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No 15

Central Bank Acts  
of

Botswana, Kenya, Lesotho, South Africa,  
Swaziland, Tanzania, Zambia, Zimbabwe,  
and the Federal Republic of Germany

Materials to Working Document No 14

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Preface

Following the Namlaw workshop, held at the Faculty of Law of the University of Zimbabwe,<sup>1</sup> the Namlaw Project set out on the task of preparing a comparative study of the Central Bank Laws of various countries. The aim of the study was to provide some guidelines in drafting a Central Bank Act<sup>2</sup> for Namibia after independence.

The laws of nine countries were chosen for purposes of this study. The choices were made on the basis of various considerations. In some cases the countries are similarly situated as or closely linked to Namibia. In other cases the view was that certain aspects of the countries' laws might be useful in Namibia even though the countries chosen do not have either similarity or particular ties or even proximity to Namibia.

The Central Bank Acts of Botswana, Swaziland and Lesotho were chosen because these countries are - or used to be - members of the "Rand Monetary Zone". The Reserve Bank of Zimbabwe Act and the Statute of Zambia were chosen because these countries play a specific role in the Frontline family and in their efforts to overcome the dependency on South Africa. The Tanzanian and Kenyan Statutes which are similar even though the two East African states have different economic systems were taken into account; it was the considered opinion that the laws may be useful in the Namibian situation. Reference was made to the West-German Statute as this statute contains provisions which could serve as guides in developing the structure and role of financial institutions. The Reserve Bank of South Africa was also considered because the South African law has been applying in Namibia. The use of the laws of the German Democratic Republic, and those of Yugoslavia were considered; but unfortunately the statutes of these countries were not available in English.

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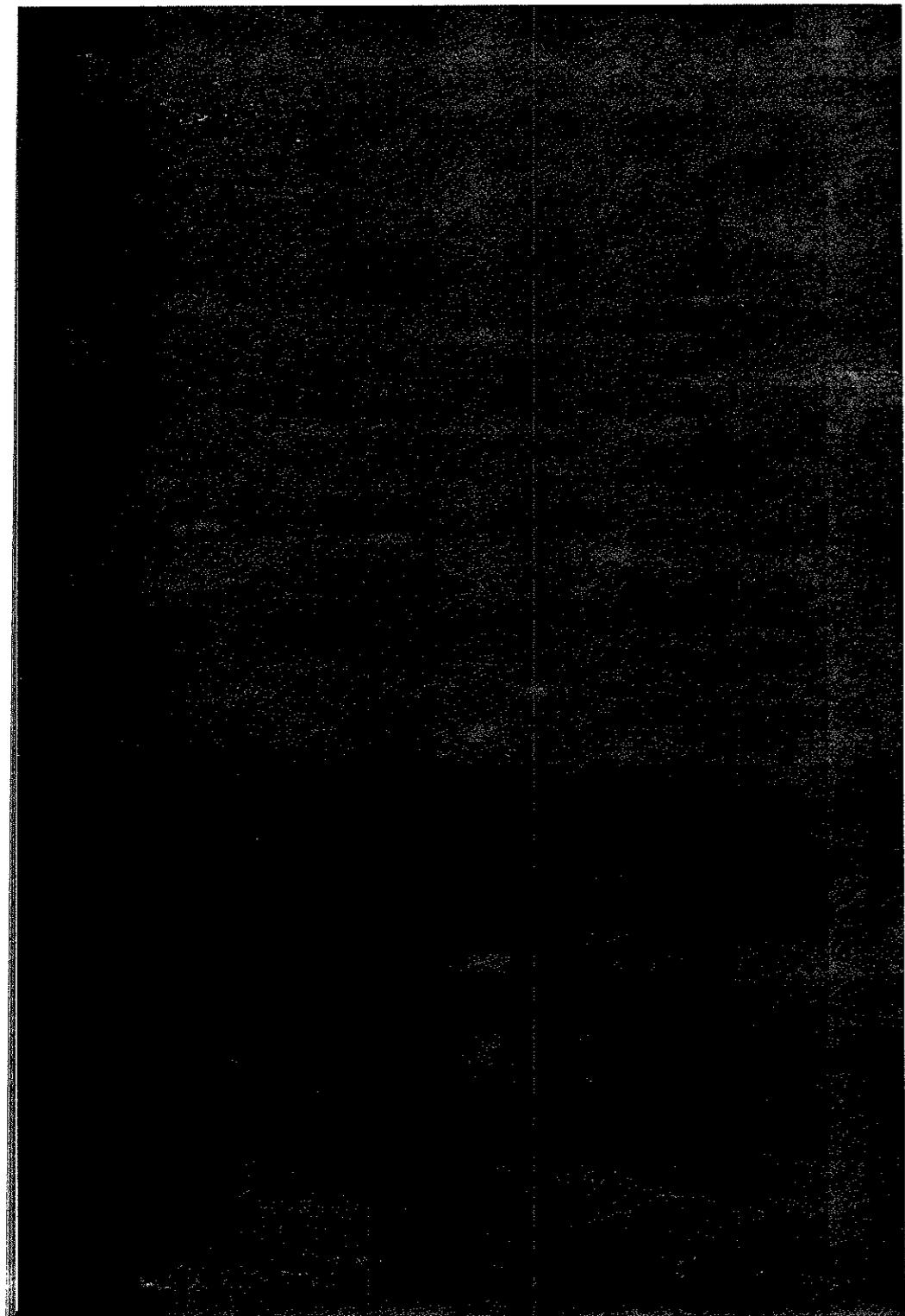
1 H Streitberger (compiler), Namlaw Project Workshop, Harare 28 - 30 June 1988. Documentation, Part I (Namibia Papers. Working Documents No 5. Bremen 1988)

