

By-laws of the Deposit Protection Fund of the Association of German Banks



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Berlin, December 2015

Association of German Banks



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§ 1 Deposit Protection Fund

A Deposit Protection Fund of German Banks (Einlagensicherungsfonds deutscher Banken), hereinafter referred to as the “Fund”, has been established as a dependent special fund within the Association of German Banks (Bundesverband deutscher Banken), hereinafter referred to as the “Banking Association”.

§ 2 Purpose of the Fund

1. The purpose of the Fund is to give assistance, in the interest of depositors, in the event of imminent or actual financial difficulties of banks, particularly when the suspension of payments is imminent, in order to prevent the impairment of public confidence in private banks.
2. All measures apt to be of assistance may be taken in the implementation of the purpose described in subsection (1), in particular payments to individual creditors, primarily in accordance with § 6 hereof, payments to banks, the assumption of guarantees or the assumption of obligations in connection with action taken under § 46 German Banking Act (Kreditwesengesetz).

§ 2a Participation in the Fund

1. All banks which are members of the Banking Association (hereinafter referred to individually as “bank”) shall be required to participate in the Fund unless exempted from participation under subsection (2).
2. Upon application, exemption from participation in the Fund may be granted to
 - banks affiliated to another domestic protection

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scheme; in this context, the compensation schemes provided for under the German Deposit Guarantee and Investor Compensation Act (Einlagensicherungs- und Anlegerentschädigungsgesetz) shall not be deemed to be such protection schemes,

- branches of foreign banks.

§ 3 Conditions for Participation in the Fund

1. The conditions for participation in the Fund shall be that
 - a) the bank has liable capital which satisfies the requirements on the basis of which the Federal Financial Supervisory Authority (Bundesanstalt für Finanzdienstleistungsaufsicht) grants licences to conduct banking business under §§ 32 and 33 German Banking Act and
 - b) the bank has at least two managers who possess the necessary personal qualifications and trustworthiness; in this context, the necessary personal qualifications shall in particular require that the individuals in question have extensive banking experience and offer assurance for a business policy which excludes the jeopardising of deposits and complies with the principles laid down in subclause (d) and
 - c) no facts exist which indicate that the owner of a qualified participating interest (§ 1 (9) German Banking Act) or his legal representative or representative according to the articles of association or general partner is not trustworthy or for other reasons fails to satisfy the requirements to be set in the interest of a sound and prudent management of the bank and

- d) the bank can demonstrate that it has a sustainable business model and
 - e) the bank has a balanced overall result in current business operations, maintains the necessary liquidity and satisfies the requirements to be set for the orderly conduct of banking business in accordance with the provisions of the German Banking Act and
 - f) the bank is a member of the Auditing Association of German Banks (Prüfungsverband deutscher Banken), hereinafter referred to as the “Auditing Association”, and
 - g) the bank satisfies at least the requirements which lead to the BBB+ rating category under the Rating Procedure pursuant to § 4a and;
 - h) the bank satisfies the requirements for membership of a member association, has accordingly filed an application for membership, and the relevant association has declared that, following confirmation of participation in the Fund, no obstacles to membership exist.
2. Participation in the Fund shall begin as soon as the newly admitted bank has paid the contribution set under § 5 (2) and furnished the declarations pursuant to § 5 (5) and (10) and the Banking Association has subsequently confirmed its participation.
 3. The requirement that a bank have liable capital in accordance with subsection (1), sentence 1, subclause (a) or have more

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than one manager within the meaning of subsection (1), sentence 1, subclause (b) may, upon application, be waived in individual cases, provided that no jeopardising of the interests of the Fund need be expected.

§ 4 Termination of Participation in the Fund

1. Participation in the Fund shall terminate:
 - a) upon termination of membership of the bank in the Banking Association,
 - b) upon termination of membership of the bank in the Auditing Association,
 - c) upon exclusion from participation in the Fund.

2. A bank may be excluded from participation in the Fund
 - a) if the bank does not meet, or no longer meets, the conditions for its participation in the Fund set out in § 3 (1), sentence 1, subclauses (a) - (e) or if it does not submit the declaration in accordance with § 5 (10), sentence 3, even upon request, or
 - b) if, following the Rating Procedure pursuant to § 4a, it has been placed in rating category B- or lower and an improvement in the rating is not anticipated.

3. ¹A bank may also be excluded from participation in the Fund
 - a) if it has committed not only a non-material breach of significant obligations towards the Banking Association, particularly obligations arising from or in connection with the present By-laws, or
 - b) if it has otherwise committed a material and sustained breach of a provision of the articles of the Banking Association, the present By-laws or a resolution passed by a competent body of the Banking Association.

²Such exclusion shall not take place if the bank proves to the Banking Association that it is not responsible for the occurrence of the event in question or the breach of duties is non-material.

- 3a. It shall usually constitute a material breach of significant obligations towards the Banking Association if the bank
- a) gives incomplete or incorrect information to the Banking Association in connection with the Fund or
 - b) fails to provide the information required for rating pursuant to § 4a in time or
 - c) fails to comply with the obligation pursuant to § 8 of the Rating Procedure Rules to maintain confidentiality with respect to the rating result or
 - d) is in default with the payment of contributions for more than two months after written reminder or
 - e) fails to include in its General Business Conditions for domestic business the clause prescribed by § 5 (4) or fails to make such clause the basis of its business relations with its domestic customers or
 - f) fails to furnish the declaration pursuant to § 5 (5) and the confirmation pursuant to § 5 (8) on request or
 - g) fails to make available without delay to the Banking Association the information set out in § 5 (5a) or
 - h) fails to support the Auditing Association in its auditing activity pursuant to § 5 (7) or fails to promptly fulfil any condition set by the Auditing Association pursuant to § 5 (7a) or
 - i) fails to advise the Banking Association without delay pursuant to § 5 (9) if it intends to open a branch abroad or
 - j) fails to indemnify the Banking Association against losses pursuant to § 5 (10), sentence 1 or

