

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(81) 84 final

Brussels, 9 March 1981

Proposal for a  
COUNCIL DIRECTIVE

concerning the annual accounts of banks and other financial institutions

---

(submitted to the Council by the Commission)

COM(81) 84 final

Proposal for a Council Directive on  
Annual Accounts of Banks and other Financial Institutions

EXPLANATORY NOTES

I GENERAL

According to Article 1(2) of Directive 78/660/EEC of 25 July 1978 (1), the Member States need not, pending subsequent coordination, apply the provisions of that Directive, which were devised for limited companies generally, to "banks and other financial institutions or to insurance companies".

According to the explanatory notes on Article 1 of the proposal for the abovementioned Directive dated 10 November 1971, this exception is justified by the fact that the Directive cannot be applied unreservedly to such undertakings. The particular characteristics of these undertakings necessitate a number of special provisions for accounting purposes, such as already exist in most Member States. However, the information required of these undertakings should at least correspond to that required by Directive 78/660/EEC.

The present proposal for a Directive is intended to fill this gap for credit institutions. As explained in the Recitals the term "credit institutions" is used throughout the proposal for "banks and other financial institutions".

The proposal follows the principle that deviations from Directive 78/660/EEC should be provided for only where these are made imperative by the special features of credit institutions.

For the purpose of drawing up bank balance sheets, all Member States permit deviations of varying degree from the general rules, particularly as regards the layout of the balance sheet and the profit and loss account; in most Member States, furthermore, account is taken in the valuation rules of the special risks involved in banking transactions.

---

(1) OJ No L222 14 August 1978, p.11

The bank balance-sheet Directive also differs from Directive 78/660/EEC, however, in respect of its scope: whereas the latter is merely concerned with limited companies, the present Directive is intended to apply to all credit institutions constituted in the form companies or firms in accordance with Article 58(2) of the Treaty of Rome. Only undertakings controlled by an individual are excluded.

If, therefore, the principles of Directive 78/660/EEC are to apply in theory to credit institutions, it is reasonable to take this into account in the structure of the Directive.

The substantive part of the bank balance-sheet Directive therefore contains only those provisions which deviate from Directive 78/660/EEC. The provisions of Directive 78/660/EEC and those of the present Directive therefore jointly constitute the rules which are to be complied with by credit institutions in drawing up, publishing and auditing annual accounts and submitting the annual report.

The text does not draw on any legislation in force before the adoption of the Directive 78/660/EEC and therefore requires important modifications in the accounting practices of credit institutions in the Community. It constitutes a compromise between the relatively flexible legislation as in the United Kingdom, Ireland, Netherlands and Italy (for balance-sheets only) and very strict legislation as in Belgium, France and Germany. Nevertheless, taking account of the flexibility given by the Directive 78/660/EEC which applies equally to credit institutions more scope is given to those countries who wish to impose supplementary constraints than is given to those who would wish to give greater reliefs. The most significant changes in present practise will be in those first three countries mentioned above.

The proposed Directive is divided in 11 sections.

The provisions of Section 1 describe the relationship between the present Directive and Directive 78/660/EEC and define its scope.

Section 2 includes the general provisions concerning the balance-sheet and profit and loss account.

Section 3 deals with the layout of the balance-sheet required for banks and other financial institutions, as well as a number of general provisions relating to the presentation of the balance-sheet.

Section 4 is concerned with the definition of certain balance-sheet headings.

Section 5 sets out the two possible forms of the profit and loss account.

Section 6 defines certain profit and loss account headings.

Section 7 contains the valuation rules applicable to credit institutions.

Section 8 covers the provisions concerning the notes to the accounts.

Section 9 specifies that the rules of Directive 78/660/EEC relating to small and medium sized undertakings shall not apply to credit institutions.

Section 10 concerns publication.

Section 11 contains the final dispositions.

II. Commentary on the articles

SECTION 1

Preliminary dispositions and scope of application

Article 1

Paragraph 1 makes it clear that Directive 78/660/EEC is to be applied to credit institutions unless the present directive provides otherwise. Directive 78/660/EEC and the present proposal are therefore to be regarded materially as a whole.

It should also be added that the article numbers mentioned in some Articles of Directive 78/660/EEC are to be taken as references to the corresponding but differently numbered Articles in the bank balance-sheet Directive.

Paragraph 2 points out that provisions of Directive 78/660/EEC which relate to annual accounts items which do not exist as such in the layouts in the present Directive, because they have been combined with other items to form a collective item, should be taken to be references, *mutatis mutandis*, to these collective items.

Article 2

In paragraph 1, the scope is defined from two angles : firstly, from a functional viewpoint through the reference to Article 1 of Directive 77/780/EEC and; secondly, from a viewpoint of legal structure through the reference to the second paragraph of Article 58 of the Treaty.

The definition in Directive 77/780/EEC does not cover those undertakings which do not engage simultaneously in lending and taking deposits from the public, even if they are subject to banking supervision in some Member States; where appropriate, undertakings of this kind are made subject to the Directive through paragraph 2 of this Article, to the extent that they have not been made subject to Directive 78/660/EEC by the Member States.