2 The reference here is to the "possible policy guidelines" for the "formulation and implementation of sound monetary and fiscal policies". The need for such guidelines was pointed out in the comprehensive study on Namibia by the United Nations Institute for Namibia. See United Nations Institute for Namibia, Namibia: Perspectives for National Reconstruction and Development. Lusaka 1986:692ff

Bremen, June 1989

FEDERAL REPUBLIC OF GERMANY:

Federal Bank Act



Federal Bank Act

Part One

Establishment, Legal Form and Functions

§ 1

Establishment of the Federal Bank

The State Central Banks and the Central Bank of Berlin shall be merged with the Bank deutscher Länder. The Bank deutscher Länder shall become the Federal Bank.

§ 2

Legal Form, Capital and Domicile

The Federal Bank shall be a Federal body corporate under public law. Its capital amounts to two hundred and ninety million Deutsche Mark and shall be held by the Federation. The Bank shall have its domicile at the seat of the Federal Government; as long as such seat is not in Berlin, the domicile of the Bank shall be Frankfurt am Main.

§ 3

Functions

The Federal Bank shall regulate the volume of money in circulation and the supply of credit to the economy, using the monetary powers granted to it by this Act, with the aim of safeguarding the currency, and shall provide for normal banking clearance of payment transactions within the Federal Republic of Germany and with foreign countries.

§ 4

Participations

The Federal Bank may participate in the Bank for International Settlements and, subject to the approval of the Federal Government, in other institutions serving supranational monetary policy or international payments and lending, or otherwise apt to assist the Bank in performing its functions.

Part Two

Organisation

§ 5

Governing Bodies

The governing bodies of the Federal Bank shall be the Central Bank Council (§ 6), the Directorate (§ 7) and the Executive Boards of the State Central Banks (§ 8).

§ 6

The Central Bank Council

(1) The Central Bank Council shall determine the monetary and credit policies of the Federal Bank. It shall issue general guidelines on the conduct of business and administration and define the responsibilities of the Directorate and the Executive Boards of the State Central Banks in accordance with the provisions of this Act. In specific cases it may also give instructions to the Directorate and the Executive Boards of the State Central Banks.

Federal Bank Act

(2) The Central Bank Council shall comprise the President and Vice President of the Federal Bank, the other members of the Directorate and the Presidents of the State Central Banks.

(3) The Central Bank Council shall meet under the chairmanship of the President or Vice President of the Federal Bank. It shall pass resolutions by simple majority of the votes cast. In all other respects, the prerequisites for the passing of resolutions shall be determined by the by-laws. The by-laws may provide that members of the Central Bank Council be represented by deputies if prevented from acting for a prolonged period.

§ 7

The Directorate

(1) The Directorate shall be responsible for implementing the resolutions of the Central Bank Council. It shall manage and administer the Bank, except in matters within the responsibility of the Executive Boards of the State Central Banks. The following matters, in particular, shall be reserved to the Directorate:

1. transactions with the Federation and its Special Funds;
2. transactions with banking institutions that have central functions for the entire territory of the Federal Republic;
3. foreign exchange transactions and international transactions;
4. open market operations.

(2) The Directorate shall comprise the President and Vice President of the Federal Bank and up to eight further members. The members of the Directorate must be particularly well qualified professionally.

(3) The President and Vice President and the other members of the Directorate shall be appointed by the President of the Federal Republic upon nomination by the Federal Government. The Federal Government shall consult the Central Bank Council with respect to its nominations. The appointment shall be made for eight years or, in exceptional cases, for a shorter period, but not for less than two years. Appointments and termination of appointments shall be published in the Federal Gazette.

