

Session year 2011–2012

**33 059**

## **Amendment of the Financial Supervision Act and the Bankruptcy Act, as well as any other laws in connection with the introduction of additional powers to intervene at financial enterprises in difficulties (Special Measures Financial Enterprises Act)**

**a**

**AMENDED PROPOSAL OF LAW** 14 February  
2012

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

All who shall see or hear these read, salute! do to know: Thus We have considered, that in view of one efficient resolution of financial enterprises in difficulty, as well as with a view to the stability of the financial system, it is desirable to supplement and strengthen the options for intervention at financial enterprises and that it is necessary to this end the Financial Supervision Act and the Bankruptcy Act to change;

So it is that We, having heard the Advisory Division of the Council of State, and in common consultation with the States General, have approved and understood, as We approve and understand hereby:

### **ARTICLE I**

The Financial Supervision Act will be amended as follows:

0A

In Article 1:75, second paragraph, "he" is replaced by "she" and na «or the liquidity» inserted: , respectively the technical provisions, .

0B

In Article 1:76, third paragraph, "he" is replaced by "she", the de comma after «solvency» and after «or the liquidity» is inserted: , respectively the technical provisions, .

a

Section 1:104(1)(g) will read:

g. the licensee transfers all or part of the enterprise for which the license has been granted, whether the Dutch Central Bank has made a notification as referred to in Section 3:159d(1);

B

An article is inserted after article 1:104, reading:

**Article 1:104a**

A transferor of a financial enterprise to which Part 3.5.4A has been applied is regarded as the holder of the license granted to that enterprise.

C

After Article 3:159, a section is inserted, reading:

**SECTION 3.5.4A TRANSFER**

§ 3.5.4A.1 banks and insurers with registered office in the Netherlands

**Article 3:159a**

In this section the following definitions apply:

a. share: security as referred to in part a of the definition of security in article 1:1;

b. deposit agreement: agreement under which a deposit holder holds a deposit with a bank; c. guaranteed deposit: deposit insofar as it qualifies for compensation under the deposit guarantee scheme referred to in Section 3:259(2); d. group: the entirety of a parent company, its subsidiaries, other companies in which the parent company or one or more of its subsidiaries has a participating interest, as well as companies that are connected to one of the aforementioned companies by a central management that exists by virtue of an agreement with these companies concluded agreement or a provision in the articles of association of one or more of these companies, or due to the fact that the administrative, management or supervisory bodies of these companies during the financial year and until the preparation of the consolidated annual accounts consist for the most part of the same persons; e. bridging institution: legal entity established by or on behalf of the State of the Netherlands or De Nederlandsche Bank with the aim of acting as transferee until another person, not being a legal entity established by or on behalf of the State of the Netherlands or De Nederlandsche Bank, deposit agreements, assets or liabilities other than under deposit agreements, or acquires shares issued by the problem institution;

f. transferor: the person appointed by the court pursuant to Article 3:159z, first paragraph, is appointed as such;

g. transferee: the person who has deposit agreements, assets or other liabilities under deposit agreements, or takes over shares issued by the problem institution, the person who is willing to do so and the person who investigates whether he is willing to do so;

h. problem institution: a bank or insurer in respect of which the The Dutch Central Bank is of the opinion that the situation referred to in Section 3:159c(1) occurs.

#### **Article 3:159b**

This section applies to a bank or insurer having its registered office in the Netherlands, regardless of the applicable law.

#### **Article 3:159c**

1. If De Nederlandsche Bank is of the opinion that there are signs of a dangerous development with regard to a bank or insurer holding a license as referred to in Sections 2:11, 2:26a, 2:27, 2:48 or 2:54a, with regard to shareholders' equity, solvency or liquidity or technical provisions, and it can reasonably be foreseen that this development will not turn around sufficiently or not in time, it may prepare a transfer plan.

2. The transfer plan may relate to: a. in the case of a bank: 1°. deposit agreements; or 2°. assets or liabilities other than under deposit agreements; b. in the case of an insurer: assets or liabilities; and c. shares issued by the problem institution.

3. The circumstance that the Dutch Central Bank has granted the license of a bank or insurer has withdrawn, does not preclude application of this section with regard to that bank or insurer.

4. Further rules may be laid down by or pursuant to order in council with regard to the transfer plan and its preparation.

#### **Article 3:159d**

1. If De Nederlandsche Bank prepares a transfer plan, it may they report this to the problem institution.

2. After the Dutch Central Bank has made the notification referred to in subsection 1, it may: a. require the problem institution to provide data or information;

provide to:

1°. an acquirer named by the Dutch Central Bank and experts assisting the transferee; 2°. in the event that

De Nederlandsche Bank intends to nominate one or more persons for the appointment of transferor, administrator or receiver, such person or persons named by name; and

3°. experts named by the Dutch Central Bank who assisting De Nederlandsche Bank in the preparation of the transfer plan; and B. require the problem institution to allow the information referred to in subparagraph a

the person or persons referred to enter any place with the exception of a home of the problem institution; and c. appoint a person as curator as referred to in section 1:76, even if a situation as referred to in subsections 2 or 4 of that section does not arise.

Sections 5:15 and 5:20 of the General Administrative Law Act shall apply mutatis mutandis to the persons referred to in part a.

3. The persons, referred to in the second paragraph, use data or information, referred to in the second paragraph, and enter a location as referred to in the second paragraph, part b, only insofar as this is reasonably necessary in connection with the transfer plan. is.

4. Section 1:89 applies mutatis mutandis to persons who have obtained confidential data or information pursuant to subsection 2.

5. Without prejudice to paragraphs 1 and 2, it is prohibited for anyone to publicize the preparation of the transfer plan.

6. Further rules may be laid down by or pursuant to order in council with regard to the third, fourth and fifth paragraph.

7. The problem institution and a company belonging to the group to which the problem institution also belongs, as well as the persons referred to in the second paragraph, are exempt from obligations to disclose data or information applicable by or pursuant to the law until the time at which the transfer plan has been approved.

8. The powers of De Nederlandsche Bank, referred to in the second paragraph, and the obligations of the problem institution, referred to in the second paragraph, opening words and under a and b, and the appointment of the trustee, referred to in the second paragraph, under c, expire two months after De Nederlandsche Bank has made the notification referred to in the first paragraph, unless De Nederlandsche Bank again informs the problem institution that it is preparing a transfer plan, or as much earlier as the court has pronounced the transfer regulation, emergency regulation or bankruptcy.

9. If De Nederlandsche Bank prepares a transfer plan, they will notify the Netherlands Authority for the Financial Markets and the Board referred to in Section 1(c) of the Competition Act.

10. Without prejudice to Section 1:89(1), the Nederlandsche Bank shall, of its own accord or upon request, provide confidential data or information to Our Minister, if this is necessary with a view to the application of Section 3:159u(2). Article 1:42, fifth and seventh paragraph, applies *mutatis mutandis*.

#### **Article 3:159e**

1. Following the notification referred to in Section 3:159d(1): a. the problem institution and the bodies and representatives of the problem institution shall cooperate in preparing the transfer plan;

b. is for damage resulting from conduct contrary to part a, each person who forms part of the body of the problem institution that acted contrary to part a, and the representative who acted contrary to part a, are jointly and severally liable to the problem institution, unless these actions cannot be attributed to him and he has not been negligent in taking measures to avert the consequences thereof.

2. Sections 5:15 and 5:20 of the General Administrative Law Act apply similar applications.

#### **Article 3:159f**

1. If De Nederlandsche Bank is of the opinion that the bodies or representatives of the problem institution are not cooperating sufficiently with the preparation of the transfer plan, De Nederlandsche Bank may, if it appoints or has appointed a receiver as referred to in Section 1:76, decide that the trustee can oblige the problem institution to perform or refrain from performing acts to be determined by the trustee.

2. After the notification referred to in Section 3:159d(1): a. the bodies or representatives of the problem institution or have the bodies or representatives of the problem institution perform the acts determined by the trustee;

b. is for damage resulting from non-compliance with the obligation, referred to in the first paragraph or Article 3:159d, second paragraph, any person who forms part of the body of the problem institution that acted in violation of part a and the representative who

acted under a, jointly and severally liable towards the problem institution, unless it cannot be blamed for these actions and it has not been negligent in taking measures to avert the consequences thereof;

c. the Dutch Central Bank may decide that the trustee in bankruptcy can no longer oblige the problem institution to perform or refrain from performing acts to be determined by the trustee in bankruptcy; and d. acts which the trustee was obliged to refrain from and were nevertheless performed by the bodies or representatives of the problem institution, insofar as these are legal acts, are voidable if the other party knew or should have known that the trustee was obliged to refrain from doing so.

3. Sections 5:15 and 5:20 of the General Administrative Law Act apply similar applications.

#### **Article 3:159g**

Proceedings on the basis of the administration of justice in civil matters relating to acts in the context of the preparation of the transfer plan, carried out after the notification referred to in Section 3:159d(1), shall be heard at a non-public hearing.

#### **Article 3:159h**

1. De Nederlandsche Bank may make an amount available for the transfer of deposit agreements.

2. The amount referred to in the first paragraph is at most the total amount of the guaranteed deposits held with the problem institution.

#### **Article 3:159i**

1. In the transfer plan in relation to deposit agreements is included in any case:

a. the deposit agreements to which the transfer plan relates; b. the named transferee; c. the price the buyer is willing to pay and the land on which this is done

is deemed to be a reasonable price or the manner in which the price which the acquirer is willing to pay is determined, and on the basis of which this method is deemed to be a reasonable method; and d. the amount referred to in Section 3:159h(1).