The reference to the second paragraph of Article 58 of the Treaty means that the Directive applies to companies or firms including cooperative societies and other public or private legal persons with the exception of sole proprietorships and non-profit-making bodies. Generally speaking, however, both restrictions are without significance : firstly, pursuant to Article 3(2) of Directive 77/780/EEC, credit institutions can in any case no longer be operated as sole proprietorships, and the number of existing credit institutions of this type is infinitely small. Secondly, the question as to whether activities are pursued for

gain or not is easier to answer in the affirmative because in the banking sphere more so than in other spheres the business is always effected with a view to remuneration even if profits are eventually used for charitable purposes.

Paragraph 3 excludes certain credit institutions from the Directive. Firstly it excludes those undertakings which are also not covered by the first coordination Directive on credit institutions (77/780/EEC) and secondly a certain number of establishments for which, the application of the present Directive does not seem opportune because of their special nature.

Paragraph 4 deals with cases where application of the Directive may be deferred.

Point a) restricts the deferred application for those credit institutions which already received such treatment under Directive 77/780/EEC to the extra period allowed for applying that Directive.

Point b) provides for deferred application for other specialized credit institutions, which must be notified by the Member States within 6 months of the adoption of the Directive. It limits this possibility to cases in which immediate application would entail serious difficulties, taking account of the particular nature of the business conducted by the institution concerned. Nevertheless such a deferred application must not go beyond the date specified in the Directive, or that of subsequent coordination whichever is the earliest.

## SECTION 2

General provisions concerning the balance-sheet  
and profit and loss account

### Article 3

Paragraph 1 excludes credit institutions from the mandatory adaptations of layout, nomenclature and terminology provided for in Article 4(2) of Directive 78/660/EEC.

The need for adaptation reflected in Directive 78/660/EEC arose solely because of the many different sectors to which undertakings covered by the Directive belonged. As the present Directive is restricted to credit institutions, this adaptation is superfluous.

## SECTION 3

Layout of the balance-sheet

### Article 4

In contrast to Directive 78/660/EEC (Article 8), Article 4(1) entails a restriction : only the horizontal layout is to be allowed for the balance-sheet; the vertical layout is now used by only a few credit institutions and - particularly as its content does not differ from that of the two-sided form - should, the Commission feels, no longer be allowed for reasons of simplification.

The balance-sheet layout proposed for credit institutions (based on normal practice in most Member States) differs from the balance-sheet layouts in Directive 78/660/EEC, firstly in that assets and liabilities are classified in order of decreasing liquidity. Secondly, certain sub-divisions required by the above mentioned Directive into various groups of assets and liabilities are not provided for, in particular the breakdown by fixed and current



assets, as such a distinction is only appropriate for credit institutions for purposes of valuation.

Very few items, in terms of concept and content, could be taken over unaltered from Directive 78/660/EEC. In addition, the Commission has combined a number of balance-sheet items in Directive 78/660/EEC into one item for the purposes of this Directive.

Nevertheless; the explanations given in respect of individual balance-sheet items in Directive 78/660/EEC apply to a certain extent also to the balance-sheet items of credit institutions.

According to the third and fourth sentences of Article 4(1) of Directive 78/660/EEC, however, new items may be added to the balance sheet, so that sufficient account has been taken of the relevant needs. The Commission has proposed that those credit institutions which do not employ a special balance-sheet item for leasing transactions should include information concerning any such transactions in the notes. This is without prejudice to a more general solution to the problems raised by the inclusion of these items in the balance-sheet which will be the subject of subsequent co-ordination.

#### Article 5

Article 5 fulfils a dual purpose : firstly, it gives a list of those items for which additional information must be given on financial links with affiliated undertakings and with undertakings with which the credit institution is connected by virtue of a participating interest.

Secondly, it provides authorization for this information to be shown in the notes.

The Member States are thus to be given the opportunity to relieve the balance-sheet of such information.

The definition of "affiliated undertakings" is to be that of the Council Directive on consolidated accounts. It goes without saying that as in Article 56 of Directive 78/660/EEC the provisions concerning affiliated undertakings will become effective at the same time as the Directive on consolidated accounts.

#### Article 6

This Article attempts to make it clear that assets pledged as security should continue to be shown in the balance-sheet of the party providing the security and not in that of the recipient of the security.

The exception made in paragraph 2 concerns cash deposits pledged as security.

Article 7

This article deals with operations carried out by syndicates of banks and sets out the accounting obligations of the different participants, distinguishing between facilities drawn and guarantees given.

Article 8

This article is concerned with funds which are made available to a credit institution by another body for establishing claims on third parties. The credit institution drawing up the balance-sheet must acquire full title to such claims. Although the claims and liabilities involved must be shown in the balance-sheet, the risk arising from these claims, which are established by definition "for the account of third parties", does not lie with the credit institution drawing up the balance-sheet.

