
Act of 26 March 1998, laying down new provisions regarding De Nederlandsche Bank N.V. in connection with the Treaty establishing the European Community (Bank Act 1998)

We Beatrix, by the grace of God, Queen of the Netherlands, Princess of Orange-Nassau, etc.

To all to whom these presents shall come, greetings! be it known:

Whereas We have considered that it is necessary to newly legislate the objectives, tasks and activities of De Nederlandsche Bank N.V. in connection with the Treaty establishing the European Community and the establishment, as provided by that Treaty, of a European System of Central Banks of which De Nederlandsche Bank N.V. forms an integral part with respect to the tasks and duties which the Treaty has conferred on that System;

Now therefore, by and with the advice of the Council of State, and in joint consultation with Parliament, We have found good to enact, as We hereby enact:

Chapter I. Definitions

Section 1

1. In this Act and the provisions based thereon, the following terms are defined as follows:
 - a. the Bank: De Nederlandsche Bank N.V.;
 - b. Our Minister: Our Minister of Finance;
 - c. the Treaty: the Treaty on the Functioning of the European Union;
 - d. the European Central Bank: the European Central Bank referred to in Article 13 of the Treaty on European Union;
 - e. the European System of Central Banks: the European System of Central Banks referred to in Article 282(1) of the Treaty;
 - f. the Statute of the European System of Central Banks: the Statute of the European System of Central Banks and of the European Central Bank referred to in Article 129(2) of the Treaty;
 - g. Anti-Counterfeiting Regulation: Regulation (EC) No 1338/2001 of the Council of the European Union of 28 June 2001 laying down measures necessary for the protection of the euro against counterfeiting (OJ L 181, 2001);
 - h. the SRM Regulation: Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 of the European Parliament and of the Council (OJ 2014, L 225).
2. The Bank is an integral part of the European System of Central Banks with respect to the tasks and duties which the Treaty has conferred on the System.

Chapter II. Objectives, tasks and activities of the Bank

Division 1. Objectives and tasks

Section 2

1. In implementation of the Treaty, the Bank's objective is to maintain price stability.
2. In implementation of the Treaty, without prejudice to the objective of price stability, the Bank supports the general economic policies in the European Union with a view to contributing to the achievement of the objectives of the Union as laid down in Article 3 of the Treaty on European Union.
3. The Bank acts in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in Article 119 of the Treaty.

4. It is also the Bank's objective to perform tasks other than those referred to in Section 3, insofar as these are conferred upon it by or pursuant to the law.

Section 3

1. In implementation of the Treaty, within the framework of the European System of Central Banks, the Bank contributes to the performance of the following tasks:
 - a. to define and implement monetary policy;
 - b. to conduct foreign exchange operations consistent with the provisions of Article 219 of the Treaty;
 - c. to hold and manage the official foreign reserves;
 - d. to provide for the circulation of money as far as it consists of banknotes;
 - e. to promote the smooth operation of payment systems.
2. In implementation of the Treaty, within the framework of the European System of Central Banks, the Bank contributes to the pursuit of sound policies by the competent authorities relating to the prudential supervision of banks and the stability of the financial system.
3. In implementation of the Treaty, the Bank may, in carrying out its tasks and duties under Section 3(1) and (2), seek and take instructions exclusively from the European Central Bank.

Section 4

1. The tasks of the Bank are:
 - a. to exercise supervision of financial institutions in pursuance of the relevant statutory provisions;
 - b. to promote the smooth operation of payment systems;
 - c. to promote the stability of the financial system;
 - d. to collect statistical data and to compile statistics under the applicable statutory provisions;
 - e. to perform resolution tasks concerning banks and investment firms in pursuance of the relevant statutory regulations.
2. The Bank may also perform the tasks referred to in Section 4(1) in the public bodies of Bonaire, Sint Eustatius and Saba, in pursuance of the relevant statutory provisions.
3. The Bank may, in the public interest and with prior permission granted by royal decree, perform tasks other than those referred to in this Act both in the European part of the Netherlands and in the public bodies of Bonaire, Sint Eustatius and Saba.

Section 4a

In performing its task referred to in Section 4(1)(e), the Bank seeks to avoid reliance on public funds. If, with a view to the resolution objectives referred to in Article 14 of the SRM Regulation, reliance on extraordinary public financial support is inevitable, such reliance will be limited to that which is necessary to achieve those objectives.

Division 2. Activities

Section 5

The Bank is authorised to carry out those activities which are necessary to perform the tasks referred to in Sections 3 and 4, including in particular the activities referred to in this Division. The Bank carries out these activities in accordance with the Treaty.