2. The price referred to in paragraph 1(c) may be the total amount the acquirer is willing to pay or the amount the acquirer is willing to pay per deposit agreement to be acquired.

The manner in which the price that the acquirer is prepared to pay is determined, as referred to under c, may relate to the total amount that the acquirer is willing to pay or the amount that the acquirer is willing to pay per deposit to be taken over. agreement.

#### **Article 3:159j**

1. The transfer plan with regard to deposit agreements shall take into account the interests of the collective depositors.

2. Deposit holders can dispose of their deposits under the applicable legal and contractual conditions as soon as possible after the approval of the transfer plan.

3. Conditions applicable to the deposit agreements as referred to in Section 3:159i(1)(a) may be amended in such a way as to bring them into line with the conditions applicable to comparable deposit agreements already entered into by the acquirer, if it is probable that without such adjustment the acquirer would not be willing to take over the deposit agreements. The changes are stated in the transfer plan.

4. The conditions amended in accordance with paragraph 3 shall be applied with effect from the time of transfer of the deposit agreements, unless otherwise specified in the transfer plan.

5. If conditions pursuant to subsection (3) have changed to the detriment of the depositor, the acquirer may not invoke stipulations under which depositors are not have access to their deposits at any time or only conditionally or against payment of a penalty.

6. Deposit agreements shall not be transferred to a transferee established in a non-Member State if the claims of depositors against that transferee are not covered by a deposit guarantee scheme whose coverage is equivalent to the coverage referred to in Article 6 , first paragraph, of Directive no. 94/19/EC of the European Parliament and the Council of the European Union of 30 May 1994 on deposit guarantee schemes (PbEG L 135).

#### **Article 3:159k**

1. If, in accordance with Section 3:159h, first member, has made an amount available for the transfer, it shall pay it to the transferee as soon as possible after the court has approved the transfer plan, unless otherwise specified in the transfer plan.

2. If the total amount of guaranteed deposits that transfer at the time of transfer is lower than the amount included in the transfer plan, the transferee will pay the difference to De Nederlandsche Bank as soon as possible after the total amount of the guaranteed deposits transferring at the time of transfer has become known. If the total amount of the guaranteed deposits transferred at the time of the transfer exceeds the amount included in the transfer plan, the Dutch Central Bank will pay the difference to the transferee as soon as possible after the total amount of the guaranteed deposits transferred became known at the time of transfer.

3. De Nederlandsche Bank has a claim against the problem institution to the amount of the amount it has paid to the transferee on balance pursuant to the first and second paragraph. If De Nederlandsche Bank pays the amount during the emergency regulation or after the bankruptcy of the problem institution has been declared, De Nederlandsche Bank can stand up for this claim as an unsecured creditor in the emergency regulation or the bankruptcy respectively.

#### **Article 3:159l**

1. On a decision approving the transfer plan, the court shall state the time at which the decision was made, to the nearest minute.

2. The rights and obligations arising from the deposit agreements referred to in the transfer plan are transferred by the approval of the transfer plan at the time the decision is made, unless otherwise specified in the transfer plan.

3. If the court approves the transfer plan, the clerk of the court shall immediately notify the Dutch Central Bank thereof. De Nederlandsche Bank shall immediately announce the approval in the Government Gazette.

4. The transferee shall notify the transfer of the rights and obligations arising from the deposit agreements to the deposit holders as soon as possible after it has come into the possession of the records relating to the deposit agreements.

#### **Article 3:159m**

1. If the Dutch Central Bank has made an amount available in accordance with Section 3:159h(1), the financial enterprises referred to in Section 3:258(1) (a) and (c) shall bear the costs of the transfer of the rights and obligations arising from the deposit agreements.

2. Further rules may be laid down by or pursuant to order in council with regard to the financing, funding and distribution of benefits from the transfer of the rights and obligations arising from the deposit agreements.

#### **Article 3:159n**

If a deposit greater than the amount referred to in Section 26(4) of the Special Prudential Measures, Investor Compensation and Deposit Guarantee Decree has been taken over up to that amount pursuant to a transfer plan approved by the court, the portion of the deposit may be that has not been taken over cannot be invoked under the deposit guarantee scheme.

#### **Article 3:159o**

In the transfer plan relating to assets or liabilities other than under deposit agreements, is included in any case man:

a. the assets or liabilities to which the transfer plan relates; b. the named transferee; and c. the price that the acquirer is willing to pay and on the basis of which this price is deemed to be a reasonable price or the manner in which the price that the acquirer is willing to pay is determined and on the basis of which this method is deemed to be a reasonable to be.

#### **Article 3:159p**

1. On a decision approving the transfer plan, the court shall state the time at which the decision was made, to the nearest minute.

2. The assets or liabilities referred to in the transfer plan are transferred upon approval of the transfer plan at the time the decision is made, unless otherwise specified in the transfer plan.

3. If the court approves the transfer plan, the clerk of the court shall immediately notify the Dutch Central Bank thereof. De Nederlandsche Bank shall immediately announce the approval in the Government Gazette.

4. If the transfer of assets or liabilities relates to claims or agreements from which debts arise, the transferee shall notify the relevant debtors or creditors of the transfer.

5. The person who pays a claim to which the transfer relates to the problem institution after the time referred to in the first paragraph but before the announcement in the Government Gazette, referred to in the third paragraph, has discharged as long as his knowledge of the approval of the transfer plan has not is proven.

#### **Article 3:159q**

The transfer plan with regard to shares issued by the problem institution may, if necessary, deviate from statutory regulations or provisions of the Articles of Association, with the exception of the rules laid down by or pursuant to this section.

#### **Article 3:159r**

The transfer plan with regard to shares issued by the problem institution will in any event include:

- a. the shares issued by the problem institution on which it transfer plan;
- b. the named transferee; c. the price that the acquirer is willing to pay and on the basis of which this price is deemed to be a reasonable price, or the manner in which the price that the acquirer is willing to pay is determined, and on the basis of which this method is deemed to be a reasonable price to be method; d. whether there are shareholders who own more than 5% of the problem institution have issued shares, and if so, who they are; and
- e. whether the transfer deviates from legal regulations or statutory provisions, and if so, from which legal regulations and statutory provisions and in what way.

#### **Article 3:159s**

1. The shares referred to in the transfer plan shall, unless otherwise provided in the transfer plan, be transferred to the transferee at the time of approval of the transfer plan by the court.
2. The consent or cooperation of the shareholders or holders of certificates relating to those shares is not required.
3. De Nederlandsche Bank shall immediately grant the approval notice in the Government Gazette.

#### **Article 3:159t**

1. The State of the Netherlands cannot be the transferee.
2. Rules may be laid down by order in council with regard to the establishment, legal form, financing, management and operation of a bridge institution, as well as rules regarding the conditions under which transfers to a bridge institution can be made.
3. The nomination for an order in council to be adopted pursuant to subsection 2 shall not be made until four weeks after the draft has been submitted to both Houses of the States General. If within that period one of the Houses decides not to agree with the draft, no nomination can be made and a new draft can be submitted to both Houses of the States General.



#### **Article 3:159u**

1. De Nederlandsche Bank may arrange a transfer that it has prepared submit the plan to the court of Amsterdam with a request to approve the transfer plan and pronounce the transfer scheme.

2. A request as referred to in the first paragraph, if the transfer plan to which it relates concerns the transfer of shares issued by the problem institution, shall be made in agreement with Our Minister.

#### **Article 3:159v**

The court will deal with De Nederlandsche Bank's request for it to approve the transfer plan and pronounce the transfer arrangement with the utmost urgency at a closed court hearing on the basis of the administration of justice in civil matters, insofar as this Act does not deviate therefrom.

#### **Article 3:159w**

1. Shareholders are not given the opportunity heard. As an exception to the first sentence, the court will give a shareholder who represents more than 5% of the issued capital the opportunity to be heard, provided that interests of secrecy or urgency do not oppose this.

2. If a shareholder as referred to in Subsection (1) is heard, he may defend himself against the opinion of the Dutch Central Bank that a situation as referred to in Section 3:159c(1) has arisen and against the price included in the transfer plan. or manner in which the price the acquirer is willing to pay is determined. Section 1:89 applies mutatis mutandis to that shareholder.

#### **Article 3:159x**

1. After having been given the opportunity to be heard, the problem institution may defend itself against: a. decisions as referred to in Section 3:159d(2); b. a decision as referred to in Section 3:159f(1); c. decisions as referred to in Sections 1:75 and 1:76 that have been taken

after the Dutch Central Bank has issued a notification as referred to in Section 3:159d(1);

d. the opinion of the Dutch Central Bank that a situation such as referred to in Section 3:159c(1) occurs;

e. in case of a request for approval of the transfer plan in respect of assets or liabilities, other than under deposit agreements, or shares, at the price included in the transfer plan or the manner in which the price the transferee is willing to pay is established.

2. If the problem institution has defended itself against a decision or judgment as referred to in subsection 1, the court will only declare that defense well-founded if De Nederlandsche Bank could not reasonably have arrived at that decision or judgment.

#### **Article 3:159ij**

1. The District Court shall pronounce the transfer scheme if it approves the transfer plan, and if it appears summarily that a situation as referred to in Section 3:159c(1) arises.

2. Without prejudice to Section 3:159x(2), the court shall approve the transfer plan unless Sections 3:159i, 3:159o or 3:159r have not been complied with or unless the price specified in the transfer plan or the manner in which the price that the transferee willingness to pay is determined, given the circumstances of the case, is not a reasonable price or manner. When determining whether the price or method is reasonable, the expected future prospects of the problem institution are assumed in the situation that the transfer plan is not approved and the transfer arrangement is not announced. Deviation in the transfer plan from statutory regulations or statutory provisions is not a ground for not approving the transfer plan.