Such claims thus differ fundamentally from other credit transaction claims, and it is appropriate, in the interests of giving a true and fair view, that they should be required to be shown separately. On the other hand no indication is required where the financing is granted in the name of, and for the account of third parties.

Article 9

The maturity of claims and liabilities plays a much greater part in the business of credit institutions than in the activities of other undertakings; with the rate of interest, it is the element which, in the final analysis, will determine the profitability of the undertaking.

The Commission's proposals are based primarily on the principle of the originally agreed maturity of claims and liabilities. The Commission opted for this approach mainly because it provided a better insight into the business structure of a credit institution than classification based on remaining maturity.

On the other hand, it is well aware that classification on the basis of remaining maturity would permit a more reliable assessment of the liquidity position of the credit institution drawing up the balance-sheet. For this reason, the Commission has taken account of the remaining maturity principle in its text, in that in the case of acquisition by a second holder (i.e. the assignment of existing claims), the credit institution acquiring the claims must classify them not according to the originally agreed maturity, but according to the remaining maturity at the time they were acquired. It is treated as a new claim by the acquiring bank.

#### Article 10

The arrangements proposed in Article 10 follow the approach normally taken in most Member States : the transfer of say, a security to a credit institution or customer cannot be regarded as a disposal in the usual sense, if at the same time its return is firmly agreed, even if, legally, selling and buying transactions are clearly involved. Such transactions tend rather to be regarded by the transferor as borrowing, which is to be shown on the liabilities side as amounts owed to credit institutions or as amounts owed to customers; the asset transferred must therefore, continue to be carried on the transferor's balance-sheet.

Transactions where no firm arrangements as to return are made are to be regarded differently; in such cases, simply the fact of the transfer must be shown in the balance sheet above the line : the asset transferred must be taken out of the transferor's accounts; the possibility of the asset may being returned must be shown by the transferee as a contingent liability outside the balance-sheet (in item 3 below the line).

SECTION 4

Special provisions  
relating to certain balance-sheet items

Article 11

Item 1 must show the most liquid assets (i.e. those available at any time) where the debtor is a public body (i.e. where doubt as to solvency can be excluded from the outset).

Immediate availability is not affected by monetary policy or banking supervisory requirements (for example, minimum reserves or cash ratios); on the other hand, balances to be held for a specified period cannot be regarded as being immediately available.

Article 12

This item is to include those debt instruments issued by public bodies (i.e. central and regional authorities or institutions dependent on and guaranteed by these authorities which, given the fact that they can be unconditionally rediscounted with the central bank of the country in question and that their original maturity is short, may be regarded as highly liquid assets normally traded on the money market.

In a deliberate move, the Commission has narrowly restricted the range of debtors of such instruments and has felt it appropriate not to include foreign public debt instruments or other money market paper of private issuers.

The maturity limit and the criterion of rediscountability with the central bank should also be seen as an attempt at an objective definition. The Commission therefore expects in normal cases direct rediscountability with the respective central bank, but is prepared to recognize in certain special cases, rediscountability with institutions traditionally working with

the central bank.

#### Article 13

This balance-sheet item is to contain all loans and advances to other credit institutions, no matter how these loans and advances are designated. There are two exceptions : firstly, loans and advances to undertakings which are not credit institutions within the meaning of Directive 77/780/EEC and, secondly, claims on credit institutions in the form of commercial bills or debt securities.

Such claims must be capable of being shown in the balance-sheet, (i.e. they should not be contingent claims or claims for the completion of pending forward transactions).

#### Article 14

There are differences of opinion as to whether, in line with their legal character bills should be recorded specially as an abstract claim and hence as a type of security or whether, taking an economic point of view, they should be regarded merely as a special kind of collateral for a loan.

The proposed solution would enable Member States to maintain their respective viewpoints; those which regard bills merely as a kind of collateral could then make provision in their national balance-sheet regulations implementing this Directive for bills to be shown appropriately in the balance-sheet (e.g. as "loans to credit institutions and customers based on purchases of bills").

The draft Directive leaves it open as to how bills are to be treated which are passed on for rediscounting. Here again, practice differs fundamentally in the various Member States : whereas, in some countries, bills - in accordance with the legal point of view - disappear from the bill portfolio when rediscounted and the bank's remaining contingent liability is shown below the line

as an "endorsement liability", in other countries - which adopt the economic point of view - they continue in the portfolio when rediscounted, since the rediscounting agency does not collect the bills, but - possibly in exchange for other bills - returns them to the bank which presented them.

The fact that the proposed balance-sheet layout contains below the line an 'endorsement liabilities' item does not mean that the Member States are obliged to apply the legally-oriented solution.

Nevertheless, the Commission feels that bills play a much greater part in the activities of credit institutions in all Member States than in those of non-banks subject to Directive 78/660/EEC.

The Commission therefore considers it appropriate, despite the differing views concerning the recording of credit on bills in the various Member States, that provision should be made for bills to be shown in a special balance-sheet item. Bills for collection - like other items received for collection - are to be shown as loans and advances to credit institutions or as loans and advances to customers depending on the debtor.

