

§ 52 Continuing provisions of the Act concerning the Amendment and Supplement to the Ship Mortgage Bank Act

(1) If a ship mortgage is entered in the Shipping Register for a claim that is payable in a foreign currency, the sum of the claim and of any supplementary considerations or the maximum amount up to which the ship is to be liable may be stated in a foreign currency. The same applies to the entry of a ship mortgage in the Shipbuilding Register.

(2) The provisions in the adjusted version published in the Federal Law Gazette Part III, classification number 7628-2-1, and revoked by Article 4 par. 1 of the Act on the Amendment and Supplement of the Ship Mortgage Bank Act subject to the condition that inasmuch as they are still in force they shall remain applicable to rights that were entered in foreign currency before the said Act entered into force shall remain applicable unchanged in respect of the scope and field of application indicated in the proviso.

§ 53 Early appointment of the cover pool monitor

A cover pool monitor and at least one deputy may be appointed at a credit institution before July 19, 2005 at the latter's request in order that they may prepare themselves for the tasks and duties resulting from §§ 8 and 9 as from July 19, 2005. § 7 par. 2 and 3 as well as §§ 10 and 11 shall be applied. The supervisory authority shall charge a fee of 500 euros for each appointment in accordance with sent. 1 in conjunction with § 7 par. 3.

Regulation on the safeguarding at all times of the cover for Mortgage Pfandbriefe, Public Pfandbriefe and Ship Pfandbriefe according to the net present value and the calculation of same in the case of Pfandbrief Banks*

(Pfandbrief-Barwertverordnung – PfandBarwertV)

of 14 July 2005

On the basis of § 4 para. 6 of the Pfandbrief Act of May 22, 2005 (BGBl. I p. 1373) in conjunction with § 1 no. 4 of the Regulation on the Transfer of Powers to Issue Regulations to the Federal Financial Supervisory Authority of December 13, 2002 (BGBl. 2003 I p. 3), last amended by Article 11 of the Act of May 22, 2005 (BGBl. I S. 1373), The Federal Financial Supervisory Authority issues the following Regulation in agreement with the Federal Ministry of Justice after consultation with the banking industry's umbrella associations:

§ 1 Definitions

Within the meaning of this Regulation

1. „net present value“ is the sum of all cash flows discounted to the current day using prevailing market yield curves in each case, and
2. „exchange rate“ is the value of a foreign currency unit as is calculated on the basis of the current euro reference rates published daily by the European Central Bank.

When converting currencies for which no euro reference rate is published, the current mean values calculated from determinable buying and selling rates shall be used as a basis.

* Working translation submitted by the Association of German PfandbriefBanks (vdv), not officially licenced by the Federal Ministry of Finance.

§ 2 Calculation of net present value

The net present values of the Mortgage Pfandbriefe, Public Pfandbriefe and Ship Pfandbriefe (Pfandbriefe) outstanding and of the assets used to cover them shall be calculated and matched against each other separately for each class of Pfandbriefe every bank working day. The match shall be effected by deducting the net present value of a given class of Pfandbriefe outstanding from the net present value of the assets used to cover them. If the result is a negative amount, it must immediately be redressed in terms of the net present value in the form of additional cover assets.

§ 3 Calculating the current net present values

(1) When calculating the net present values only the currency-specific yield curve for swap deals may be used. In deviation from sentence 1, derivatives are to be considered at their current market price, which shall be determined by a body that is not subject to directions by trade and meets all the organizational, material and professional prerequisites in order to calculate the market price.

(2) The net present values of foreign currency positions shall be converted into euros at the current rate of exchange at any given time.

§ 4 Stress test

The Pfandbrief Bank must ensure that the net present value cover pursuant to § 4 par. 2 sentence 1 of the Pfandbrief Act is given also in the event that interest rates and exchange rates change. To this end, it must subject the portfolio on which the calculation is based pursuant to § 3 par. 1 at least once a week to a stress test in accordance with §§ 5 and 6. If the subsequent match of the amount of the value of the Pfandbriefe outstanding and of the assets used to cover them produces a net present value shortfall in coverage on the basis of the net present values calculated in the respective stress test, the highest net present value shortfall resulting from the simulations in their entirety shall immediately be added to the cover pool. The cover pool may be reduced only if the result of the stress test does not, also thereafter, indicate a net present value cover shortfall.

§ 5 Simulation of the impact of interest rate changes on the net present values

(1) In order to represent the impact of interest rate changes, the interest rate curves used to calculate the net present value are to be shifted upwards or downwards according to a static or a dynamic approach by a certain number of basis points in each case; resulting negative interest rates are to be set at zero. Subsequently, using the resulting new interest rate curves, new net present values are to be calculated for all the components of the portfolio used as a basis for the calculation pursuant to § 3 par. 1. § 6 is then to be applied to foreign currency positions.

1. The number of basis points for the static approach is 250.

2. For the dynamic approach, a number and distribution of maturities appropriate to the scope and structure of the Pfandbrief Bank's transaction shall be selected on the respective interest rate curve, whereby they must be at least six in number and comprise the maturities 1 month, 1 year, 5 years, 7 years, 10 years and 15 years. The standard deviation of the daily differences between the logarithmized interest rates is to be determined, for the interest rate of each maturity selected, on the basis of the historical observation period of the previous 250 bank working days. The standard deviation of the respective maturity is then, on the basis of a one-sided confidence level of 99 percent and a holding period of the portfolio of 6 months, to be multiplied by a factor of 2.33 and the square root of 125. The resulting values are subsequently to be multiplied by the current interest rate of the respective maturity and, thereafter, by a factor of 100. The underlying interest rate curve shall be shifted upwards or downwards with regard to the relevant maturity by the resulting number of basis points, however, no less than 100 basis points. The new interest rates obtained by this method shall be interpolated to construct the new interest rate curves.