(4) The members of the Directorate shall hold office under public law. Their legal relations towards the Bank, particularly their salaries, retirement pensions and surviving dependants pensions, shall be provided by agreements with the Central Bank Council. Such agreements shall require the approval of the Federal Government.

(5) The Directorate shall meet under the chairmanship of the President or Vice President of the Federal Bank. It shall pass resolutions by simple majority of the votes cast. In the event of a tie, the chairman shall have a casting vote. In all other respects, the prerequisites for the passing of resolutions shall be determined by the by-laws. The by-laws may provide that certain resolutions require unanimity or some other majority.

§ 8

State Central Banks

(1) The Federal Bank shall maintain a principal office in each State. The principal offices shall be designated State Central Bank in Baden-Württemberg, in Bavaria, in Berlin, in Bremen, in the Free and Hanseatic City of Hamburg, in Hesse, in Lower Saxony, in North Rhine-Westphalia, in Rhineland-Palatinate, in Saarland, in Schleswig-Holstein.

### Federal Bank Act

(2) The Executive Board of each State Central Bank shall carry out the transactions and administrative tasks in the area for which it is responsible. The following matters, in particular, shall be reserved to the State Central Banks:

1. transactions with the State Government and public authorities in the State;
2. transactions with the banking institutions in their area, other than transactions reserved to the Directorate pursuant to § 7 (1) No. 2.

(3) The Executive Board of each State Central Bank shall comprise the President and Vice President of the State Central Bank. The by-laws may permit the appointment of one or two additional Executive Board members, and may contain provisions on resolutions by Executive Boards. The members of the Executive Board must be particularly well qualified professionally:

(4) The Presidents of the State Central Banks shall be appointed by the President of the Federal Republic upon nomination by the Federal Council. The Federal Council shall base its nomination on a nomination by the competent authority of the State concerned after consultation with the Central Bank Council. The Vice Presidents and the other members of the Executive Boards shall be appointed by the President of the Federal Bank upon nomination by the Central Bank Council. The members of the Executive Boards shall be appointed for eight years or, in exceptional cases, for a shorter period, but not for less than two years. Appointments and termination of appointments shall be published in the Federal Gazette.

(5) The members of the Executive Boards shall hold office under public law. Their legal relations towards the Bank, particularly their salaries, retirement pensions and surviving dependants pensions, shall be provided by agreements with the Central Bank Council. Such agreements shall require the approval of the Federal Government.

#### § 9

##### Advisory Boards at the State Central Banks

(1) Each State Central Bank shall have an Advisory Board which shall confer with the President of the State Central Bank on questions of monetary and credit policies, and with the Executive Board of the State Central Bank on the performance of the functions of such Board in its area.

(2) The Advisory Boards shall comprise not more than ten members, who should have a special knowledge in the field of banking. No more than half of the members should be selected from the various branches of the banking industry; the other members should be selected from industry, trade and agriculture, and from among workers and salaried employees.

(3) The members of the Advisory Board shall be appointed by the President of the Federal Bank for a period of three years upon nomination by the Government of the State concerned and following consultation with the Executive Board of the State Central Bank.

(4) The Advisory Board shall meet under the chairmanship of the President of the State Central Bank or his deputy. The competent State Ministers shall be given the opportunity of attending meetings of the Advisory Board. They may request the convening of the Advisory Board. In all other respects, the procedures of the Advisory Board shall be determined by the by-laws.

### Federal Bank Act

#### § 10 Branches

The Federal Bank may maintain branches (main branches and sub-branches). The main branches shall be managed by two managers who report to the appropriate State Central Bank. The sub-branches shall be managed by one manager who reports to the superior main branch.

#### § 11 Representation

(1) The Federal Bank shall be represented in and out of court by the Directorate, in the area of a State Central Bank also by the Executive Board of that Bank, and in the area of a main branch also by the managers of that main branch. The provisions of §§ 31 (2) and 41 (4) shall not be affected.

(2) Declarations shall be binding on the Federal Bank if they are made by two members of the Directorate or of the Executive Board of a State Central Bank or by two managers of a main branch. They may also be made by authorised representatives appointed by the Directorate or, in the area of a State Central Bank, by the Executive Board of that Bank. A declaration to the Bank shall have full legal effect if made to any one person authorised to represent the Bank.

(3) The authority to represent the Bank may be proven by a certificate signed by a notarial official of the Federal Bank.

(4) Legal proceedings against the Federal Bank relating to the business operations of a State Central Bank or a main branch may also be instituted at the court having jurisdiction at the registered office of that State Central Bank or main branch.

#### Part Three

##### Federal Government and Federal Bank

#### § 12

##### Relations between the Bank and the Federal Government

The Federal Bank shall, without prejudice to the fulfilment of its functions, support the general economic policies of the Federal Government. The Bank shall be independent of instructions by the Federal Government in the exercise of the authority granted to it by this Act.