#### Article 15

For the definitions, see the explanatory notes on Article 13.

For the presentation of claims established through the discounting of commercial bills, see also the explanatory notes on Article 14.

Finally, it should be emphasised that where loans are not fully taken up (unused credit lines) only the portion actually taken up can be shown in the balance-sheet.

### Article 16

It is essential to provide for separate treatment, for those securities which, unlike debt securities, represent not claims on but shares in the capital and reserves of another undertaking and are to be shown under "Assets" item 8.

The Commission felt it inappropriate to follow proposals that the range of issuers should be limited, for example, to public bodies; this would have raised the problem of where the debt securities of other issuers were to be shown; at any rate, it would not have been appropriate to regard debt securities of non-public issuers as loans and advances to customers; this would have ignored completely the special nature of these claims, which is essential in most Member States, for example, for refinancing.

Paragraph 2 makes it clear that, in cases of doubt, it is not the criterion of a constant interest rate which matters when it comes to deciding whether a security should be shown here or under "Assets" item 8.

Paragraph 3 limits the inclusion of own securities to those which were acquired only temporarily - for example, to support the market price - and are intended to be resold. Those own debt securities acquired with a view to redemption, on the other hand, are to be deducted, after passing through the profit and loss account, from "Liabilities" item 3.

### Article 17

Subordinated claims and debt securities play an important role in banking in most member countries. This applies particularly to the liabilities side of the balance-sheet, where such debt securities are in some cases recognized as capital resources.



However, a special assets item for subordinated claims and debt securities appeared necessary, firstly, in order to ensure symmetry between the assets and liabilities sides and, secondly, because the subordinated nature of claims, particularly in the case of debt securities, can be an essential factor in enabling the balance-sheet reader to assess the position.

#### Article 19

This balance-sheet item is to contain all amounts owed to other credit institutions, however designated, provided that they must be shown in the balance-sheet.

#### Article 20

"Liabilities" item 2 is to cover the large block of banking liabilities to non-banks, except where commitments represented by certificates are involved.

However, in view of their close similarity to savings deposits, savings bonds should be included in this item (and not in "Liabilities" item 3).

#### Article 21

The distinction between amounts owed to credit institutions ("Liabilities" item 1) and amounts owed to customers other than credit institutions ("Liabilities" item 2) means that a third item must be provided for liabilities which, by their nature, cannot be allocated to either of these two categories, because, the credit institution drawing up the balance-sheet usually does not know who the relevant creditor is at the time when the balance-sheet is being drawn up.

Article 22

For subordinated liabilities the same considerations mentioned in relation to subordinated assets apply (item 7 article 17).

Article 23

"Liabilities" item 9, "Subscribed capital" (like the corresponding "Assets" item 11) requires a definition which takes account of the wide variety of legal structures of credit institutions.

Article 24

In view of the variety of legal structures of the credit institutions covered by this Directive, it was necessary to allow account to be taken not only of the types of reserves provided for in Directive 78/660/EEC, but also of other types of reserves.

The Commission has accordingly refrained from listing in the balance-sheet layout of this Directive the individual types of reserves set out in Article 9 of Directive 78/660/EEC.

Article 25

Contingent liabilities mean different things depending on the legal situation in the individual Member States.

However, the flexibility accorded to Member States here does not extend to allowing contingent liabilities, for example guarantees, to be shown above the line. Showing them above the

line is, however, necessary in all cases where there is a danger of the guarantee being utilized.

On the other hand, the Member States are to remain free to allow the corresponding contingent claims, as well as contingent liabilities, to be shown below the line.

#### Article 26

The information required in item 2 below the line is intended merely to show the approximate amount of the total commitments incurred by a credit institution by way of forward transactions pending.

The information required must also be viewed in conjunction with Article 43(1)(7) of Directive 78/660/EEC : it was felt that the specifically banking portion of the commitments to be disclosed pursuant to that Article should be shown in the items below the line, with the result that only the financial commitments usually incurred by undertakings of all types have to be shown in the notes on the accounts.

#### SECTION 5

Layout of the profit and loss account

#### Articles 28, 29 and 30

The Activities of credit institutions, as opposed to those of undertakings covered by Directive 78/660/EEC, are such that there is no need to distinguish between a functional cost analysis and a sales cost analysis (Articles 23/24 and 25/26 of Directive 78/66/EEC). Provision has, therefore, only been made for a vertical and a horizontal variant of the profit and loss account.

In the layout it proposes for the profit and loss account, the Commission once again follows a middle course between the views of those Member States which have very detailed profit and loss accounts and those in which profit and loss accounts contain few items and where supplementary information is provided in the notes.

The Commission requires interest payable, interest receivable, income from securities and participating interests to be shown separately and that commissions be shown on a gross basis. At the same time, it recognizes that there is not always a clearcut distinction between interest and commissions in each individual transaction and that there are also usually differences from country to country. This problem already exists on a national level where the method of distinguishing between interest and commissions can differ from one credit institution to another.

