in connection with the development and support of supervisory systems outside Germany.

(2) The Supervisory Authority cooperates with other bodies and persons in Germany and abroad pursuant to the laws and provisions cited in subsection (1).

(3) The Supervisory Authority may avail itself of other persons and institutions in the performance of its functions.

(4) The Supervisory Authority performs its functions and exercises its powers exclusively in the public interest.

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Part II

Organisation

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Section 5

Organs, articles of association

(1) The organs of the Supervisory Authority are the Executive Board, the President and the Administrative Council.

(2) The functions and powers of the organs are determined by the articles of association of the Supervisory Authority to the extent that they are not governed by the provisions of this Act.

(3) The Federal Ministry shall be authorised to issue the articles of association of the Supervisory Authority by way of a Regulation. The articles of association may be amended by the Federal Ministry by way of a Regulation in consultation with the Administrative Council. The articles of association shall include, in particular, provisions concerning

1. the Supervisory Authority's structure and organisation;
2. the rights and duties of the Supervisory Authority's organs;
3. the details relating to the appointment and dismissal of the members of the Administrative Council and the right of nomination held by the associations of the banking and insurance industries;
4. the details relating to the appointment and dismissal of the members of the Advisory Board;
5. the Supervisory Authority's budgetary administration and rendering of accounts.

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Section 6

Management

(1) Overall responsibility for managing the Supervisory Authority lies with the Executive Board. The Executive Board consists of one President and four Chief Executive Directors, one of whom is the President's permanent deputy. The Executive Board unanimously adopts an organisational statute determining the functions and responsibilities within the Executive Board. The organisational statute and amendments to it are to be presented to the Federal Ministry for approval.

(2) The Executive Board meets under the chairmanship of the President. It takes decisions by a simple majority of the votes cast, also in the event of any difference of opinion. In case of a tie, the President shall have the casting vote. The Executive Board defines the internal organisation of the Supervisory Authority by way of rules of procedure. Decisions on the rules of procedure and on amendments to them requiring the approval of the Federal Ministry require an unanimous vote of the Executive Board.

(3) The President decides on the strategic orientation of the Supervisory Authority as an integrated financial services supervisor at a national and international level. In accordance with this strategic framework, the Chief Executive Directors bear the responsibility for their directorates.

(4) Four directorates are established to perform the Supervisory Authority's statutory functions: Regulatory Services/Human Resources, Banking Supervision, Insurance Supervision and Securities Supervision.

(5) The President represents the Supervisory Authority before the courts and out of court.

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Section 7

Administrative Council

(1) An Administrative Council is established at the Supervisory Authority. The Administrative Council monitors the management of the Supervisory Authority and supports it in the performance of its functions. The President must keep the Administrative Council regularly informed of the Supervisory Authority's management activities. The Chief Executive Directors must report on their directorates' activities.

(2) The Administrative Council establishes its own rules of procedure.

(3) The Administrative Council consists of

1. the Chairman and his Deputy, who are seconded by the Federal Ministry,
2. the following 19 members:
 - a. two further representatives of the Federal Ministry;
 - b. one representative of the Federal Ministry of Economics and Technology;
 - c. one representative of the Federal Ministry of Justice;
 - d. five members of the Bundestag;
 - e. five representatives of the credit institutions;
 - f. four representatives of the insurance undertakings;
 - g. one representative of the asset management companies (Kapitalanlagegesellschaften).

The Deutsche Bundesbank may be represented at the meetings of the Administrative Council by one representative without a voting right. The Chairman of the Supervisory Authority's Staff Council and his deputies have the same right to participate in the meetings.

(4) The resolutions of the Administrative Council are passed by simple majority. In case of a tie, the Chairman shall have the casting vote.

(5) The members of the Administrative Council are appointed by the Federal Ministry. A deputy shall be nominated, and appointed by the Federal Ministry, for each member of the Administrative Council for the event of a member being unable to attend meetings. The members of the Administrative Council must fulfil the requirements on eligibility to stand for election to the Bundestag.