3. Without prejudice to Section 3:159x(2), the court shall approve the transfer plan in respect of assets or liabilities, unless the creditors holding a claim against the problem institution would be prejudiced as a result.

4. The court may ex officio approve the approval conditions connect with regard to the payment of the price.

#### **Article 3:159z**

1. When pronouncing the transfer scheme, the court will appoint one or more transferors. De Nederlandsche Bank may make nominations for the appointment of the transferor or transferors.

2. If the request is granted, the decision will be made on a public hearing and an extract thereof is immediately published by the transferor in the Government Gazette, the Official Journal of the European Union, as well as in at least two Dutch newspapers to be designated by the court and at least two national newspapers to be designated by the court of any Member State where a branch of the problem institution is located or to which it provides services. The extracts state the name and registered office of the problem institution, the domicile or office of the transferor, the name and registered office of the transferee, as well as the date of the decision. Publication in the national newspapers shall be in the official language or languages of the Member State concerned. The publication in the Official Journal of the European Union and the national newspapers of each Member State where the problem institution has a branch or to which it provides services will also state that the transfer arrangement is subject to Dutch law, subject to exceptions, the legal basis, that the The Dutch Central Bank is the competent supervisor, as well as the final date on which an appeal in cassation can be lodged against the decision, stating the full address of the Supreme Court and the subject of the decision.

3. If the request is granted, the clerk of the court will immediately inform the Dutch Central Bank thereof. De Nederlandsche Bank immediately informs the Netherlands Authority for the Financial Markets of the granting of the request.

4. If the approval concerns a transfer plan with regard to shares issued by the problem institution that are admitted to trading on a regulated market located or operating in the Netherlands or a multilateral trading facility operated in the Netherlands, and the Netherlands Authority for the Financial Markets has given a notification as referred to in third paragraph, second sentence thereof, it shall, by means of an instruction, oblige the relevant market operator or the investment firm referred to in Section 4:4b to suspend or interrupt trading in those shares, as well as trading in related financial instruments. and not to resume trading in those shares or in depositary receipts for those shares until a time to be determined by the Netherlands Authority for the Financial Markets.

5. For the purposes of paragraph 4, shares that are admitted to trading on a regulated market located or operating in the Netherlands or a multilateral trading facility operated in the Netherlands shall be equated with shares in respect of which systematic internal settlement takes place in the Netherlands.

6. An order issued by the court as referred to in this article is provisionally enforceable.

#### **Article 3:159aa**

1. Against a decision as referred to in Section 3:159ij, first subsection, if the request to declare the transfer arrangement is rejected in whole or in part, or if the approval conditions as referred to in Section 3:159ij, fourth subsection are met, the connected, the Dutch Central Bank has the right of appeal during eight days after the day of the rejection. Article 3:159v applies *mutatis mutandis*.

2. A decision as referred to in Section 3:159ij(1) is opposed no appeal is possible if the request to pronounce the transfer arrangement is granted.

3. A shareholder, with the exception of the shareholder who has been given the opportunity to be heard by the court pursuant to section 3:159w, subsection 1, second sentence, has the right to object to a decision as referred to in section 3:159ij, paragraph 1, for eight days after the day of approval if the transfer plan is approved.

4. If a shareholder as referred to in the third paragraph objects, the shareholder and the problem institution, who have been given the opportunity to be heard by the court, may join.

5. The objection cannot be directed against the price prepared by the acquirer to be paid or the manner in which the price that the acquirer is prepared to pay is determined.

6. If the court declares the objection to be well-founded, this will not lead to nullification of the transfer arrangement if the undoing of the transfer arrangement would have disproportionately serious consequences.

#### **Article 3:159ab**

1. If a shareholder is of the opinion that the price to be paid by the acquirer does not constitute full compensation for the damage that he suffers directly and necessarily as a result of the loss of his share, he may request the Enterprise Chamber of the Amsterdam Court of Appeal to pay additional compensation. to establish.

2. A request as referred to in the first paragraph can be submitted during six weeks after the day on which the decision to pronounce the transfer arrangement has become final or, if the takeover price has not yet been determined at that time, during six weeks. weeks after the day on which the acquisition price has been determined in the manner specified in the transfer plan. The Enterprise Chamber deals with the request on the basis of the procedure in civil matters.

3. If the Enterprise Section deems it plausible that the price to be paid by the acquirer does not constitute full compensation for the damage suffered by the shareholder, it will determine additional compensation. Articles 6:8, second paragraph, and 6:9 apply *mutatis mutandis*.

4. The State of the Netherlands shall make the amount of the compensation payable no later than four weeks after the decision determining the additional compensation has become final. Articles 6:12, second, third and fifth paragraph, and 6:13 apply *mutatis mutandis*.

### Article 3:159ac

1. As a result of the decision referred to in Section 3:159ij, first subsection, the problem institution loses by operation of law the disposal and management of that part of its assets included in the transfer plan as to be transferred, counting from the day on which the decision has been made, including that day.

2. Contrary to the first paragraph, the decision does not have retroactive effect with regard to a problem institution, if it is an institution as referred to in Section 212a, under a, of the Bankruptcy Act:

a transfer order, set-off order or any payment, delivery, set-off or other legal act resulting from such an order that is required to fully execute the order in a system as referred to in Article 212a, part b, of the Bankruptcy Act, or rights and obligations that have arisen for a participant as a result of or in connection with its participation in a system as referred to in Article 212a, part b, of that Act; and

b. concluded financial collateral agreement as referred to in Section 51 of Book 7 of the Dutch Civil Code or a transfer or establishment of a right of pledge or an instruction to set off on the basis thereof, if this instruction or financial collateral agreement has been given or concluded before the time at which the court has the decision datum.

3. Paragraph 1 cannot be relied on against third parties with regard to a transfer order, set-off order or any payment, delivery or transfer ensuing from such an order, issued by a problem institution that is an institution as referred to in Section 212a(a) of the Bankruptcy Act, settlement or other legal act required to fully execute the instruction, if the instruction was given after the time at which the court has issued a decision as referred to in Section 3:159ij, first paragraph, if the instruction is entered in a system such as referred to in Article 212a, part b, of the Bankruptcy Act, is executed on the day on which the decision is made and the central counterparty, the settlement agency or the clearing house as referred to in Article 212a, parts c, d and e, of the Bankruptcy Act can demonstrate that, at the time of the performance of the assignment, it was not aware of or not aware of the decision issued by the court nor can it be invoked against third parties with regard to a financial security agreement entered into by the problem institution as referred to in Section 51 of Book 7 of the Civil Code, a transfer or creation of a right of pledge on the basis thereof, as well as any legal act on the basis of a financial collateral agreement due to obligations of the problem institution that arose after the time at which the court has issued a decision as referred to in Section 3:159ij, first subsection, provided that the legal act in question takes place on the day on which the decision is made and the other party can demonstrate that at the time of the legal act, the latter did not know or should not have known the decision issued by the court.

4. Subsections 2 and 3 apply mutatis mutandis to security rights under property law established by a problem institution in connection with participation in a system as referred to in Section 212a(b) of the Bankruptcy Act for the benefit of a central bank as referred to in Article 212a, part h, of the Bankruptcy Act or for the benefit of a financial enterprise that participates in the system, as well as in the case of a transfer arrangement with regard to a system operator of an interoperable system that is not a participant.

### **Article 3:159ad**

1. The transferor shall be charged with the transfer of the deposit agreements, assets or liabilities and shares specified in the transfer plan, which have not already been transferred by approval of the transfer plan and the activities arising therefrom.

2. The transferor is exclusively authorized to perform all acts in connection with the transfer plan.

3. The directors and supervisory directors of the problem institution and its representatives shall provide all cooperation requested by the transferor.

4. The transferor shall implement the transfer plan as soon as possible after the court approves it.

5. If there are two or more transferors, each of them can perform all activities, unless otherwise specified. In the event of a difference of opinion between the transferors, the Amsterdam District Court will decide at the request of one of them.

6. The transfer scheme ceases to be in force by operation of law if the problem institution is declared bankrupt or if emergency regulations are imposed on the problem institution because the court terminates the transfer scheme at the request of the transferor or the Dutch Central Bank, or because the Dutch Central Bank determines that the transfer plan and the associated activities have been carried out.

7. De Nederlandsche Bank shall immediately publish a notice in the Government Gazette of the termination by the court or the determination by De Nederlandsche Bank that the transfer plan and the associated activities have been carried out.

8. The appointment of the transferor ends by operation of law when the transfer scheme ceases to be in force.

9. The costs associated with the implementation of the transfer plan, including the transferor's salary, shall be borne by the problem institution, unless the transfer plan specifies otherwise.

### **Article 3:159ae**

1. The transferor shall maintain an account in his name with a financial enterprise which, pursuant to this Act, may conduct the business of a bank in the Netherlands, stating his capacity, which is exclusively intended for funds which he has under his responsibility in connection with his activities as such, unless stipulated otherwise in the transfer plan and unless the court has attached different conditions to the approval pursuant to Section 3:159ij(4).

2. The transferee shall pay the price referred to in Article 3:159i(1)(c), 3:159o(c) and 3:159r(c) by transfer to the account referred to in the first paragraph as soon as possible, possible after the court has pronounced the transfer scheme, unless the transfer plan stipulates otherwise and unless the court has attached different conditions to the approval pursuant to Section 3:159ij(4).

### **Article 3:159af**

1. The transfer of shares may deviate from statutory regulations or statutory provisions, insofar as this has been determined in the transfer plan.

