

# Statute of the Protection Scheme

operated by  
the National Association  
of German Cooperative Banks (BVR)

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Resolved by the general meeting of members of the BVR on September 11, 2009.  
Amended by the general meeting of members of the BVR on September 30, 2011.

**Note:**

The English version of the Statute of BVR-Protection Scheme is used exclusively for representative purposes and presentation of the BVR-SE in an international environment. If legally relevant, only the German version of the Statute of the Protection Scheme of the BVR as part of the Statute of the BVR. Both documents can be found at [www.bvr.coop/statutes](http://www.bvr.coop/statutes).

## Statute of the Protection Scheme (SPS)

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## Preamble

- [1] The National Association of German Cooperative Banks (BVR) has set up a Protection Scheme with a guarantee fund and a guarantee network.
- [2] The Protection Scheme is of vital importance for the cooperative institutions as it is a decisive factor in maintaining the credit rating of them. Solidarity between the cooperative institutions is a key requirement if the Protection Scheme is to function properly. Although this solidarity limits the cooperative principles of self-responsibility and self-management, it is an essential precondition for the independence of the cooperative institutions and the decentralized structure of the cooperative network. The Protection Scheme must have suitable structures and instruments to enable it to fulfill its purpose.

### I. Purpose of the Protection Scheme; recognition of the Protection Scheme; BVR assets; membership of the Protection Scheme; classification

#### § 1

##### Purpose of the Protection Scheme

- [1] The purpose of the Protection Scheme is to avert or remedy imminent or existing financial difficulties at the member institutions of the guarantee fund specified in section 3 (Institutional Protection Scheme) and to prevent any negative impact on confidence in the cooperative institutes.
- [2] Permissible measures used to fulfill the purpose described in Section § 1 include, in particular, measures to avert adverse trends at institutes, funding measures for the benefit of institutes, and the assumption of obligations to avoid regulatory action being taken against institutes.
- [3] Protection is provided at all times for the following:
  - a) Customer deposits at the affiliated institutes of the guarantee fund specified in section 3 (1), bonds issued by the affiliated institutes of the guarantee fund specified in section 3 (1) held by customers, liabilities of the affiliated institutes of the guarantee fund specified in section 3 (1) arising from litigation guarantees, and liabilities of the affiliated institutes of the guarantee fund specified in section 3 (1) to investment companies where the liabilities relate to parts of fund assets; customer deposits are mainly savings deposits, savings bonds, time deposits, and sight deposits; for further details, please also refer to the balance sheet items specified in the procedural rules (see no. 1 of the procedural rules);

- b) Funds provided to the affiliated institutes of the guarantee fund specified in section 3 (1) by institutes outside the cooperative financial services network (e.g. Germany's KfW development institute) for purposes supported by public subsidy;
- c) Liabilities of the affiliated institutes of the guarantee fund specified in section 3 (2) to customers arising from securities business.

#### § 1a

##### Recognition of the Protection Scheme

- [1] The Protection Scheme is a scheme for the protection of institutes as defined by section 12 German Deposit Guarantee and Investor Compensation Act (EAG).
- [2] The Protection Scheme is a protection system within the meaning of section 10c (2) sentence 1 German Banking Act (KWG). The institutes that are members of the Protection Scheme are institutes within the meaning of section 10c (2) sentence 1 number 1 KWG.

#### § 2

##### Assets of the BVR

- [1] The resources that have accumulated in the guarantee fund and the guarantee volume of the guarantee network are assets of the BVR.
- [2] The resources in the guarantee fund must be invested separately from other BVR assets (see also no. 1a in the Procedural Rules).
- [3] The BVR must manage the resources in the guarantee fund and the guarantee volume separately from its other assets.

#### § 3

##### Affiliated Institutes of the Protection Scheme

- [1] Deposit institutes that are members of the BVR are also members of the guarantee fund.
- [2] Non-deposit banks that are members of the BVR can be affiliated to the guarantee fund. Capital investment companies also qualify as non-deposit institutes as defined by the Statute of the Protection Scheme. Membership of the guarantee fund is decided by the BVR management board subject to the prior consent of the central committee of the BVR Protection Scheme.

- [3] The deposit institutes specified in subsection 1 and - after joining the guarantee fund - the non-deposit institutes specified in subsection 2 join the guarantee network by providing a guarantee bond as specified in section 5.
- [4] Deposit institutes and non-deposit institutes that are members of the guarantee fund are deemed to be institutes within the meaning of the Statute of the Protection Scheme

### § 3a Classification

- [1] The institutes - with the exception of those institutes specified in subsection 2 - are classified each year (local credit cooperatives). The details are governed by the principles set out in no. 1b of the procedural rules.
- [2] Banks that are members of the guarantee fund as specified by section 3 (2) and institutes that are members of the Cooperative Financial Services Network and individually rated by an external rating company recognized for the purposes of regulatory risk weighting are not classified.

## II. Contributions to the guarantee fund; guarantee bonds for the guarantee network

### § 4 Contributions to the guarantee fund

- [1] The basis for assessing the contributions from institutes - with the exception of the institutes specified in subsections 2 and 3 - is as follows:
- [1a] The total value, in accordance with the report at the end of the last calendar year, of exposures in the asset classes specified below on the basis of section 10 (1) sentence 9 KWG in conjunction with the German Solvency Regulation as amended in the official announcement on December 14, 2006 (Federal Law Gazette I page 2926) and most recently amended by section 1 of the law of October 5, 2010 (Federal Law Gazette I page 1330), hereinafter referred to as SolvV.

a) In the case of institutes that use the Standardized Approach to credit risk, the following risk-weighted asset classes under the Standardized Approach to credit risk in accordance with section 24 SolvV apply:

- Central governments
- Regional governments and local authorities
- Other public-sector entities
- Multilateral development banks
- International organizations
- Financial institutions
- Covered bonds issued by banks
- Corporates
- Retail business
- Exposures collateralized by real estate
- Investment fund units
- Investments
- Securitizations (with a maximum risk weighting of 350 percent)
- Other exposures (with the exception of property, plant and equipment)
- Past due exposures

in which

- loans and advances to customers included in the asset classes are included in the basis of assessment with a maximum risk weighting of 50 percent if they satisfy the requirements of section 15 (2) sentence 1 German Statutory Order on the Accounts of institutes and Financial Services Institutions (RechKredV) and
- exposures included in the asset classes arising from the transfer of risk in circular transactions within the cooperative financial services network are included in the basis of assessment with the average risk weighting previously imputed to the assets brought into this same transaction by the institute assuming the risk.

b) In the case of institutes that use the internal ratings-based approach (IRBA) and have IRBA authorization, the following risk-weighted IRBA asset classes in accordance with section 72 SolvV apply:

- Central governments
- Financial institutions
- Retail business
- Investments
- Securitizations (with a maximum risk weighting of 350 percent)
- Corporates
- Other assets unrelated to lending (with the exception of property, plant and equipment).

The risk weighting does not take into account the scaling factor as specified by section 86 (4) SolvV.

c) The following must be deducted from the total:

- Risk-weighted exposures under the Standardized Approach to credit risk or IRBA that relate to loans and advances to DZ BANK, WGZ BANK, members of the cooperative financial services network and their affiliated companies in accordance with section 271 (2) German Commercial Law (HGB),
- Risk-weighted exposures under the Standardized Approach to credit risk or IRBA that relate to investments in, or membership of, registered cooperatives reported in HGB financial statements under „Long-term equity investments“, „Long-term equity investments and business credit balances in cooperatives“ or „Shares in affiliated companies“,
- 20 percent of DZ BANK and WGZ BANK assets arising from the liquidity held by DZ BANK/WGZ BANK for the local credit cooperatives. This liquidity holding for the local credit cooperatives is calculated from the total of local credit cooperative deposits with DZ BANK/WGZ BANK and DZ BANK/WGZ BANK bearer bonds held by local credit cooperatives net of DZ BANK/WGZ BANK loans and advances to local credit cooperatives,
- In accordance with the relevant risk weighting under the Standardized Approach to credit risk or IRBA, loans and advances to a church or religious organization that is legally structured as a public body and that is entitled to levy taxes under section 140 German Constitution in conjunction with section 137 (6) of the German constitution dated August 11, 1919, or that benefits from the tax revenue raised by church bodies responsible for collecting taxes.

[1b] In addition to subsection 1a, and taking into account subsection 1c, the following bases of assessment apply until December 31, 2014:

- a) The sum of the following loans as reported in the latest annual financial statements (single-entity financial statements):
- aa) Loans and advances to customers
- with the exception of loans and advances specified in section 21 (2) no. 1 and section 21 (3) nos. 3 and 4 KWG,
  - with the exception of half of the loans and advances secured by property liens that meet the requirements of section 14 and section 16 (2) sentences 1 to 3 German Pfandbrief Act (PfandbriefG),
  - with the exception of loans and advances or parts of loans and advances, the obligation for which has been assumed by another contributing member institute of the guarantee fund;
- ab) Contingent liabilities under guarantees and surety agreements;
- b) The total of capital adequacy requirements under „Derivative default risk exposures and set-off items as defined by section 12 (1) SolvV“.

[1c] With the exception of calculations for the institutes specified in subsections 2 and 3, the calculation of institute contributions for the contribution years up to December 31, 2014 can be made on the basis of assessment set out in subsection 1b. In this case, no. 2 of the procedural rules also applies in relation to the basis of assessment specified in subsection 1b. The BVR will determine the contributions to the guarantee fund using the bases of assessment specified in subsections 1a and 1b; the obligation of an institute to pay the guarantee fund contribution in accordance with subsection 8 applies only in relation to the lower contribution.

[2] The basis of assessment for the contributions from institutes whose business model focuses on pfandbrief business (mortgage banks) or who are subject to the provisions of German law on home savings institutions is the total assets as reported in the latest annual financial statements (single-entity financial statements). No. 2 sentence 1 of the procedural rules applies. Institutes may decline to make use of the exemption right defined by subsection 1. If an institute makes use of sentence 3, then no. 2 sentence 2 of the procedural rules will also apply.