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- k) fails to furnish the declaration required under § 5 (10), sentence 2 or
 - l) fails to comply with the notification requirement under § 5 (10), sentence 5 or
 - m) fails to comply promptly with any condition set by the Banking Association pursuant to § 5 (11) or
 - n) advertises the security of deposits contrary to § 5 (13) or
 - o) makes incorrect statements to customers or potential customers concerning the protection ceiling and the kind of deposits protected.
4. ¹Exclusion from participation in the Fund shall be threatened with six months' notice. ²In the case of subsection (2) (b), exclusion may only be threatened if the bank belongs to rating category B- or lower for more than two years in succession.
5. ¹The Board of Directors of the Banking Association shall decide on exclusion after hearing the bank concerned. ²The Board shall consider in its decision whether, measured against the interests of the Fund, exclusion constitutes an unreasonable hardship for the bank.
6. ¹A decision of the Board of Directors concerning the exclusion of a bank shall be served on such bank by registered letter, return receipt requested; the decision shall become effective one month after receipt thereof by the bank. ²The bank may request review of the decision by the Delegates' Assembly of the Banking Association; such request to the Delegates' Assembly shall be made by registered letter, return receipt requested, which letter shall have been received by the Banking Association within the

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period stated in the preceding sentence. ³The request to the Delegates' Assembly of the Banking Association shall have suspensive effect. ⁴Exclusion shall not take place if the Delegates' Assembly of the Banking Association objects to the exclusion by a simple majority. ⁵The decision of the Delegates' Assembly shall become effective one month after receipt by the bank.

7. ¹If a participating interest is acquired in a bank by means of which the acquirer holds the majority of the voting rights or capital or can otherwise directly or indirectly exercise a dominant influence within the meaning of § 5 (10), the bank's participation in the Fund shall terminate without any proceedings for exclusion after expiry of a period of nine months from the date of acquisition of the participating interest, irrespective of whether such a participating interest is sold on within this period to another person or another enterprise. ²Participation in the Fund shall not terminate if
- a) the Banking Association was given the opportunity beforehand to ascertain that the owner of a qualified participating interest (§ 1 (9) German Banking Act) or his legal representative or representative according to the articles of association or general partner is trustworthy and otherwise satisfies the requirements to be set in the interest of a sound and prudent management of a bank (qualification) and
 - b) within the period specified in sentence 1 all facts are disclosed that allow the conclusion of trustworthiness and qualification and dispel any doubts about these and thus all the required examination findings were made possible.

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³The Banking Association may extend the period or, where participation has already terminated, allow provisional readmission for a limited time.

8. ¹Banks whose participation in the Fund terminates shall continue to be liable to pay the contribution for the business year during which the termination becomes effective. ²In addition, the provisions of the present By-laws, including the obligations arising therefrom, particularly the obligation to tolerate audits and to issue and comply with requirements, shall apply to the bank whose participation in the Fund has terminated for as long as any deposits of the bank are protected (§ 6 (8), sentence 3). ³The Banking Association may delegate performance of auditing for the period from termination of participation in the Fund until termination of protection of deposits to the Auditing Association or another suitable third party; such delegation must be notified to the bank concerned in writing. ⁴In the event that the tasks of an auditing institution are delegated for the period from termination of participation in the Fund until termination of protection of deposits to another suitable third party, all references in the present By-laws to the Auditing Association shall apply analogously to any other suitable third party appointed by the Banking Association. ⁵The bank whose participation in the Fund has terminated shall provide on request details of the deposits still protected under the By-laws; proof thereof may be verified on the basis of the provisions contained in the present By-laws and in the articles of the Auditing Association on the furnishing of information, the presentation of documents and proof and the performance of on-site audits.

§ 4a Rating

¹Banks shall be rated annually. ²Further details are contained in the “Rating Procedure Rules” which form part of the present By-laws.

§ 5 Rights and Obligations of Banks Participating in the Fund

1. ¹The banks shall pay to the Banking Association a contribution of 0.6‰ of the balance sheet item “Liabilities to customers” shown in the last annual financial statements prepared prior to 30 June (“annual contribution”). ²The annual contribution shall be paid on 30 January of each year by way of an advance payment of the amount of the contribution for the previous year. ³Final assessment shall take place at the end of the year. ⁴Newly established institutions shall pay for the year after admission a contribution of €25,000 as an advance payment, plus an amount of €35,000 as an administrative cost allowance. ⁵Supplementary payments required shall be levied with the annual contribution for the following year, while positive balances shall be credited accordingly. ⁶Not taken into account in the assessment of the contribution are:
 - liabilities to foreign affiliates of the bank within the meaning of § 18 German Companies Act (Aktiengesetz) which conduct banking business as defined in § 1 (1), sentence 2, no. 2 German Banking Act,
 - liabilities arising from securities repurchase (repo) transactions, as well as redelivery obligations arising from securities lending business,
 - liabilities arising from registered Pfandbriefe issued, as well as
 - deposits to secure which registered Pfandbriefe have been issued.

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⁷Upon delivery of the Declarations of Undertaking that must be presented pursuant to § 5 (10), the bank shall receive a 10% discount on the contribution. ⁸The circumstances prevailing at the time when final assessment of the annual contribution pursuant to subsection (1), sentence 3 takes place shall apply.

⁹In special cases, the Board of Directors of the Banking Association may, at the recommendation of the Deposit Protection Committee, determine for individual banks a different basis for assessment of the contribution.

¹⁰For branches of foreign banks from signatory countries of the treaty on the European Economic Area (EEA and EFTA countries), the special arrangements set out in the Appendix to the present By-laws shall apply.

¹¹In addition, all banks shall pay a basic amount as a contribution towards covering the administrative costs.

¹²This amount shall generally be €35,000. ¹³It shall, however, be capped at the level of the annual contribution payable by the bank and shall be not less than €10,000.

¹⁴In the case of groups, the basic amount shall, upon application, be limited for all banks participating in the Fund to €150,000. ¹⁵The application must be filed by the group parent company or – if this is not a member bank – by a bank instructed by it participating in the Fund.

- 1a. ¹Banks which are assigned under the Rating Procedure pursuant to § 4a to the A rating category or lower shall be required to pay a higher contribution. ²The basis for this shall be the bank's rating as at 31 December of the preceding year or as at the reporting date of the business year ending before 31 December. ³Where banks are assigned under the Rating Procedure pursuant to § 4a to

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the AA+ or AAA rating category, the contribution shall be lowered. ⁴The amounts additionally levied or deducted and their application to the individual rating categories shall be decided by the Delegates' Assembly of the Banking Association. ⁵The amount additionally levied shall not be more than 3 1/2 times higher than the respective applicable rates as defined in § 5 (1) and (3), while the amount deducted from the contribution shall not exceed 7.5%.