Section 6

The Bank is authorised to issue banknotes.

Section 6a [Repealed on 1 January 2014]

Section 7

The Bank is authorised to assist the European Central Bank in collecting data in pursuance of Article 5 of the Statute of the European System of Central Banks.

Section 8

1. The Bank is authorised to effect transactions in the financial markets, including receiving current-account deposits from account holders, accepting securities and other valuable items for safe custody, and effecting credit transactions insofar as these are covered by adequate collateral.
2. Legal acts relating to transactions within the meaning of Section 8(1) are not voidable under Section 45 of Book 3 of the Dutch Civil Code (*Burgerlijk Wetboek*) or under Sections 42 and 47 of the Bankruptcy Act (*Faillissementswet*).
3. At the request of Our Minister, the Bank carries out the activities referred to in Section 8(1) on behalf of the State and of institutions created by law or by royal decree.
4. At the request of Our Minister and notwithstanding the provisions of Section 8(1), the Bank will provide to the State, whenever Our Minister deems this necessary for the purpose of ensuring the proper settlement of payments for the account of the State, unsecured overdraft facilities subject to interest at a rate to be agreed between Our Minister and the Bank. The State must repay such overdrafts on the day they were granted.

Section 9

The Bank may, after permission has been granted by royal decree:

- a. hold participating interests in the capital of legal entities, institutions and organisations to the extent that such participating interests have not already been provided for by or pursuant to the Treaty or by law;
- b. participate in the activities of legal entities, institutions and organisations to the extent that such participation has not already been provided for by or pursuant to the Treaty or by law;
- c. pursue activities in the public interest other than those referred to in this Division.

Chapter IIa. Euro banknote authenticity and fitness checking

Section 9a

1. Credit institutions, payment service providers and economic operators within the meaning of Article 6(1) of the Anti-Counterfeiting Regulation must check the fitness for circulation of all euro banknotes received before putting these notes back into circulation.
2. The euro banknote fitness check must be carried out in accordance with procedures established by the European Central Bank.
3. The institutions referred to in Section 9a(1) must hand over to the Bank the euro banknotes that are unfit for circulation.
4. The Bank pays out the face value of the euro banknotes handed over pursuant to Section 9a(3).

Section 9b

1. The authority to supervise compliance with Section 9a(1) to (3) and, insofar as that Article concerns euro banknotes, Article 6(1) of the Anti-Counterfeiting Regulation rests with the persons appointed for that purpose by decision of the Bank.

2. Decisions within the meaning of Section 9b(1) are published by insertion in the Government Gazette (*Staatscourant*).

Section 9c

1. The Bank is authorised to impose an order subject to penalty to enforce:
 - a. Section 9a(1) to (3);
 - b. Article 6(1) of the Anti-Counterfeiting Regulation, insofar as that Article concerns euro banknotes;
 - c. Section 5:20 of the General Administrative Law Act (*Algemene wet bestuursrecht*).
2. The Bank is authorised to impose an administrative fine for non-compliance with the Sections and Articles referred to in Section 9c(1).
3. The amounts of such administrative fines are determined by general order in council for acts of non-compliance as defined therein, with the proviso that the maximum administrative fine for an individual act of non-compliance is EUR 50,000. If an act of non-compliance is committed within a period of five years after an administrative fine was imposed on the offender for a similar act, the amount of the administrative fine for an individual act of non-compliance as referred to in the first sentence will be doubled.
4. If an objection is filed or an appeal is lodged against a decision imposing an administrative fine, the obligation to pay will be suspended until the time limit for lodging an appeal has lapsed or, in the event of an appeal, until the appeal has been decided on. Suspension of the obligation to pay does not suspend the calculation of statutory interest.