[3] Subject to the prior consent of the central committee for the BVR Protection Scheme, the BVR management board decides on the basic contribution for non-deposit institutes that are members of the Protection Scheme as specified in section 3 (2). There must be an appropriate ratio between the basic contribution and the risk covered.

[4] a) The basic levy rates per year are as follows:

aa) For the contributions of the institutes specified in subsection 1a, 0.04 percent of the basis of assessment specified therein;

ab) For the contributions of the institutes specified in subsection 1b, 0.05 percent of the basis of assessment specified therein.

b) The basic annual levy rate for the institutes specified in subsection 2 sentence 1 is 0.0045 percent of the basis of assessment specified therein.

[5] Levy rates in excess of the basic levy rates specified in subsection 4 and contributions in excess of the basic contributions specified in subsection 3 are defined by the BVR Association council on the recommendation of the BVR management board. Such rates must be fixed in the same ratio for all banks. When such rates are fixed, the limits specified in subsection 7 must be observed.

- [6] a) Local credit cooperatives classified in accordance with section 3a (1) pay different contributions depending on classification, as follows:
- aa) Class A++, 80 percent of the relevant annual contribution to the guarantee fund;
  - ab) Class A+ or class A, 90 percent of the relevant annual contribution to the guarantee fund;
  - ac) Class A-, class B+ or class B, the relevant annual contribution to the guarantee fund;
  - ad) Class B-, the relevant annual contribution to the guarantee fund plus a surcharge of 10 percent;
  - ae) Class C, the relevant annual contribution to the guarantee fund plus a surcharge of 20 percent;
  - af) Class D, the relevant annual contribution to the guarantee fund plus a surcharge of 40 percent.

For the purposes of assessment, the local credit cooperatives are classified on the basis of their latest annual financial statements.

- b) Special contribution provisions as specified in nos. 2a to 2d of the procedural rules apply if a local credit cooperative is undergoing restructuring (see no. 2aa of the procedural rules), if a local credit cooperative is merging with another local credit cooperative undergoing restructuring, if local credit cooperatives are undergoing a merger, or if there is a change to the classification system.

- [7] a) A maximum of five times the basic levy rate as specified in subsection 4a aa can be levied on the institutes specified in subsection 1 in total per year. If an institute makes use of its right under subsection 1c and the annual contribution is levied on the basis of subsection 1b, a maximum of four times the basic levy rate as specified in subsection 4a ab can be levied from the institute in total per year. The limits specified in sentences 1 and 2 are subject to the surcharges specified in subsections 6a ad to af.
- b) A maximum of up to five times the basic levy rate as specified in subsection 4b can be levied on the institutes specified in subsection 2 in total per year. If they decline to use the exemption right specified in subsection 2 sentence 3, only a maximum of five times the basic levy rate as specified in subsection 4a aa can be levied in total per year.
- c) A maximum of five times the basic contribution as specified in subsection 3 can be required from the institutes specified in subsection 3 in total per year.

- [8] a) The institutes as specified in subsection 1 must:
- aa) pay into the guarantee fund the contributions stipulated by the BVR Association council in accordance with section 12 of the BVR by-laws in conjunction with subsections 1, 1a, 1b, 1c, 4a, 5, and 7a sentences 1, 2. The contribution provisions specified in subsections 6a aa and 6a ab as well as in nos. 2b to 2d of the procedural rules remain unaffected.
  - ab) pay into the guarantee fund the surcharges specified in subsections 6a ad to af and subsection 7a sentence 3. The surcharge provisions specified in nos. 2a to 2d of the procedural rules remain unaffected.
- b) The institutes as specified in subsection 2 sentence 1 must pay into the guarantee fund the contributions stipulated by the BVR Association council in accordance with section 12 of the BVR by-laws in conjunction with subsection 2 sentence 1, subsections 4b, 5, and 7b sentence 1. The institutes as specified in subsection 2 sentence 3 must pay into the guarantee fund the contributions stipulated by the BVR Association council in accordance with section 12 of the BVR by-laws in conjunction with subsections 1a, 4a aa, 5, and 7b sentence 2.
- c) The institutes as specified in subsection 3 must:
- ca) pay into the guarantee fund the basic contribution stipulated in accordance with subsection 3 by the BVR management board subject to the prior consent of the central committee of the BVR Protection Scheme,
  - cb) pay into the guarantee fund the contributions stipulated by the BVR Association council in accordance with section 12 of the BVR by-laws in conjunction with subsections 5 and 7c.
- d) No later than April 30 each year, the institutes specified in subsections 1 and 2 must make an advance payment on their annual contribution to the guarantee fund equivalent to 80 percent of their annual contribution using the assessment basis from the previous year. The balance of contributions to the guarantee fund after deduction of the advance payments specified in sentence 1 must be paid no later than November 30 each year.
- e) The institutes specified in subsection 3 must pay their contribution to the guarantee fund in accordance with subsection 8c no later than April 30 each year.

- [9] New institutes joining the Protection Scheme must pay not only the contributions for the current year specified in subsections 1 to 7, but also an initial membership fee equivalent to three times the amount of these contributions. The BVR management board can stipulate a lower initial membership fee and may also allow the initial membership fee to be paid in installments. If the institute joining the Protection Scheme is newly established, the amount of the initial contributions and the amount of the initial membership fee will be specified at an appropriate level by the BVR management board. The decisions by the BVR management board require the prior consent of the central committee of the BVR Protection Scheme.
- [10] Voluntary contributions can be paid into the guarantee fund.

### § 5

#### Guarantee bonds for the guarantee network; guarantee volumes

- [1] In order to cover guarantee or indemnity obligations that the BVR assumes on behalf of the guarantee network in accordance with section 17 (3) and no. 13 of the procedural rules, the institutes are obligated to provide the BVR with the relevant guarantee bond in accordance with no. 3a, 3b or 3c of the procedural rules. The amount of the guarantee bond is as follows:
- For institutes as specified in section 4 (1), eight times the basic levy rate specified in section 4 (4) a ab or ten times the basic levy rate specified in section 4 (4) a aa;
  - For institutes as specified in section 4 (2) sentence 1, ten times the basic levy rate specified in section 4 (4) b; for institutes as specified in section 4 (2) sentence 3, ten times the basic levy rate specified in section 4 (4) a aa;
  - For institutes as specified in section 4 (3), ten times the basic contribution specified in section 4 (3).
- [2] The guarantee bonds provided by the affiliated institutes form the guarantee volume in the guarantee network.

## III. General obligations of the banks, auditing associations and the BVR

### § 6

#### Institutes' duty of care

- [1] The institutes are obligated to conduct their business in accordance with the duty of care applicable to them under company law in order to prevent the need for financial support from the Protection Scheme. The Institutes satisfy their duty of care under company law, in particular,
1. if, with a view to successful performance and early identification of any adverse trends, they set up a planning, monitoring and control system reflecting the nature and risk content of their business to ensure that the potential risks and rewards inherent in their business are adequately determined, assessed and managed,
  2. if they establish the necessary personnel, technical and organizational frameworks required by their business to enable them to manage the risks inherent in the business,
  3. if, in their respective businesses, they comply with the relevant applicable guidelines and recommendations that have been adopted by the BVR Association council based on proposals submitted by the BVR management board.
- [2] In the case of deposit banks, all customary banking business, supplementary operations and associated competitive activities that comply with the duty of care specified in subsection 1 and that, foreseeably, comprise only normal and/or average banking risks are compatible with the purpose of the Protection Scheme. Sentence 1 applies to non-deposit institutes mutatis mutandis taking into account their business model. To this extent, such business activities are not subject to any restrictions (see also no. 4 of the procedural rules).
- [3] Business developments involving risks that may result in financial instability in the institute are not compatible with the purpose of the Protection Scheme. Such scenarios may arise in particular from the following:
- If the planning, monitoring and control systems as well as the operational and organizational structure are not consistent with the institute's business and risk structures;
  - If the risks assumed by the institute, in particular the acute and significant latent risks in lending, are inadequately covered by the institute's available risk coverage potential;
  - Above-average lending growth without appropriate corresponding growth in the risk coverage potential and in the personnel and organizational structures of the institute;

- The extending of loans without adequate collateral and/or evidence of sufficient debt service capacity;
- An imbalance in the lending structure in terms of loan size and/or sector distribution;
- The extending of interrelated loans, for example in which the borrowers lodge collateral for each other or in which the borrowers are dependent on each other;
- The commencement of new types of business without adequate prior analysis of the inherent revenue-earning opportunities and potential risks;
- The raising of funds from institutional investors and/or deposit brokers on terms that are not on an arm's length basis;
- Above-average expansion and an imbalance in the distribution of dividend-bearing and/or interest-bearing equity;
- Capital investments involving follow-up costs that are not economically sustainable for the institute.

See also no. 5 of the procedural rules.

- [4] If the local credit cooperatives conduct business via subsidiaries, such activities must always be consistent with the customary banking or supplementary activities specified in section 2 of the by-laws templates for local cooperative institutes and the subsidiaries must always observe the duty of care applicable to the local credit cooperatives themselves (see also no. 6 of the procedural rules). Sentence 1 applies to the other institutes and their subsidiaries mutatis mutandis taking into account their business model.

### § 7 Audit-related obligations of the institutes

- [1] The institutes are obligated to permit the audits ordered by the BVR management board.
- [2] The local credit cooperatives are obligated also to permit the relevant auditing association or an auditing firm proposed by the auditing association or an auditor proposed by the BVR to audit their subsidiaries (see also no. 6 of the procedural rules).
- [3] Local credit cooperatives which are not operated in the legal structure of a registered cooperative society are obligated to:
- a) inform the BVR and the auditing association to which they belong in good time of the auditing firm they intend to appoint;
  - b) issue the audit engagement such that audits are consistent with mandatory auditing for cooperatives in terms of content and scope.