2. The transferor makes the approval of the transfer plan and the price included in the transfer plan or the manner in which the price that the transferee is prepared to pay is determined as soon as possible after the court has pronounced the transfer arrangement, known to the entitled parties. In appropriate cases

the announcement is made in accordance with Article 5:25m, first and second paragraph.

3. A share issued by the problem institution referred to in the transfer plan will be transferred unencumbered to the transferee. Transfer of shares issued by the problem institution cancels the rights to new shares to be issued.

4. The rights of pledge or usufruct vested in a transferred share issued by the problem institution and the attachments to that share known to the transferee will transfer to the right to the price with regard to that share at the time of the transfer.

5. If a share is transferred or transferred for what purpose a certificate or a comparable financial instrument has been issued with the cooperation of the problem institution, the right to the prize accrues to the holder of that certificate or that financial instrument and the certificate or the financial instrument respectively expires.

#### **Article 3:159ag**

1. De Nederlandsche Bank may, after giving the transferor the opportunity to be heard, request the District Court of Amsterdam to approve that an already approved transfer plan be amended in a manner specified in the request.

2. If the court does not approve the adjustment, it will reject it request for adjustment of the transfer plan and the transfer plan remains unchanged.

3. Sections 3:159c, subsection 2, 3:159d to 3:159s, 3:159t, subsection 2, 3:159v to 3:159z, with the exception of section 3:159ij, subsection 1, 3:159ae and 3:159af apply mutatis mutandis to the adjustment of the transfer plan.

§ 3.5.4A.2. Banks and insurers with their registered office in a non-member state

#### **Article 3:159ah**

1. Sections 3:159a through 3:159ag shall apply mutatis mutandis to branches located in the Netherlands of banks having their registered office in a state that is not a Member State in respect of which the Dutch Central Bank has decided pursuant to Section 3:267(2) that the provisions pursuant to paragraphs 3.5.6.1 and 3.5.6.1A regarding the deposit guarantee scheme apply mutatis mutandis, on the understanding that the transfer plan cannot relate to shares and that:

guaranteed deposit: a deposit insofar as it qualifies for compensation under the deposit guarantee scheme referred to in Section 3:259(2) pursuant to Section 3:267(2);

b. assets or liabilities: assets or liabilities other than under a deposit agreement, located in the Netherlands or governed by Dutch law.

2. Sections 3:159a, 3:159c, first subsection, second subsection, parts b and c, and fourth subsection, 3:159d to 3:159g and 3:159o to 3:159ag shall apply mutatis mutandis at branches located in the Netherlands of insurers having their registered office in a non-Member State.

D

After the heading of § 3.5.5.1, an article is inserted, reading:

**Article 3:159ai**

For the purposes of this paragraph, “insurer” includes “risk acceptance entity” and “insurance” includes “risk acceptance”.

E

Article 3:160 will read:

**Article 3:160**

1. If De Nederlandsche Bank is of the opinion that with regard to a bank or insurer established in the Netherlands that has a license granted by the Dutch Central Bank, if a situation as referred to in Section 3:159c(1) arises, it may request the Amsterdam District Court to grant that bank or insurer emergency regulations. to speak.

2. If the interest of the joint creditors in the settlement of a bank or insurer established in the Netherlands that does not have a license granted by the Dutch Central Bank requires a special provision, the Dutch Central Bank may request the District Court of Amsterdam in respect of that bank or insurer to express emergency regulations.

F

Article 3:161 will read:

**Article 3:161**

With its request as referred to in Section 3:160(1), De Nederlandsche Bank may submit a transfer plan as referred to in Section 3:159c(a) and (b), with a request to approve the transfer plan.

G

Article 3:162 will read:

**Article 3:162**

De Nederlandsche Bank sends a copy of the application the bank or insurer and notifies the contents of the request to the supervisory authorities of the other Member States where a branch of the bank or insurer is located or to which it provides services from its or its branches in another Member State.

H

After Article 3:162, four Articles shall be inserted, reading:

**Article 3:162a**

The court will deal with De Nederlandsche Bank's request for it pronounce the emergency regulations with the utmost urgency at a non-public hearing on the basis of the administration of justice in civil matters, insofar as this Act does not deviate from this.

#### **Article 3:162b**

1. The bank or insurer may, after having been given the opportunity to be heard, defend itself against: a. decisions as referred to in Section 3:159d(2); b. decisions as referred to in Section 3:159f(1); c. decisions as referred to in Sections 1:75 and 1:76 that have been taken

after the Dutch Central Bank has issued a notification as referred to in Section 3:159d(1);

d. the opinion of the Dutch Central Bank that a situation such as referred to in Section 3:159c(1) occurs.

2. If a bank or insurer has defended itself against a decision or judgment as referred to in the first paragraph, the court will only declare that defense well-founded if the Dutch Central Bank could not reasonably have reached those decisions or that judgment.

#### **Article 3:162c**

1. The court will pronounce the emergency regulations if it appears summarily that a situation as referred to in Section 3:159c(1) arises.

2. If De Nederlandsche Bank has a transfer plan as referred to in section 3:159c(2)(a) or (b), the court shall approve the transfer plan, unless the price specified in the transfer plan or the manner in which the price that the transferee is prepared to pay is determined, given the circumstances of the case, is not a reasonable price or manner. When determining whether the price or method is reasonable, the expected future prospects of the bank or insurer are assumed in the situation that the transfer plan is not approved and the emergency regulations are not pronounced.

3. Without prejudice to subsection 2, the court shall approve the plan with regard to the transfer of assets or liabilities, unless the creditors who have a claim against the bank or insurer would be prejudiced as a result.

4. The court may ex officio approve the approval conditions connect with regard to the payment of the prize.

#### **Article 3:162d**

1. When pronouncing the emergency regulations, the court appoints a of its members as supervisory judge and appoints one or more administrators. De Nederlandsche Bank may make nominations for the appointment of the administrator or administrators.

2. If the request is granted, the decision will be made on a public hearing and an extract thereof is immediately published by the administrator in the Government Gazette, the Official Journal of the European Union, as well as in at least two Dutch newspapers to be designated by the court and at least two national newspapers to be designated by the court. each Member State where a branch of the financial undertaking is located or to which it provides services. The extracts state the name and registered office of the financial enterprise referred to in the first paragraph, the place of residence or office of the administrators and the date of the decision. Publication in the national newspapers shall be in the official language or languages of each Member State concerned. The publication in the Official Journal of the European Union and the national newspapers of each Member State where the financial undertaking has a branch or to which it provides services also states that Dutch law applies to the emergency regulation, subject to exceptions, the legal basis, that the Dutch Central Bank is the competent supervisor, as well as the final date on which an appeal in cassation can be made against the decision



be set up stating the full address of the Supreme Court and the subject of the decision.

i

Article 3:163 is amended as follows:

1. In the third paragraph, the phrase "en 3:161," is deleted.

2. Two paragraphs are inserted after the third paragraph, reading: 4.  
No authorization is required for execution by the administration  
executors of a court-approved transfer plan.

5. If an authorization conflicts with a transfer plan approved by the court, that authorization will lapse by operation of law.

J

In Article 3:167, the phrase "3:160, paragraphs 1 and 2, 3:161" replaced by: 3:162c, first paragraph,.

K

In Section 3:169, subsection 1, the phrase «3:160, first or second paragraph, 3:161» replaced by: 3:162c, first paragraph.

L

Section 3:174(1) shall read as follows: 1. A decision as referred to in Section 3:162c(1), 3:163(1) paragraph, or 3:164, paragraph 1, is immediately enforceable. A decision as referred to in Section 3:162c(1) has retroactive effect to the beginning of the day on which it was pronounced. The enforceability and retroactive effect referred to in this paragraph shall apply notwithstanding any provision directed against it.

m

Two articles are added after Article 3:174, reading:

#### **Article 3:174a**

Articles 3:159k, 3:159l and 3:159p shall apply mutatis mutandis.

#### **Article 3:174b**

1. If De Nederlandsche Bank has not submitted a transfer plan with its request to declare the emergency regulation or if it has done so but the court has not approved the transfer plan, De Nederlandsche Bank may prepare a transfer plan as yet or again.

2. Articles 3:159c, second paragraph, 3:159d, 3:159e, 3:159h to 3:159p, 3:159u, 3:159v, 3:159ij, second through fourth member, 3:159z, second and third member, 3:159aa, 3:159ad, first through fifth, eighth and ninth member, and 3:159ae and 3:159ag apply mutatis mutandis, except that:

a. in Articles 3:159d and 3:159e for "problem institution".  
read: the bank or insurer and administrator;

b. in articles 3:159ad, first to fifth paragraph, 3:159ae, 3:159af, second paragraph and 3:159ag, first paragraph, for «transferor» or «transferors» is read as «administrator» and «administrators» respectively.

N

In Section 3:180, subsection 2, the phrase "The claims which fall due on or after the date of the order referred to in Sections 3:160, subsections 1 and 2, and 3:161," is replaced by: The claims that become payable on or after the date of the order referred to in Section 3:162c(1).

O

In Article 3:181, first paragraph, the phrase "or 3:161" is deleted.

P

In Section 3:184, the phrase "referred to in Sections 3:160, subsections 1 and 2, and 3:161," is replaced by: referred to in Section 3:162c, subsection 1.

Q

Article 3:191 is amended as follows:

1. In the first paragraph, the phrase «3:160, first or second paragraph, 3:161» replaced by «3:162c, first paragraph» and the phrase «if they have not been heard» is replaced by: if they have not been given the opportunity to be heard.

2. In the first paragraph, the phrase «3:160, first or second paragraph, 3:161» replaced by «162c, first paragraph» and the phrase «if they have not been heard» is replaced by: if they have not been given the opportunity to be heard.