- 1b. ¹Banks whose customer deposits pursuant to subsection (1) are more than 20 times higher than their relevant liable capital pursuant to § 6 (1) shall pay an additional amount of 10% on the regular contribution. ²When calculating how much higher customer deposits are, the liabilities that are already protected by the German banks' statutory compensation scheme (Entschädigungseinrichtung deutscher Banken GmbH [EdB]) or by an equivalent guarantee scheme domiciled in the European Economic Area (EAA) may be deducted from the assessment basis pursuant to subsection (1).
2. ¹Newly admitted banks in a position to submit financial statements for three full business years as a deposit-taking institution shall be required to make – apart from the contribution for the current year – a non-recurrent payment of 1.8‰ of the relevant basis for assessment of the contribution referred to in subsection 1 as at the last balance sheet date prior to admission. ²For banks not yet in a position to submit financial statements for three full business years, the contribution in the year of admission and the non-recurrent payment of 1.8‰ shall be subject to application of the relevant assessment basis referred to in subsection

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(1) as results from the annual financial statements for the third full business year. ³The non-recurrent payment shall amount to not less than €60,000. ⁴If sentence 2 applies, an advance payment of 2.4‰ of the liable capital, but not less than €60,000, shall be levied in the year of admission; final assessment shall take place after submission of the financial statements for the third full business year.

3. ¹The Board of Directors of the Banking Association may resolve a suspension of the payment of the annual contribution if the assets of the Fund have reached a reasonable level. ²At the recommendation of the Deposit Protection Committee, the Board of Directors of the Banking Association may also resolve that banks which have paid more than 20 annual contributions and are assigned to the BBB+ rating category or higher are exempted from the obligation to pay contributions. ³This exemption shall also apply to subsidiaries on behalf of which the bank has furnished a declaration as required under § 5 (10) of the present By-laws. ⁴If the assets of the Fund are not sufficient for measures of assistance pursuant to § 2 (2) or if otherwise required for the implementation of the purpose of the Fund, the Board of Directors of the Banking Association may resolve to levy an additional amount in the amount of 50% of the annual contribution or to levy a special contribution per business year of an amount up to half of the amount of one annual contribution.
4. Each bank shall include in its General Business Conditions the following clause and shall base its business relations with its customers thereon:

N° 20: Deposit Protection Fund**(1) Scope of protection**

The Bank is a member of the Deposit Protection Fund of the Association of German Banks (Einlagensicherungsfonds des Bundesverbandes deutscher Banken e.V.) (hereinafter referred to as “Deposit Protection Fund”). The Deposit Protection Fund protects all liabilities which are required to be shown in the balance sheet item “Liabilities to customers”. Among these are demand, term and savings deposits, including registered savings certificates. The protection ceiling for each creditor is, until 31 December 2014, 30%, until 31 December 2019, 20%, until 31 December 2024, 15%, and, as of 1 January 2025, 8.75% of the liable capital of the Bank relevant for deposit protection. Deposits established or renewed after 31 December 2011 shall be subject to the respective new protection ceilings as of the aforementioned dates, irrespective of the time when the deposits are established. Deposits established before 31 December 2011 shall be subject to the old protection ceilings until maturity or until the next possible withdrawal date.

This protection ceiling shall be notified to the customer by the Bank on request. It is also available on the Internet at www.bankenverband.de. Where the Bank is a branch of a bank from another European Economic Area (EEA) country, the Deposit Protection Fund shall only provide compensation if and to the extent that the deposits exceed the protection ceiling of the home-country deposit guarantee scheme. The level of coverage provided by the home-country deposit guarantee scheme can be viewed on the Internet at the website of the relevant scheme, the address of which shall be made available to the customer by the Bank on request.

Banks for which a different protection ceiling has been set pursuant to § 6 (1c) shall adapt their General Business Conditions accordingly. Instead of sentences 4, 5 and 6 hereof, newly admitted banks with a protection ceiling of €250,000 shall use the wording “The protection ceiling per creditor is €250,000”.

(2) Exemptions from deposit protection

Not protected are claims in respect of which the Bank has issued bearer instruments, e.g. bearer bonds and bearer certificates of deposit, as well as liabilities to banks.

(3) Additional validity of the By-laws of the Deposit Protection Fund

Further details of the scope of protection are contained in Section 6 of the By-laws of Deposit Protection Fund, which are available on request.

(4) Transfer of claims

To the extent that the Deposit Protection Fund or its mandatory makes payments to a customer, the respective amount of the customer's claims against the Bank together with all subsidiary rights shall be transferred simultaneously to the Deposit Protection Fund.

(5) Disclosure of information

The Bank shall be entitled to disclose to the Deposit Protection Fund or to its mandatory all relevant information and to place necessary documents at their disposal.

5. ¹The banks shall submit to the Banking Association a declaration, in the form as appended hereto, by which they authorise the Federal Financial Supervisory Authority, the Deutsche Bundesbank and the Auditing Association, respectively, to inform the Association of any matter which might make deposits held with the respective bank seem possibly to be in jeopardy. ²In addition, the Banking

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Association shall be authorised to obtain all information necessary for such purpose from such banks and to inform them of all matters of which it may become aware in the course of its activities. ³The wording of the respective Declaration of Authorisation is annexed to the Appendix to the present By-laws.

- 5a. The banks shall inform the Association without delay of the creation, modification and termination of a qualified participating interest and make available all information to allow an assessment of whether the partners concerned are trustworthy and satisfy the requirements to be set in the interest of a sound and prudent management of the bank.
- 6. The banks shall be obliged to provide on request the data required for the Rating Procedure pursuant to § 4a.
- 7. ¹The banks shall be obliged to support the Auditing Association in its auditing activity. ²For branches of foreign banks from EEA and EFTA countries, the special arrangements set out in the Appendix to the present By-laws shall apply.
- 7a. ¹The Auditing Association may in the following circumstances impose conditions which must be complied with promptly by the bank:
 - a) If an objection was raised by a domestic or foreign supervisory authority or auditing firm or by the Auditing Association within the course of an audit or as the result of an admission audit conducted upon acquisition of membership and such objection relates to the German Banking Act, other laws, ordinances, decrees, administrative regulations, supervisory practice of the

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relevant domestic or foreign supervisory authority or the principles of internal bank organisation, or

- b) if such conditions are apt to avert the otherwise imminent danger of recourse to the Fund.