- [4] Institutes that are not audited by a statutory auditing association must instruct their auditors to audit the institute's compliance with its duty of care under company law as well as its compliance with the provisions of the BVR Protection Scheme Statute including the procedural rules, and to comment on this compliance in the audit report.
- [5] The institutes must support the auditing work carried out by the relevant auditing association, the independent auditors and any auditor acting on the basis of the KWG or the BVR Protection Scheme Statute.

### § 8 Auditing obligations of the auditing associations

- [1] In the institutes that it audits, the relevant auditing association is authorized and under an obligation to audit the extent to which the institutes comply with the duty of care under company law as well as the extent to which they comply with the provisions of the BVR Protection Scheme Statute including the procedural rules, and to comment on this compliance in the audit reports.

### § 9 Obligations of the institutes to issue authorizations and submit reports

- [1] The institutes must each provide the BVR with a declaration as specified in no. 7 a to c and - where applicable - d to h of the procedural rules that authorizes the German Financial Supervisory Authority (BaFin), Deutsche Bundesbank, auditors acting on the basis of KWG or the BVR Protection Scheme Statute, and - where applicable - DZ BANK or WGZ BANK, the relevant auditing association, the independent auditors and the relevant data centre to notify the BVR of anything that might be significant for the BVR as the responsible body for the Protection Scheme (see also no. 7i of the procedural rules). At the same time, the BVR is authorized to obtain all information relevant to the BVR as the responsible body for the Protection Scheme from the aforementioned authorities, firms, departments, and individuals and to notify these authorities, firms, departments, and individuals, with the exception of the data centers, of all events that come to the attention of the BVR as the responsible body for the Protection Scheme (see also no. 7j of the Procedural Rules).
- [2] Institutes that are affiliated to the guarantee fund as specified in section 3 (1) must include the following clause in their general terms and conditions and use it as the basis for business relationships with their customers: „The institute is authorized to provide all information and documents required in this respect to the BVR Protection Scheme or a person authorized by the BVR Protection Scheme. This also applies mutatis mutandis to institutes that are members of the guarantee fund as specified in section 3 (2).

- [3] At the request of the BVR, the institutes must provide to the BVR all information and documents that might be significant for the Protection Scheme.
- [4] The institutes must submit to the BVR all reports that are required to enable the Protection Scheme to satisfy the requirements of section 10c (2) sentence 1 no. 6 KWG.
- [5] The institutes must take part in the comparative analyses carried out by the BVR.
- [6] At the request of the BVR, the institutes must make available audit reports, key performance indicators and figures for the institutes and their subsidiaries without delay (see no. 6 of the procedural rules). The local credit cooperatives as specified in section 7 (3) must provide the audit reports without delay to the auditing association to which they belong.
- [7] At the request of the BVR, the local credit cooperatives must provide the BVR with the data necessary for classification as specified in section 3a.
- [8] The institutes must notify the BVR without delay if they intend to acquire, change or dispose of an investment in another company that does not belong to the Protection Scheme (see also no. 8 of the procedural rules).
- [9] The institutes must notify the BVR without delay if they intend to open a branch abroad.
- [10] DZ BANK and WGZ BANK are authorized and under an obligation to notify the BVR and the relevant auditing association without delay if any information comes to their attention that could be significant for the Protection Scheme.
- [11] The institutes must notify the BVR and the auditing association responsible for the institute concerned without delay if any of the business scenarios as defined by section 6 (3) should arise.
- [12] The institutes must notify the BVR without delay if it becomes evident that the institute is no longer in a position to cover the risks out of its existing and realizable capital and reserves; the local credit cooperatives must also report this information without delay to the relevant auditing association. The institutes must satisfy without delay any requirements imposed by the BVR in such cases in accordance with section 16 (1).
- [13] An institute must notify the BVR without delay if it submits a notice in accordance with section 24 (1) no. 4 or no. 9 KWG. The institutes must satisfy without delay any requirements imposed by the BVR in such cases in accordance with section 16 (1).

## § 10 Reporting obligations of the auditing associations

- [1] At the request of the BVR, the auditing associations are authorized and under an obligation to provide to the BVR without delay their reports on the audits of their member institutes as well as key performance indicators and figures relating to their member institutes, including the data required for the classification of their member institutes as specified in section 3a.
- [2] The auditing associations are authorized and under an obligation to inform the BVR without delay of all facts that may be significant for the Protection Scheme, in particular notifications in accordance with section 29 KWG, audits in accordance with section 44 KWG and other audits as well as information received from BaFin and Deutsche Bundesbank. The auditing associations are also authorized to report such information to the either DZ BANK or WGZ BANK, as appropriate.
- [3] The auditing associations are authorized and under an obligation to inform the BVR without delay of the emergence in their member institutes of any business scenarios as defined by section 6 (3). The auditing associations are also authorized to report such information to either DZ BANK or WGZ BANK, as appropriate.
- [4] If an auditing association becomes aware of information relating to one of its member institutes that also applies to a member institute of another auditing association and this information may be significant for the Protection Scheme, the auditing association is authorized and under an obligation to provide the information concerned to the other auditing association without delay.

## § 11 BVR reporting obligations

- [1] The BVR is authorized and under an obligation to inform the relevant auditing association without delay of all facts of which the BVR becomes aware that relate to a member institute of this auditing association and that may be significant for the Protection Scheme.
- [2] If the BVR becomes aware of information relating to a member institute of one auditing association that also applies to a member institute of another auditing association and this information may be significant for the Protection Scheme, the BVR is authorized and under an obligation to provide this information to the auditing associations concerned without delay.

## IV. Preventive measures taken for Institutes

### § 12

#### BVR action to encourage a change in an institute's operating policy

Should the BVR become convinced that the operating policy of an institute is not consistent with the principles in section 6, it has the right, and is under an obligation, to notify in good time the management board and/or the supervisory board and/or the general meeting/general assembly/shareholders' meeting of the institute of the possible implications as defined by sections 33 and 35 and to take action to encourage a change in the operating policy (see also no. 9 of the procedural rules).

### § 13

#### Measures taken by the relevant auditing association to encourage a change in a local credit cooperative's operating policy

Should the relevant auditing association become convinced that the operating policy of a local credit cooperative is not consistent with the principles in section 6, it has the right, and is under an obligation under the law and in accordance with its own association by-laws to notify in good time the management board and/or the supervisory board and/or the general meeting/general assembly/shareholders' meeting of the local credit cooperative of the possible implications as defined by sections 33 and 35 and to take action to encourage a change in the operating policy (see also no. 10 of the procedural rules).

### § 14

#### BVR request for an institute to prepare a restructuring plan

#### [1] Restructuring measures

- a) If a business scenario arises as defined in section 6 (3), an institute must, at the request of the BVR, draw up restructuring measures in the form of a restructuring plan in accordance with c) in order to correct these developments in the business.
- b) The BVR is entitled to be involved in the preparation of the restructuring plan in an advisory capacity.
- c) The restructuring plan must specifically include a description of the measures that are both necessary and appropriate in order to bring about a correction of the business scenario as defined in sections 6 (3) and a description of the effects of these measures on net assets, financial position and results of operations.

d) Local credit cooperatives must submit the restructuring plan to the relevant auditing association and the BVR for verification; the auditing association will send an opinion on the restructuring plan to the BVR. The other institutes must submit the restructuring plan to the BVR for verification.

e) The restructuring plan requires the consent of the BVR.

f) The institute is obligated to implement the restructuring plan.

#### [2] Ongoing monitoring

a) The implementation and outcomes of the restructuring plan must be subject to ongoing financial control.

b) As part of the ongoing financial control, the institute must prepare quarterly financial control reports, specifically addressing the implementation and outcomes of the restructuring plan.

c) The ongoing monitoring of the implementation of the restructuring plan is carried out, in particular, on the basis of an analysis of the financial control reports. In the case of the local credit cooperatives, the analysis of the financial control reports is carried out by the relevant auditing association and by the BVR; the auditing association informs the BVR of the results of its analysis of the financial control reports. In the case of the other banks, the analysis of the financial control reports is carried out by the BVR.

#### [3] Updates to the restructuring plan

a) If it becomes apparent during the course of the ongoing monitoring in accordance with subsection 2 that the restructuring plan needs to be updated, the institute must carry out the updates if requested to do so by the BVR.

b) A local credit cooperative must submit the updates to the relevant auditing association and the BVR for verification; the auditing association will send an opinion on the updates to the BVR. The other institutes must submit the updates to the BVR for verification.

c) The updates require the consent of the BVR.

d) The institutes must implement the updates.

e) Subsection 2 applies mutatis mutandis for the ongoing monitoring of the implementation and outcomes of the updates.

## § 15

### Request from the relevant auditing association for a local credit cooperative to prepare a restructuring plan

If a business scenario arises as defined in section 6 (3), the local credit cooperatives must, at the request of the relevant auditing association, draw up restructuring measures in the form of a restructuring plan in order to correct these developments in the business (see no. 11 of the procedural rules).

## § 16

### Imposition of personnel and/or material requirements on institutes by the BVR

- [1] If a business scenario arises as defined in section 6 (3), the BVR management board, after first hearing the opinion of the relevant committee in accordance with sections 30 and 31, can impose personnel and/or material requirements on the basis of the documents and audits as defined in section 14 or 15, section 9 (12) sentence 2, or section 9 (13) sentence 2. The institutes must satisfy the requirements without delay.
- [2] If, in the event of a business scenario as defined in section 6 (3), the senior management of the institute is unable to submit a workable plan in accordance with sections 14 or 15, the institute must, at the request of the BVR management board and subject to the opinion of the relevant committee in accordance with sections 30 and 31, appoint further personnel to the senior management in consultation with the BVR.
- [3] In the case of local credit cooperatives, the relevant auditing association and the BVR monitor implementation to ensure the requirements are satisfied; the auditing association informs the BVR of the results of its monitoring activities. In the case of the other institutes, the monitoring of implementation to ensure the requirements are satisfied is carried out by the BVR.