The distinction made in Directive 78/660/EEC between profit or loss on "ordinary activities" and the "extraordinary profit or loss" applies to credit institutions too, and this also has an impact on the tax items.

#### SECTION 6

Provisions concerning certain  
profit and loss account items

#### Article 31

As already set out in the explanatory notes on Articles 29 and 30, the Commission attaches considerable importance to the separate recording of interest in the profit and loss account. A broad definition of interest payable and receivable was deliberately applied here, firstly by refraining from laying down specific requirements as to how it should be calculated and secondly by requiring the inclusion of fees and commissions that are similar to interest.

#### Article 33

The amounts to be shown under the items "Commissions receivable" and "Commissions payable" differ from interest in that they do not represent income/charges for claims/liabilities recorded in the balance-sheet.

Rather, commissions receivable represent income which a credit institution obtains by making its creditworthiness or its business connections, its experience or its operational facilities available to customers or other credit institutions without this entailing any change in its total banking claims or liabilities.

Similarly, commissions payable mean charges which a credit institution incurs through the use of such services provided by other parties, mostly credit institutions.

#### Article 34

This Article is to include all charges which arise as a result of valuation measures in the area of credit business (including guarantees in credit business), irrespective of whether the value adjustments are for actual loan defaults, for probable value reductions or for measures relating to general provision against contingencies.

Paragraph 2 does, however, allow charges to be set off against the corresponding income from the recovery of written-off loans and from the writing back of earlier value adjustments or provisions in respect of loan transactions. As a result, it will be possible to ensure that the effects, on the profit and loss account, of extraordinarily high charges for value adjustments to be formed in a given year are mitigated through income from value adjustments that are no longer required and therefore have to be written back, and thus to achieve some degree of steadiness in the profit and loss situation in the interest of maintaining public confidence.

#### Article 35

For the principles see the explanatory notes on Article 34, which parallels this Article.

Article 35 comprises charges and <sup>to some extent</sup> income connected with valuation measures in respect of securities, participating interests, and affiliated undertakings. Their separation from loans, advances and guarantees was felt to be necessary so as to provide a clearer picture of the profit or loss situation.

## SECTION 8

### Valuation Rules

#### Article 36

Contrary to Directive 78/660/EEC, the balance-sheet layout for credit institutions does not distinguish between fixed and current assets.

However, for the purpose of valuation, in respect of which Articles 35 and 39 of Directive 78/660/EEC, lay down important distinctions between fixed and current assets, this differentiation is also considered necessary in the case of credit institutions.

The distinction is of particular importance in the case of securities, which in almost all the Member States may, in specific circumstances, be valued as fixed assets. This means that, in the event of fluctuations in interest rates (and hence in prices) on the securities markets, continuous value adjustments do not need to be carried out. This sort of practice may be regarded as justified in view of the fact that, until final redemption, such securities are usually held in portfolio at their purchase price, i.e. they are not disposed of at a lower value.

Article 37

As already indicated in the general section of the explanatory notes, the annual accounts of credit institutions differ considerably from those of other undertakings, as far as the valuation rules are concerned.

For credit institutions the principle of prudence must play a dominant rôle for the following reasons :

- the higher proportion of monetary assets and liabilities (i.e. assets and liabilities expressed in money terms);
- the credit institutions' strong dependence on valuation factors over which individual institutions have little or no influence : monetary policy, interest rate fluctuations, movements in the economic cycle, developments on the foreign exchange markets and, other events, particularly of a political nature;
- the dominant rôle of public confidence in credit institutions.

The Commission considers, therefore, that valuation involves substantial uncertainties in the case of credit institutions : the risks which experience shows to exist but which are not (as yet) discernible (risks relating to the solvency, liquidity, and profitability) are comparatively large, because credit institutions are by their nature often dependent on earning income through maturity transformation, which allows the taking of deposits of shorter-term funds carrying relatively lower interest rates and the granting of longer-term loans carrying higher interest rates. There is, therefore, a considerable risk of changes in interest rates, a risk which can never be entirely guarded against in a banking system governed by the rules of competition.

There are two methods by which the risks mentioned above may be taken into account : an inclusion of provisions under liabilities or value adjustments under assets. With neither of the two procedures having objective advantages over the other, the Commission opted for, in the context of this proposal, the method of recording provided for in Directive 78/660/EEC for value adjustments. Accordingly, the Commission proposes that credit institutions should also be governed by the general rule that value adjustments may be made only through deduction from the relevant items on the assets side.

However, the Commission regards it as necessary and justifiable in the case of credit institutions to depart from the strict minimum valuation rules in Directive 78/660/EEC by introducing the possibility, in Article 37(1), of showing loans and advances to credit institutions and customers at a lower value than would be permitted under the provisions of Article 39 of Directive 78/660/EEC. This will apply additionally - i.e. alongside the possibilities generally provided for in Article 39(1)(b) and (c).