(6) The members of the Bundestag are nominated by the Bundestag and are appointed for the duration of the legislative period of the Bundestag. At the end of the legislative period they remain in office until such time as the new members have been nominated.

(7) Members may be reappointed. They may waive membership by submitting a written declaration to the Federal Government and thus resign their office. Members are removed from office if they no longer fulfil the appointment requirements or if another compelling reason exists in the person of the member, but in this case only after the seconding institution has been heard.

(8) If a member leaves office, a new member shall be appointed without undue delay to replace him. An appointed deputy performs the duties of a departing member until a new member is appointed or in the event of a member being temporarily unable to fulfil his duties. Subsections (1) to (8) apply mutatis mutandis to deputy members.

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Section 8

Advisory Board

(1) An Advisory Board is established at the Supervisory Authority. The Board advises the Supervisory Authority in the performance of its functions. It may also make recommendations on the further development of supervisory practice in general.

(2) The Advisory Board comprises 24 members. The members of the Advisory Board are appointed by the Federal Ministry. Academia, the banking and insurance industries, the Deutsche Bundesbank and the consumer protection associations shall be adequately represented on the Advisory Board.

(3) The Advisory Board elects a Chairman from among its members. The Advisory Board establishes its own rules of procedure.

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Part III

Personnel

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Section 9

Public officials

(1) The Supervisory Authority is granted the right to have public officials (Beamte).

(2) The members of the Supervisory Authority's Executive Board are nominated by the President of the Federal Republic of Germany at the proposal of the Federal Government. The President of the Supervisory Authority nominates the public officials belonging to grades A 2 to A 16 of remuneration code A. The President of the Federal Republic of Germany nominates the other public officials.

(3) The Federal Ministry is the supreme official authority for the President and the Chief Executive Directors. For the other public officials, the supreme official authority is the Supervisory Authority's President.

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Section 10

Public employees, manual workers and trainees

(1) The federal collective agreements and other provisions for federal employees and trainees shall be applied to the public employees, manual workers and trainees of the Supervisory Authority.

(2) Subject to approval by the Administrative Council, public employees may also be employed under an agreement outside the collective agreement in excess of the highest collectively agreed remuneration scale for public employees to the extent that this is necessary for the performance of their duties. Sentence 1 shall apply mutatis mutandis to the granting in other instances of benefits in excess of or outside the collective agreement.

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Section 11

Obligation of confidentiality

The obligation of confidentiality imposed on the employees of the Supervisory Authority with regard to facts that have become known to them in the performance of their duties is prescribed by the supervisory provisions on the basis of which the individual employee has taken action. Sentence 1 shall apply mutatis mutandis to the members of the Administrative Council and the members of the Advisory Board with regard to the facts coming to their attention in the performance of their duties.

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Part IV

Budget, rendering of accounts, cover of administrative expenses

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Section 12

Budget, rendering of accounts

(1) The Supervisory Authority shows the revenues it expects to accrue and the expenses it expects to incur in its area of competence in its budget, including a staff appointment scheme. The financial year corresponds to the calendar year. The provisions of the Federal Budget Code (Bundeshaushaltsordnung) pertinent to federal institutions with legal personality under public law shall govern payments, bookkeeping and the rendering of accounts.

(2) The budget shall be drawn up by the Executive Board. The Executive Board shall present the draft version of the

budget to the Administrative Council without undue delay. The budget shall be adopted by the Administrative Council.

(3) At the end of the financial year the Executive Board shall prepare accounts of the revenues and expenditure of the Supervisory Authority. The Administrative Council shall grant discharge of these accounts subject to approval by the Federal Ministry.

(4) If the accounts show a surplus, this may be carried forward to the following financial year subject to approval by the Administrative Council. Instead of carrying the amount forward, a reserve for future investment projects may be set aside to the amount of the surplus. To become effective, the formation of a reserve requires the approval of the Administrative Council.