## V. Restructuring of institutes

### 1. Funding measures for the purposes of the presentation of annual financial statements

## § 17

### Implementation of funding measures

- [1] Funding measures should only be implemented if the institutes themselves are no longer in a position to overcome imminent or existing financial difficulties from their own resources.
- [2] The following will be assumed with funding from the guarantee fund:
  - Guarantees,
  - Sureties,
  - Grants,
  - Loans (see no. 12a of the Procedural Rules)
  - Investments in institutes for recapitalization purposes (see no. 12b of the procedural rules).
- [3] The following will be assumed as an accounting convenience with funding from the guarantee network:
  - Guarantees,
  - Sureties.

See also no.13 of the procedural rules.

## § 18

### Use of equity

- [1] In the event of any requirement for funding, a test must be carried out to establish whether and to what extent the institute's equity can be used to cover a net loss for the year in the institute's annual financial statement.
- [2] Hidden reserves must be reversed and, in the same way as other reserves, used to cover a net loss for the year in the annual financial statements. The only situation in which such reserves must not be used in this way is if such a reversal of reserves would place the institute in breach of relevant KWG provisions.

**§ 19**  
**Conditions imposed by the BVR**

- [1] Funding measures are linked to personnel and/or material conditions.
- [2] The institutes must meet without delay the personnel and/or material conditions imposed by the BVR in connection with funding measures financed by the guarantee fund or the guarantee network (see also no. 14 of the procedural rules).
- [3] If an institute fails to satisfy, wholly or in part, the conditions imposed in association with a funding measure, the BVR has the right to take suitable action to enforce the conditions.

**§ 20**  
**Debtor warrant obligations of the institutes**

- [1] If the resources of the guarantee fund or the guarantee network are used to finance a guarantee or surety, the institutes must release the BVR from the guarantee or indemnity by recognizing provisions, specific valuation allowances or write-downs for the risk to the greatest possible extent using earnings before tax in their future annual financial statements. The obligation of the BVR under the guarantee or surety reduces accordingly.
- [2] If the BVR has to pay a claim under a guarantee or surety financed by the guarantee fund or the guarantee network, the institutes must repay the amounts received to the greatest possible extent from their future annual net income (see also no. 15 of the procedural rules).
- [3] In the event of the payment of a grant financed by the guarantee fund, the institutes must repay the amounts received to the greatest possible extent from their future annual net income (see also no. 15 of the procedural rules).

**§ 21**  
**Assignment of claims for damages to the BVR**

At the request of the BVR, the institutes must assign to the BVR any claims for damages to which they may be entitled against persons who have caused and are liable for the restructuring requirement at the banks. The BVR will utilize the assigned claims only to the extent to which it has provided funding measures for the institute concerned.

**§ 22**  
**Decision on funding measures and conditions**

- [1] The following applies for decisions on funding measures and conditions for institutes that are members of the Protection Scheme:
  - a) The BVR will decide on the type and scope of funding measures and the associated conditions based on the recommendation of the relevant committee in accordance with sections 30 and 31.
  - b) If, in its decision, the BVR intends to deviate on a material issue from the recommendation of the relevant committee, the BVR must notify this intention to the administrative board. The subsequent procedure is governed by the provisions specified under c).
  - c) The BVR management board and administrative board will hold joint deliberations regarding matters specified in b), and will reach their decision in separate votes. The chairperson of the BVR administrative board or his/her deputy will convene joint meetings. The joint meetings will be chaired by the chairperson of the BVR administrative board or his/her deputy. The BVR management board and the administrative board will also hold deliberations on the basis of the recommendation of the relevant committee in accordance with sections 30 and 31. Section 18 (1) and section 25c (1) of the BVR by-laws apply with regard to the rules on a quorum; section 18 (2) and section 25c (2) sentence 1 of the BVR by-laws apply with regard to the rules on the majorities required in any voting. Any decision requires a majority in both the BVR management board and BVR administrative board.
- [2] The following applies for decisions on funding measures for institutes that are not members of the Protection Scheme, the purpose of which is to prevent any adverse impact on confidence in cooperative banks:  
The BVR management board and administrative board will hold joint deliberations regarding the type and scope of funding measures and will reach their decision in separate votes. Otherwise, the provisions in subsection 1c sentences 2 to 6 apply mutatis mutandis.

**§ 23**  
**Entry into the agreement on funding measures**

- [1] The BVR and the institute enter into an agreement on funding measures. The agreement defines, in particular, the funding requirement, the type and scope of funding measures, and the conditions attached to the funding measures.
- [2] The provisions in no. 16 of the procedural rules govern the signing of the agreement on funding measures by the institute.

## § 24 Ongoing monitoring

The implementation and processing of the agreement on funding measures is subject to ongoing monitoring (see also no. 17 of the procedural rules). In the case of the local credit cooperatives, the relevant auditing association and the BVR carry out this ongoing monitoring. The relevant auditing association reports its findings to the BVR. In the case of the other institutes, the ongoing monitoring is carried out by the BVR.

### 2. Restructuring measures to re-establish the fundamental profitability of the business

## § 25 Obligation of the institutes to prepare a restructuring plan

- [1] a) If funding measures are implemented for an institute as specified in section 17, the institute must prepare a restructuring plan in accordance with subsection 2.  
b) The BVR is entitled to be involved in the preparation of the restructuring plan in an advisory capacity.
- [2] a) The restructuring plan must comprise an analysis of the current situation (so-called 'status quo-analysis') as well as the restructuring plan itself.  
b) The analysis of the current situation must specifically include a description of the following:
  - The causes of the adverse trend in the institute;
  - Any responsibility for the need for the restructuring;
  - Current position of the institute.c) The restructuring plan itself must specifically include a description of the following:
  - A strategic and operational plan, including business and profit planning for the entire institute;
  - A comprehensive and binding action plan;
  - A schedule for the introduction and completion of restructuring measures.
- [3] A local credit cooperative must submit the analysis of the current situation and the restructuring plan to the relevant auditing association and the BVR for verification; the auditing association will send an opinion on the analysis of the current situation and on the restructuring plan to the BVR. The other institutes must submit the analysis of the current situation and the restructuring plan to the BVR for verification.

- [4] The restructuring plan requires the consent of the BVR.
- [5] The institute is obligated to implement the restructuring plan.

## § 26 Ongoing monitoring of the restructuring plan

- [1] The implementation and outcomes of the restructuring plan must be subject to ongoing financial control.
- [2] As part of the ongoing financial control, the institute must prepare quarterly financial control reports, specifically addressing the implementation and outcomes of the restructuring plan.
- [3] The ongoing monitoring of the implementation of the restructuring plan is carried out, in particular, on the basis of an analysis of the financial control reports. In the case of the local credit cooperatives, the analysis of the financial control reports is carried out by the relevant auditing association and by the BVR; the auditing association informs the BVR of the results of its analysis of the financial control reports. In the case of the other institutes, the analysis of the financial control reports is carried out by the BVR.

## § 27 Adjustments to the restructuring plan

- [1] If it becomes apparent during the course of the ongoing monitoring in accordance with section 26 that the restructuring plan needs to be updated, the institute must carry out the adjustments if requested to do so by the BVR.
- [2] A local credit cooperative must submit the updates to the relevant auditing association and the BVR for verification; the auditing association will send an opinion on the adjustments to the BVR. The other institutes must submit the updates to the BVR for verification.
- [3] The adjustments require the consent of the BVR.
- [4] The institutes must implement the updates.
- [5] Section 26 applies mutatis mutandis for the monitoring of the implementation and outcomes of the adjustments.

## VI. Organization of the Protection Scheme

### § 28 Management

The BVR management board is responsible for the management of the Protection Scheme and the performance of other functions assigned to the board in connection with the Protection Scheme.

### § 29 Monitoring of management

- [1] The BVR administrative board monitors the management of the Protection Scheme by the BVR management board.
- [2] The BVR management board must report to the administrative board on all matters concerning the Protection Scheme, in particular:
- a) The proposals of the management board for the levying of contributions to the guarantee fund;
  - b) The development of the guarantee fund and the guarantee network;
  - c) Action taken by the auditing associations pursuant to section 13 and/or by the BVR pursuant to section 12;
  - d) Any business scenarios in institutes as defined in section 6 (3);
  - e) The activities of the committees in accordance with sections 30 and 31;
  - f) Progress in the restructuring of banks;
  - g) Requests for information from, and auditing by, BaFin (German Federal Financial Supervisory Authority) in respect of the Protection Scheme pursuant to section 12 (2) sentence 1 in conjunction with section 7 (3) sentence 4 German Deposit Guarantee and Investor Compensation Act;
  - h) Reviews by BaFin pursuant to section 10c (2) sentence 1 no. 12 KWG.
- [3] In addition, the administrative board may at any time request from the management board a report on all Protection Scheme matters and the submission of documents relating to Protection Scheme matters.

- [4] In the situations specified in sections 22 (1) c and 22 (2), the administrative board monitors the management of the Protection Scheme by means of pre-emptive control.
- [5] The administrative board audits the annual financial statement of the Protection Scheme and the annual report on the activities and financial position of the Protection Scheme.

### § 30 Central committee of the BVR Protection Scheme

- [1] The central committee of the BVR Protection Scheme comprises:
- Six representatives from local credit cooperatives;
  - Two representatives from auditing associations;
  - One representative from DZ BANK and one representative from WGZ BANK;
  - One representative from the BVR.
- [2] The six representatives of the local credit cooperatives and their deputies are selected by the BVR administrative board from the representatives of the local credit cooperatives on the regional restructuring committees. The representatives of the auditing associations and their deputies are nominated by the auditing associations from the group of persons also nominated by the auditing associations for the regional restructuring committees. DZ BANK and WGZ BANK nominate their representatives and deputies from the group of persons already nominated for the regional restructuring committees. The BVR management board nominates the BVR representative and the deputy. A deputy is only entitled to attend meetings if the representative is prevented from attending. Members of the BVR administrative board cannot also be members of the central committee of the BVR Protection Scheme.
- [3] Representatives are appointed for a term of three years. A representative of a local credit cooperative, auditing association, DZ BANK or WGZ BANK must stand down before the end of this period if his/her term of appointment to a regional restructuring committee is ended prematurely; an appointment is terminated before the end of a term, in particular, if the criteria in subsection 2 sentence 6 are met. The term of appointment of the BVR representative is ended prematurely if he/she is no longer responsible for the activity that was a key factor in the appointment.