²Furthermore, the Auditing Association may impose conditions designed to ensure compliance with the essential facts and business objectives reported upon application for admission and which served as the basis for the admission of a bank. ³If the bank wishes to modify these substantially, it may only do so after an assessment has been made by the Auditing Association.

8. The banks shall deliver to the Banking Association promptly upon request a confirmation of their auditor that they have correctly computed the annual contribution.
9. Each bank shall be obliged to advise the Banking Association without delay if it intends to open a branch abroad.
10. ¹Each bank shall be obliged to indemnify the Banking Association against losses which the Banking Association may have suffered by reason of a measure of assistance in favour of another bank in which the bank holds the majority of the shares or can otherwise exercise, directly or indirectly, a dominant influence. ²Notwithstanding the obligation resulting from the preceding sentence, the banks concerned must submit express declarations to this effect.

³Furthermore, banks must furnish a declaration applying the foregoing sentences analogously

- from a natural or legal person or partnership who or which

does not participate in the Fund, but holds a majority of the shares in the bank and can directly or indirectly exercise a dominant influence over the bank, or

- from several banks or natural or legal persons or partnerships not participating in the Fund who or which together can directly or indirectly exercise a dominant influence over the bank.

⁴§§ 16 et seq. German Companies Act shall apply analogously, irrespective of the legal form of the bank or the shareholding banks, banking institutions, natural or legal persons and partnerships, in determining whether in such cases a majority holding or a dominant influence exists.

⁵For the implementation of the obligations provided for by the preceding sentences the banks shall promptly notify the Banking Association from time to time of the banks in which they hold a majority of the shares or in which they can otherwise directly or indirectly exercise a dominant influence; similarly, the banks shall inform the Banking Association if the foregoing situations apply in their case.

⁶The wording of the respective Declaration of Undertaking is annexed to the Appendix to the present By-laws.

11. ¹Each bank shall be obliged to comply with any condition imposed by the Banking Association in connection with any measure pursuant to § 2 (2) taken in respect of such bank. Such conditions may relate to assets and personnel. ²To the extent necessary in view of measures pursuant to § 2 (2), the Banking Association may require information from the respective bank and its bodies on all business affairs and the submission of books and records. ³The Banking Association and its mandatory shall be liable to the banks in the performance of activities based on §

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2 (2) only for wilful misconduct and gross negligence.

- 11a. If, in connection with a measure pursuant to § 2 (2), the Banking Association conducts securities business concluded by the bank which the latter is prevented from performing as a result of an order prohibiting payments and disposals in accordance with § 46 German Banking Act, the consent of the bank to any action necessary on the part of the Banking Association to ensure the proper performance of such business is to be regarded as furnished.
- 11b. ¹Each bank shall be obliged to report promptly to the Banking Association the commencement of a liquidation of its banking operations. ²The Banking Association may impose conditions under subsection (11), unless it can be excluded that measures pursuant to § 2 (2) may become necessary.
12. ¹Any expenditure incurred by the Fund in the implementation of measures pursuant to § 2 (2) shall be reimbursed by the bank to the Banking Association, unless prohibited by mandatory provisions of law. ²The right to assert other claims shall remain unimpaired.
13. ¹It shall be permissible to give information regarding participation in the Fund; the banks may give notice, by means of display in their offices, by individual letter and in reply to questions, of the fact that they participate in the Fund, of the kind of liabilities protected in accordance with § 6 and of the amount up to which liabilities to each customer are protected by the Fund. ²It shall not be permitted to advertise the protection of deposits or the participation in the Fund in the press, by radio or

television, or by general mail distributions and similar publicity. ³The banks shall be obliged to take steps against third parties which improperly advertise the security of their deposits.

14. ¹A uniform logo has been created for all banks which are members of the Banking Association. ²All banks participating in the Fund may display such logo in their offices, windows, display cases and doors of all branches and use such logo in their correspondence. ³The Delegates' Assembly of the Banking Association shall determine the details of the permitted forms of use, in particular with respect to size and presentation of the logo. In addition, subsection (13) shall apply to the use of the logo.

§ 6 Scope of Deposit Protection

1. ¹Protected are all liabilities of banks to non-banks (in particular private persons, business enterprises and public agencies) which are required to be shown in the balance sheet item "Liabilities to customers"¹⁾ for each creditor up to a protection ceiling of 30% of the own funds within the meaning of Article 72 of the Capital Requirements Regulation (CRR). ²The own funds shall consist of the Common Equity Tier 1 capital pursuant to Article 50 CRR, the Additional Tier 1 capital pursuant to Article 61 CRR and the Tier 2 capital pursuant to Article 71 CRR; for calculation of the protection ceiling, the Tier 2 capital shall only be taken into account up to an amount of 25% of the Tier 1 capital within the meaning of Article 25 CRR.

1) This balance sheet item comprises for the main part demand, term and savings deposits, including registered savings certificates.

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³The circumstances determined by the Auditing Association on the basis of the last audit report prepared by the bank's annual financial statements auditor shall apply²⁾; in addition, increases in capital which are recognised by a certified public accountant after such date may be taken into account upon application by the bank. ⁴If the Federal Financial Supervisory Authority fixes an adjustment to the liable capital within the meaning of § 10 German Banking Act, the Banking Association shall be authorised to lower the protection ceiling accordingly. ⁵Liabilities in excess of the protection ceiling shall be protected up to the ceiling applying in each case. ⁶In the case of liabilities to investment companies and their custodian banks, each investment fund shall be deemed to be a separate creditor for the computation of the protection ceiling. ⁷For branches of foreign banks from EEA and EFTA countries, the special arrangements set out in the Appendix to the present By-laws shall apply.

⁸As of 1 January 2015, the protection ceiling shall be 20%, as of 1 January 2020, 15%, and, as of 1 January 2025, 8.75% of the relevant liable capital within the meaning of the first sentence of the first paragraph hereof. ⁸In derogation from § 6 (9), fifth sentence, deposits which are established or renewed after 31 December 2011 shall be subject to the respective new protection ceilings as of the above-mentioned dates.

2) In respect of branches of foreign banks within the meaning of § 53 (1) German Banking Act, the liabilities are protected under the prerequisites of § 6 (1) up to a ceiling of 30% of the liable capital as at the date of the last published annual financial statements of the branch. § 53 (2), No. 4 German Banking Act shall not apply.