Accordingly the Commission has included a clause making it possible to carry out extraordinary value adjustments which are confined to credit transactions and limited in amount. The two items for which such prudential reductions are authorized are usually the most important items in banks' balance sheets and therefore provide a sufficiently large basis for reductions, obviating the fear that the absolute level of these two items would be significantly distorted thereby. Moreover credit business is by its nature that category of business which traditionally tends to be most subject to risk.

If then the scope for undervaluation is to be restricted to two balance-sheet items in respect of these special value adjustments - in contrast to



the individual value adjustments to be made under Article 39(1)(b) and (c) of Directive 78/660/EEC - maintenance of the lower value must be allowed so long as the credit institution drawing up the balance-sheet considers such maintenance to be necessary (paragraph 2).

All amounts which are expended for write-downs, value adjustments and provisions in credit transactions may be set off against income deriving from the recovery of written-off loans, from the writing back of individual value adjustments and in particular from write-ups pursuant to paragraph 2 of this proposal.

#### Article 38

Directive 78/660/EEC does not deal specifically with questions of currency translation nor with the treatment of unmatured transactions, this is an area of banking in which practice in the various Member States is not very uniform. In particular, fundamental differences emerged with regard to the treatment of unrealised profits or losses on forward foreign exchange transaction.

However, rules had to be laid down in this area in the proposal for a Directive on banks' balance-sheets, since it is, at least in the case of the larger credit institutions, a major branch of business which, as shown by experience in recent years, may be crucial in deciding the success or failure of a credit institution.

Paragraph 2 specifies that conversion of balance-sheet items and of unmatured transactions that do not have to be shown in the balance-sheet must be carried out at the spot rates ruling at the balance-sheet date. However, in the view of the differences of practice in the various Member States, valuation at the forward rate ruling at the balance-sheet date may also be allowed in the case of unmatured transactions.

Paragraph 3 deals with the treatment of the conversion results for balance-sheet items and for unmatured transactions.

Since, however, in the view of some Member States, the recording of gains arising from the conversion of unmatured forward exchange contracts would run counter to the principle of prudence, the second sentence of paragraph 3 allows such gains not to be shown and only the losses arising from conversion to be included.

Paragraph 4 concerns the treatment of results arising from forward exchange contracts that are specially covered. Such transactions are usually recorded separately by credit institutions because they are firmly linked to matching transactions; the most frequent of these are swap transactions, i.e. closed positions with a predetermined margin. The proposed arrangement provides for the premiums or discounts to be shown in the profit and loss account pro rata temporis.

#### SECTION 8

##### Content of the notes to the accounts

##### Article 39

The items of information which undertakings have to provide in the notes on the accounts pursuant to Directive 78/660/EEC require a number of amendments or clarifications in the case of credit institutions. As provided for in Article 9 of this Directive, the analysis must be based on the maturities originally agreed. In addition, however, information must also be provided on the remaining maturities, where this appears sensible in view of the nature of the assets or liabilities.

Secondly, a somewhat more precise indication is given of what information credit institutions have to provide regarding the securities pledged by them for their own liabilities and contingent liabilities.

Paragraph 3 is intended solely to make clear that, in the case of credit institutions, information in the "balance sheet" (within the meaning of Article 43 (1)(7) of Directive 78/660/EEC) must be understood to include the information required in the items below the line, i.e. that duplication of information is not necessary.

The breakdown of net turnover by categories of activity and into geographical markets, as required under Article 43 (1)(8) of Directive 78/660/EEC, would not be appropriate for credit institutions. In the case of credit institutions, there are

no items in the profit and loss account that would be comparable to net turnover, nor would a breakdown of key balance-sheet items into geographical markets make sense. Furthermore, banking secrecy might possibly be affected. The information required instead and specified in paragraph 4, gives in spite of its general nature, an idea of the importance of overseas business to certain important profit and loss account items of the credit institution.

Since, in contrast to the situation with non-banks, lending constitutes the central field of activity of credit institutions, the advances and credits granted to the members of the administrative, managerial and supervisory bodies are nothing out of the ordinary and consequently of only limited interest to the general public. It was therefore felt justifiable that only the amounts of the credits granted to such categories of persons need be specified, and not the interest rates and main conditions attaching to them.

The last clause of Article 43(1)(13) of Directive 78/660/EEC ("with an indication of the total for each category") applies mutatis mutandis.

#### Article 40

Paragraph 1 makes it clear which balance-sheet item Article 15 (3) of Directive 78/660/EEC is to apply to in the case of credit institutions, since (as already explained) no distinction is made between fixed and current assets in the balance-sheet layout for credit institutions.

Paragraph 2 requires credit institutions to provide a series of additional items of information, extending beyond Article 43 of Directive 78/660/EEC.

The purpose of subparagraph (a) is firstly to show what extent the securities portfolio of credit institutions includes

securities which may be assumed to have a lower degree of liquidity. Secondly, credit institutions will have to indicate what proportion of their securities portfolio they have valued as fixed assets, i.e. not in accordance with the strict principle of lowest value.

Subparagraph (b) requires credit institutions to provide information on the extent of their leasing transactions. This information will of course be unnecessary where a Member State requires leasing operations to be shown separately in the balance-sheet.