#### § 13

##### Cooperation

(1) The Federal Bank shall advise the Federal Government on monetary policy matters of major importance and shall provide it with information on request.

(2) The members of the Federal Government shall have the right to attend meetings of the Central Bank Council. They have no right to vote, but may propose motions. At their request the passing of resolutions shall be postponed for up to two weeks.

(3) The Federal Government should invite the President of the Federal Bank to attend its deliberations on matters of monetary policy.

Federal Bank Act

Part Four

Authority with Respect to Monetary Policy

§ 14

Issuance of Bank Notes

(1) The Federal Bank shall have exclusive authority to issue bank notes in the territory in which this Act applies. Its notes shall be denominated in Deutsche Mark. They shall be the sole unlimited legal tender. Notes for amounts of less than ten Deutsche Mark may be issued only with the consent of the Federal Government. The Federal Bank shall publish the denominations and distinguishing features of the notes which it issues.

(2) The Federal Bank may call up notes for redemption. Called up notes become invalid on the expiry of the exchange period announced at the time of the call for redemption.

(3) The Federal Bank shall not be required to replace destroyed, lost, forged or falsified notes or notes which have become invalid. It shall replace damaged notes if the bearer either presents parts of a note which in aggregate constitute more than half of the note or furnishes proof that the remainder of the note of which he presents only half or some smaller part has been destroyed.

§ 15

Discount, Credit and Open Market Policies

For the purpose of influencing the volume of money in circulation and the supply of credit, the Federal Bank shall fix the interest and discount rates to be applied in its business and shall determine the principles governing its credit and open market operations.

§ 16

Minimum Reserve Policy

(1) For the purpose of influencing the volume of money in circulation and the supply of credit, the Federal Bank may require banking institutions to maintain with it balances on current account ("minimum reserves") equal to a certain percentage of their liabilities in respect of demand, term and savings deposits and from short and medium-term borrowings, with the exception of liabilities to other banking institutions subject to minimum reserve requirements. The Bank may not set the rate at more than 30 per cent for demand liabilities, 20 per cent for term liabilities and 10 per cent for savings deposits; for liabilities to non-residents (§ 4 (1) No. 4 Foreign Trade Act) the rate may, however, be set at up to one hundred per cent. Within these limits the Bank may set the rates at various levels in accordance with general considerations, in particular for different groups of institutions, and may exclude certain liabilities from the computation. In the case of a banking institution as defined in § 53 Banking Act a debit balance on inter-branch account shall be deemed to be a demand liability within the meaning of sentence 1.

(2) The monthly average balance of a banking institution with the Federal Bank ("actual reserves") must amount to not less than the percentages set in accordance with subsection (1) of the monthly average of that institution's liabilities subject to reserve requirements ("required reserves"). The Bank shall issue detailed provisions concerning the calculation and determination of the actual reserves and the required reserves.

Federal Bank Act

(3) The Federal Bank may charge special interest of up to three per cent above the current lombard rate on the amount by which the actual reserves fall short of the required reserves. Such special interest shall not be charged where the shortfall was for unforeseeable reasons unavoidable or where the banking institution concerned has commenced liquidation. The Federal Bank shall report any substantial or repeated shortfalls to the Federal Banking Supervisory Authority.

(4) Rural credit associations which are members of a regional institution and do not maintain a current account with the Federal Bank may maintain their minimum reserves with their regional institution; the latter shall maintain balances in equal amount with the Federal Bank.

(5) Minimum reserves required to be maintained under this Act shall be counted towards the liquidity reserves to be maintained pursuant to other statutes.

§ 17

Deposit Policy

The Federal Government, the Equalisation of Burdens Special Fund, the European Recovery Programme (ERP) and the States shall deposit their liquid funds, including cash balances earmarked for special purposes in their budgets, on current accounts with the Federal Bank. Depositing or investment elsewhere shall require the consent of the Federal Bank; in this connection the Federal Bank shall consider the interests of the States in maintaining their State banks and Landesbanken.

§ 18

Statistical Reporting

For the purpose of discharging its functions, the Federal Bank shall be authorised to instruct all banking institutions to prepare statistics on banking and monetary matters for collection by the Bank. §§ 7, 10 and 12 (1) of the Act on Statistics for Federal Purposes shall apply analogously. The Federal Bank may publish the results of the statistics for general purposes. Such publication shall not contain any individual data. Persons entitled to information under § 13 (1) may be given such individual data only if and insofar as this is provided for in the order under which the statistics are collected.