3. Renumbering the third to sixth paragraphs to het fourth to seventh paragraph, a paragraph is inserted after the second paragraph, reading: 3. Notwithstanding the second paragraph, no appeal is possible against a decision as referred to in Section 3:162c(1), if the court has also granted the request for approval of a transfer plan.

R

Article 3:202 will read:

#### **Article 3:202**

If the interest of the joint creditors in the settlement of a branch situated in the Netherlands of a bank, life insurer or non-life insurer established in another Member State that does not have a license granted by the Dutch Central Bank requires a special provision, the District Court of Amsterdam may request of the Dutch Central Bank to declare the emergency regulation.

S

Article 3:206 will read:

#### **Article 3:206**

1. If De Nederlandsche Bank is of the opinion that with regard to an in a branch of a bank, life insurer or non-life insurer situated in the Netherlands having its registered office in a non-Member State that has a license as referred to in Sections 2:20 and 2:40 respectively, a situation as referred to in Section 3:159c(1) arises, the District Court of Amsterdam may, at the request of De Nederlandsche Bank, pronounce emergency regulations with regard to that bank or insurer.

2. In the event that the interest of the joint creditors in the settlement of a branch situated in the Netherlands of a bank, life insurer or non-life insurer established in a non-Member State that does not have a license granted by the Dutch Central Bank necessary, the District Court of Amsterdam may, at the request of De Nederlandsche Bank, declare emergency regulations.

T

Article 3:207 is deleted.

YOU

In Article 3:208, first paragraph, opening lines, the phrase 'the bank,' is meant in Article 3:206, first and second paragraph, life insurer and non-life insurer, referred to in Article 3:207,» replaced by: the bank, life insurer or non-life insurer, referred to in Article 3:206, first and second paragraph.

V

In Article 3:211, paragraph 1, the phrase "or 3:207" is deleted.

W

In Section 3:212, subsections 1 and 2, the phrase "where a branch of the bank, as referred to in Section 3:206, subsection 1 or 2, or of the insurer, as referred to in Section 3:207 is located" is replaced. by: where a branch of the bank or the insurer, as referred to in Section 3:206(1) or (2), is located.

X

In Article 3:235 the phrase "referred to in Articles 3:206, first and second paragraphs, and 3:207" is replaced by: referred to in Article 3:206, first and second paragraphs.

IJ

An article is inserted after Article 3:259, reading:

#### **Article 3:259a**

1. There is a legal entity for the management and maintenance of a guarantee fund intended for reimbursing the Dutch Central Bank of amounts that it has paid out pursuant to a safety net scheme.

2. Further rules may be laid down by or pursuant to order in council with regard to the legal person referred to in the first paragraph and the persons who determine the day-to-day policy or the policy of that legal person respectively.

Z

After Article 3:267c, a section is inserted, reading:

SECTION 3.5.8. OTHER PARTY RIGHTS AFTER AN EVENT

**Article 3:267d**

This section applies to agreements in which a bank or insurer or company belonging to the same group with its registered office in the Netherlands is a party, regardless of the law governing the agreement.

**Article 3:267e**

1. For the purposes of this section, an event is understood to mean:

- a. preparing a transfer plan as referred to in Section 3:159c(1);
- b. the notification referred to in Section 3:159d(1); c. a decision as referred to in 3:159f; d. the submission and request as referred to in Section 3:159u; e. the pronouncement of the transfer scheme, referred to in Section 3:159ij, subsection 1; f. approving the transfer plan, referred to in Section 3:159ij,
- second and third member;
- g. attaching conditions with regard to the payment of the price, as referred to in Section 3:159ij, fourth subsection;
- h. the appointment of one or more transferors, as referred to in Section 3:159z(1);
- i. lodging an appeal, as referred to in Section 3:159aa, subsection 1; j. lodging an objection, as referred to in Section 3:159aa, subsection 3; k. the declaration of well-founded opposition, as referred to in Section 3:159aa, sixth subsection; l. failure to destroy as referred to in Section 3:159aa(6); m. a request as referred to in Section 3:159ag, subsection 1; n. a decision as referred to in Section 6:1; o. a decision as referred to in Article 6:2; or p. an event under a law other than Dutch law, which is comparable to the events referred to in parts a to o.

2. An event is equated with actions that prepare or carry out an event, the exercise of powers related to the event or the arising or fulfillment of obligations related to the event.

**Article 3:267f**

1. A counterparty in a legal relationship with a bank or insurer or an enterprise belonging to the same group cannot, without the permission of the Dutch Central Bank, invoke a clause that entitles it, following an event, to:
- a. exercise of rights or powers arising therefrom; b. the demand for fulfillment of obligations arising therefrom; or c. termination, change or replacement of the legal relationship or of
- rights, powers or obligations arising therefrom.

2. No claim can be made against the bank or insurer or a company belonging to the same group on the occurrence of a circumstance that is the result of an event, including a shortcoming or a ground for payment.

3. The rights, powers and obligations referred to in the first paragraph also include rights and obligations that entitle the other party or a third party to:

- a. claiming a claim; b. terminate the due date of a receivable; c. the desire for some form of security; d. the transfer of an asset; e. making a change in the amount of a claim or the time at which a payment must be made; f. exercising a power of suspension, set-off or withholding; g. filing a counterclaim; or h. preventing or subjecting to conditions of exercise

of a right or a power that accrues to the bank or insurer or a company belonging to the same group by virtue of the law or agreement.

4. Paragraphs 1 to 3 inclusive shall not apply to: a. a right established by virtue of a legal treaty referred to in paragraph 1;

attitude belongs to a central bank or, in connection with participation in a system as referred to in Section 212a(b) of the Bankruptcy Act, to another participant participating in the system;

b. a right arising from a contract concluded by the bank or insurer financial security agreement.

#### **Article 3:267g**

No notification obligation or obligation to provide information regarding an event can be invoked against the bank or insurer or a company belonging to the same group.

AA

A paragraph shall be added to Section 5:71, reading: 3.

Section 5:70(1) shall not apply to the State of the Netherlands or a legal entity designated pursuant to Section 6:2(4) which, in the public interest, acquires predominant control in a financial enterprise.

AB

Part 6 will read:

### **6. PART OF SPECIAL MEASURES CONCERNING THE STABILITY OF THE FINANCIAL SYSTEM**

#### **CHAPTER 6.1. GENERAL**

##### **Article 6:1**

1. Our Minister may, if he is of the opinion that the stability of the financial system is seriously and immediately jeopardized by the situation in which a financial enterprise with its registered office in the Netherlands finds itself, take immediate measures with a view to the stability of that system. with regard to the company concerned, if necessary by way of derogation

of legal regulations or statutory provisions, with the exception of the rules laid down by or pursuant to this part.

2. Our Minister shall consult De Nederlandsche Bank before making a provision as referred to in subsection 1. The decision is taken in agreement with Our Prime Minister, Minister of General Affairs.

3. Our Minister shall, if necessary, regulate the consequences of the measures taken by him and determine the term of those measures. Our Minister may extend this term by separate decision.

4. A provision made pursuant to the first paragraph may, without prejudice Article 6:6, neither by the company concerned nor by third parties. A decision to that effect is null and void.

#### **Article 6:2**

1. Our Minister may, if he is of the opinion that the stability of the financial system is seriously and immediately jeopardized by the situation in which a financial enterprise with its registered office in the Netherlands finds itself, decide to expropriate it with a view to the stability of that system. assets of the company concerned or expropriation of securities issued by or with the cooperation of that company, if necessary in derogation from legal regulations or provisions of the articles of association, with the exception of the rules laid down by or pursuant to this part.

2. Our Minister shall consult De Nederlandsche Bank before taking a decision on expropriation. The decision is taken in agreement with Our Prime Minister, Minister of General Affairs.

3. A decision to expropriate shall state the time when it takes effect. The assets or securities to be expropriated shall be transferred at the time of entry into force of that decree. Without prejudice to section 3:41 of the General Administrative Law Act, the decision will be announced by publication in the Government Gazette.

4. The decision on expropriation may stipulate that the assets or securities to be expropriated are expropriated in the name of a legal person under private law with full legal capacity designated in that decision.

5. Our Minister will arrange the consequences of the expropriation.

6. An asset or security expropriated pursuant to paragraph 1 shall be transferred unencumbered to the State of the Netherlands or to the legal entity designated pursuant to paragraph 4. Expropriation pursuant to paragraph 1 of securities issued by or with the cooperation of the company concerned shall lapse the rights to newly issued securities of that class.

7. The Expropriation Act does not apply to expropriations pursuant to paragraph 1.

#### **Article 6:3**

1. Our Minister shall, if he intends to take a decision as referred to in Article 6:1 or 6:2, inform the Netherlands Authority for the Financial Markets of that intention. He shall also immediately notify the Netherlands Authority for the Financial Markets of any decision taken pursuant to section 6:1 or 6:2.

2. If the Netherlands Authority for the Financial Markets receives notification of a decision to expropriate securities that have been admitted to trading on a regulated market or multilateral trading facility operated in the Netherlands located or operating in the Netherlands, it shall, by means of a designation, oblige the relevant market operator or the investment firm referred to in Section 4:4b to suspend or interrupt the trade in those securities, as well as the trade in related financial instruments, and the trade in

transferring securities or in certificates of expropriated shares until a time to be determined by the Netherlands Authority for the Financial Markets.

3. For the purposes of paragraph 2, securities that are admitted to trading on a regulated market located or operating in the Netherlands or a multilateral trading facility operated in the Netherlands shall be equated with securities in respect of which systematic internal settlement takes place in the Netherlands.

#### **Article 6:4**

1. An immediate remedy taken pursuant to Article 6:1 may also be addressed to the parent company with its registered office in the Netherlands of the relevant financial enterprise.