(2) Deviating from subsection 1, a risk value may also be applied. This is to be calculated using the institution's own risk model, the suitability of which has been confirmed in writing by the Federal Financial Supervisory Authority (Federal Authority) on the basis of a review in accordance with § 44 par. 1 sentence 2 of the German Banking Act (KWG). § 32 par. 3 sentence 1 on Principle I concerning the Capital of Institutions as amended in the announcement of October 29, 1997 (Federal Gazette (BAnz.), p. 13 555), last amended by the announcement of July 20, 2000 (Federal Gazette (BAnz.), p. 17 077) subject to the following conditions:

1. For the adjustment to the requirements of the dynamic approach the selected maturities must include at least the maturities stated in par. 1 no. 2.
2. The risk value estimated using the risk model must be scaled up from a holding period of 10 days to 125 days by multiplying by the square root of 125 and dividing by the square root of 10.
3. Currency risks which within the scope of the estimate of the risk value are not considered at least in accordance with the requirements of § 6 shall by way of addition be taken into consideration in accordance with the requirements stated therein..
4. The net present value of the cover pool calculated in accordance with § 3 is to be reduced by the calculated risk value.

(3) Once selected, the procedure shall be applied throughout for all calculations.

§ 6 Simulation of the impact of foreign currency changes on the net present values

(1) For foreign currency positions of the same denomination, the difference must be determined between the net present values of the currency asset positions and currency liability positions calculated according to § 5 par. 1. In the event that the difference between the net present values is positive, markdowns – and in the event that the difference is negative, markups – shall be effected in accordance with par. 2.

(2) The markdowns or markups to be made in accordance with par. 1 must be calculated according to a static or a dynamic approach. Once selected, the procedure shall be applied throughout for all calculations.

1. For the static approach, the following percentage markdowns or markups shall be applied to the current exchange rates of the respective foreign currency unit:
 - a. 10 percent in the case of currencies of other Member States of the European Union, of other Contracting States of the Agreement on the European Economic Area and of Switzerland,
 - b. 15 percent in the case of currencies of other European Full Member States of the Organization for Economic Cooperation and Development,
 - c. 20 percent in the case of the currencies of the United States of America, Canada and Japan,
 - d. at least 25 percent in the case of currencies of other states.
2. For the dynamic approach the standard deviation of the daily differences between the logarithmized exchange rates shall be determined on the basis of the historical observation period of the previous 250 bank working days. The standard deviation of the respective exchange rate is then, on the basis of a one-sided confidence level of 99 percent and a holding period of the portfolio of 6 months, to be multiplied by a factor of 2.33 and the square root of 125. The resulting value is to be multiplied by the current exchange rate of the respective foreign currency. The result is equivalent to the markdown or markup to be applied to the current exchange rate.

§ 7 Duties of documentation

- (1) Every Pfandbrief Bank shall be obliged to document
1. the procedure for evaluating derivatives in accordance with § 3 par. 1 sentence 2 as well as later changes to this procedure, the procedure for determining the standard deviation as well as the interpolation procedure in accordance with § 5 par. 1 no. 2,
 2. the manner in which the currency risks are considered or included in accordance with § 5 par. 2 no. 3,
 3. the procedure for determining the standard deviation in accordance with § 6 par. 2 no. 2 (2)
- (2) The Pfandbrief Bank shall hold the documentations in safekeeping on a permanent basis.

§ 8 Change of method

Once it has been selected, the Pfandbrief Bank may change the calculation procedure only with the Federal Authority's consent. A change shall be deemed to be not only the selection of another specified calculation procedure but also a change of parameters and procedures within the calculation procedure applied in each case. Where institutions use their own risk models, sentence 2 second half-sentence shall apply with the restriction that, irrespective of § 32 of Principle I concerning the Capital of Institutions, consent shall be required only with regard to a change of the parameters stated in § 5 par. 2. Consent can be given only if the Pfandbrief Bank explains convincingly that the changed method enhances the quality of the result.

§ 9 Transitional provisions

(1) Pfandbrief Banks which have filed a notice pursuant to § 51 of the Pfandbrief Act have for the Pfandbriefe covered by this notice and for the assets used to cover them to continue applying the respective provisions of the Pfandbrief Net Present Value Regulation of 19 December 2003 (BGBl. I p. 2815) or of the Mortgage Pfandbrief Net Present Value Regulation of 19 December 2003 (BGBl. I p. 2818).

(2) Until November 30, 2005, Pfandbrief Banks which have issued Ship Pfandbriefe or public-sector bonds pursuant to § 1 of the Ship Mortgage Bank Act already before the coming into effect of the Pfandbrief Act may still use a different suitable method for the calculation required pursuant to § 4 para. 2 sentence 1 of the Pfandbrief Act aimed at safeguarding at all times the cover for these Pfandbriefe.

§ 10 Entry into force, abrogation

This Regulation shall enter into force on the day after promulgation.

At the same time, the following regulations shall be abrogated:

1. the Pfandbrief Net Present Value Regulation of December 19, 2003 (BGBl. I S. 2815) and
2. the Mortgage Pfandbrief Net Present Value Regulation of December 19, 2003 (BGBl. I p. 2818).