

Decree establishing the Financial Stability Committee

*Order of the Minister of Finance of 2 November 2012 establishing the Financial Stability Committee
reference: FM2012/1193M*

THE MINISTER OF FINANCE, ORDERS AS FOLLOWS:

Article 1. Definitions

In this Order these definitions apply:

Minister: the Minister of Finance;

DNB: De Nederlandsche Bank NV;

AFM: the Netherlands Authority for the Financial Markets;

Committee: the Financial Stability Committee referred to in article 2;

participants: the Committee participants referred to in article 3.

Article 2. Committee

There shall be a Financial Stability Committee which focuses on the stability of the financial system and the macro-economic developments relevant to it.

Article 3. Members

1. The members are:

a) for DNB: the President, the Executive Director for Supervision and the Executive Director for Monetary Affairs and Financial Stability;

b) for AFM: the Chairman of the Executive Board and the Head of Strategy, Policy and International Affairs;

c) for the Ministry of Finance: the Treasurer General and the Director of Financial Markets.

2. Each member may arrange to be accompanied in the Committee by such officials of the Ministry of Finance or, as the case may be, staff of DNB or AFM as they may designate.

3. Each member may designate a person from within his own organisation to deputise for him in the Committee.

Article 4. Activities

1. Information and analyses concerning the stability of the financial system shall be exchanged in the Committee in order to identify potential risks to the stability of the financial system.

2. The Committee shall discuss issues and ways of mitigating potential risks to the stability of the financial system, as well as ways of strengthening the instruments available to DNB, AFM and the Minister in order to mitigate such risks.

3. The Committee may identify risks and make recommendations about them. These recommendations shall be made public, unless their disclosure might jeopardise financial stability.
4. The Committee shall not engage in the exercise of statutory powers of DNB, AFM or the Minister.
5. The members shall agree in the Committee on how the Netherlands can respond to alerts and recommendations of the European Systemic Risk Board.
6. The Minister shall pass on alerts and recommendations to the House of Representatives of the States General.

Article 5. External expertise

The members may invite external experts to share their knowledge and views in the Committee.

Article 6. Procedure

1. The Committee shall strive for consensus among its members. If its members consider it desirable to hold a vote, the Committee shall make decisions by a two thirds majority of the votes cast by the members or the persons deputising for them.
2. The members referred to in article 3, paragraph 1(c), or the persons deputising for them shall not take part in decisions on alerts and recommendations.

Article 7. Chairmanship and secretariat

1. The President of DNB shall chair the Committee.
2. The Committee shall be assisted by an executive secretary from DNB.
3. The Committee shall meet at least twice a year.

Article 8. Reporting

The Committee shall report annually on its activities to the Minister. The Minister shall send a copy of this report to the House of Representatives.

Article 9. Entry into force

This Order shall enter into force with effect from the second day after the date of the Government Gazette in which it appears.

Article 10. Short title

This Order may be cited as: the Financial Stability Committee (Establishment) Order.

This Order and the explanatory notes shall be published in the Government Gazette.

THE MINISTER OF FINANCE,

J.C. de Jager

Explanatory notes

General

The policy and legislation letter to the House of Representatives emphasises that national and international macro-economic developments and their consequences for the stability of the Dutch financial system remain on the agenda of the supervisory authorities and the Ministry of Finance. In this connection the Minister of Finance has announced that he will establish a 'macro-prudential' or Financial Stability Committee for this purpose. As explained in the letter referred to above, the function of the Committee should be to identify important developments relating to financial stability and make (technical) recommendations. The findings of the Committee can be used to provide information to Parliament about macro-prudential issues. The present Order establishes this Committee.

The Committee is set up to strengthen and structure the process of consultation between De Nederlandsche Bank (DNB), the Netherlands Authority for the Financial Markets (AFM) and the Ministry of Finance on the risks to financial stability on the basis of each partner's individual (statutory) responsibility. This will ensure that, in keeping with the letter referred to above, this subject will continue to receive attention, even in times of economic prosperity when fresh risks to financial stability may arise.

To maximise the attention this subject receives, the Order also provides that when risks to financial stability are identified the Committee may make a recommendation to DNB, AFM or the Minister about ways of mitigating the identified risk. In this way, the Committee will be able to make an authoritative contribution to the efforts of the responsible parties to ensure the stability of the financial system. The Committee's role means that alerts and recommendations need not relate solely to matters for which DNB, AFM or the Minister of Finance is responsible. In other words, the Committee may also issue alerts or recommendations to other market participants in cases where they have a major influence on financial stability.

