

BANK OF GREECE  
THE GOVERNOR

GOVERNOR'S ACT No. 2461/5 April 2000

RE: Supervision of branches of non-EU/EEA credit institutions

THE GOVERNOR OF THE BANK OF GREECE, having regard to:

- a) Articles 2 and 8 of Law 2548/1997 re: "Provisions on the Bank of Greece";
- b) Article 1 of Law 1266/1982 re: "Authorities responsible for the conduct of monetary, credit and exchange rate policies, and other provisions";
- c) Emergency Law 1665/1951 re: "The operations and oversight of banks";
- d) Law 2076/1992 re: "Taking up and pursuit of the business of credit institutions and other provisions", in particular Article 12 thereof;
- e) Law 2396/96 re: "Investment services in the securities field, capital adequacy of investment firms and credit institutions, and book-entry shares", in particular Articles 32 to 37 thereof;
- f) Bank of Greece Governor's Acts 2053/1992 and 2054/1992, as amended, and Bank of Greece Governor's Act 2397/1996, regarding credit institutions' own funds, capital requirements for credit risk and capital requirements for market risks, respectively;
- g) Bank of Greece Governor's Act 2442/1999 re: "Adequacy of credit institutions' loan- loss provisions";
- h) Currency Committee decision 4/6/3 November 1973, as amended by Bank of Greece Governor's Act 2184/93 and Monetary and Credit Committee decision 589/3/28 February 1997, regarding the minimum capital required for the authorisation of branches of non-EU credit institutions";
- i) Bank of Greece Governor's Act 2246/1993, as amended, re: "Supervision and control of credit institutions' large exposures";
- j) the need for all credit institutions operating in Greece to comply with the rules on capital adequacy and risk concentration ;

## HAS DECIDED the following

in respect of the supervision of branches of credit institutions whose registered office is located outside the European Union/European Economic Area (non-EU/EEA credit institutions):

### **I. Capital adequacy and large exposures**

1. Non-EU/EEA credit institutions' branches operating in Greece shall not be subject to the provisions of Bank of Greece Governor's Acts 2054/1992 and 2246/1993, as amended, and Bank of Greece Governor's Act 2397/1996<sup>1</sup>, provided that the following conditions are met:

a) Regarding capital requirements for credit and market risks:

- i) The head office of the credit institution confirms to the Bank of Greece that, in accordance with the Basle Capital Accord of 1988, as amended in January 1996, all on- and off-balance sheet items of the Greek branch and of any branches of the credit institution other than those operating in its home country have been included in the calculation of the institutions capital requirements for credit and market risks (both on an individual and on a consolidated basis).
- ii) The institution's home country supervisory authority reports to the Bank of Greece, every year by the end of June at the latest (on the basis of last end-of-year data), the capital requirements for credit and market risks and the own funds (both at aggregate level and the separate components of capital) of the credit institution's own funds. The report shall also state that the capital requirements and own funds are calculated in accordance with the provisions of the Basle Accord and shall indicate whether capital requirements for market risks derive from the application of the standardised method or from the use of approved internal models designed to measure the risks incurred by the credit institution.

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<sup>1</sup> On, respectively, credit institutions' capital requirements for credit risk, large exposures to clients or groups of connected clients and capital requirements for market risks.

b) Regarding large exposures:

The home country supervisory authority announces to the Bank of Greece that the credit institution, including all its foreign branches, is systematically subject, on an individual and/or a consolidated basis, to a set of restrictions regarding the concentration of risks that is equivalent to that envisaged in EU Council Directive 92/121/EEC of 21 December 1992 on the large exposures of credit institutions .

The internal control system of the branch operating in Greece must ensure the timely and accurate reporting (to the head office) of the information required for the application of the provisions of paragraph 1, items a and b hereinabove.

Should the Bank of Greece determine that there is a banking crisis and/or deterioration of economic conditions and/or poor supervision in the home country of the credit institution that operates a branch in Greece, capital requirements for credit and market risks and limits on large exposures may be imposed by the Bank of Greece for the branch's local activities, in which case paragraph 2, indents (i) and (ii) below shall apply.

2. Where the conditions referred to in paragraph 1 (a) are not met:

- (i) The branch shall comply at the local level with capital requirements for credit and market risks, as specified in Bank of Greece Governor's Acts 2054/1992 (as amended) and 2397/1996. For the purposes of the above-mentioned capital requirements, own funds shall be understood to comprise the items referred to in Section II hereof.
- (ii) The branch shall also comply at the local level with the limits on large exposures, specified in Bank of Greece Governor's Act 2246/93, as amended, on the basis of the branch's own funds, as defined in Section II hereof.

3. Where the conditions of paragraph 1 (a) are met but those set out in paragraph 1 (b) are not met, domestic branches of non-EU/EEA credit institutions shall be subject to the provisions of Bank of Greece Governor's Act 2246/93, as amended, albeit on the

basis of the credit institution's total own funds, as used for the calculation of the Risk Assets Ratio prescribed by the Basle Accord. The level of own funds as at the end of each calendar year shall be reported to the Bank of Greece by the credit institution's home country supervisory authority.