(5) The audit of the accounts and the financial management shall be carried out by the body set forth in the articles of association without prejudice to an audit carried out by the Federal Court of Audit (Bundesrechnungshof) pursuant to section 111 of the Federal Budget Code (Bundeshaushaltsordnung). The audit findings shall be passed on to the Executive Board, the Administrative Council and the Federal Ministry as well as to the Federal Court of Audit.

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Section 13

Cover of costs of supervision

(1) The Supervisory Authority shall cover its costs, including the costs charged to the Supervisory Authority by the Deutsche Bundesbank pursuant to section 15 (2), from its own revenues as set out under sections 14 to 16 and from other revenues, unless otherwise specified in sections 17a to 17d. Administrative fines shall not be taken into account.

(2) The Federal Government shall provide the liquidity necessary to ensure orderly cash management in the form of an interest-bearing loan subject to the provisions of the Budget Act (Haushaltsgesetz). The interest rate shall be set by agreement between the Federal Government and the Supervisory Authority. The loan is to be repaid as soon as possible, but no later than at the end of the financial year.

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Part V

Fees and allocation of costs, enforcement measures

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Section 14

Fees for official acts

(1) The Supervisory Authority may charge fees of up to 500,000 euros for official acts performed within the framework of the functions assigned to it, unless the laws applying to the Supervisory Authority contain special provisions on fees, separate reimbursement of costs is provided for under section 15, or separate financing as defined in sections 17a to 17d takes place.

(2) The Federal Ministry may, by means of a Regulation, define the official acts that are liable to fees and the amount of the fees in accordance with subsection (1) in the form of fixed rates or basic fees and by provisions on increases, reductions and exemptions for certain types of official acts. The Federal Ministry may, in doing so, derogate from section 15 of the Administrative Costs Act (Verwaltungskostengesetz). The rates of the fees are to be fixed in such a way that there is a reasonable proportion between the amount of administrative effort involved in the performance of the official act and its importance, economic value or other benefits. The Federal Ministry may, by means of a Regulation, delegate the authority referred to in sentence 1 to the Supervisory Authority.

(3) The Regulation cited in subsection (2) may prescribe that it is also to be applied to administrative proceedings pending at the time of its coming into force, provided the fee has not already been fixed at this point in time.

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Section 15

Separate reimbursement

(1) The costs incurred by the Supervisory Authority

1. from the appointment of a liquidator under section 37 (1) sentence 2, section 38 (2) sentence 2 or 4 of the Banking Act (Kreditwesengesetz) or of a supervisor under section 46 (1) sentence 2 of the Banking Act, from an announcement under section 32 (4), section 37 (1) sentence 3 or section 38 (3) of the Banking Act, from an audit carried out on the basis of section 44 (1) or (2), section 44b (2) or section 44c (2) also in conjunction with measures under section 44c (3) or (4) of the Banking Act;
2. from an audit carried out on the basis of section 17 (4) and (5), section 35 (1) or section 36 (4) of the Securities Trading Act (Wertpapierhandelsgesetz);
3. from an audit carried out on the basis of section 44 (3) of the Banking Act of the correctness of the data provided for the consolidation under section 10a (6), (7) and (11), section 13b (3) and section 25 (2) of the Banking Act;
4. from the appointment of a liquidator under section 81f (1) sentence 2, from an audit carried out on the basis of section 83b (2), also in conjunction with measures under section 83b (3), or section 83 (1) sentence 1 no. 2, 3 or 4, also in conjunction with subsection (5a), each of which also in conjunction with section 1a (1), section 105 (3), section 110d (2) sentence 1 and subsection (3), section 113 (1), section 121a (1) sentence 1, section 128 sentence 3, or section 159 (1) sentence 2 of the Insurance Supervision Act (Versicherungsaufsichtsgesetz);
5. from the appointment or dismissal of an administrator under section 22e of the Banking Act;
6. from the application for the appointment or dismissal of a creditors' trustee under section 22l or section 22o of the Banking Act;
7. from
 - a. the appointment of a liquidator under section 17b of the Investment Act (Investmentgesetz) in conjunction with section 38 (2) sentence 2 or 4 of the Banking Act;
 - b. an announcement under section 7a (4) of the Investment Act or section 17b of the Investment Act in conjunction with section 38 (3) of the Banking Act;
 - c. the appointment of a liquidator under section 17c of the Investment Act in conjunction with section 37 (1) sentence 2 of the Banking Act;
 - d. an audit carried out on the basis of section 19g of the Investment Act in conjunction with section 44 (1) or section 44b (2) of the Banking Act;
8. from an audit carried out on the basis of section 7 (3) sentence 4 of the Deposit Guarantee and Investor Compensation Act (Einlagensicherungs- und Anlegerentschädigungsgesetz) in conjunction with section 44 (1) of the Banking Act, also in conjunction with section 6 (4) sentence 3 or section 12 (2) sentence 1 of the Deposit Guarantee and Investor Compensation Act;
9. from an audit carried out on the basis of section 12 (2) sentence 2 of the Capital Venture Act (Wagniskapitalbeteiligungsgesetz);
10. from
 - a. the appointment of a liquidator under section 4 (1) sentence 2 of the Payment Services Supervision Act (Zahlungsdiensteaufsichtsgesetz), under section 10 (3) sentence 1 of the Payment Services Supervision Act in conjunction with section 38 (2) sentence 2 or 4 of the Banking Act, under section 26 (3) or (4), each of which in conjunction with section 4 (1) sentence 2 of the Payment Services Supervision Act, or of a supervisor under section 16 (2) sentence 2 no. 3 of the Payment Services Supervision Act;