Part Five

Scope of Business

§ 19

Transactions with Banking Institutions

(1) The Federal Bank may transact the following business with banking institutions in the territory in which this Act applies:

- I. purchase and sell bills of exchange, promissory notes and cheques on which three parties of known solvency are liable; the requirement of a third obligor may be waived if the security of the bill of exchange, promissory note or cheque is guaranteed in some other manner; bills of exchange or promissory notes must mature within three months from the date of purchase; they should be good trade bills or notes;

Federal Bank Act

2. purchase and sell Treasury bills issued by the Federation, one of the Federal Special Funds designated in § 20 (1) No. 1 or a State and maturing within three months from the date of purchase;
3. extend interest-bearing loans ("lombard credits") for a period not exceeding three months against provision of the following collateral:
  - (a) bills of exchange and promissory notes satisfying the requirements of No. 1, at not more than nine-tenths of their face value;
  - (b) Treasury bills satisfying the requirements of No. 2, at not more than nine-tenths of their face value;
  - (c) non-interest bearing Treasury bonds maturing within one year from the date on which the loan is extended, at not more than three-quarters of their face value;
  - (d) fixed-interest bearing bonds and debt register claims issued or payable by the Federation, a Federal Special Fund or a State, at not more than three-quarters of their market value;
  - (e) other fixed-interest bearing bonds and debt register claims which the Bank may designate, at not more than three-quarters of their market value;
  - (f) equalisation claims pursuant to § 1 of the Act on the Redemption of Equalisation Claims and entered in the debt register, at not more than three-quarters of their face value.

If there is no stock exchange quotation for the assets specified in (d) and (e) above, the Bank shall determine the value of such assets as collateral for a loan on the basis of their prospects of realization. If a debtor defaults on a lombard credit, the Bank may sell the collateral at auction by one of its officials or by an official authorised to sell at auction, or, if the asset provided as collateral has a stock exchange or market price, to sell it at the current price by such an official or a broker and to reimburse itself for expenses, interest and principal out of the proceeds; the Bank shall retain this right relative to other creditors and to the assets of a bankrupt debtor;

4. accept non-interest bearing deposits on current account;
  5. accept assets, in particular securities, for custody and administration; the Bank shall be prohibited from exercising any voting right in respect of securities in its custody or under its administration;
  6. accept cheques, bills of exchange, promissory notes, payment orders, securities and interest coupons for collection and after cover has been received, make payment, except where the Bank has made other provision regarding the crediting of the proceeds of cheques and payment orders;
  7. conduct other banking transactions for third parties, after cover has been received;
  8. purchase and sell foreign currency, including bills of exchange, promissory notes, cheques, receivables and securities, as well as gold, silver and platinum;
  9. conduct any international banking transactions.
- (2) The discount and lombard rates shall be applied in the transactions designated in Nos. 1 to 3 of subsection (1).

Federal Bank Act

§ 20

Transactions with Public Authorities

(1) The Federal Bank may transact the following business with public authorities:

1. extend short-term advances in the form of book credits and credit against Treasury bills ("cash advances") to the Federal Government, the Federal Special Funds named below and the States. The maximum amount of cash advances, including Treasury bills which the Federal Bank has bought for its own account or undertaken to buy, shall be:
  - (a) six billion Deutsche Mark for the Federal Government;
  - (b) six hundred million Deutsche Mark for the Federal Railways;
  - (c) four hundred million Deutsche Mark for the Federal Post Office;
  - (d) two hundred million Deutsche Mark for the Equalisation of Burdens Fund;
  - (e) fifty million Deutsche Mark for the ERP Special Fund;
  - (f) for the States forty Deutsche Mark per inhabitant according to the latest official census; in the case of the State of Berlin and the Free and Hanseatic Cities of Bremen and Hamburg an amount of eighty Deutsche Mark per inhabitant shall serve as the basis of calculation.

2. (repealed)

3. conduct transactions designated in § 19 (1) Nos. 4 to 9 with the Federal Government, the Federal Special Funds, the States and other public authorities; the Bank may not charge the public authorities mentioned in No. 1 expenses or fees for such transactions.

(2) The public authorities mentioned in No. 1 of subsection (1) should issue bonds, Treasury bonds and Treasury bills primarily through the Federal Bank; otherwise the issue of these securities shall require the consent of the Federal Bank.

§ 21

Open Market Operations

For the purpose of regulating the money market the Federal Bank may buy and sell in the open market at market prices:

1. bills of exchange and promissory notes satisfying the requirements of § 19 (1) No. 1;
2. Treasury bills and Treasury bonds issued by the Federation, one of the Federal Special Funds mentioned in § 20 (1) No. 1 or a State;
3. bonds and debt register claims payable by the authorities specified in No. 2 above;
4. other bonds officially listed on a stock exchange.