2. If the financial enterprise concerned has a parent company with its registered office in the Netherlands, a decision taken pursuant to Section 6:2 may also serve to expropriate assets of the parent company or expropriation of securities issued by or with the cooperation of that company.

#### **Article 6:5**

Without prejudice to section 1:89, subsection 1, the supervisor shall, on its own initiative or upon request, provide confidential data or information to Our Minister if this is necessary with a view to the application of section 6:1 or 6:2. Article 1:42, fifth and seventh paragraph, applies *mutatis mutandis*.

### **CHAPTER 6.2. LEGAL PROTECTION**

#### **Article 6:6**

1. An interested party may object to a decision pursuant to Article 6:1 or 6:2, contrary to Section 1:110, lodge an appeal with the Administrative Jurisdiction Division of the Council of State.

2. No appeal can be lodged against a refusal to apply Article 6:1 or 6:2.

#### **Article 6:7**

1. Contrary to Section 6:7 of the General Administrative Law Act, the term for submitting a notice of appeal is ten days. Article 7:1 of that law does not apply.

2. Notwithstanding Section 8:41(2) of the General Administrative Law Act, the period within which the court fee due must be credited or paid is two weeks. The chairman of the Department may set a shorter term.

3. The Division will deal with the case in application of Part 8.2.3 of the General Administrative Law Act. Section 8.2.4 of that Act remains inapplicable.

4. Our Minister shall immediately receive a copy of the notice of appeal sent. Section 8:58 of the General Administrative Law Act applies *mutatis mutandis*, on the understanding that further documents may be submitted up to one day before the hearing.

5. The Division will render its decision no later than the fourteenth day after the notice of appeal has been received. If, pursuant to Section 8.14, subsection 1, of the General Administrative Law Act, two or more cases are dealt with jointly, the Division will render a decision no later than the fourteenth day after receipt of the last notice of appeal received.

6. The chairperson of the Division will immediately notify the parties of the ruling.

### **CHAPTER 6.3. COMPENSATION FOR EXPROPRIATION**

#### **Article 6:8**

1. The person entitled with regard to an expropriated property pursuant to Article 6:2 asset or security or a right to new securities to be issued pursuant to paragraph 6 of that Article has lapsed, shall be entitled to compensation. The compensation constitutes full compensation for the damage that he suffers directly and necessarily as a result of the loss of his asset or security or expired right.

2. Compensation will be paid for the actual value of the expropriated asset or security, or the expired right, exclusively for the person to whom it belongs. If the expropriated security is an unpaid share, its actual value will be reimbursed in proportion to the amount paid up.

3. The rights of pledge or usufruct resting on an expropriated asset or security and attachments known to Our Minister shall transfer to the right to compensation at the time of the expropriation. A right of mortgage resting on an expropriated asset is subject to a right of pledge on the right to compensation.

4. If a share is expropriated for which with the cooperation of the company has issued a certificate or a comparable financial instrument, the holder of that certificate or financial instrument, contrary to paragraph 1, will be entitled to compensation and the certificate or financial instrument, respectively, will lapse.

#### **Article 6:9**

1. When determining the actual value of an expropriated asset or security or a right to new securities to be issued pursuant to Section 6:2(6) that has lapsed, the expected future prospects of the relevant financial enterprise in the situation shall be taken as a basis. that no expropriation would have taken place, and the price that, given that future perspective, would have been reached at the time of expropriation in the event of an assumed free sale in economic transactions between the expropriated as a reasonable seller and the expropriated owner as a reasonable buyer.

2. If the undertaking concerned has received financial support from the government prior to the expropriation decision, the value represented by this support will be discounted in the price referred to in the first paragraph.

#### **Article 6:10**

1. The compensation is determined by the company Chamber of the Amsterdam Court of Appeal.

2. Our Minister shall make an offer for compensation as soon as possible, but no later than seven days after the expropriation decision has become irrevocable, and shall request the Enterprise Chamber to determine the compensation in accordance with that offer.

3. Our Minister shall notify the person who is entitled to compensation pursuant to section 6:8, subsection 1 or 4, of the offer of compensation. In appropriate cases, the notification is made in accordance with Article 5:25m, first and second paragraph.



#### **Article 6:11**

1. The Enterprise Chamber deals with the request for determination of the compensation on the basis of justice in civil matters.
2. The Enterprise Chamber determines the compensation in accordance with the offer of Our Minister, unless it deems it plausible that the offer does not fully compensate the damage suffered by the person concerned.
3. If Our Minister's offer does not constitute full compensation for the damage suffered by the person concerned, the Enterprise Chamber, with due observance of Articles 6:8 and 6:9, will determine a higher compensation for the person concerned.
4. The Enterprise Chamber shall give such a ruling regarding the costs of the proceedings as it deems appropriate. A person entitled to compensation who has not put forward a defense shall not be ordered to pay the costs.

#### **Article 6:12**

1. The State of the Netherlands shall make the amount of the compensation offered by Our Minister payable by way of an advance no later than four weeks after the submission of the request to determine the compensation.
2. The date and place of payment shall be communicated in writing to the persons entitled to compensation whose address is known. The day and place of payment are also announced in a nationally distributed newspaper, unless the address of all entitled parties is known.
3. As long as and insofar as the amount referred to in the first paragraph has not been paid, the amount will be increased with interest, equal to the statutory interest, from the day of expropriation until the day of payment.
4. If a higher amount of compensation has been determined than with has been paid in advance, the State shall make the excess payable no later than four weeks after the decision determining the compensation has become final and binding. The second and third paragraphs apply *mutatis mutandis*.
5. Further rules may be laid down by ministerial regulation regarding the payment of the compensation.

#### **Article 6:13**

1. The State of the Netherlands may at any time release itself from its payment obligations pursuant to Section 6:12 by consigning the amounts referred to in subsections 1, 3 and 4 of that Section, together with the interest due thereon, while stating the rights known to it. of pledge and usufruct and the attachments known to him.
2. Notice of the consignment is given in the manner specified in article 6:12, second paragraph.
3. Contrary to Article 6:12, third paragraph, in the case of consignment, the interest referred to in that paragraph shall be calculated up to the day of consignment.

#### **ARTICLE II**

The Bankruptcy Act is amended as follows:

a

Article 212a is amended as follows:

1. In part a, "securities balances" are replaced by: balances in financial instruments.

2. Part j is replaced by: j. financial instrument: a financial instrument as referred to in Section 1:1 of the Financial Supervision Act.

3. In parts k and n, "securities" is replaced by: financial instruments.

## B

Article 212d is amended as follows:

1. In the first paragraph, the phrase "to which the law applies is from a Member State of the European Union chosen by the Participants in which at least one of the Participants has its principal place of business" replaced by: provided that:

- a. the participants have chosen Dutch law as the law applicable to that agreement; and
- b. at least one of the participants has its head office in the Netherlands.

2. In the second paragraph, the phrase "to which the law applies is from a Member State chosen by the Participants in which at least one of the Participants has its principal place of business" replaced by the following:

as long as:

- a. the participants have chosen Dutch law as the law applicable to that agreement; and
- b. at least one of the participants has its head office in the Netherlands.

## C

Article 212g, first paragraph, is amended as follows:

1. Under h, "referred to in Part B of the Annex to Directive No. 83/66/EEC of the Council of the European Communities of 10 May 1993 on the provision of investment services in the field of securities (PbEG L 141)" replaced by: as referred to in Section 1:1 of the Financial Supervision Act.

2. Replacing the point on the lock of part h with one semicolon, four parts are added, reading:

i. deposit: a deposit as referred to in Section 1:1 of the Financial Supervision Act; j. guaranteed deposit: a deposit insofar as it qualifies for compensation under the deposit guarantee scheme, as referred to in Section 3:259(2) of the Financial Supervision Act;

k. deposit agreement: the agreement under which a deposit holder holds a deposit with a bank; l. acquirer: the person who takes over deposit agreements, assets or liabilities other than under deposit agreements, the person who is willing to do so and the person who is investigating whether he is willing to do so.

## D

Eighteen articles are inserted after article 212h, reading:

#### **Article 212ha**

1. If De Nederlandsche Bank NV is of the opinion that, with regard to a bank that has a license as referred to in Section 2:11 of the Financial Supervision Act, there are signs of a dangerous development with regard to equity, solvency or liquidity and it can reasonably be foreseen that this development will not turn around sufficiently or not in time, it can request the court of Amsterdam to declare that bank bankrupt.

2. A person other than De Nederlandsche Bank NV or one in an emergency  
A yellowly appointed administrator cannot apply for the bankruptcy of a bank that has been granted a license by De Nederlandsche Bank NV.

3. A bank that has a license granted by De Nederlandsche Bank NV can file a declaration of its own bankruptcy. In that case, the court will enable De Nederlandsche Bank NV to be heard before deciding on the declaration.

#### **Article 212hb**

If the interest of the joint creditors in the settlement of a bank with its registered office in the Netherlands that is not a De Nederlandsche Bank NV needs a special provision, the District Court of Amsterdam may, at the request of De Nederlandsche Bank NV, declare the bankrupt.

#### **Article 212hc**

De Nederlandsche Bank NV can provide a transfer plan upon request as referred to in section 3:159c, subsection 2, preamble and under a, of the Financial Supervision Act, with a request to approve the transfer plan.

#### **Article 212hd**

De Nederlandsche Bank NV will send a copy of the petition to the Bank and notifies the contents of the request to the supervisory authorities of the other Member States where a branch of the Bank is located or to which it provides services from its branches in another Member State.