## **II. Own funds**

The own funds of a branch are defined as the sum of the following items:

- a) **Endowment capital** (Bank of Greece Governor's Act 2184/17 March 1993, as amended, and Section III, paragraph 1 (b) hereof), which is to be recorded as a separate item in the breakdown of the own funds that the branch is required to submit to the Bank of Greece every six months (Form A1), in accordance with Bank of Greece Governor's Act 1313/9 June 1988. If the endowment capital is accounted for as a liability of the branch vis-à-vis its head office, no interest shall be reckoned thereon and it must be expressly stated that the endowment capital is refundable only if (i) the branch ceases operations and after all its other liabilities have been covered or (ii) following specific approval by the Bank of Greece.
- b) **Non-repatriated net profits**, net of any losses incurred during the current or past financial years and any foreseeable tax or other charges.
- c) **Other reserves.**
- d) Amounts that, irrespective of their classification for accounting purposes, fulfil conditions similar to those prescribed in Sections I.B and V.A paragraph (a) of Bank of Greece Governor's Act 2053/92, as amended (**Fund for general banking risks**).
- e) Less the following deductible items :
  - i. formation expenses and intangible assets (net of depreciation);
  - ii. items referred to in paragraphs Da and Db of Section I of Bank of Greece Governor's Act 2053/92, as amended (**holdings of participations or other own-funds items of credit or financial institutions**).
- f) **Subordinated loans** extended to the branch, subject to the conditions set out in Section I, paragraph C4 (ii) of Bank of Greece Governor's Act 2053/1992, as amended, following approval by the Bank of Greece and up to 50% of the algebraic sum of items a to d and e (i) hereinabove.

### **III. Minimum capital**

1. The provisions relating to the minimum capital required for the establishment and operation in Greece of branches of non-EU credit institutions (latest relevant Bank of Greece Governor's Act 2184/1993, as amended) are hereby amended and supplemented as follows:

a) The minimum required capital for branches of non-EEA credit institutions may be used in Greece, without any restriction, for operations in GRD or foreign currency, excluding operations that generate claims on non-residents or relate to securities issued by non-residents.

b) Where the own funds, in the sense in Section II hereof, of the aforementioned branches fall short of the minimum amount laid down in Bank of Greece Governor's Act 2184/93, as amended (GRD 2 billion for up to four operating units (outlets) and GRD 4 billion for any number in excess of four units), the branches, irrespective of whether they intend to increase the number of their operating units, shall be required to remit additional funds equal to the shortfall by 30 June 2000.

The above shall also apply to branches exempted from the requirement to convert any of their foreign currency-denominated funds into GRD or to transfer such funds to Greece in order to invest in Greece.

c) Those of the above branches which had not been asked to convert foreign currency into GRD but were instead allowed, by virtue of specific or general decisions of the Greek monetary authorities, to fulfill the requirement to remit the proceeds of loans in foreign currency granted by their head office or through blocked foreign-currency deposits with the Bank of Greece and which have not converted foreign currency into GRD exchange (in accordance with Monetary and Credit Committee Decision 589/3/28 February 1997) may regard such loans or deposits existing up to the date this Act is published, as own funds. Following a repayment of the aforementioned loans or the withdrawal of the deposits, and in any case not later than 30 June 2000, the procedure prescribed in indents (a) and (b) hereinabove shall be forthwith initiated and the corresponding amounts shall be duly recorded in the accounts of the branch.

2. The Bank of Greece, in the context of its competency to supervise and overview domestic branches of non-EU credit institutions, shall carry out on-site inspections to assess the quality of the investment portfolios of such branches. If during these inspections it is ascertained that the branch is likely to incur losses as a result of which the real value of its total assets less its liabilities, in the opinion of the Bank of Greece, would fall short of the minimum initial capital required, the Bank of Greece may require that the foreign credit institution deposit an amount equal to the shortfall in an interest-bearing deposit account with any other bank operating in Greece excluding the credit institution's own subsidiaries; such account shall be opened in the name of the credit institution's head office and blocked in favour of the Bank of Greece. This amount may be released following authorisation by the Bank of Greece, after the latter has established that the reason for which the above requirement was imposed no longer exists. The above measures shall apply to branches which, given that the credit institution fulfils the conditions prescribed in Section I, paragraph 1(a) hereinabove, are not required to comply with capital requirements for credit and market risks at the local Greek branch level.

In the case of branches required to comply with capital requirements for credit and market risks with respect to their local activities in Greece, own funds shall be determined taking into account any estimated potential losses from doubtful debts not covered by corresponding provisions, including the provisions required under Bank of Greece Governor's Act 2442/1999. Thus, if for that or any other reason, the branch's own funds are less than the minimum capital requirements for credit and market risks borne in Greece, the branch shall be required to take all appropriate measures to restore its adequacy of own funds in the sense of the present Act.

In addition to the above cases, the Bank of Greece may, at any time, require that the head office of a non-EU/EEA credit institution issue an Irrevocable Letter of Comfort letter, whereby it shall undertake to support the branch and take all necessary measures to safeguard the interests of its depositors.

#### **IV. Other issues**

1. For the purpose of assessing capital adequacy and large exposures under the present Act, all operating units (outlets) in Greece of a non-EEA credit institution shall be considered as a single branch.

2. The Banking Supervision Department of the Bank of Greece is hereby authorised to provide guidelines and clarifications for the application hereof.

The government budget shall not incur expenses on account of the provisions of the present Act.

The present Act shall be published in the Government Gazette (Issue A).

The Governor

Lucas Papademos