- 1a. Not protected, even if they are required to be shown in the balance sheet item “Liabilities to customers”, are
- liabilities in respect of which a bank has issued bonds payable to bearer,
 - liabilities to foreign affiliates of the bank within the meaning of § 18 German Companies Act which conduct banking business as defined in §1 (1), sentence 2, no. 2 German Banking Act,
 - liabilities arising from securities repurchase (repo) transactions, as well as redelivery obligations arising from securities lending business,
 - liabilities arising from registered mortgage Pfandbriefe and public registered Pfandbriefe issued, as well as
 - deposits to secure which registered mortgage Pfandbriefe and public registered Pfandbriefe have been issued.
- 1b. ¹By way of derogation from subsection (1), the protection ceiling for admitted banks until the end of the third full calendar year of their participation in the Fund shall be €250,000. ²At the end of the third full calendar year, a review shall be conducted. ³Thereafter, the protection ceiling shall be governed by subsection (1), unless the conditions set out in subsection (1c) apply.
- ⁴The protection ceiling for newly admitted banks may be raised by the Auditing Association in an individual case at the request of the bank to the level of the protection ceiling pursuant to subsection (1) sentence 1 if, in the opinion of the Banking Association, any risk with regard to recourse to the Fund can be ruled out. ⁵This is in particular the case if
- a declaration of undertaking pursuant to § 5 (1o) has been given for the bank and any risk of loss on the part of the Banking Association is fully covered financially;

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- the bank has been created through transformation within the meaning of § 1 (1) German Transformation Act (Umwandlungsgesetz) and, in the event of a merger, at least one legal entity and, in the event of a break-up, the transferring legal entity had previously participated in the Fund and its protection ceiling had been determined on the basis of subsection (1), sentence 1.

1c. ¹Where a bank displays a special risk profile, the Auditing Association may lower its protection ceiling to €250,000. ²This may in particular happen if

- the Auditing Association has made negative audit findings which substantiate the danger of recourse to the Fund;
- if the bank has been assigned to category B- or lower under the Rating Procedure;
- if any other material increase in risk has occurred.

2. ¹Whenever claims arising from liabilities which are not protected in accordance with subsection (1) are transferred to a non-bank by way of special or general succession in title, such liabilities shall not be protected if within six months from the date of such transfer, measures pursuant to § 46 German Banking Act have been ordered, an insolvency petition has been filed, the occurrence of a compensation event has been determined pursuant to § 5 German Deposit Guarantee and Investor Compensation Act, or equivalent measures have been taken by German or foreign supervisory and/or resolution authorities. ²The earliest measure or earliest result shall apply in this respect.

³Such liabilities (particularly the purchase or issuance/assumption of borrower's note loans (Schuldscheindarlehen) and registered bonds (Namensschuldverschreibungen) shall,

however, be subject to protection if a credit institution has both acquired them and resold them to a non-bank within five bank working days, provided

- the liabilities were protected pursuant to subsection (1) at the time of the acquisition of the claims by the credit institution or
- the credit institution acquired the claims directly from the debtor (issuer).

⁴The five-day period shall be based on the underlying contractual transactions (Verpflichtungsgeschäfte) and not on any subsequent fulfilment transactions (Erfüllungsgeschäfte).

3. ¹Not protected are also liabilities to:
- a) managers of the bank;
 - b) general partners of the bank, even if they are not managers;
 - c) limited partners, shareholders of a limited liability company, shareholders of a stock corporation and silent partners if the share in the capital of the bank held by any such person amounts to 50% or more; § 19 (2) German Banking Act shall apply analogously. The liabilities shall, however, be protected if they arise from claims which are part of restricted assets pursuant to § 54 German Insurance Supervision Act (Gesetz über die Beaufsichtigung der Versicherungsunternehmen) or of fund assets pursuant to § 2 German Investment Act (Investmentgesetz);
 - d) members of a board of the bank designated to supervise the conduct of management, where the supervisory powers of such board are provided by statute (supervisory board);
 - e) spouses and minor children of the persons referred to in subclauses (a) to (d), except where the monies originate

from the own assets of the spouse or minor child;

- f) third persons acting for the account of any person referred to in subclauses (a) to (e).

²Whenever claims under liabilities which have arisen in favour of persons referred to in the preceding sentence are transferred to a third person by way of special or general succession in title, such liabilities shall not be protected if the execution of measures pursuant to § 2 (2) is resolved upon within six months from the date of said transfer.

³Furthermore, liabilities based on legal acts which would be voidable in bankruptcy proceedings under §§ 129 et seq. German Bankruptcy Code (Insolvenzordnung) in conjunction with § 46c German Banking Act shall not be protected.

- 3a. ¹Not protected in addition are liabilities that are supposed to be included in the scope of protection of the Fund on the basis of abusive legal acts. ²An abusive legal act shall be deemed to exist if, on establishment of a deposit, a construction is chosen which, compared with the envisaged scope of protection of the Fund, gives the depositor an advantage in connection with a measure pursuant to § 2 that is not intended under these By-laws.
- 4. ¹In computing protected liabilities within the meaning of subsection (1), all liabilities to one creditor shall be added together; counterclaims of the bank, if any, shall be deducted, even if these are not yet due. ²Furthermore, the provisions of §§ 768, 770 and 776 German Civil Code (Bürgerliches Gesetzbuch) applicable in respect of guarantors shall apply analogously for the benefit of the Banking Association.

5. ¹Within the limits of the protection ceiling, payments shall also cover interest claims. ²Such claims shall accrue in principle until the earlier of the date of repayment of principal or the institution of insolvency proceedings. ³However, the Fund shall make payments only for interest at market rates. ⁴The Fund may subject the making of all payments to an individual creditor to the condition that such creditor waives the assertion of interest claims against the bank which are not protected pursuant to sentence 3.
- 5a. ¹Compensation for deposits held in foreign currency may be provided in euros. ²Calculation of such compensation shall be based on the conversion rate applying at the place of payment on the date on which it is determined that compensation is payable pursuant to Directive 94/19/EC.
6. ¹In the case of client accounts, the individual beneficiary shall be the basis for the computation of the protection ceiling pursuant to subsection (1). ²The same shall apply to trust accounts, provided that the trust relationship and the beneficiary are unambiguously designated in the name of the account and the existence of the trust relationship is demonstrated to the Fund. ³In all other cases, trust accounts shall be treated as accounts of the trustee.
7. ¹In the case of joint accounts, credit balances and account holders' claims shall for the purpose of computing the protection ceiling and the protected liability be attributed to the account holders in equal shares, irrespective of the kind of account and of the legal relationship between the account holders. ²Thereafter, liabilities towards the individual joint account holders arising from their personal

relationship with the bank shall be protected first. ³If such liabilities do not exhaust the protection ceiling, the portion of the joint balance pertaining to the individual account holder shall be used. ⁴The foregoing provisions shall not apply to accounts of condominium owners' associations subject to the provisions of the German Condominium Property Act (Wohnungseigentumsgesetz); such accounts shall be treated as individual accounts in accordance with subsections (1) and (4).