Chapter IIb. Acquisition, use and provision of data

Section 9d

1. With a view to performing the tasks referred to in Section 4(1)(c) and (d) or complying with information requests from international organisations designated by general order in council, the Bank is authorised to use data, other than personal data within the meaning of the Dutch Personal Data Protection Act (*Wet bescherming persoonsgegevens*), from records:
 - a. kept at central government institutions and services or at independent public bodies at central government level for the purpose of performing a statutory task;
 - b. kept by legal entities designated by general order in council that perform a task regulated by or pursuant to the law or that are directly or indirectly financed in full or in part from central government funds or from the proceeds from levies imposed by or pursuant to the law.
2. Insofar as the acquisition referred to in Section 9d(1) does not yield the required data, the Bank is authorised to request data designated by general order in council, other than personal data within the meaning of the Personal Data Protection Act, from categories of enterprises, independent professionals, institutions and legal entities designated in said order in council.
3. The institutions, services and independent public bodies referred to in Section 9d(1)(a), the legal entities referred to in Section 9d(1)(b) and the enterprises, independent professionals, institutions and legal entities referred to in Section 9d(2) must provide the data referred to in said subsections at the Bank's request within a period to be specified by general order in council. They cannot invoke any duty of confidentiality, unless said duty is based on international rules and regulations.
4. The data provision referred to in Section 9d(3) is free of charge, unless otherwise provided by general order in council. Rules may be issued by or pursuant to a general order in council with regard to the cost categories and amounts that may be charged to the Bank.

Section 9e

1. Except as provided for in Section 9e(2), the Bank may use the data it receives under Section 9d

exclusively for statistical purposes and economic analyses.

2. The Bank's organisational unit charged with the tasks referred to in Section 4(1)(c) and (d) can provide the data referred to in Section 9e(1) to organisational units of the Bank charged with other tasks insofar as these data originate, whether or not directly, from financial institutions that the Bank supervises pursuant to the applicable statutory regulations.
3. The data referred to in Section 9e(1) may be disclosed only in such a manner that it is impossible to derive from them any identifiable information on individual enterprises, independent professionals, institutions or legal entities.

Section 9f

Notwithstanding the provisions of Section 9e, the Bank provides data to the international organisations referred to in Section 9d(1) to comply with their requests for information with due observance of the confidentiality regime applicable to the relevant data by virtue of binding EU legal acts.

Section 9g

1. With a view to enforcing Section 9d(3), the Bank is authorised to impose an order subject to a penalty if the legal entities referred to in Section 9d(1)(b) and the enterprises, independent professionals, institutions and legal entities referred to in Section 9d(2) fail to provide the data referred to in said subsections or fail to do so in full or by the stipulated date.
2. The Bank is also authorised to impose an administrative fine for non-compliance with Section 9d(3). The provisions of Section 9c(3) and (4) apply *mutatis mutandis*, with the proviso that the maximum administrative fine for an individual act of non-compliance is EUR 10,000.

Chapter III. Provisions regarding the company

Section 10

Section 153 of Book 2 of the Dutch Civil Code does not apply to the Bank.

Section 11

Provisions contained in Book 2 of the Dutch Civil Code which when applied to the Bank would be contrary to the Treaty or to the Statute of the European System of Central Banks do not apply to the Bank. With a view to implementing Article 131 of the Treaty, these provisions are specified by general order in council.

Section 12

1. The Governing Board of the Bank is responsible for its management. The Governing Board comprises a President and at least three and at most five Executive Directors.
2. The President and Executive Directors are appointed by royal decree, for a term of seven years. Governing Board members can be reappointed once to the same position. With respect to every such appointment, the Supervisory Board, having consulted the Governing Board, draws up a shortlist of three persons.
3. Prior to drawing up the shortlist, the Supervisory Board, having consulted the Governing Board, draws up a position profile.
4. The President and the Executive Directors may be suspended or relieved from office by royal decree only if they no longer fulfil the conditions required for the performance of their duties or have been guilty of serious misconduct. They may also be relieved from office at their own request.
5. Our Minister sees to it that the royal decrees referred to in this Section are duly published in the

Government Gazette.

6. With regard to the tasks and activities performed in order to achieve the objective referred to in Section 2(1), the Governing Board acknowledges the President's capacity as a member of both the Governing Council and the General Council of the European Central Bank.
7. The salaries, pension commitments and expense arrangements for the President and Executive Directors are determined by the Supervisory Board, subject to approval by Our Minister.

Section 12a

1. It may be decided by or pursuant to the Articles of Association that tasks of the Governing Board arising from Section 4(1)(a) are allocated to one or more Executive Directors and that these Executive Directors are given valid power of discretion with regard to said tasks. Decisions pursuant to the Articles of Association as referred to in the first sentence are made in writing.
2. The Executive Director or Directors to whom the tasks referred to in Section 12a(1) have been allocated may be authorised by the Governing Board to exercise the powers needed to fulfil these tasks, unless this is incompatible with the arrangement conferring such powers.
3. Notwithstanding the provisions of Sections 4:81 and 10:6 of the General Administrative Law Act, the authorisation referred to in Section 12a(2) includes the authority to establish policy regarding the tasks referred to in that subsection, unless this is prevented by a mandating decision.