- b. an announcement under section 4 (1) sentence 3, under section 26 (3) or (4), each of which in conjunction with section 4 (1) sentence 3, or an announcement under section 10 (4) of the Payment Services Supervision Act;
 - c. an audit carried out on the basis of
 - aa) section 5 (2), also in conjunction with measures under subsection (3) or (4), or section 14 (1) sentence 2 of the Payment Services Supervision Act;
 - bb) section 26 (3) or (4), each of which in conjunction with section 5 (2), (3) or (4) or section 14 (1) sentence 2 of the Payment Services Supervision Act; or
11. from an announcement under Article 24 (1)(e), also in conjunction with Article 25 (1)(a) of Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (OJ L 302 of 17 November 2009, p. 1)

shall be reimbursed separately to the Supervisory Authority, and paid in advance upon request, in the cases of numbers 1, 2, 4, 7, 9, 10 and 11 by the company concerned, in the cases of number 3 by the company obliged to consolidate its own funds, in the cases of number 5 by the company obliged to keep the register, in the cases of number 6 by the companies mentioned under section 22n (4) sentence 2 and 3 of the Banking Act and in the cases of number 8 by the compensation scheme concerned. The costs under sentence 1 also include the costs charged to the Supervisory Authority by the Deutsche Bundesbank and other authorities acting within the framework of such measures on behalf of the Supervisory Authority, as well as the costs for the deployment of own employees.

(2) The Supervisory Authority shall reimburse the Deutsche Bundesbank and the other authorities acting for it within the framework of subsection (1) for their personnel and nonstaff costs. The amount to be reimbursed, in particular the hourly rates for the deployment of the employees of these authorities shall be determined subject to the reimbursement directives issued by the Federal Ministry.

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Section 16

Allocation of costs

(1) To the extent that the costs incurred by the Supervisory Authority are not covered by fees, separate reimbursement under section 15 or other revenues, they shall be allocated on the basis of a suitable allocation formula and on a pro-rated basis taking into account the deficits, the outstanding amounts and surpluses of the previous years to credit institutions, insurance undertakings, financial services institutions, payment institutions, electronic money institutions, venture capital companies, asset management companies (Kapitalanlagegesellschaften), investment stock corporations, companies that are admitted to trading on a German stock exchange, and issuers domiciled in Germany whose securities are admitted to trading on a German stock exchange or are included with their consent in the regulated unofficial market (Freiverkehr), and shall be collected by the Supervisory Authority pursuant to the provisions of the Act on Administrative Enforcement (Verwaltungs-Vollstreckungsgesetz).