8. ¹If the participation of a bank in the Fund terminates, such bank shall promptly give notice thereof to creditors to whom liabilities within the meaning of subsection (1) are owed and shall bring the consequences of such termination to their attention. ²The Banking Association shall publish the termination at the expense of the bank in the Federal Gazette (Bundesanzeiger) and in a daily newspaper at the registered office of the bank. ³Liabilities which are created or renewed later than one month after publication in the Federal Gazette or which the creditor does not terminate or claim at the earliest possible date thereafter are not protected.

9. ¹Compensation of creditors shall be based on the protection ceiling which has been notified to the bank as the result of the assessment made by the Auditing Association and which is available on the Internet at www.bankenverband.de. ²Any reduction of the protection ceiling shall become effective as of the time it is made available on the Internet. ³The Banking Association may publish the new protection ceiling at the expense of the bank in the Federal Gazette and in a daily newspaper at the registered office of the bank. ⁴The bank shall be obliged to notify promptly all creditors affected by a

reduction of the protection ceiling. ⁵These deposits shall be protected up to the old protection ceiling until maturity or until the next possible withdrawal date after notification of the reduction.

10. A right in law to enforce intervention or payments by the Fund shall not exist.
11. The Fund shall only provide compensation in accordance with the By-laws if and insofar as creditors are not compensated by another protection scheme or by a compensation scheme as provided for under the German Deposit Guarantee and Investor Compensation Act.

§ 7 Deposit Protection Committee

1. ¹A Deposit Protection Committee shall be formed within the Banking Association. ²It shall consist of
 - a) one representative of each of the big branch banks;
 - b) three representatives of the regional banks, foreign banks and other banks, and
 - c) three representatives of the private bankers.

³The members must be active owners or managers of banks participating in the Fund.

2. ¹The Committee shall be elected for a term of three years by the Delegates' Assembly of the Banking Association; its members shall hold office until a new Committee has been elected, but not longer than the duration of active service in their bank or of the participation of their bank in the Fund. ²Whenever a member of the Committee resigns prior to the expiration of his term of office, the Delegates' Assembly of

§ 7

the Banking Association shall elect a new member for the remaining term of office.

3. The Committee shall elect from among its members its chairman and its deputy chairman.
4. ¹Meetings of the Committee shall be convened by its chairman or, if he is prevented from attending, by the deputy chairman. ²A meeting of the Committee must be called upon the request of all delegates of one group of banks. ³In urgent cases, the chairman or, if he is prevented from attending, the deputy chairman may order that votes be taken in writing or by telephone.
5. ¹The Committee shall constitute a quorum if at least six of its members are present at the meeting or express their views in the case of voting in writing or by telephone. ²Members of the Committee who are prevented from attending may authorise another member to exercise their voting rights; the member prevented from attending shall be deemed present in such cases. ³A majority of not less than six votes shall be required for the passing of a resolution.
6. ¹The Committee shall have the following functions:
 - a) decisions regarding measures of assistance (§ 2 (2));
 - b) the establishment of guidelines regarding the investment of the assets of the Fund;
 - c) submission of the annual accounts of the Fund;
 - d) the execution of all duties assigned to the Committee by the Board of Directors of the Banking Association; the making of decisions pursuant to § 4 (5) may not be assigned;

- e) in addition to the functions set out in subclauses (a) – (d), the other duties assigned to it by the present By-laws.

²The Board of Directors of the Banking Association may at any time take over the functions of the Committee.

§ 8 Retention of the Auditing Association

¹The Auditing Association shall be retained in connection with examining whether the conditions for participation in the Fund are met. ²To examine whether the conditions pursuant to § 3 (1) (c) have been met, checks may be conducted also on the following persons or enterprises:

- a) persons or enterprises who or which intend to acquire or have already acquired a qualified participating interest within the meaning of § 1 (9) German Banking Act in a bank, or
- b) enterprises which in relation to a bank or a holder of a qualified participating interest within the meaning of the aforementioned subclause (a) are or are to become affiliated companies within the meaning of § 15 German Companies Act or § 271 (2) German Commercial Code (Handelsgesetzbuch).

§ 9 Publication of Participation in the Fund

The Banking Association may publish the names of the banks participating in the Fund and any changes in this regard.

§ 10 No Claims of the Bank

¹The banks shall have no right in law that the Fund renders assistance or with respect to the assets of the Fund. ²The latter shall apply in particular to banks whose participation in the Fund has terminated.

§ 11 Obligation of Confidentiality and Secrecy

1. ¹The members of the bodies and committees of the Banking Association and its member associations shall be obliged to keep in the strictest confidence and to make no unauthorised disclosure or use of anything of which they become aware in such capacity regarding the activities of the Fund and the results thereof, as well as the circumstances of the participating banks and their customers, even after termination of their membership in such bodies and committees. ²Such obligation shall also be imposed upon employees of, and other persons engaged by, the Banking Association.
2. ¹Subsection (1) shall not apply to communications made to the Federal Financial Supervisory Authority, the Deutsche Bundesbank or the Auditing Association by bodies of the Banking Association in connection with the purposes of the Fund and in proper exercise of their discretion. ²Furthermore, subsection (1) shall not apply to communications to a member association of the Banking Association in connection with the admission or the exclusion of a bank.

§ 12 Dissolution of the Fund

The dissolution of the Fund and the use of the Fund assets shall be matters for decision by the Members' Assembly (Mitgliederversammlung).