#### **Article 212he**

The court will hear the request of De Nederlandsche Bank NV to the declaration of bankruptcy or a declaration by the bank with the utmost urgency at a non-public hearing on the basis of the administration of justice in civil matters, insofar as this Act does not deviate from this.

#### **Article 212hf**

1. After having been given the opportunity to be heard, the bank may defend itself against: a. decisions as referred to in section 3:159d, subsection 2 of the Act on

financial supervision;

b. decisions as referred to in Section 3:159f(1) of that Act; c. decisions as referred to in Sections 1:75 and 1:76 of that Act  
have been taken after De Nederlandsche Bank NV has made a notification as referred to in Section 3:159d(1) of that Act;

d. the opinion of De Nederlandsche Bank NV that a situation like referred to in Article 212ha, first paragraph, occurs.

2. If a bank has defended itself against a decision or judgement as referred to in the first paragraph, the court will only declare that defense well-founded if De Nederlandsche Bank NV was not reasonably able to arrive at that decision or opinion.

#### **Article 212hg**

1. The court shall declare bankruptcy if it appears summarily that a situation as referred to in Article 212ha, first paragraph, arises.

2. If De Nederlandsche Bank NV has submitted a transfer plan as referred to in section 212hc, the court shall approve the transfer plan, unless the price stated in the transfer plan or the manner in which the price that the transferee is prepared to pay is determined, given the circumstances of the case, is not a reasonable price or manner. In determining whether the price or method is reasonable, the bank's expected future prospects should the transfer plan not be approved be used as a basis.

3. Without prejudice to subsection 2, the court shall approve the plan with regard to the transfer of assets or liabilities, unless the creditors who have a claim against the bank would be disadvantaged as a result.

#### **Article 212hh**

1. When declaring bankruptcy, the court shall appoint a of its members as supervisory judge and appoints one or more trustees. De Nederlandsche Bank NV may make nominations for the appointment of the receiver or receivers.

2. If the request is granted, the decision will be made on a public hearing and an extract thereof is immediately published by the trustee in the Government Gazette, the Official Journal of the European Union, as well as in at least two Dutch newspapers to be designated by the court and at least two national newspapers to be designated by the court. any Member State where a branch of the bank is located or to which it provides services. The extracts state the name and registered office of the bank, the domicile or office of the trustee and the date of the decision. Publication in the national newspapers shall be in the official language or languages of the Member State concerned. In addition, the announcement in the Official Journal of the European Union and the national newspapers of each Member State where the bank has a branch or to which it provides services states that Dutch law applies to the bankruptcy, subject to exceptions, the legal basis, that De Nederlandsche Bank NV is the competent supervisor, as well as the final date on which an appeal in cassation can be lodged against the decision, stating the full address of the Supreme Court and the subject of the decision.

#### **Article 212hi**

1. A decision as referred to in section 212hb or 212hg, subsection 1, is immediately enforceable.

2. Contrary to Article 8, paragraph 1, no appeal is possible against a bankruptcy order if the court has also granted a request for approval of a transfer plan as referred to in Article 212hc.

3. Article 10 does not apply.

#### **Article 212hj**

Sections 3:159k, 3:159l and 3:159p of the Financial Supervision Act apply mutatis mutandis.

#### **Article 212hk**

1. If De Nederlandsche Bank NV has not submitted a transfer plan as referred to in Section 3:159c(2) of the Financial Supervision Act with its application for a declaration of bankruptcy or if it has done so but the court has not approved the transfer plan approved, De Nederlandsche Bank NV can prepare a transfer plan as yet or again.

2. The transfer plan may relate to the transfer of deposit agreements and assets or liabilities other than under deposit agreements.

3. Further rules may be laid down by or pursuant to order in council with regard to the transfer plan and its preparation.

#### **Article 212hl**

1. If De Nederlandsche Bank NV prepares a transfer plan, it will inform the trustee of this immediately after the start of the preparations.

2. After De Nederlandsche Bank NV has made the notification referred to in subsection 1, it may, without prejudice to the provisions of Sections 5:15 and 5:20 of the General Administrative Law Act, oblige the trustee: a. data or to provide information to: 1°. one mentioned by name by De Nederlandsche Bank NV

transferee and experts assisting the transferee; and

2°. experts named by De Nederlandsche Bank NV assisting De Nederlandsche Bank NV in the preparation of the transfer plan; and

b. to allow the by De Nederlandsche Bank NV in particular said transferee and persons referred to in part a of this paragraph enter any place of the bank, with the exception of a home.

3. The persons, referred to in the second paragraph, make use of the cooperation, data or information, referred to in the second paragraph, and enter the place, referred to in the second paragraph, only insofar as this is reasonably related to the preparation of the transfer plan is required.

4. Section 1:89 of the Financial Supervision Act applies mutatis mutandis to persons who have obtained confidential data or information pursuant to subsection 2.

5. Without prejudice to the first paragraph, it is prohibited for everyone, whether or not on pursuant to the law or any agreement, to publicize the preparation of the transfer plan.

6. Further rules may be laid down by or pursuant to order in council with regard to the provisions of the third, fourth and fifth paragraph.

7. The trustee, the bank and a company belonging to the group which also includes the bank supervised by De Nederlandsche Bank NV, as well as the persons referred to in the second paragraph, and the transferee are exempt from all obligations under or pursuant to the law to disclose data or information, referred to in the second paragraph, until the transfer plan is approved.

#### **Article 212hm**

After the notification referred to in section 212hl, subsection 1, the trustee will fully cooperate in preparing the transfer plan.

#### **Article 212hn**

1. Articles 3:159g to 3:159p of the Financial Markets Act supervision apply *mutatis mutandis*.

2. If, pursuant to Article 212hk, De Nederlandsche Bank NV a has prepared a transfer plan, it may request the District Court of Amsterdam to approve the transfer plan.

#### **Article 212ho**

1. The court will hear the request of De Nederlandsche Bank NV to approve the transfer plan with the utmost urgency at a non-public hearing on the basis of the administration of justice in civil matters, insofar as this Act does not deviate therefrom.

2. The court shall approve the transfer plan unless the price specified in the transfer plan or the manner in which the price which the transferee is prepared to pay is determined is not a reasonable price or manner given the circumstances of the case.

#### **Article 212hp**

The trustee executes the transfer plan as soon as possible after the court approved it.

#### **Article 212hq**

1. De Nederlandsche Bank NV may, in consultation with the trustee in bankruptcy, request the Amsterdam District Court to amend an already approved transfer plan. Article 3:159ij, second and third paragraph, applies *mutatis mutandis* to the approval of the amendment.

2. If the court does not approve the adjustment, it will reject it request for adjustment of the transfer plan and the transfer plan remains unchanged.

3. Articles 212hd to 212hh and 212hk, second paragraph, to 212hp apply *mutatis mutandis* to the adjustment of the transfer plan.

#### **Article 212hr**

Articles 212ha to 212hq apply *mutatis mutandis* to a branch located in the Netherlands of a bank having its registered office in a non-Member State.

#### **E**

Article 212k is amended as follows:

1. The first paragraph is deleted.

2. The indication «2.» for the second paragraph.

#### **F**

Article 212l will read:

#### **Article 212l**

1. When a request to pronounce the transfer arrangement or the emergency regulation within the meaning of the Financial Supervision Act is pending at the same time as a bank's own declaration, the handling of the declaration will be suspended until the request for the transfer regulation or the emergency regulation has been decided upon.

2. If the court declares the transfer regulation or the emergency regulation, the bank's own declaration will lapse by operation of law.

#### **G**

In Article 212m, third paragraph, "and" at the end of part e is deleted and, with replacement of the dot at the end of part f, becomes "; and » , after part f a part is added, reading:

g. if the court has approved a transfer plan by the pronouncement of the transfer scheme, referred to in Section 3:159u of the Financial Supervision Act, or by declaring the emergency scheme, the trustee implements the transfer plan or continues the execution of the transfer plan begun by the transferor or administrator.

#### **H**

Article 213 is amended as follows:

1. Part a will read as follows: a. insurer:  
a non-life insurer or life insurer as referred to in Section 1:1 of the Financial Supervision Act;

2. Replacing the tip on the lock of part o with one semicolon, a part is added, reading:

p. acquirer: the person who takes over assets or liabilities, the person who is willing to do so and the person who investigates whether he is willing to do so.

#### **i**

Seventeen articles are inserted after article 213a, reading:

#### **Article 213aa**

1. If De Nederlandsche Bank NV is of the opinion that there are signs of a dangerous development with regard to an insurer holding a license as referred to in Sections 2:26a, 2:27 or 2:54a of the Financial Supervision Act with regard to equity, solvency or technical provisions and it can reasonably be foreseen that this development will not turn around sufficiently or not in time, it may request the Amsterdam District Court to declare the insurer bankrupt.

2. A party other than De Nederlandsche Bank NV cannot file for bankruptcy of an insurer that has applied for a license granted by De Nederlandsche Bank NV.

3. An insurer that has granted an insurance policy issued by De Nederlandsche Bank NV has a license can declare its own bankruptcy. In that case, the court will enable De Nederlandsche Bank NV to be heard before deciding on the declaration.

#### **Article 213ab**

If the interest of the joint creditors in the winding up of the business of an insurer that does not have a license granted by De Nederlandsche Bank NV requires a special provision, the District Court of Amsterdam may, without prejudice to Article 1, paragraph 1, at the request of De Nederlandsche Bank NV declare bankruptcy.

#### **Article 213ac**

With its request, De Nederlandsche Bank NV may submit a transfer plan as referred to in Section 3:159c(2), preamble and under b, of the Financial Supervision Act, with a request to approve the transfer plan.