(2) The Federal Ministry lays down, by means of a Regulation not requiring the consent of the Bundesrat, the details concerning the allocation of the costs, in particular the allocation formula, the cut-off date, the minimum allocation amount, the cost allocation method including a suitable method of estimation in cases where the data are not beyond doubt, the cut-off periods for presenting documentation, the periods allowed for payment, the amount of any surcharges for late payment, the determination of advance payment amounts, the period of limitation, and collection. The rules included in sections 5, 6, 8 and 13 of the Regulation on the Imposition of Fees and Allocation of Costs Pursuant to the FinDAG of 29 April 2002 (Federal Law Gazette I, p. 1504, 1847), last amended by Article 5 of the Act of 1^o March 2011 (Federal Law Gazette I, p. 288), shall have force of law and apply with effect as of 1 May 2002. The Regulation may also prescribe rules for the detailed determination of the costs and for the preliminary determination of the allocation amount. The Federal Ministry may, by means of a Regulation, delegate this authority to the Supervisory Authority.

(3) Revenues from the final and non-appealable imposition of coercive fines (Zwangsgelder), from the refunding of

expenditure in relation to financial penalties and legal costs and from publications, miscellaneous income and interest from the investment of excess liquidity not taken into account in the cost allocation for 2002 and 2003, are to be deducted from the costs for allocation year 2007.

(4) Subsection (1) in the version in force as from 26 March 2009 shall apply to deficits, outstanding amounts and surpluses which are to be allocated to be allocation year 2009 and later allocation years. Deficits and outstanding amounts which are to be allocated to allocation years 2002 to 2008 and have not been allocated or are not being allocated pursuant to subsection (1) in the version in force until 25 March 2009, are to be offset against the surpluses which are to be allocated to allocation years 2002 to 2008 and which have not been allocated or are not being allocated pursuant to section 6 (1) sentence 6 of the Regulation on the Imposition of Fees and Allocation of Costs Pursuant to the FinDAG in the version in force until 25 March 2009. Where the surpluses to be offset pursuant to sentence 2 exceed deficits and outstanding amounts that are to be offset, the excess amount shall be deducted prior to the distribution of overhead costs when determining the allocation of the costs for allocation year 2009 or for later allocation years.

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Section 17

Enforcement measures

The Supervisory Authority may enforce the orders it issues within the scope of its statutory powers by taking enforcement measures under the provisions of the Act on Administrative Enforcement (Verwaltungs-Vollstreckungsgesetz). It may threaten enforcement measures for each failure to comply. It may also take enforcement measures against legal persons governed by public law. The amount of the coercive fine (Zwangsgeld) may be up to 250,000 euros.

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Part VI

Financing separate duties

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Section 17a

Financing separate duties

The Supervisory Authority shows the revenues it expects to accrue and the expenses it expects to incur in its area of competence for performance of its functions pursuant to Part 11 of the Securities Trading Act (Wertpapierhandelsgesetz) and this Part in a separate section of the budget, including a separate staff appointment scheme. The sum of revenues and expenses of the enforcement panel are to be accounted for in this section of the budget and are also to be entered separately. This section of the budget is to be separately adopted by the Administrative Council, based on the enforcement panel's financial budget approved pursuant to section 342d sentence 2 of the Commercial Code (Handelsgesetzbuch). The costs for activities set forth in sentence 1 shall also be entered separately and shall be dedicated to a separate accounting cycle. Section 12 (1) and (3) to (5) and section 13 (2) sentences 1 and 2 apply mutatis mutandis.

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Section 17b

Fees for separate official acts

(1) The Supervisory Authority may charge fees of up to 500,000 euros for official acts performed within the framework of the functions assigned to it under Part 11 of the Securities Trading Act (Wertpapierhandelsgesetz), unless separate reimbursement of costs is provided for under section 17c. If the Supervisory Authority's audit establishes that accounting is not faulty, no fees will be charged.