[4] The central committee of the BVR Protection Scheme is specifically responsible for the following.

- a) Matters of fundamental importance for the Protection Scheme, in particular:
- aa) Monitoring of the financial performance of the Protection Scheme and preparation of related proposals;
  - ab) Advice on basic principles for the investment of guarantee fund resources;
  - ac) Opinion on the development of guidelines and recommendations in accordance with section 6 (1) no. 3;
  - ad) Opinion on the refinement of the classification system and classification procedure as specified in section 3a as well as no. 1b of the procedural rules;
  - ae) Discussions on fundamental issues regarding restructuring plans in accordance with sections 14 and 15;
  - af) Discussions on fundamental issues regarding restructuring plans and the implementation of restructuring;
  - ag) Consent for the admission of non-deposit institutes into the Protection Scheme, opinion on the admission of other institutes into the Protection Scheme;
  - ah) Consent to the expulsion of an institute from the Protection Scheme in accordance with section 33 (3);
  - ai) Consent to the basic contribution as specified in section 4 (3);
  - aj) Consent to the contributions and initial membership fees as specified in section 4 (9).
- b) Submission of proposals for:
- Funding measures (section 1 (2), section 17) with a value in excess of €25 million per funding event and associated conditions (section 19) for local credit cooperatives;
  - Funding measures (section 1 (2), section 17) for the other institutes and associated conditions (section 19);
  - Funding measures for institutes that are not members of the Protection Scheme, the purpose of which is to prevent any adverse impact on confidence in cooperative institutes,

- c) Obtaining a statement from the relevant regional restructuring committee when the central committee is discussing funding measures for a local credit cooperative whose registered office is located in the area covered by the regional restructuring committee concerned;
- d) Receiving information from the BVR regarding Protection Scheme matters, in particular relating to:
  - da) The classification of institutes in accordance with section 3a (1) and no. 1b of the procedural rules;
  - db) Business development in institutes in which action has become necessary in accordance with sections 12 to 16;
  - dc) BVR decisions in which the BVR has deviated on a material issue from the funding proposals submitted by a regional restructuring committee;
  - dd) Progress in the restructuring of banks.

[5] The BVR chairs the central committee of the Protection Scheme.

[6] The central committee of the Protection Scheme has a quorum if at least three quarters of its members are present. Decisions by the central committee require a majority of at least three quarters of the votes cast. Representatives of auditing associations and the chairperson of a regional restructuring committee who may participate in meetings of the central committee of the Protection Scheme in an advisory capacity in accordance with subsection 8 do not have any voting rights. Section 31 (8) sentence 4 applies mutatis mutandis.

[7] The central committee of the Protection Scheme is convened by the BVR.

[8] If an auditing association is not represented on the central committee of the Protection Scheme by one of the members of its management board, one of the members of its management board has the right to attend meetings of the committee in an advisory capacity if such meetings are discussing funding measures for local credit cooperatives that belong to the auditing association concerned. If a regional restructuring committee is not represented on the central committee of the Protection Scheme by its own representative from a local credit cooperative, the chairperson of the regional restructuring committee has the right to attend meetings of the central committee in an advisory capacity if such meetings are discussing funding measures for local credit cooperatives whose registered office is located in the area covered by the regional restructuring committee concerned.

[9] The outcomes of discussions and votes at the meetings of the central committee of the Protection Scheme must be minuted by the BVR. The BVR sends the minutes to the members of the committee.

## § 31

### BVR regional restructuring committees

- [1] One restructuring committee is set up for each of the areas covered by the regional auditing associations. The other auditing associations may each set up a restructuring committee, where required; in the case of the latter, subsections 2 to 9 apply mutatis mutandis. An auditing association may set up a joint restructuring committee with one or more other auditing associations; in this case, subsections 2 to 9 apply mutatis mutandis.
- [2] Each restructuring committee comprises a maximum of eight members:
- At least four representatives from local credit cooperatives;
  - One representative from the relevant auditing association;
  - One representative from DZ BANK or WGZ BANK, as appropriate.
- [3] The representatives of the local credit cooperatives and their deputies are nominated by the relevant committees of the auditing associations. The representatives of the local credit cooperatives and their deputies must be full-time members of a management board of a local credit cooperative. The representatives of the auditing associations and their deputies are nominated by the auditing associations. The representatives of the auditing associations and their deputies must be members of a management board of an auditing association. The representatives of DZ BANK/WGZ BANK and their deputies are nominated by DZ BANK or WGZ BANK. They must be members of the board of managing directors of DZ BANK or WGZ BANK. A deputy is only entitled to attend meetings if the representative is prevented from attending. Members of the BVR administrative board cannot also be members of a regional restructuring committee.
- [4] Representatives are appointed for a term of three years. The appointment of a representative is terminated before the end of this period if he/she is no longer responsible for the activity that was a key factor in the appointment. The appointment of a representative is also ended before the term has been completed if the criteria in subsection 3 sentence 8 are met. In addition, the appointment of a local credit cooperative representative is ended before the term has been completed if the local credit cooperative in which the representative is a member of the management board requires the support of the guarantee fund or the guarantee network.
- [5] The BVR has the right to participate in meetings of the restructuring committees in an advisory capacity.
- [6] The restructuring committees are specifically responsible for the following:
- a) The submission of proposals for funding measures (section 1 (2), section 17) with a value up to €25 million per funding event and associated conditions (section 19) for local credit cooperatives whose registered office is located in the area for which the restructuring committee concerned is responsible;
  - b) The submission of opinions to the central committee of the Protection Scheme if the central committee is discussing funding measures for local credit cooperatives whose registered office is located in the area covered by the regional restructuring committee concerned;
  - c) The receipt of information from the relevant auditing association or from the BVR regarding developments in the local credit cooperatives, for which funding measures have been discussed in the relevant regional restructuring committee and/or in the central committee of the Protection Scheme;
  - d) The receipt of information from the BVR regarding the imposition of personnel and/or material conditions on institutes in accordance with section 16.
- [7] Restructuring committees each elect a chairperson and a deputy. The chairperson is elected from the group of representatives of the local credit cooperatives. The deputy is elected from among all the representatives on the committee.
- [8] Restructuring committees have a quorum if more than half of the members of the committee are present. Decisions by restructuring committees require a simple majority of votes cast. The representatives of the auditing associations do not have any voting rights. If a local credit cooperative for which funding measures are being discussed is merged with another local credit cooperative that is represented on the restructuring committee by a member of its management board, this member of the restructuring committee shall not have any right to vote on the funding proposal for the local credit cooperative concerned.
- [9] The restructuring committees are convened by the relevant auditing associations. The outcomes of the deliberations and voting in the meetings of the restructuring committees must be minuted. The minutes are prepared by the relevant auditing associations; the auditing associations appoint the persons responsible for taking the minutes. The relevant auditing associations distribute the minutes to the members of the relevant restructuring committee and to the BVR.

## VII. General provisions

### § 32

#### Reasons for withdrawing from the Protection Scheme

An institute must withdraw from the Protection Scheme:

- a) if it ceases to be a member of the BVR;
- b) if it is expelled from the Protection Scheme (section 33);
- c) if it terminates its membership of the Protection Scheme (section 34).

### § 33

#### Expulsion from the Protection Scheme

- [1] An institute may be expelled from the Protection Scheme if it is substantially in breach of its obligations under the Protection Scheme. An institute is deemed to be substantially in breach of an obligation, in particular, if it
- a) allows a business scenario to arise as defined in section 6 (3);
  - b) fails to submit guarantee bonds in accordance with section 5 (1) or authorizations in accordance with section 9 (1) on request;
  - c) fails to include the clause specified in section 9 (2) in its general terms and conditions and/or fails to base its business relationships with its customers on this clause;
  - d) fails to comply with the relevant obligations in connection with audits as specified in section 7 or the relevant obligations as specified in sections 14 to 16;
  - e) fails to comply with the obligation to prepare a restructuring plan as specified by section 25;
  - f) fails to comply without delay with the conditions imposed by the BVR in accordance with section 19;
  - g) fails to provide the data necessary for classification as specified in section 3a despite a request from the BVR;
  - h) with regard to the Protection Scheme, culpably provides incomplete or inaccurate information to the BVR or to the relevant auditing association or to the independent auditors or to the auditor acting on the basis of the KWG or the BVR Protection Scheme Statute;

- i) fails to support the relevant auditing association or the independent auditors or the auditor acting on the basis of the KWG or BVR Protection Scheme Statute in their auditing activities;
- j) is more than two months in arrears with a payment obligation to the guarantee fund after having received a written reminder from the BVR.