#### **Article 213ad**

De Nederlandsche Bank NV will send a copy of the petition to the insurer and notify the contents of the petition to the supervisory authorities of the other Member States where a branch of the insurer is located or to which it provides services from its branches in another Member State .

#### **Article 213ae**

The court will hear the request of De Nederlandsche Bank NV to the declaration of bankruptcy or a declaration by the insurer with the utmost urgency at a non-public hearing on the basis of the administration of justice in civil matters, insofar as this Act does not deviate from this.

#### **Article 213af**

1. The insurer may, after being given the opportunity heard, defend against:

a. decisions as referred to in Section 3:159d(2) of the Act financial supervision;

b. decisions as referred to in Section 3:159f(1) of that Act; c. decisions as referred to in Sections 1:75 and 1:76 of that Act

have been taken after De Nederlandsche Bank NV has made a notification as referred to in Section 3:159d(1) of that Act;

d. the opinion of De Nederlandsche Bank NV that a situation like referred to in Article 213aa, first paragraph, occurs.

2. If an insurer has defended itself against a decision or judgment as referred to in the first paragraph, the court will only declare that defense well-founded if De Nederlandsche Bank NV could not reasonably have arrived at that decision or judgment.

#### **Article 213ag**

1. The court shall declare bankruptcy if it appears summarily that a situation as referred to in Article 213aa, first paragraph, arises.

2. If De Nederlandsche Bank NV has submitted a transfer plan as referred to in section 213ac, the court shall approve the transfer plan, unless the price stated in the transfer plan or the manner in which the price that the transferee is prepared to pay is determined, given the circumstances of the case, is not a reasonable price or manner. In determining whether the price or method is reasonable, the insurer's expected future prospects are assumed in the situation that the transfer plan is not approved.



3. When declaring bankruptcy, the court appoints a of its members as supervisory judge and appoints one or more trustees. De Nederlandsche Bank NV can make nominations for the appointment of trustees.

4. If the request is granted, the decision will be made on a public hearing and an extract thereof is immediately published by the trustee in the Government Gazette, the Official Journal of the European Union, as well as in at least two Dutch newspapers to be designated by the court and at least two national newspapers to be designated by the court. any Member State in which a branch of the insurer is located or to which it provides services. The extracts state the name and registered office of the relevant insurer, the place of residence or office of the trustee in bankruptcy and the date of the decision. Publication in the national newspapers shall be in the official language or languages of the Member State concerned. The announcement in the Official Journal of the European Union and the national newspapers of each Member State where the insurer has a branch or to which it provides services also states that Dutch law applies to the bankruptcy, subject to exceptions, the legal basis, that De Nederlandsche Bank NV is the competent supervisor, as well as the final date on which an appeal in cassation can be lodged against the decision, stating the full address of the Supreme Court and the subject of the decision.

#### **Article 213ah**

1. A decision as referred to in section 213ab or 213ag, subsection 1, is immediately enforceable.

2. Contrary to Article 8, paragraph 1, no appeal is possible against the bankruptcy order if the court has also granted a request for approval of a transfer plan as referred to in Article 212ac.

#### **Article 213ai**

If the court has approved the transfer plan, the trustee will execute it as soon as possible after the court has declared bankruptcy.

#### **Article 213aj**

1. If De Nederlandsche Bank NV has not submitted a transfer plan with its application for a declaration of bankruptcy or if it has done so but the court has not approved the transfer plan, De Nederlandsche Bank NV may still or again prepare a transfer plan.

2. The transfer plan may relate to the transfer of assets or liabilities.

3. Further rules may be laid down by or pursuant to order in council with regard to the transfer plan and its preparation.

#### **Article 213ak**

1. If De Nederlandsche Bank NV prepares a transfer plan, it will inform the trustee of this immediately after the start of the preparations.

2. After De Nederlandsche Bank NV has made the notification referred to in subsection 1, it may, without prejudice to the provisions of Sections 5:15 and 5:20 of the General Administrative Law Act, oblige the trustee: a. data or to provide information to: 1°. acquirer named by De Nederlandsche Bank NV

and experts assisting a transferee; and

2°. experts named by De Nederlandsche Bank NV assisting De Nederlandsche Bank NV in the preparation of the transfer plan; and B. to allow a particular by De Nederlandsche Bank NV

the named transferee and the persons referred to in part a of this paragraph enter any place with the exception of a residence of the insurer.

3. The persons referred to in the second paragraph make the data or information, referred to in the second paragraph, use and enter the place, referred to in the second paragraph, only insofar as this is reasonably necessary in connection with the preparation of the transfer plan.

4. Section 1:89 of the Financial Supervision Act shall apply mutatis mutandis to persons who have obtained confidential data or information pursuant to subsection 2.

5. Without prejudice to the first paragraph, everyone is prohibited from using the preparation of the transfer plan.

6. Further rules may be laid down by or pursuant to order in council with regard to the provisions of the third, fourth and fifth paragraphs.

7. The trustee in bankruptcy, the insurer and a company belonging to the group to which the insurer also belongs, which is supervised by De Nederlandsche Bank NV, as well as the persons referred to in the second paragraph, are exempt from all obligations under or pursuant to the law to disclosure of data or information, as referred to in the second paragraph, until the time at which the transfer plan has been approved.

#### **Article 213al**

After the notification referred to in section 213ak, subsection 1, the trustee will fully cooperate in the preparation of the transfer plan.

#### **Article 213am**

1. Section 3:159u of the Financial Supervision Act is in agreement upcoming application.

2. If, pursuant to Article 213aj, De Nederlandsche Bank NV a has prepared a transfer plan, it may request the District Court of Amsterdam to approve the transfer plan.

#### **Article 213an**

1. The court will hear the request of De Nederlandsche Bank NV to approve the transfer plan with the utmost urgency at a non-public hearing on the basis of the administration of justice in civil matters, insofar as this Act does not deviate therefrom.

2. The court shall approve the transfer plan unless the price stated in the transfer plan or the manner in which the price which the transferee is prepared to pay is determined is not a reasonable price or manner given the circumstances of the case.

#### **Article 213ao**

The trustee executes the transfer plan as soon as possible after the court approved it.

#### **Article 213ap**

1. De Nederlandsche Bank NV may, in consultation with the trustee, appoint the court of Amsterdam to amend an already approved transfer plan.

2. If the court does not approve the adjustment, it will reject it request for adjustment of the transfer plan and the transfer plan remains unchanged.

3. Articles 213ad to 213ag and 213aj, second paragraph, to 213ao apply *mutatis mutandis* to the adjustment of the transfer plan.

#### **Article 213aq**

Articles 213aa to 213ap apply *mutatis mutandis* to an insurer established in a state that is not a Member State.

J

Article 213e will read:

#### **Article 213e**

1. When a request to pronounce the transfer arrangement or the emergency regulation within the meaning of the Financial Supervision Act is pending at the same time as the insurer's own declaration, the processing of the declaration will be suspended until the request to declare the transfer regulation or the emergency regulation has been made.

2. If the court declares the emergency regulation or the transfer regulation, the insurer's own declaration will lapse by operation of law.

K

Article 213f, paragraph 2, with replacement of the point to the end of part g by a semicolon, a part added, reading:

h. if the court has approved a transfer plan by the pronouncement of the transfer scheme, referred to in Section 3:159u of the Financial Supervision Act, or by declaring the emergency scheme, the trustee implements the transfer plan or continues the execution of the transfer plan begun by the transferor or administrator.

### **ARTICLE III**

The Civil Code is amended as follows:

a

Article 80, paragraph 2, of Book 3 will read as follows:

2. Property is acquired under universal title by succession, by mixing of assets, by merger as referred to in Article 309 of Book 2, by division as referred to in Article 334a of Book 2 and by approval

of a transfer plan as referred to in Sections 3:159l, 3:159p and 3:159s of the Financial Supervision Act.

B

To Article 666, first paragraph, of Book 7, the following is added at the end, replacing the dot: as well as, if the employer is a bank within the meaning of Article 1:1 of the Financial Supervision Act or an insurer within the meaning of that article, the emergency regulations referred to in Article 3.5.5 of that Act have been pronounced with regard to the employer, the court has granted an authorization as referred to in Article 3:163, first paragraph, preamble and under b, or if the court has granted an authorization as referred to in Section 3:163m, subsection 1, preamble and part c, of that Act and the administrators proceed with liquidation.

#### **ARTICLE IV**

In part I of the appendix to the General Administrative Law Act, the following is added after the fourth part: 5. Articles 1:75, first and second paragraph, and 1:76, first and third paragraph, of the Financial Supervision Act, if De Nederlandsche Bank NV has issued a notification as referred to in Section 3:159d of that Act, as well as Section 3:159d, subsection 2, preamble and under a or b, of that Act.

#### **ARTICLE V**

In Article 8 of the Bank Act, renumbering the second and third paragraph to third and fourth paragraph, a paragraph inserted after the first paragraph, reading: 2. Legal acts in connection with transactions, as referred to in the first paragraph, are not voidable pursuant to Article 45 of Book 3 of the Civil Code or Articles 42 and 47 of the Bankruptcy Act.

#### **ARTICLE VI**

1. This Act, with the exception of Articles I, part IJ, and II, parts A and B, shall enter into force on the day following the date of issue of the Official Gazette in which it is placed, and shall be retroactive to January 20, 2012.

2. Articles I, part IJ, and II, parts A and B, enter into force at a time to be determined by Royal Decree, which can be set differently for those Articles.

#### **ARTICLE VII**

This Act may be cited as: Special Financial Measures Act enterprises.

Orders and orders that it will be placed in the Official Gazette and that all ministries, authorities, colleges and civil servants as may be concerned will enforce the exact implementation.

Datum

The Minister of Finance,

The Minister of Security and Justice,