(2) The Federal Ministry may, by means of a Regulation, define the official acts that are liable to fees and the amount of the fees in accordance with subsection (1) in the form of fixed rates or basic fees or by provisions on increases, reductions and exemptions for certain types of official acts. Section 14 (2) sentence 2, 3 and subsection (3) shall apply mutatis mutandis. The Federal Ministry may, by means of a Regulation, delegate this authority to the Supervisory Authority.

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Section 17c

Separate reimbursement for separate audits

The costs incurred by the Supervisory Authority in the performance of its functions pursuant to section 37p (1) sentence 2 no. 1 of the Securities Trading Act (Wertpapierhandelsgesetz) are to be reimbursed separately by the companies within the meaning of section 37n of the Securities Trading Act, and are to be paid in advance upon request. The costs incurred in the performance of its functions pursuant to section 37p (1) sentence 2 no. 1 of the Securities Trading Act are not reimbursed separately if the Supervisory Authority's audit result differs from the audit result of the enforcement panel to the benefit of the company in question. The costs defined in sentence 1 also include costs charged to the Supervisory Authority by the enforcement panel within the context of its functions set forth in section 37o (3) of the Securities Trading Act or by other bodies commissioned by the Supervisory Authority within the context of such measures, as well as the costs for the deployment of the Supervisory Authority's own employees. The Federal Ministry may define the details of separate reimbursement by means of a Regulation. The Federal Ministry may, by means of a Regulation, delegate this authority to the Supervisory Authority.

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Section 17d

Separate cost allocation

(1) To the extent that the costs entered separately in accordance with section 17a sentence 4 and the costs required by the enforcement panel to perform its functions pursuant to section 342b of the Commercial Code (Handelsbesetzbuch) are not covered by fees, separate reimbursement or other revenues, they, together with any deficits and outstanding amounts from the previous year, shall be allocated on a pro-rated basis by the Supervisory Authority to all companies whose securities within the meaning of section 2 (1) sentence 1 of the Securities Trading Act (Wertpapierhandelsgesetz) are, as at the cut-off date, admitted to trading on the regulated market (regulierter Markt) of a German stock exchange, using a suitable allocation formula based on the companies' domestic exchange turnover, and shall be collected pursuant to the provisions of the Act on Administrative Enforcement (Verwaltungs-Vollstreckungsgesetz). Minimum and maximum allocation amounts may be defined. With respect to the allocation as defined in sentence 1, the Supervisory Authority may set prepayments based on the costs projected in the budget for the allocation year.

(2) The German stock exchanges shall furnish the Supervisory Authority with the information and documentation on exchange turnover required for determination of the allocation of the costs and prepayments. The Supervisory Authority may require that information and documentation be furnished by the companies if this is necessary for determining the allocation of costs and prepayments.

(3) The Federal Ministry lays down, by means of a Regulation and in agreement with the Federal Ministry of Justice, the details concerning the allocation of the costs and prepayments, in particular the determination of the costs and the allocation formula, the cut-off date, the minimum and maximum allocation amounts, the cost allocation method including a suitable method of estimation if the data are not beyond doubt, the cut-off periods for presenting documentation, the periods allowed for payment, the amount of any surcharges for late payment, collection and compensation of the differential between the prepayment and the allocation amount set, also with respect to prepayments pursuant to section 342d (1) sentence 3 of the Commercial Code. The Regulation may also prescribe rules for the preliminary determination of the allocation amount. With the agreement of the Federal Ministry of Justice, the Federal Ministry of Finance may, by means of a Regulation, delegate this authority to the Supervisory Authority.

(4) The initial allocation of costs must take into account the costs incurred in establishing the enforcement panel, even if they were generated prior to the recognition of the enforcement panel pursuant to section 342b of the Commercial Code.