Subparagraph (c) takes account of the fact that, in the case of credit institutions, the item "Land and buildings" may include property which is not occupied by the credit institution's for its own business purposes. Furthermore, credit institutions, sometimes, acquire land and buildings which they intend to resell in the foreseeable future.

It may be useful, in assessing a credit institution, to know the extent to which it owns such "atypical" land and buildings.

The purpose of subparagraph (d) is to ensure that items of business which are essential for the purpose of assessing annual accounts do not, through lack of an appropriate item in the balance-sheet or in the profit and loss account, remain hidden away in items which have only a residual function.

Where subordinated assets and/or liabilities exist, further information on the interest paid or received may be useful; this is dealt with in subparagraph (e).

SECTION 9

Provisions not Applicable

Article 41

The Commission does not, at the present time, see any possibility of derogations for small and medium sized undertakings. Arrangements favourable to such undertakings may be possible within the framework of subsequent coordination in the light of experience gained from the application of the present Directive.

It is also appropriate to indicate that as explained at the beginning, establishments controlled by an individual which are all of a modest size are not included in the scope of the present Directive.

SECTION 10

Publication

Article 42

In principle the publication requirements of the Directive 78/660/EEC are applicable to credit institutions even if they do not have a legal form covered by the said Directive. Nevertheless, Member States will not be bound to lay down identical measures for such institutions as for limited companies; it will be sufficient for similar measures to be prescribed. On the other hand it is normal that publication should be made in all Member States where the credit institution has branches.

SECTION 11

Final provisions

Article 43

To avoid duplication of contact committees responsible for the application of Directives concerning annual accounts, it was felt appropriate to assign this task concerning the present Directive to the Contact Committee provided for in Directive 78/660/EEC. Nevertheless, when discussing problems posed by the present Directive the representation of both the Commission and the Member States should be appropriate.

Article 44

In view of the complexity of the changes required in accounting practices by credit institutions by the present Directive, it is felt necessary to provide for a longer than usual delay for its application.

PROPOSAL FOR A COUNCIL DIRECTIVE  
CONCERNING THE ANNUAL ACCOUNTS OF BANKS  
AND OTHER FINANCIAL INSTITUTIONS

---

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 54(3)(g) thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament<sup>1</sup>,

Having regard to the Opinion of the Economic and Social Committee<sup>2</sup>,

Whereas Council Directive 78/660/EEC<sup>3</sup> concerning the annual accounts of limited companies need not be applied to banks and other financial institutions, hereinafter referred to as "credit institutions", pending subsequent co-ordination; whereas, in view of the central importance of these undertakings in the Community, such co-ordination cannot be delayed any longer following implementation of Directive 78/660/EEC;

Whereas such co-ordination has also become urgent because more and more credit institutions are operating across national frontiers; whereas, for creditors, debtors and members and for the general public, improved comparability of the annual accounts of these institutions is therefore of crucial importance;

---

1

2

<sup>3</sup>OJ No L 222, 14.8.1978, p. 11.

Whereas, in virtually all the Member States of the Community, institutions of differing legal forms are in competition with one another in the credit sector; whereas it is therefore appropriate not to confine co-ordination to the legal forms covered by Directive 78/660/EEC, but to choose a scope which is in line with that of Council Directive 77/780/EEC<sup>1</sup> relating to the taking up and pursuit of the business of credit institutions<sup>1</sup>;

Whereas the link with the co-ordination of legislation relating to credit institutions is also important because aspects of the provisions governing annual accounts will inevitably have an impact on other areas of such co-ordination, such as authorisation requirements and the indicators used for supervisory purposes;

Whereas although, in view of the specific characteristics of credit institutions, it appears appropriate to propose a separate Directive on annual accounts for such undertakings;

this must not result in a set of standards being established which is separate from Directive 78/660/EEC; whereas such separate standards would be neither appropriate nor consistent with the basic principles underlying the co-ordination of company law, since, given the central place which they occupy in the economy of the Community, credit institutions cannot be excluded from the framework of standards devised for undertakings generally; whereas, for this reason only the particular characteristics of credit institutions are taken into account, and this Directive therefore deals only with exceptions to the rules contained in Directive 78/660/EEC;

Whereas in each Member State an essential characteristic of credit institutions is the difference in structure and content of their balance-sheets; whereas this Directive must therefore lay down the same structure and the same item designations for the balance sheets of all credit institutions in the Community;

---

1

OJ No L 322, 17.12.1977, p. 30.