- [2] The BVR must give the institute six months' notice of the intended expulsion. At the end of this period, the institute can be expelled from the Protection Scheme if the institute has failed to remedy the breach of its obligations that gave rise to the threat of expulsion.
- [3] Expulsion of an institute from the Protection Scheme is decided by the BVR management board subject to the prior consent of the central committee of the BVR Protection Scheme. Decisions by the central committee of the BVR Protection Scheme require a majority of at least three quarters of the votes cast. At the request of the local credit cooperative to be expelled, any such deliberations by the central committee of the BVR Protection Scheme must not involve the representative of a local credit cooperative belonging to the same auditing association as the local credit cooperative to be expelled and/or the representative of this auditing association if he/she is a member of the central committee of the BVR Protection Scheme.
- [4] Before any decision is taken as specified in subsection 3, the BVR management board must - if the case involves a local credit cooperative - seek the opinion of the relevant auditing association and must provide an opportunity for the local credit cooperative concerned or - if the case does not involve a local credit cooperative - the institute concerned to state its response to the intended expulsion. The BVR management board must provide advance written notification of the facts on which the intended expulsion is based together with the reason for the intended expulsion (subsection 1).
- [5] The facts on which the intended expulsion is based, the reason for the intended expulsion (subsection 1), the outcome of the opinion sought from the relevant auditing association, and the response of the institute concerned must be reported in writing by the BVR management board to the central committee of the BVR Protection Scheme before the committee decides whether to consent to the expulsion in accordance with subsection 3.
- [6] The decision of the BVR management board regarding the expulsion of an institute from the Protection Scheme must include the facts on which the expulsion is based together with the reason for the expulsion (subsection 1).
- [7] The decision of the BVR management board regarding the expulsion from the Protection Scheme must be delivered to the institute concerned by registered letter with advice of receipt.

[8] The decision of the BVR management board regarding the expulsion from the Protection Scheme will come into effect one month after the notification is received by the institute.

[9] Within one month of receipt of the decision, the institute can appeal to the BVR Association council against the decision taken by the BVR management board. The appeal letter must be received by the BVR within the aforementioned period. The appeal to the BVR Association council will defer the effective date of the decision. Members of the central committee of the BVR Protection Scheme who are also members of the BVR Association council must not be involved in the decision of the BVR Association council on this matter. Likewise, at the request of a local credit cooperative to be expelled, the representatives of local credit cooperatives belonging to the same auditing association as the local credit cooperative to be expelled and/or the representative of the auditing association concerned must be excluded from this decision-making process. The decision of the BVR Association council must be delivered to the institute by registered letter with advice of receipt. The decision of the BVR Association council will come into effect one month after receipt of the notification by the institute.

The institute can request a review of the decision of the BVR Association council by the general meeting of members of the BVR. The appeal to the general meeting of members of the BVR must be made by registered letter with advice of receipt and the appeal must be received by the BVR within one month of the institute's receipt of the decision of the BVR Association council. The appeal to the general meeting of members of the BVR will defer the effective date of the decision. The institute concerned will not be excluded if the general meeting of members of the BVR votes against the exclusion with a majority of two thirds of the votes cast. The decision of the general meeting of members of the BVR will come into effect one month after receipt of the notification by the institute. The decision of the general meeting of members of the BVR is final. Recourse to legal action is not excluded.

#### § 34

##### Termination of membership of the Protection Scheme by an institute

An institute may terminate its membership of the Protection Scheme at the end of a calendar year subject to two years' notice submitted in writing to the BVR. The notice of termination must be delivered by registered letter with advice of receipt.

#### § 35

##### Consequences of withdrawal from the Protection Scheme

- [1] The BVR will announce the withdrawal of an institute from the Protection Scheme in the German Federal Gazette and in one or more daily newspapers in the area where the registered office of the institute is located. In association with this announcement, the BVR may inform the customers of the institute of their rights in any manner that the BVR considers to be appropriate.
- [2] If an institute withdraws from the Protection Scheme, the institute must inform the customers concerned of this withdrawal in writing without delay and point out that, in future, the scope of protection will be based on the provisions in subsection 3. This also applies mutatis mutandis for liabilities to fund management companies.
- [3] Customer deposits in institutes that have withdrawn from the Protection Scheme, bonds in accordance with section 1 (3)a issued by institutes that have withdrawn from the Protection Scheme, litigation guarantees from institutes that have withdrawn from the Protection Scheme, liabilities of institutes that have withdrawn from the Protection Scheme to fund management companies, insofar as these liabilities relate to parts of the fund assets, and liabilities of institutes that have withdrawn from the Protection Scheme to customers arising from securities business in accordance with section 3 (2) are protected if such deposits, bonds, guarantees, and liabilities had been made, issued or incurred prior to the announcement as specified in subsection 1 or are made, issued or incurred within one month of the announcement as specified in subsection 1. Liabilities that are incurred or extended later than one month after the announcement as specified in subsection 1 or that the customer, after this date, does not terminate at the next possible date or does not reclaim without delay on the due date are not protected.
- [4] In the case of institutes that withdraw from the Protection Scheme for the reasons specified in sections 32a and 32b, the payment obligations specified in section 4 continue to remain in force for the current financial year at the point at which the withdrawal comes into effect. This also applies mutatis mutandis for any guarantee obligations assumed by the institutes concerned. In the case of institutes withdrawing from the Protection Scheme by the submission of the appropriate notice (section 32 c), any payment obligations in accordance with section 4 justified before the end of the period of their membership will remain in force. This also applies mutatis mutandis for any guarantee obligations assumed by the institutes concerned. The rights of the Protection Scheme to information and auditing in respect of the institutes concerned will continue to apply as long as the Protection Scheme continues to protect the liabilities of the institutes withdrawing from the scheme. As long as their liabilities continue to be protected, the institutes withdrawing from the scheme must, for each financial year after withdrawal, pay into the guarantee fund a fee of 0.03 percent of the liabilities that remain protected, the fee to be paid no later than June 30 each year.

- [5] An institute that withdraws from the Protection Scheme simultaneously ceases to be a member of the BVR.
- [6] An institute that withdraws from the Protection Scheme is no longer permitted to use the logo of the cooperative banking group, similar signs or symbols or signs or symbols that might be mistaken for the logo of the cooperative banks; it is also no longer permitted to advertise that it is a member of the Cooperative Financial Services Network.

**§ 36**  
**Exclusion of legal claims by the institutes**

The institutes do not have any legal claim to assistance from the Protection Scheme or to the assets of the Protection Scheme.

**§ 37**  
**Confidentiality obligation**

- [1] The members of the decision-making bodies of the BVR and the committees as specified by sections 30 and 31, the members of the decision-making bodies and committees of the auditing associations, and the members of the decision-making bodies of DZ BANK and WGZ BANK must maintain the confidentiality of all information/activities which they become aware in connection with the Protection Scheme. Accordingly, they may not, without authorization, disclose or utilize the information of which they become aware. This also continues to apply when they cease to be members of the decision-making bodies and committees specified in sentence 1. This obligation also applies to the employees of the BVR, auditing associations, DZ BANK and WGZ BANK.
- [2] In the case of no. 1b c sentences 2, 3 of the procedural rules, the BVR must ensure that the confidentiality obligations in accordance with subsection 1 are enforced for the subsidiaries concerned by means of contractual agreements.
- [3] Subsections 1 and 2 specifically do not apply to notifications made to BaFin and Deutsche Bundesbank using due discretion and judgment.

**§ 38**  
**Procedural rules**

The procedural rules form an integral part of these statutes.

**§ 39**  
**Auditing of the Protections Scheme**

- [1] The BVR prepares annual financial statements and an annual report on the activities and financial position of the Protection Scheme. It forwards these documents to BaFin, Deutsche Bundesbank, the auditing associations and the BVR administrative board by May 31 each year.
- [2] The general meeting of members of the BVR elects independent auditors in accordance with section 28 (2)d of the BVR by-laws and the BVR instructs these auditors to carry out an audit of the annual financial statements and the annual report.
- [3] The BVR sends the auditors' report to the auditing associations and the BVR administrative board.

**§ 40**  
**Forwarding of documents to third parties**

- [1] The BVR may also forward the annual financial statements and the annual report on the activities and financial position of the Protection Scheme to third parties if this is in the interests of the cooperative banking group and the Protection Scheme.
- [2] If the BVR forwards documents as specified in subsection 1, the BVR must ensure that the confidentiality obligations specified in section 37 (1) are also applied in respect of the third parties concerned by means of contractual agreements.

**§ 41**  
**Winding-up**

The general meeting of members of the BVR is responsible for any decision on whether there is any further need for the Protection Scheme and on the procedure for winding up the scheme if it is deemed to be no longer required.

**§ 42**  
**Amendments to the statutes**

The general meeting of members of the BVR is responsible for any decision on amendments to these statutes or the procedural rules.

## Procedural Rules for the Statute of the Protection Scheme

(as amended January 1, 2010)

### 1. Re section 1 (3) a (Protection provided by the Protection Scheme)

Section 1 (3)a refers to balance sheet items specified in the procedural rules. These items are as follows:

- a) „Liabilities due to customers“,
- b) „Securitized liabilities“ (held by non-banks),
- c) „Liabilities under guarantees...“ (if these include litigation guarantees).

### 1a. Re section 2 (2) (Management of guarantee fund resources)

- a) Guarantee fund resources must be invested with a view to risk diversification such that they combine the greatest possible security and adequate liquidity with an appropriate level of returns.
- b) The BVR adds the full amount of any income from the investment of guarantee fund resources and any income or inflow of funds from use of the guarantee fund resources back into the guarantee fund.

### 1b. Re section 3a (1) sentence 2 (Classification principles)

- a) aa) The local credit cooperatives are classified on the basis of key figures relating to net assets, results of operations, and risk position. The relevant individual criteria and their weighting must be defined in the classification system for the classification procedure.
- ab) The general meeting of members of the BVR is responsible for deciding on the classification system for the classification procedure after an opinion has been expressed by the central committee of the BVR Protection Scheme.
- b) The local credit cooperatives are classified annually.
- c) The BVR carries out the classification procedure. The BVR is permitted to use the services of its subsidiaries for carrying out this task. If the BVR uses the services of a subsidiary for carrying out the classification procedure, it is authorized to provide the subsidiary, upon request, with all the data and information necessary to do the work.

d) The institutes are allocated to one of the following classes:

- Class A++,
- Class A+,
- Class A,
- Class A-,
- Class B+,
- Class B,
- Class B-,
- Class C or
- Class D

The criteria used for allocating the institutes to the individual classes must be defined in the classification system for the classification procedure.

e) The classification of a local credit cooperative and the relevant special conditions as specified in nos. 2a to 2d are notified exclusively to the management of the local credit cooperative concerned, the BVR management board, the central committee of the BVR Protection Scheme, the management board of the relevant auditing association, the board of managing directors of either DZ BANK or WGZ BANK as appropriate, the relevant BVR regional restructuring committee, and to the BVR administrative board..