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Part VII

Transitional and concluding provisions

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Section 18

Transitional provisions

(1) Administrative proceedings pending at the Federal Banking Supervisory Office, the Federal Insurance Supervisory Office and the Federal Securities Supervisory Office shall be continued as of 1 May 2002 by the Supervisory Authority. In pending court proceedings in which the Federal Republic of Germany, represented by the President of the relevant Federal Supervisory Office, is a party or litigant, the Supervisory Authority shall be party or litigant on this Act's coming into force.

(2) The Federal Administrative Court (Bundesverwaltungsgericht) shall remain responsible for those court proceedings pending under section 10a of the Act on the Establishment of a Federal Insurance Supervisory Office (Gesetz über die Errichtung eines Bundesaufsichtsamtes für das Versicherungswesen). The running of periods shall not be suspended.

(3) (Repealed)

(4) (Repealed)

(5) Until such time as another office is assigned to them, the Presidents and Deputy Presidents of the Federal Banking, Insurance and Securities Supervisory Offices who are in office on 30 April 2002 shall be subject to the provisions of the Federal Civil Service Remuneration Act (Bundesbesoldungsgesetz) in the version in force before the entry into force of Article 14 of the Act on Integrated Financial Services Supervision of April 2002 (Federal Law Gazette I, page 1310).

(6) To the extent that they have not yet been reimbursed, the costs incurred by the Federal Banking Supervisory Office, the Federal Insurance Supervisory Office and the Federal Securities Supervisory Office shall be reimbursed by the companies under supervision for the year 2002 up to 30 April 2002 and for the preceding years to the Supervisory Authority. The Supervisory Authority shall pass these amounts on to the Federal Government.

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Section 19

Transfer/taking over of employees

(1) The public officials of the Federal Banking, Insurance and Securities Supervisory Offices shall become public officials of the Supervisory Authority with effect as of 1 May 2002. Section 130 (1) of the Federal Civil Service Framework Act (Beamtenrechtsrahmengesetz) as published on 31 March 1999 (Federal Law Gazette I, page 654) shall apply mutatis mutandis.

(2) To the extent that the costs of pension benefits for the public officials of the Supervisory Authority are not to be borne by the Federal Government pursuant to section 20, the Supervisory Authority shall set aside pension reserves.

(3) The public employees, manual workers and trainees employed at the Federal Supervisory Offices cited under

subsection (1) are transferred with effect as of 1 May 2002 to the Supervisory Authority. The Supervisory Authority assumes the rights and duties arising from contracts of employment and training agreements existing at the time of the transfer without prejudice to section 10 (1).

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Section 20

Distribution of costs of pension benefits

(1) The Supervisory Authority shall pay the pension benefits for the years of service performed at the Supervisory Authority by the public officials transferred to it from the Federal Banking, Insurance and Securities Supervisory Offices.

(2) The Federal Government shall pay the pension benefits for those years of service performed by the public officials between their recruitment at the Federal Banking, Insurance and Securities Supervisory Offices and their transfer to the Supervisory Authority. Section 107b of the Civil Service Benefits Act (Beamtenversorgungsgesetz) shall apply mutatis mutandis.

(3) The Federal Government shall pay the pension provisions for existing recipients of pensions of the Federal Banking, Insurance and Securities Supervisory Offices.

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Section 21

Powers of the Supervisory Authority

(1) Rights and duties established by the Federal Banking, Insurance and Securities Supervisory Offices with respect to the Federal Republic of Germany shall be transferred to the Supervisory Authority.

(2) The movable administrative assets of the Federal Republic of Germany used by the Federal Supervisory Offices at the time of the establishment of the Supervisory Authority shall be transferred to the Supervisory Authority for its use free of charge.

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Section 22

Correction of designations

The Federal Ministry may, by means of a Regulation not requiring the consent of the Bundesrat, replace the designations "Federal Banking Supervisory Office", "Federal Insurance Supervisory Office" and "Federal Securities Supervisory Office" in laws and regulations not included in the Act on Integrated Financial Services Supervision of 22 April 2002 (Federal Law Gazette I, page 1310) by the designation "Federal Financial Supervisory Authority" and may carry out the linguistic changes this requires.

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Additional Information