Supplementary arrangements

Appendix to the By-laws of the Deposit Protection Fund**Supplementary Arrangements for Participation by Branches of Foreign Banks from EEA and EFTA Countries in the Deposit Protection Fund**

¹For branches of banks domiciled in other EEA and EFTA countries which participate in the Fund, the following special arrangements shall apply. ²Where branches of banks from third countries are, by virtue of regulations issued by the responsible German government offices, treated under bank supervisory rules completely or partly on a par with branches from EEA and EFTA countries, the following arrangements may at the decision of the Deposit Protection Committee be applied completely or partly also to such branches.

1. Contribution

¹With regard to the basis for assessment of the contribution, the following arrangement shall apply in lieu of § 5 (1), sentence 1 of the By-laws of the Fund: Branches of foreign banks domiciled in the European Economic Area shall be obliged to pay a contribution of 0.6‰ of those deposits held on the balance sheet date (Bilanzstichtag) of the previous year which in the case of banks required to submit a balance sheet in Germany would have to be shown in the balance sheet item “Liabilities to customers”, plus accrued interest for this period. ²To be deducted therefrom are deposits which do not exceed the home-country protection ceiling. ³The branches shall be obliged to record the volume of such deposits for accounting purposes and to furnish proof thereof to the Banking Association.

2. Protection Ceiling

¹In lieu of § 6 (1) of the By-laws of the Fund, the following arrangement shall apply: For branches of foreign banks domiciled in the European Economic Area, the protection ceiling shall on application by the bank be fixed as follows:

Option 1:

If the branch maintains in Germany endowment capital as defined in § 53 (2) no. 4 German Banking Act, this capital may, pursuant to the provisions of § 6 (1) of the By-laws of the Deposit Protection Fund, be taken as the basis for determining the protection ceiling, provided such endowment capital is available permanently, but at least until the next balance sheet date of the Head Office.

Option 2:

²The branch shall be apportioned as the basis for determining the protection ceiling that share of the prudentially recognised liable capital of the bank as a whole which reflects the size of the balance sheet total of the branch, adjusted so as exclude all dealings with own offices and affiliates, in relation to the similarly adjusted combined balance sheet total of the bank as at the balance sheet date. ³The branch shall be obliged to provide the following figures certified by the auditor of the bank as a whole:

- the balance sheet total of the bank as a whole, adjusted so as to exclude all dealings with own offices and affiliates,
- the balance sheet total of the branch, adjusted so as to exclude all dealings with own offices and affiliates,
- the amount of the prudentially recognised liable capital of the bank as a whole, subdivided into core and supplementary capital,
- the amount of the customer deposits of the branch which are protected in accordance with no. 5.

Supplementary arrangements

⁴For these figures, the last balance sheet date of the Head Office shall in principle apply; the figures may, however, also be requested for a date to be specified by the Auditing Association or also for several dates if in the opinion of the Auditing Association the figures on the balance sheet date do not reflect the average business situation of the branch.

Option 3:

⁵The protection ceiling shall be fixed without the need for any further documentation at a flat amount of €1.5 million (€1 million as of 1 January 2015, €750,000 as of 1 January 2020 and €450,000 as of 1 January 2025).

3. General Business Conditions

The branch shall be obliged to implement § 5 (4) by deleting sentence 4 in section (1) of No. 20 and wording sentence 5 as follows: “The protection ceiling shall be notified to the customer by the Bank on request”.

4. Auditing of Branches

¹Supplementary to § 5 (7) of the By-laws of the Fund, the following arrangement shall apply:

Branches of foreign banks shall be obliged to place at the disposal of the Auditing Association the information deemed necessary by the latter, even where such information is available only at the Head Office, to consent to the obtaining of information from the home-country supervisory authority, and to allow their auditing by the Auditing Association. ²The Auditing Association shall be authorised to carry out at the bank, without geographical or material restrictions, all auditing measures which it deems necessary in order to reliably assess the circumstances of the branch.

Supplementary arrangements

5. Relationship to the Home-Country Deposit Guarantee Scheme

The Fund shall provide compensation in accordance with the By-laws of the Fund only if and to the extent that deposits exceed the protection ceiling of the home-country deposit guarantee scheme.

Annexes

Annex to § 4a of the By-laws of the Deposit Protection Fund

Rating Procedure Rules

- § 1 ¹All banks participating in the Fund shall be rated annually. ²An additional rating shall be carried out if the Auditing Association or any third party entrusted by it pursuant to § 4 of the Annex to § 4a of the By-laws has knowledge to the effect that the circumstances of the bank have changed substantially since the last rating.
- § 2 ¹Rating shall be carried out on the basis of an assessment of key quantitative and qualitative aspects of the financial profile and business profile using a system of ratios and criteria. ²In this respect, the Rating Procedure Description which is produced by the Auditing Association or any third party entrusted by it pursuant to § 4 of the Annex to § 4a of the By-laws and notified to the Deposit Protection Committee shall apply. ³The Rating Procedure shall be overseen by legally required supervisory bodies and by the European Securities and Markets Authority (ESMA).
- § 3 ¹A bank for which another bank participating in the Fund has furnished a Declaration of Undertaking pursuant to § 5 (10) of the By-laws of the Fund shall be assigned on request the rating of the shareholding bank, provided that this bank's rating is better than its own. ²The foregoing arrangement shall apply analogously if the Declaration of Undertaking has been furnished by a domestic bank not participating

Annex to § 4 a

in the Fund, by a bank domiciled in another EEA or EFTA country, and the shareholding bank has submitted to rating in accordance with these rules. ³The conditions prevailing at the time when final assessment of the annual contribution takes place pursuant to § 5 (1), sentence 3 shall apply.

- § 4 ¹Rating shall be carried out by the Auditing Association. ²The Auditing Association may enlist the services of third parties to perform its tasks; in particular, it may assign the work to an affiliated company. ³The Auditing Association shall also be authorised to entrust auditors or audit firms with performance of support services in connection with the rating of foreign banks, provided that such services appear appropriate in the light of the accounting rules or other legal provisions of the home country concerned.
- § 5 ¹The Rating Procedure shall result in a bank being assigned to one of the 22 categories from AAA to D³⁾. ²The frequency of the deposit protection audits shall depend on each bank's individual rating.
- § 6 (deleted)
- § 7 ¹Newly admitted banks which are not yet able to submit annual financial statements for three full business years shall be assigned to the entry level until submission of the annual financial statements for the third full business year. ²Banks with entry level status may be audited by the Auditing

3) Rating categories: AAA, AA+, AA, AA-, A+, A, A-;
BBB+, BBB, BBB-, BB+, BB, BB-, B+, B, B-;
CCC+, CCC, CCC-, CC, C;
D

Annex to § 4 a

Association more frequently and more comprehensively than other banks participating in the Fund.