The classification of a local credit cooperative and the relevant special conditions as specified in nos. 2a to 2d must be treated by all the parties involved as strictly confidential. Specifically, the local credit cooperatives involved are not permitted to disclose the classification in the course of their business or refer to it in any advertising. The BVR is authorized to disclose the classification of a local credit cooperative and the relevant special conditions as specified in nos. 2a to 2d to the German Financial Supervisory Authority (BaFin).

f) The local credit cooperative concerned may appeal to a court of arbitration against its classification in one of the classes A+ to D. The court of arbitration must determine whether, in this specific case, the classification has been performed in accordance with the specified classification system.

The local credit cooperative concerned and the BVR must each nominate one arbitrator. The chairperson of the court of arbitration is a representative of the auditing firm elected by the general meeting of members of the BVR in accordance with section 28 (2) d of the BVR by-laws.

The decision of the court of arbitration is notified to the local credit cooperative concerned by registered letter with advice of receipt.

The local credit cooperative concerned is permitted to appeal to the ordinary courts against a decision of the court of arbitration that is not in its favour; this appeal must be lodged within a period of one month after the decision of the court of arbitration is received.

The relevant court is the court responsible for the area in which the registered office of the BVR is located. Any appeal to the court of arbitration and the ordinary courts does not have the effect of deferring the obligation to pay the relevant contribution to the guarantee fund including any surcharge on the annual contribution to the guarantee fund. However, if the amount that is paid into the guarantee fund is too high, the excess amount is refunded if the court of arbitration or an ordinary court comes to the conclusion in a legally binding judgement that the classification was not appropriate. The same also applies if, in court proceedings, the classification is changed in favour of the local credit cooperative concerned as part of a settlement.

## **2. Re sections 4 (1) a, 4 (1) c, 4 (2) (Assessment basis for contributions to the guarantee fund)**

The institutes must notify their assessment basis to the BVR no later than July 31 each year. The institutes instruct their independent auditors to verify these assessment bases.

### **2a. Re section 4 (6) b (Special provisions for contributions from institutes undergoing restructuring)**

- a) The definition of a 'institute undergoing restructuring' is a institute that is currently in the period between the end of the day on which the support of the guarantee fund and/or the guarantee network became necessary and the date on which the agreement between the institute and the BVR on funding measures is finally wound up.
- b) In the period between the end of the day on which the support of the guarantee fund and/or the guarantee network became necessary and the date on which the agreement between the institute and the BVR on funding measures is finally wound up, the local credit cooperative concerned does not pay any surcharges on the relevant annual contribution to the guarantee fund, subject to a maximum period of five contribution years from the end of the day on which the support of the guarantee fund and/or the guarantee network became necessary. This maximum period also applies if this local credit cooperative undergoes subsequent restructuring.

**2b. Re section 4 (6) b**  
**(Special provisions for contributions in the event of a merger between a local credit cooperative and an institute undergoing restructuring as defined in no. 2a a)**

For a period of six contribution years after the merger, the merged local credit cooperative

- pays 80 percent of the relevant annual contribution to the guarantee fund if, prior to the merger, at least one of the local credit cooperatives was classified under class A++;
- does not pay a contribution to the guarantee fund higher than 90 percent of the relevant annual contribution to the guarantee fund if, prior to the merger, at least one of the local credit cooperatives was classified under class A+ or class A;
- does not pay any surcharges on the relevant annual contribution to the guarantee fund if, prior to the merger, at least one of the local credit cooperatives was classified under class A-, class B+ or class B;
- does not pay a surcharge of more than 10 percent on the relevant annual contribution to the guarantee fund if, prior to the merger, at least one of the local credit cooperatives was classified under class B-;
- does not pay a surcharge of more than 20 percent on the relevant annual contribution to the guarantee fund if, prior to the merger, at least one of the local credit cooperatives was classified under class C.

The period of six contribution years after the merger also applies if the merged local credit cooperative undergoes subsequent restructuring.

**2c. Re section 4 (6) b**  
**(Special provisions for contributions in the event of a merger between local credit cooperatives)**

For a period of four contribution years after the merger, the merged local credit cooperative

- pays 80 percent of the relevant annual contribution to the guarantee fund if, prior to the merger, at least one of the local credit cooperatives was classified under class A++;
- does not pay a contribution to the guarantee fund higher than 90 percent of the relevant annual contribution to the guarantee fund if, prior to the merger, at least one of the local credit cooperatives was classified under class A+ or class A;
- does not pay any surcharges on the relevant annual contribution to the guarantee fund if, prior to the merger, at least one of the local credit cooperatives was classified under class A-, class B+ or class B;

- does not pay a surcharge of more than 10 percent on the relevant annual contribution to the guarantee fund if, prior to the merger, at least one of the local credit cooperatives was classified under class B-;
- does not pay a surcharge of more than 20 percent on the relevant annual contribution to the guarantee fund if, prior to the merger, at least one of the local credit cooperatives was classified under class C.

**2d. Re section 4 (6) b**  
**(Special provisions for contributions from local credit cooperatives in the event of a change to the classification system)**

If the classification system is amended, the amount of the contributions to the guarantee fund to be paid by the local credit cooperatives for a period of two contribution years after the amended classification system comes into effect is determined on the basis of the lower of the contribution amount in accordance with their class under the previous classification system and the contribution amount in accordance with their class under the amended classification system (see no. 1b d and section 4 (6)a).

**3. Re section 5**  
**(Guarantee bonds for the guarantee network)**

- a) The institutes specified in section 4 (1) must lodge the following guarantee bond: In accordance with section 5 (1) of the Statute of the Protection Scheme (SPS) we hereby provide the BVR with a guarantee obligation, taking into account section 4 (1)c SPS, equivalent to eight times the basic levy rate applicable to us in accordance with section 4 (4)a ab SPS or ten times the basic levy rate applicable to us in accordance with section 4 (4)a aa SPS. We undertake to release the BVR from guarantee or surety obligations assumed by the BVR with funding from the guarantee volume in accordance with section 17 (3) SPS and no. 13 a to c of the procedural rules for the SPS by payments to the BVR in accordance with no. 13 d of the procedural rules for the SPS if and insofar as funding for a claim under the guarantees or sureties becomes necessary.
- b) The institutes specified in section 4 (2) must lodge the following guarantee bond: In accordance with section 5 (1) of the Statute of the Protection Scheme (SPS) we hereby provide the BVR with a guarantee obligation, taking into account section 4 (2) sentence 3 SPS, equivalent to ten times the basic levy rate applicable to us in accordance with section 4 (4)b SPS or section 4 (4)a aa SPS. We undertake to release the BVR from guarantee or surety obligations assumed by the BVR with funding from the guarantee volume in accordance with section 17 (3) SPS and no. 13 a to c of the procedural rules for the SPS by payments to the BVR in accordance with no. 13 d of the procedural rules for the SPS if and insofar as funding for a claim under the guarantees or sureties becomes necessary.

- c) The institutes specified in section 4 (3) must lodge the following guarantee bond: In accordance with section 5 (1) of the Statute of the Protection Scheme (SPS) we hereby provide the BVR with a guarantee obligation equivalent to ten times the basic contribution in accordance with section 4 (3) SPS. We undertake to release the BVR from guarantee or surety obligations assumed by the BVR with funding from the guarantee volume in accordance with section 17 (3) SPS and no. 13 a to c of the procedural rules for the SPS by payments to the BVR in accordance with no. 13 d of the procedural rules for the SPS if and insofar as funding for a claim under the guarantees or sureties becomes necessary.

**4. Re section 6 (2)  
(Business that is consistent with the purpose  
of the Protection Scheme)**

It is not intended in any way to restrict the normal cooperative banking business of local credit cooperatives, which is primarily focused on traditional local business, i.e. areas of business determined by the location of the registered office and branches of a local credit cooperative. In addition to this primary focus of business activities, it is possible for these local credit cooperatives to conduct, beyond this geographical area, other business relationships that may be considered to be reasonable from an objective viewpoint. There is therefore no intention to have any effect on this kind of business relationship, e.g. with locals who move to another area or in areas close to the border, or on the dynamic growth of a local credit cooperative on a sound basis. Normal money market trading and guarantee business is also not to be restricted.

**5. Re section 6 (3)  
(Business scenarios that are not consistent with  
the purpose of the Protection Scheme)**

If, in particular, a business scenario arises as defined in section 6 (3), the supervisory board of the institute must carry out a review to establish whether and to what extent the emergence of this business scenario is attributable to a breach of the duty of care under company law by the executive body of the institute. For this purpose, and in consultation with the BVR, the supervisory board may engage the services of an expert at the expense of the institute. If the review establishes that the executive body of the institute has breached its duty of care under company law, the supervisory board is under an obligation, in accordance with its own duty of care under company law, to take appropriate action against the members of the executive body responsible for the situation or to encourage such action to be taken.

**6. Re sections 6 (4), section 7 (2), section 9 (6)  
(Subsidiaries)**

The definition of the term ‚subsidiaries‘ within the meaning of the Statute of the Protection Scheme is the same as the definition of the term ‚affiliated companies‘ as specified by section 15 German Stock Corporation Act (AktG).