§ 22

Transactions with the General Public

The Federal Bank may conduct the transactions specified in § 19 (1) Nos. 4 to 9 with natural persons and legal persons within and outside the Federal Republic.

Federal Bank Act

§ 23

**Confirmation of Cheques**

(1) The Federal Bank may confirm cheques drawn on it only after cover has been provided. Such confirmation shall result in the liability of the Bank to the bearer for payment; it shall also be liable to the drawer and the endorser for payment.

(2) Payment of the confirmed cheque may not be refused even if the drawer has since been adjudged bankrupt.

(3) The liability arising from confirmation shall terminate if the cheque is not presented for payment within eight days from the date of drawing. Art. 40 of the Cheque Act shall apply with respect to proof of presentation.

(4) The claim arising from the confirmation shall be barred two years after the end of the period for presentation.

(5) The jurisdictional and procedural provisions applicable to bills of exchange shall apply analogously to legal proceedings in which claims arising from the confirmation are pursued.

§ 24

**Lending against and Purchase  
of Equalisation Claims**

(1) Notwithstanding the restrictions contained in § 19 (1) No. 3, the Federal Bank may extend loans to banking institutions, insurance companies and building loan associations against the provision of collateral in the form of equalisation claims within the meaning of § 1 of the Act on the Redemption of Equalisation Claims, if and so long as this is necessary to maintain the solvency of the institution providing the collateral.

(2) The Federal Bank may purchase equalisation claims of the kind specified in subsection (1), subject to the provisions of § 9 (1) of the Act on the Redemption of Equalisation Claims, if and so long as the resources of the Fund for the Purchase of Equalisation Claims are insufficient for the purpose.

§ 25

**Other Transactions**

The Federal Bank should transact business other than that authorised by §§ 19 to 24 only for purposes of carrying out and completing authorised business or for its own operations or for its staff.

Federal Bank Act

**Part Six**

**Annual Accounts, Distribution of Profits  
and Returns**

§ 26

**Annual Accounts**

(1) The business year of the Federal Bank shall be the calendar year.

❖ (2) The accounts of the Federal Bank shall comply with the principles of orderly bookkeeping. The annual financial statements (balance sheet, profit and loss account) shall be drawn up and annotated having regard to the functions of the Federal Bank; liability relations need not be noted. The provisions of the Commercial Code applicable to corporations shall apply analogously to the valuation of items in the balance sheet; § 280(1) of the Commercial Code need not be applied. The setting up of provisions when finalising the profit and loss account to take account of the overall risks of domestic and foreign business, which is regarded as permissible in accordance with sound commercial judgment having regard to the functions of the Federal Bank, shall not be affected.

(3) The Directorate shall prepare the annual accounts as soon as possible. The accounts shall be audited by one or more auditors appointed by the Central Bank Council in agreement with the Federal Accounting Office. The Central Bank Council shall approve the annual accounts, which shall then be published by the Directorate.

(4) The auditor's report shall serve as the basis for the audit to be conducted by the Federal Accounting Office. The auditor's report shall be communicated together with the comments of the Federal Accounting Office thereon to the Federal Minister of Finance.

§ 27

**Distribution of Profits**

The net profit shall be distributed in the following order:

1. twenty per cent of the profit or twenty million Deutsche Mark, whichever is the higher, shall be transferred to the legal reserves until such reserves equal five per cent of the total amount of bank notes in circulation; the legal reserves may be used only to offset valuation losses and to cover other losses; the application of such reserves shall not be precluded by the fact that other reserves are available for this purpose;
2. up to ten per cent of the remaining net profit may be used to form other reserves; the total amount of such reserves may not exceed the Bank's capital;
3. forty million Deutsche Mark, and commencing with the business year 1980 and thereafter, thirty million Deutsche Mark, shall be transferred to the Fund for the Purchase of Equalisation Claims set up under the Act on the Redemption of Equalisation Claims until its dissolution;
4. the balance shall be transferred to the Federal Government.

Federal Bank Act

§ 28

Returns

As of the 7th, 15th, 23rd and last day of each month the Federal Bank shall publish a return which shall include the following particulars:

1. Assets

Gold

Balances with foreign banks and money market investments abroad  
Foreign notes and coins, foreign bills of exchange, promissory notes  
and cheques

Domestic bills of exchange and promissory notes

Lombard loans

Cash advances to

- (a) the Federation and its Special Funds
- (b) the States

Treasury bills and non-interest bearing Treasury bonds of

- (a) the Federation and its Special Funds
- (b) the States

Securities

Coins

Balances on postal giro accounts

Equalisation claims

Other assets

II. Liabilities

Banknotes in circulation

Deposits by

1. banks

2. public depositors

- (a) the Federation and its Special Funds
- (b) the States
- (c) other public depositors

3. other domestic depositors

4. foreign depositors

Liabilities arising from international transactions

Provisions

Capital

Reserves

Other Liabilities

Part Seven

General Provisions

§ 29

Special Status of the Federal Bank

(1) The Central Bank Council and the Directorate of the Federal Bank shall have the status of supreme federal authorities. The State Central Banks and the main branches shall have the status of federal authorities.