³Banks where a rating result is duly obtained later may also be assigned to the BBB category or lower already while they have entry level status.

§ 8 ¹The rating result shall be notified solely to the management of the bank concerned, the Board of Directors of the Auditing Association and the member of the Senior Management Board of the Banking Association responsible for deposit protection.

²The rating result must be treated strictly confidentially by all parties involved. ³The banks concerned must not in particular mention it in their business dealings or in their advertising, but they may disclose it to the Entschädigungseinrichtung deutscher Banken GmbH (EdB) for the purpose of calculating the contribution. ⁴The Auditing Association shall be authorised to communicate the rating result to the relevant domestic and foreign supervisory authorities and to the supervisory body of the bank concerned. ⁵The Auditing Association or any third party entrusted by it pursuant to § 4 of the Annex to § 4a of the By-laws shall be authorised to communicate the rating result to the supervisory authorities with jurisdiction for them.

§ 9 ¹A bank may refer the rating result to an arbitration panel, which shall decide whether in the case in question rating was carried out in conformity with the given Rating Procedure Description. ²Recourse to ordinary courts of law instead of the arbitration panel shall also be possible.

³The bank concerned and the Auditing Association must each appoint an arbitrator. ⁴The arbitrators shall agree on

Annex to § 4 a

a chairman, who should be a certified public accountant dealing in particular with the auditing of banks.

⁵Recourse to arbitration shall have no suspensive effect on the obligation to pay an increased contribution or on other measures. ⁶The increased contribution shall, however, be refunded if the arbitration panel concludes that the rating was incorrect.

⁷A bank which loses arbitration proceedings in full or in part shall be required to bear the costs of arbitration to the extent that it loses such proceedings.

- § 10 Irrespective of further possible consequences resulting from § 4 (2) of the By-laws, any bank failing to provide the required rating data or data that is inadequate because of its limited information value shall, after expiry of a reasonable period of time allowed for subsequent submission of the relevant data, be assigned to rating category C pursuant to § 5 of the Annex to § 4a of the By-laws.

Annex to § 5 (5)

Annex to § 5 (5) of the By-laws of Deposit Protection Fund

Text of the Declarations of Authorisation

- I (We) hereby authorise the Federal Financial Supervisory Authority⁴⁾ to inform the Association of German Banks – Deposit Protection Fund – of anything which shows that deposits held with me (us) might possibly be in jeopardy. In addition, I (we) authorise the Association of German Banks – Deposit Protection Fund – to obtain all information necessary for such purpose from the Federal Financial Supervisory Authority. This declaration shall be irrevocable for the duration of my (our) participation in the Deposit Protection Fund within the Association of German Banks and – as long as deposits held with me (us) are protected by the By-laws of the Deposit Protection Fund – during the period specified in § 4 (8) of the By-laws of the Deposit Protection Fund.

- I (We) hereby authorise the Deutsche Bundesbank to inform the Association of German Banks – Deposit Protection Fund – of anything which shows that deposits held with me (us) might possibly be in jeopardy. In addition, I (we) authorise the Association of German Banks – Deposit Protection Fund – to obtain all information necessary for such purpose from the Deutsche Bundesbank. This declaration shall be irrevocable for the duration of my (our) participation in the Deposit Protection Fund within the Association of German Banks and – as long as deposits held with me (us) are

4) In the case of branches of banks domiciled in another country belonging to the European Economic Area, the words “Federal Financial Supervisory Authority” shall be replaced by “banking supervisory authority of our home country, ...” (official designation).

Annex to § 5 (5)

protected by the By-laws of the Deposit Protection Fund – during the period specified in § 4 (8) of the By-laws of the Deposit Protection Fund.

- I (We) hereby authorise the Auditing Association of German Banks to inform the Association of German Banks – Deposit Protection Fund – of anything which shows that deposits held with me (us) might possibly be in jeopardy or of anything which concerns the obligations for me (us) ensuing from the By-laws of the Deposit Protection Fund. In addition, I (we) authorise the Association of German Banks – Deposit Protection Fund – to obtain all information necessary for such purpose from the Auditing Association of German Banks. This declaration shall be irrevocable for the duration of my (our) participation in the Deposit Protection Fund within the Association of German Banks and – as long as deposits held with me (us) are protected by the By-laws of the Deposit Protection Fund – during the period specified in § 4 (8) of the By-laws of the Deposit Protection Fund.

Annex to § 5 (10)

Annex to § 5 (10) of the By-Laws of the Deposit Protection Fund

Text of the Declaration of Undertaking

I (We) have a relationship with
(hereinafter referred to as “Bank”) as described in § 5 (10) of the By-laws of the Deposit Protection Fund within the Association of German Banks. I (We) undertake to indemnify the Association of German Banks against any losses which the Association may suffer from measures taken in favour of the Bank pursuant to § 2 (2) of the By-laws of the Deposit Protection Fund.

This declaration shall remain in effect until revocation, irrespective of whether or not my (our) relationship with the Bank within the meaning of § 5 (10) of the By-laws of the Deposit Protection Fund persists in any manner. This declaration shall be irrevocable for as long as such relationship persists. If this declaration shall be revoked at a time when facts have already arisen which lead to the taking of measures pursuant to § 2 (2) of the By-laws of the Deposit Protection Fund, my (our) obligation under the first paragraph hereof shall also apply with respect to the taking of such measures.

Any disputes arising in connection with this declaration shall fall within the exclusive jurisdiction of the Landgericht Berlin.

All legal relationships resulting from this declaration shall be subject to the law of the Federal Republic of Germany.

Annex to § 5 (10)

Mrs/Ms/Mr/Name of company hereby irrevocably appoints and authorises as process agent for all papers, declarations and any other form of communications resulting from or in connection with potential or already pending litigation resulting from or in connection with this declaration. If the appointed process agent can no longer perform this function for legal or factual reasons, the acquirer shall be obliged to appoint without delay another process agent resident on the territory of the Federal Republic of Germany and to notify the Deposit Protection Fund promptly of such appointment.⁵⁾

Place and date

Signatures

5) This paragraph should be deleted if the signatory to this declaration is resident in the Federal Republic of Germany.

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