Alerts or recommendations issued by the Committee are, by definition, non-binding and of a cautionary and advisory nature only. DNB, AFM and the Minister of Finance may decide, as they see fit, not to act upon alerts or recommendations addressed to them. However, in such cases it would be no more than reasonable for them to explain their decision. Nor do parties other than DNB, AFM or the Minister of Finance to whom alerts or recommendations are addressed have any obligation to act upon them. Nonetheless, as such alerts or recommendations carry great weight, the parties concerned may well respond to them.

The Committee will also discuss the use of the instruments available to the supervisory authorities in the context of stability issues and the possible consequences of the use of these instruments. However, the Committee is not assigned a role in determining how the financial supervision is carried out on the basis of the applicable legislation. This ensures that DNB and AFM will be able to continue carrying out their supervision independently and free of political influence. The application of this Order does not affect the statutory powers and responsibilities of any of those involved.

All members of the Committee are actively involved in the analysis and discussions. Using the knowledge, expertise and insight which they naturally possess by virtue of their positions and responsibilities, they will help to shape one another's views. In this way the Committee will contribute both to the formulation of policy within the Ministry of Finance and to the activities of DNB and AFM.

It is also important for the Committee to be able to focus clearly on the stability problem with a degree of independence, without this being blurred by other considerations. Examples of other considerations of this kind are broader issues of income policy, market regulation and economic growth, all of which come within the purview of the government. As the Ministry of Finance is represented on the Committee, there could be friction between the Committee's focus on financial stability and the Minister of Finance's broader political and policy responsibilities. It follows that the members representing the Ministry of Finance have a special position in the Committee. This is why it has been decided that they should not be involved in decisions on alerts and recommendations.

It is only logical for the members representing the Ministry of Finance to have such a role because the Minister of Finance must always be free to make his own decisions on policy matters in consultation with the House of Representatives, and such decisions also include policy issues and interests other than those of financial stability. Such choices may therefore differ from the Committee's recommendations (also see above).

The work within the Committee will be carried out as transparently as possible, and the alerts and recommendations will, in principle, also be made public. If the Committee members wish to treat matters as confidential to avoid jeopardising financial stability, a decision on this will be made on the basis of the usual statutory criteria, for example on confidential supervisory information.

It should be noted that the Committee will not act as a crisis management body. Naturally, however, the Committee will consider possible crises and how they may affect the stability of the financial system.

Other relevant experts, for example from the Netherlands Bureau for Economic Policy Analysis (CPB) and academia, may be invited by the Committee members to share their knowledge and views with the Committee.

Notes on individual articles

Article 3

As paragraph 1 (a) provides that the President, the Executive Director for Supervision and the Executive Director for Monetary Affairs and Financial Stability should all sit on the Committee,

this enables both DNB's monetary side and its prudential supervision side to make their own contribution to the Committee. Paragraph 2 provides that members may arrange to be accompanied by their officials.

This may be necessary because of specific expertise possessed by these officials. Paragraph 3 regulates deputisation for the members. If a member is unable to attend a meeting he may arrange to be represented by a person designated by him. As this person is entitled to vote (if he works for DNB or AFM), only one person may be designated for each member and is thus entitled to vote on his behalf. The person appointed to deputise for a member will generally be at a comparable hierarchical level as the member.

Article 4

This article describes the Committee's activities. It provides that the Committee may identify risks and make recommendations to mitigate potential risks to the stability of the financial system.

In special cases the Committee may decide not to make public alerts or recommendations in order to avoid jeopardising financial stability. Confidentiality may be necessary where it is crucially important to maintain stability. An example would be situations in which a recommendation addresses a stability risk that would be exacerbated if it were to be mentioned in public by the Committee members. Where an alert or recommendation that should remain confidential elicits a response, the response too must naturally be treated confidentially. .

It has also been established, as already indicated in the general part of the explanatory notes, that alerts and recommendations of the Committee do not relate to how statutory powers and duties of supervision are exercised in practice. In cases where DNB and AFM perform their statutory duties independently it is important for this to be reflected in the Order as well. The same is true in cases where the Minister of Finance has independent powers under the Financial Supervision Act.

Article 6

This article regulates the procedures of the Committee. Paragraph 1 concerns decision-making, with the basic principle being that the Committee strives for consensus. Paragraph 2 specifically concerns decisions on alerts and recommendations. As already noted, this provides that the members representing the Ministry of Finance do not take part in decisions on alerts and recommendations. This reflects their special position in the Committee.

Article 7

The Committee is concerned with maintaining the stability of the financial system. To reflect this -and the accompanying notion of independence- in the organisational structure of the Committee, it is chaired by the President of DNB and its secretariat is provided by DNB. See also the general notes above for an explanation of the role in the Committee of the members representing the Ministry of Finance.

THE MINISTER OF FINANCE,

J.C. de Jager