(2) The Federal Bank and its staff shall enjoy the privileges granted to the Federal Government and its employees in matters regarding construction, housing and rent.

Federal Bank Act

(3) The provisions of the Commercial Code concerning entries in the Commercial Register and the provisions concerning membership of Chambers of Commerce and Industry shall not apply to the Federal Bank.

§ 30

Notarial Officials

The President of the Federal Bank may appoint notarial officials for the purposes of § 11 (3). They must be qualified to hold the office of judge.

§ 31

Legal Status of Officers, Employees and Workers  
of the Federal Bank

(1) The Federal Bank shall employ officers, salaried employees and workers.

(2) The President of the Federal Bank shall appoint the officers of the Bank, in the case of administrative officers upon nomination by the Central Bank Council. In the case of executive, clerical and sub-clerical officers, he may delegate such power to the Presidents of the State Central Banks. The President of the Federal Bank shall be the principal institutional authority and shall in such capacity represent the Bank judicially and extra-judicially. He shall be responsible for disciplinary measures, except in matters within the jurisdiction of the disciplinary courts, and shall be the authority for institution of formal disciplinary proceedings (§ 35 Federal Disciplinary Code).

(3) The officers of the Federal Bank shall be indirect federal officers. Except as otherwise provided by this Act, the regulations generally applicable to federal officers shall apply to them. The entry into force of this Act shall replace the entry into force of the Federal Civil Service Act.

(4) Subject to the approval of the Federal Government, the Central Bank Council may regulate the legal status of the officers and salaried employees of the Federal Bank by means of staff rules if required for orderly and efficient banking operations. Such staff rules may only provide

1. that the following civil service law provisions shall not apply to officers of the Bank:

(a) § 21, sentence 2, § 24, sentence 3 and §§ 26 (1), 30(2), 66(1), Nos. 2 and 5, and 116(1), No. 3 of the Federal Civil Service Act;

(b) § 15 of the Civil Service Compensation Act of December 16, 1927 (Imperial Gazette I, p. 349) as amended, to the extent that revocable Bank allowance, not subject to pension calculation, not exceeding thirty per cent of the basic salary, business expense allowance and a bonus for exceptional performance are granted;

(c) the provisions on the granting of maintenance allowances to officers undergoing preparatory training;

2. that officers and salaried employees of the Bank be required to notify the Bank of any commercial or professional activity on the part of their spouses;

3. that the salaried employees of the Bank

(a) shall require, to the same extent as officers, prior permission to engage in any of the outside activities designated in § 66 (1), Nos. 2 and 5 of the Federal Civil Service Act,

Federal Bank Act

(b) shall receive the payments specified in subparagraph (b) of No. 1 above.

(5) Bonuses for exceptional performance and business expense allowances designated in subsection (4) No. 1(b) may not in the aggregate exceed one-twentieth of the expenditure on the salaries of the officers and salaried employees of the Federal Bank.

(6) Subject to the approval of the Federal Government, the Central Bank Council shall issue rules with respect to training and career path of officers of the Federal Bank. It may deviate from the provisions of the federal civil service law with respect to the duration of preparatory service, of the probationary period and of the period of experience required for promotion in the executive class and for qualification for admission to the administrative class.

§ 32

Obligation of Confidentiality

All persons in the service of the Federal Bank shall maintain confidentiality with respect to all matters regarding the Bank and its business transactions. They may not, without permission, testify or make judicial or extra-judicial statements about such matters which they have learned in the course of their activities, even after leaving the service of the Bank. Where the interests of the Bank are involved, such permission shall be granted to the members of the Central Bank Council by such Council and to other members of the Bank's staff by the President; for a court hearing, permission may be refused only if necessary for the good of the Federation or in the public interest.

§ 33

Public Notices

The Federal Bank shall publish notices for the general public – particularly the redemption of bank notes, the setting of interest rates, discount rates and minimum reserve ratios and the ordering of statistics – in the Federal Gazette.

§ 34

By-laws

The by-laws of the Federal Bank shall be resolved by the Central Bank Council. They shall be subject to the approval of the Federal Government and shall be published in the Federal Gazette. The same shall apply to amendments of the by-laws.