Section 12b

1. One of the Executive Directors is responsible for performing the task referred to in Section 4(1)(e). This Executive Director is not simultaneously responsible for performing the tasks referred to in Section 3, Section 4(1)(a) insofar as relating to the supervision of banks or Section 4(1)(c).
2. With respect to decision-making within the Governing Board in the performance of the task referred to in Section 4(1)(e), the Executive Director referred to in Section 12b(1) is granted the same number of votes as the other members of the Governing Board together. In the event of a tie, the vote of the Executive Director referred to in Section 12b(1) is decisive.
3. Section 12b(2) does not apply to decision-making in implementation of Sections 3A:9 to 3A:11 of the Financial Supervision Act (Wet op het financieel toezicht) or to Articles 8 to 11 of the SRM Regulation.

Section 13

1. The Supervisory Board consists of at least seven and at most ten members.
2. One member of the Supervisory Board is appointed by the government for renewable terms of four years each.
3. The chairman as well as the other members of the Supervisory Board are appointed for renewable terms of four years each by the shareholders, from a list of three nominees for each vacancy, drawn up by the Supervisory Board. Prior to drawing up this list, the Supervisory Board draws up a position profile.
4. In the chairman's absence, the meeting designates another member as acting chairman.
5. Members of the Supervisory Board may be suspended or relieved from office by the shareholders if they no longer fulfil the conditions required for the performance of their duties or have been guilty of serious misconduct. They may also be relieved from office at their own request.
6. With due observance of the provisions of the Treaty and the Statute of the European System of Central Banks, the Supervisory Board oversees the general course of business within the Bank and

the policy pursued by the Governing Board in implementation of Section 4. The Supervisory Board advises the Governing Board and adopts the annual accounts. The adopted annual accounts require the shareholders' approval.

Section 14

1. For Our Minister, the Supervisory Board member appointed under Section 13(2) may, at Our Minister's request or on his own initiative and with due observance of Article 130 of the Treaty, obtain data and information from the Governing Board of the Bank regarding the Bank's performance of its tasks. He may, at Our Minister's request or on his own initiative and with due observance of Article 130 of the Treaty, communicate his findings to Our Minister.
2. The Governing Board of the Bank must provide to the person referred to in Section 14(1) upon each request to that effect by this person, all data and information which he deems necessary for the proper performance of his task as referred to in that subsection, with the exception of data and information that are secret under the Treaty or under the statutory provisions referred to in Section 4.

Section 15

1. There is a Bank Council, composed of at least eleven and at most thirteen members, namely:
 - a. the member of the Supervisory Board referred to in Section 13(2);
 - b. one member appointed by and from among the Supervisory Board members;
 - c. at least nine and at most eleven members appointed by the Bank Council for renewable terms of four years each.
2. The members referred to in Section 15(1)(c) are appointed from a shortlist of at least two persons for each vacancy, drawn up by the Governing Board of the Bank aiming to ensure that the various sections of society are represented.
3. The Bank Council appoints a chairman from among its members. In the chairman's absence, the meeting designates another member as acting chairman. Secretarial services are provided by the Bank.
4. The Governing Board of the Bank and the Treasurer-General or his alternate attend the meetings of the Bank Council and may take part in its deliberations.
5. The President reports to the Bank Council on general economic and financial developments and discusses the policy pursued by the Bank with the Bank Council. Other discussion topics include matters related to the objectives, tasks and activities of the Bank as put forward by one or more members.

Section 16

1. With due observance of the Treaty and after consultation with Our Minister, the Bank lays down internal guidelines for the administration of securities, negotiable instruments and those gold and foreign exchange reserves which have not been transferred to the European Central Bank under Article 30 of the Statute of the European System of Central Banks; in doing so, it takes due account of the interests of the State.
2. The Bank is authorised, subject to Our Minister's approval, to create reserves after determination of profit. Transfers to and from these reserves require Our Minister's approval.

Section 17

1. Sections 363(6), 380, 383(2), second sentence, with the exception of the amounts outstanding, of Book 2 of the Dutch Civil Code and Parts 3 and 4 of Title 9 of Book 2 of the Dutch Civil Code do not apply to the Bank. The Bank may, for the purpose inter alia of determining the profit, base the

valuation of investments, securities and foreign exchange on principles that differ from the provisions of Section 384(1), second sentence, or 384(2), second sentence, of Book 2 of the Dutch Civil Code, insofar as this is in accordance with the relevant provisions of Part 14 of Title 9 of Book 2 of the Dutch Civil Code.