**7. Re section 9 (1)  
(Authorizations)**

- a) We hereby authorize the German Financial Supervisory Authority (BaFin) to notify the BVR of any matter that might be significant for the BVR in its capacity as the controlling body of the Protection Scheme. At the same time, we authorize the BVR to obtain from BaFin all information relevant to the BVR in its capacity as the controlling body of the Protection Scheme and to notify BaFin of all events that come to the attention of the BVR in its capacity as the controlling body of the Protection Scheme.
- b) We hereby authorize Deutsche Bundesbank to notify the BVR of any matter that might be significant for the BVR in its capacity as the controlling body of the Protection Scheme. At the same time, we authorize the BVR to obtain from Deutsche Bundesbank all information relevant to the BVR in its capacity as the controlling body of the Protection Scheme and to notify Deutsche Bundesbank of all events that come to the attention of the BVR in its capacity as the controlling body of the Protection Scheme.
- c) We hereby authorize the auditor acting on the basis of the German Banking Act (KWG) or the Statute of the Protection Scheme to notify the BVR of any matter that might be significant for the BVR in its capacity as the controlling body of the Protection Scheme. At the same time, we authorize the BVR to obtain from this auditor all information relevant to the BVR in its capacity as the controlling body of the Protection Scheme and to notify this auditor of all events that come to the attention of the BVR in its capacity as the controlling body of the Protection Scheme.
- d) We hereby authorize DZ BANK, responsible for us as our central institution, to notify the BVR of any matter that might be significant for the BVR in its capacity as the controlling body of the Protection Scheme. At the same time, we authorize the BVR to obtain from DZ BANK all information relevant to the BVR in its capacity as the controlling body of the Protection Scheme and to notify DZ BANK of all events - excluding personal customer data - that come to the attention of the BVR in its capacity as the controlling body of the Protection Scheme.

- e) We hereby authorize WGZ BANK, which is responsible for us, to notify the BVR of any matter that might be significant for the BVR in its capacity as the controlling body of the Protection Scheme. At the same time, we authorize the BVR to obtain from WGZ BANK all information relevant to the BVR in its capacity as the controlling body of the Protection Scheme and to notify WGZ BANK of all events - excluding personal customer data - that come to the attention of the BVR in its capacity as the controlling body of the Protection Scheme.
- f) We hereby authorize the auditing association responsible for us to notify the BVR of any matter that might be significant for the BVR in its capacity as the controlling body of the Protection Scheme. At the same time, we authorize the BVR to obtain from this auditing association all information relevant to the BVR in its capacity as the controlling body of the Protection Scheme and to notify this auditing association of all events that come to the attention of the BVR in its capacity as the controlling body of the Protection Scheme.
- g) We hereby authorize our independent auditors to notify the BVR of any matter that might be significant for the BVR in its capacity as the controlling body of the Protection Scheme. At the same time, we authorize the BVR to obtain from our independent auditors all information relevant to the BVR in its capacity as the controlling body of the Protection Scheme and to notify our independent auditors of all events that come to the attention of the BVR in its capacity as the controlling body of the Protection Scheme.
- h) We hereby authorize the data centre responsible for us to notify the BVR of any matter that might be significant for the BVR in its capacity as the controlling body of the Protection Scheme. At the same time, we authorize the BVR to obtain from this data centre all information relevant to the BVR in its capacity as the controlling body of the Protection Scheme.
- i) The BVR and the relevant auditing association will contact the institute concerned without delay if one of the authorities, firms, departments, or individuals specified in section 9 (1) is dealing with an issue concerning the institute that is significant for the Protection Scheme.
- j) BVR notification to either DZ BANK or WGZ BANK, as applicable, of events that come to the attention of the BVR in its capacity as the controlling body of the Protection Scheme is restricted to information that does not constitute personal customer data.

**8. Re section 9 (8)  
(Obligations of the institutes to report investment activity)**

In the event of acquisitions or changes in long-term investments, the institutes must inform the BVR if:

- a) as a result of the change, the investment reaches, exceeds, or falls below 10 percent, 20 percent, 30 percent or 50 percent of the subscribed capital or voting rights in the company;
- b) some or all directly held shares are transferred to a subsidiary.

**9. Re section 12  
(BVR action to encourage a change in an institute's operating policy)**

The procedure for action to be taken under section 12 is that the BVR initially contacts the management board, and if necessary, the supervisory board of the institute concerned. If this does not result in a change to the institute's operating policy (that is incompatible with the principles in section 6), the BVR makes an approach to the general meeting/general assembly/shareholders' meeting.

**10. Re section 13  
(Action by the relevant auditing association to encourage a change in a local credit cooperative's operating policy)**

The procedure for action to be taken under section 13 is that the auditing association initially contacts the management board, and if necessary, the supervisory board of the local credit cooperative concerned. If this does not result in a change to the local credit cooperative's operating policy (that is incompatible with the principles in section 6), the auditing association makes an approach to the general meeting/general assembly/shareholders' meeting of the local credit cooperative as part of its rights and obligations, both statutory and under its by-laws.

**11. Re section 7, sections 12 to 16, section 21 and no. 5  
(Coordination of the activities of the BVR and the auditing associations in respect of local credit cooperatives)**

- a) In the instances specified in section 7 (1), section 7 (2), sections 12, 14, 16, 21 and no. 5, the BVR must coordinate with the relevant auditing association without delay if it intends to take action in respect of a local credit cooperative.
- b) In the instances specified in sections 13 and 15, the auditing association must coordinate with the BVR without delay regarding its intended action and inform the BVR of the conduct of the local credit cooperative.

**12. Re section 17 (2)**  
**(Funding measures financed by the guarantee fund)**

- a) In the case of a loan issued by the guarantee fund, agreement must be reached with the institute on the repayment details and - if the loan is interest-bearing - on the rate of interest.
- b) For the purposes of recapitalization, investments in institutes, in particular shares, dormant holdings or other elements of equity can be acquired if there is no better or more economic way of achieving the ultimate purpose using other funding measures. An agreement must be reached with the institute regarding the consideration to be paid by the institute and the other terms and conditions of recapitalization.

**13. Re section 17 (3)**  
**(Funding measures financed by the guarantee network)**

- a) It is possible for the BVR to take over an accounting convenience (Bilanzierungshilfe) if, after a careful evaluation of income growth, it can be predicted that the guarantee network will be released from the guarantee or surety obligation within five years.
- b) The total value of guarantees and sureties must be limited to the guarantee volume.
- c) When a guarantee or surety is taken over, the corresponding guarantee volume is tied up.
- d) The following provisions apply in the event of a claim under a guarantee or surety financed by the guarantee network:
  - da) If, contrary to expectations, there is a claim under a guarantee or surety that has been taken over and financed by the guarantee volume, the resources of the guarantee fund are first used to satisfy the claim;
  - db) If it becomes necessary to fund a claim under the transferred guarantees or sureties requiring funds in excess of the resources available from the guarantee fund, the shortfall is allocated to the institutes in proportion to their share in the guarantee network;
  - dc) If the funds used for a claim exceed 25 percent of the guarantee volume, the amounts by which 25 percent of an institute's total guarantee is exceeded are payable in three further annual installments. Of these amounts, only the last installment may be less than 25 percent of the total guarantee.
  - dd) The guarantee obligation of an individual institute decreases in line with

the amount drawn under the obligation.

**14. Re section 19 (2)**  
**(Fulfilment of conditions)**

In connection with measures and action subject to the consent of the BVR or consultation of the BVR in accordance with an agreement on funding measures entered into between the BVR and a local cooperative institute, the BVR must first obtain an opinion from the relevant auditing association.

**15. Re section 20 (2), section 20 (3)**  
**(Repayment obligations)**

The financial circumstances of the institute determine the timing and the amount of repayments.

**16. Re section 23 (2)**  
**(Signing the agreement on funding measures by the institute)**

Agreements on funding measures must be signed by the institute's management board and by all members of the institute's supervisory board; in justified exceptional cases, the chairman of the supervisory board and another member of the supervisory board may sign on behalf of all the members of the supervisory board on the basis of a resolution passed by the supervisory board.

**17. Re section 24 sentence 1**  
**(Ongoing monitoring of the implementation and processing of the agreement on funding measures)**

Ongoing monitoring must specifically include activities to establish:

- whether the institutes satisfy without delay the personnel and/or material conditions imposed by the BVR in connection with funding measures;
- whether the preconditions for the funding measures implemented for the benefit of the institutes still apply;
- the extent to which the financial circumstances of the institutes mean that they are in a position to satisfy the debtor warrant obligations, i.e. release the Protection Scheme from guarantees and sureties taken over from the institutes and/or repay amounts received;
- whether the institutes meet their debtor warrant obligations, guarantee release obligations, and repayment obligations in accordance with section 20.

### 18. Procedure in the event of funding measures for local credit cooperatives

- a) After the local credit cooperative has determined the funding requirement, a process in which the BVR can be involved, the local credit cooperative submits its application for funding measures to the relevant auditing association and to the BVR.
- b) The relevant auditing association and the BVR check the local credit cooperative's application for funding measures. The auditing association takes a view on the application for funding measures and distributes proposals for funding measures. It forwards its opinion and its proposals to the BVR.
- c) The relevant committee in accordance with sections 30 and 31 also reviews the application from the local credit cooperative on the basis of the opinion and proposals from the relevant auditing association as specified in b. This committee forms its own opinion and decides on a proposal for funding measures for the local credit cooperative concerned. It forwards its opinion and its proposal to the BVR. If a BVR regional restructuring committee is responsible for this part of the process, its opinion and proposal is forwarded to the BVR by the relevant auditing association.

### 19. Costs in connection with action taken by the Protection Scheme

- a) The following expenses must be paid by the institutes concerned:
  - Audits as specified in sections 7, 8, 14, 15, 25, 27, in no. 2 sentence 2, and in no. 18b;
  - Monitoring as specified in sections 14 to 16, and sections 24, 26, 27.
- b) From the resources of the guarantee fund, the BVR will reimburse expenses incurred by the auditing associations in connection with:
  - Notifications as specified in section 10, sections 14 to 16, sections 24 to 27, and in nos. 11, 18b, and 18c;
  - Meetings of the BVR regional restructuring committees;
  - A hearing as specified in section 33 (4) sentence 1.
- c) From the resources of the guarantee fund, the BVR will reimburse expenses incurred by the auditing associations on work carried out on behalf of the BVR in connection with the Protection Scheme.