Federal Bank Act

Part Eight

Penal Provisions and Provisions on the Seizure of Counterfeit Money

§ 35

Unauthorised Issue and Use of Monetary Tokens

(1) A term of imprisonment not exceeding five years or a fine shall be imposed on any person who:

1. without authority issues monetary tokens (stamps, coins, notes or other instruments suitable for use in making payments in place of legally authorised coins or banknotes) or non-interest bearing bearer bonds, even if not denominated in Deutsche Mark;
2. uses for making payments objects of the type specified in No. 1 above that have been issued without authority.

(2) Attempts shall be punishable.

(3) If the offence described in No. 2 of subsection (1) was committed negligently, the punishment shall be a term of imprisonment not exceeding six months or a fine not exceeding one hundred and eighty daily rates.

§ 36

Seizure of Counterfeit Money and Monetary Tokens or Bonds that have been Issued without Authority

(1) The Federal Bank and all banking institutions shall seize forged or falsified bank notes or coins ("counterfeit money"), bank notes and coins suspected of being counterfeit money, and objects of the type specified in § 35 that have been issued without authority. A receipt shall be given to the party concerned.

(2) Counterfeit money and objects of the type specified in § 35 shall be delivered to the police together with a report. Banking institutions shall notify the Federal Bank of having done so.

(3) Bank notes and coins suspected of being counterfeit money shall be submitted to the Federal Bank for examination. If the Bank finds that the bank notes or coins are false, it shall deliver the counterfeit money to the police together with an expertise and inform the seizing banking institution accordingly.

§ 37

Confiscation

(1) Objects of the type specified in § 35 that have been issued without authority may be confiscated.

(2) Objects confiscated under subsection (1) and counterfeit money confiscated under § 150 of the Penal Code shall be retained by the Federal Bank. They may be destroyed, if the offender has been found, ten years after the judgment ordering confiscation becomes effective, and if the offender has not been found, twenty years thereafter.

Part Nine

Transitional and Final Provisions

§ 38

Reorganisation of the Central Banking Systems

[Omitted from this translation]

§ 39

Transitional Provisions for the Governing  
Bodies of the Federal Bank

[Omitted from this translation]

§ 40

Changes in Terms of Service

[Omitted from this translation]

§ 41

Legal Status of Persons falling within  
the Provisions of Article 131 of the Constitution

[Omitted from this translation]

§ 42

Mobilisation of the Equalisation Claim  
for Open Market Operations

(1) The Federation as the debtor of the equalisation claim held by the Federal Bank in accordance with the provisions of the currency reform shall furnish to the Bank on request Treasury bills or non-interest bearing Treasury bonds in denominations and on terms as the Bank may select ("mobilisation paper") up to the nominal amount of the equalisation claim.

(2) The mobilisation paper shall be payable at the Federal Bank. The Bank shall be liable to the Federation for meeting all obligations arising from the mobilisation paper. The Federation shall continue to pay interest on the entire equalisation claim.

(3) The Federal Minister of Finance is hereby authorised to issue mobilisation paper up to the maximum amount permitted under subsection (1). Mobilisation paper shall not be counted against the credit ceiling pursuant to § 20 (1) No. 1(a).

§ 42a

Issue of Liquidity Paper

(1) If mobilisation paper has been put into circulation by the Federal Bank up to the nominal amount of the equalisation claim, the Federation shall furnish to the Bank on request Treasury bills or non-interest bearing Treasury bonds in denominations and on terms as the Bank may select ("liquidity paper") up to a maximum amount of eight billion Deutsche Mark.

(2) The nominal amount of liquidity paper issued shall be entered on a special account by the Federal Bank. The amount on the special account may be used only to redeem liquidity paper that has matured or been repurchased by the Bank prior to maturity.

(3) Sentences 1 and 2 of § 42 (2) and § 42 (3) shall apply analogously.

§ 43

Repeal of and Amendments to Other Legal Provisions

[Omitted from this translation]

§ 44

Dissolution

\* The Federal Bank may only be dissolved by statute. Such statute shall determine how assets are to be distributed.

§ 45

Berlin Clause

This Act shall also apply in the State of Berlin pursuant to § 13 (1) of the Third Transition Act of January 4, 1952 (Legal Gazette 1, p. 1). In applying this Act the Federal Bank shall consider the economic situation of Berlin, if necessary by issuing special regulations.

§ 46

Saar Clause

[Obsolete]

§ 47

Effective Date

(1) This Act shall come into force on the first day of the month following promulgation; §§ 40 (5) and 41 (1) and (2) shall, however, come into force with effect from April 1, 1951.

(2) In the State of Berlin § 41 (1) and (2) shall come into force with effect from October 1, 1951 and §§ 35 and 37 shall come into force on the day following promulgation in the Gazette of Laws and Ordinances for Berlin of the law extending the application of this Act to Berlin.