2. The Bank may also depart from the provisions of Title 9 of Book 2 of the Dutch Civil Code insofar as the Supervisory Board deems this necessary in order to achieve the objectives referred to in Section 2.
3. The Bank may also depart from the provisions of Title 9 of Book 2 of the Dutch Civil Code insofar as this is necessary for compliance with instructions as referred to in Section 3(3). The Bank will notify the Supervisory Board promptly of any such departure.

Chapter IV. Information and confidentiality

Section 18

1. Our Minister is authorised, with due observance of Article 130 of the Treaty, to ask the Bank to provide such data or information relevant to the tasks and activities performed in order to achieve the objective referred to in Section 2(1), as he deems necessary for the purpose of determining the Government's financial and economic policy.
2. With due observance of Articles 10.4 and 37 of the Statute of the European System of Central Banks, the Bank must provide Our Minister with the data and information referred to in Section 18(1).

Section 19

With regard to the tasks and activities performed in order to achieve the objective referred to in Section 2(1), the President of the Bank may, with due observance of Article 130 of the Treaty and Articles 10.4 and 37 of the Statute of the European System of Central Banks, be examined by both Chambers of the States General at their request.

Section 20

To the extent that this Act provides for the performance of the acts aiming to achieve the objective referred to in Section 2(1), those who perform any task by virtue of the application of this Act or decrees based on it must refrain from using or disclosing data or information received in the performance of that task in any way beyond or other than that required for the performance of their task or required by this Act.

Chapter V. Amendment of other acts

Section 21

[Amends the Act on the Supervision of the Credit System 1992 (*Wet toezicht kredietwezen 1992*).]

Section 22

[Amends the Financial Transaction (Emergency) Act (*Noodwet financieel verkeer*).]

Section 23

[Amends the Coinage Act 1987 (*Muntwet 1987*).]

Chapter VI. Transitional and final provisions

Section 24 [Repealed on 1 January 2012]

Section 25

[Amends the General Administrative Law Act.]

Section 26

[Amends this Act.]

Section 27

1. [Repealed.]
2. Sections 229i–229k of the Commercial Code (*Wetboek van Koophandel*) do not apply to banknotes.
3. Rules may be issued by or pursuant to a general order in council concerning the exchange, withdrawal and cancelling of banknotes by the Bank, and to the information in this respect to be provided by the Bank to the general public.
4. The present section or a part thereof will cease to have effect on a date to be determined by royal decree.

Section 28

From the entry into force of Section 12 of this Act, the royal decrees which are in force pursuant to Section 23(1) and (2) of the Bank Act 1948 are based on Section 12(2) of the present Act.

Section 29

1. The first appointment of the members of the Supervisory Board referred to in Section 13(3) is effected by the shareholders within eight weeks of the date on which this Act enters into force. Simultaneously, the Supervisory Board members who were appointed in accordance with Section 27 of the Bank Act 1948 resign.
2. In derogation from the provisions of Section 13(3), the first appointees as members of the Supervisory Board as referred to in Section 13(3) hold office for terms varying from one to four years according to a rotation schedule to be drawn up by the Supervisory Board.

Section 30

1. The first appointment of the members of the Bank Council referred to in Section 15(1)(c) is effected by the Bank within eight weeks of the date on which this Act enters into force. Simultaneously, the Bank Council members who were appointed in accordance with Section 32 of the Bank Act 1948 resign.
2. The members appointed in accordance with Section 30(1) hold office for terms varying from one to four years, according to a rotation schedule to be drawn up by the Bank Council.

Section 31

From the entry into force of Section 9 of this Act, the royal decrees which are in force pursuant to Section 21 of the Bank Act 1948 are based on Section 9 of the present Act.

Section 32

The Bank Act 1948 is repealed.

*Bank Act 1998 – unofficial translation
December 2015*

Section 33

The Act of 11 January 1956 containing provisions to implement Section 17 of the Bank Act 1948 is repealed.

Section 34

The sections of this Act will enter into force on a date or dates to be determined by royal decree, which dates may vary for different sections or parts thereof.

Section 35

This Act may be cited as: Bank Act 1998.

We order and command that this Act be published in the Bulletin of Acts, Orders and Decrees (*Staatsblad*) and that all ministries, authorities, bodies and officials whom it may concern diligently implement it.

Done at The Hague, 26 March 1998

The Minister of Finance,
G. Zalm

Beatrix

Published on 9 April 1998

The Minister of Justice,
W. Sorgdrager