Whereas, if the annual accounts are to be comparable, a number of basic questions regarding the presentation of certain transactions in the balance sheet must be settled;

Whereas, in the interests of greater comparability, it is also necessary that the content of certain balance sheet items be determined precisely;

Whereas the same also applies to the composition and definition of certain items in the profit and loss account;

Whereas the comparability of figures in the balance sheet and profit and loss account also depends crucially on the values at which assets or liabilities are entered in the balance sheet; whereas, in view of the principle of prudence and the need to maintain confidence in the stability of the credit industry, it is necessary to allow credit institutions some flexibility in the valuation of assets, particularly in the valuation of loans and advances; whereas credit institutions should also be permitted to show in the profit and loss account only the balance resulting from the set-off between charges corresponding to value adjustments in respect of certain items and income from the writing-back of such value adjustments;

Whereas, in view of the special nature of credit institutions, certain changes are also necessary with regard to the notes on the annual accounts;

Whereas, in line with the intention to cover as many credit institutions as possible, as was the case with Council Directive 77/780/EEC, derogations are not provided for small and medium-sized credit institutions, such as are provided for under the terms of Directive 78/660/EEC; whereas, nevertheless, if, in the light of experience, such derogations prove necessary, it will be possible to provide for them in a subsequent measure of co-ordination;

Whereas, taking account of the importance of banking networks which extend beyond national frontiers and their constant development, it is important that the annual accounts of a credit institution having its head office in one Member State, should be published in all the Member States where it is established and that that publication should be made in the official languages of the Member States concerned;

Whereas the examination of problems which arise in connection with the present Directive, notably concerning its application, require the co-operation of representatives of the Member States and the Commission in the form of a Contact Committee; whereas, in order to avoid the proliferation of such committees, it is desirable that the said co-operation be achieved

by means of the committee provided for in Article 52 of Directive 78/660/EEC; whereas, nevertheless, when examining problems concerning credit institutions, the committee will be appropriately constituted;

Whereas, in view of the complexity of the matter, the credit institutions covered by this Directive must be allowed a longer period than usual to implement the provisions thereof;

whereas, pending subsequent co-ordination, the Member States should also be allowed to defer the application of certain provisions of this Directive to certain specialised credit institutions where immediate application would cause major adjustment problems,

HAS ADOPTED THIS DIRECTIVE :

SECTION 1

Preliminary provisions and scope

Article 1

1. The provisions of Directive 78/660/EEC shall apply to credit institutions within the meaning of Article 2 of this Directive, except in the cases expressly provided for in this Directive.
  
2. Where reference is made in Directive 78/660/EEC to Articles 9 and 10 (balance sheet) or to Articles 23 to 26 (profit and loss account) of that Directive, such references shall be deemed to be references to Article 4 (balance sheet) or to Articles 29 and 30 (profit and loss account) of this Directive.
  
3. Where reference is made in Directive 78/660/EEC to balance sheet items which do not appear as separate balance sheet items in this Directive, such references shall be deemed to be references to the items in Article 4 of this Directive which include the assets in question.

Article 2

1. The co-ordination measures prescribed by this Directive shall apply to all credit institutions within the meaning of Article 1 of Directive 77/780/EEC, where such institutions are companies or firms within the meaning of the second paragraph of Article 58 of the Treaty.
  
  2. This Directive shall also apply to all other companies or firms whose principal activity is to receive deposits or other repayable funds, for their own account, and to grant credits (including guarantees), to acquire participating interests or make investments, in so far as such companies or firms have not been made subject to Directive 78/660/EEC.
-

3. This Directive shall not apply to :
- a) the credit institutions listed in article 2(2) of Directive 77/780/EEC ;
  - b) the following credit institutions :
    - in the Netherlands : credit institutions which by virtue of article 8 of the "Wet Toezicht Kredietwezen"<sup>1</sup> are not subject to Article 11 of the aforesaid law ;
    - in the United Kingdom : "Friendly Societies" and "Industrial and Provident Societies".
4. Member States may defer application of this Directive to :
- a) the credit institutions referred to in Article 2(5) of Directive 77/780/EEC, and included in the Commission communication of 14 October 1978<sup>2</sup>, for so long as the application to them of Directive 77/780/EEC is deferred;
  - b) other specialised credit institutions, where, because of the nature of their business, immediate application would create serious problems ; in this case, these institutions must be notified to the Commission within 6 months of the notification of this Directive. Member States may decide to defer application of this Directive to these institutions pending further co-ordination and until 1 January 1988 at the latest ;

---

<sup>1</sup> Adopted on 13 April 1978, Staatsblad 1978, 255

<sup>2</sup> O.J. C 244 of 14 October 1978, page 2.

SECTION 2

General provisions concerning the balance sheet  
and the profit and loss account

Article 3

1. Article 4(2) of Directive 78/660/EEC shall not apply to credit institutions.
2. The possibility of combining  
items pursuant to Article 4(3) of Directive 78/660/EEC shall, in the case of credit institutions, be restricted to balance sheet and profit and loss account sub-items preceded by lower case letters and shall be available only within the framework of the appropriate rules laid down by the Member States.

SECTION 3

Layout of the balance sheet

Article 4

The Member States shall prescribe the following layout for the balance sheet.

Assets

1. Cash in hand, balances with central banks and postal cheque offices.
2. Treasury bills and similar debt instruments of public bodies.
3. Loans and advances to credit institutions:
  - a) repayable on demand;
  - b) with agreed maturity dates or periods of notice :
    - ba) of less than three months,
    - bb) of three months or more.
4. Bill portfolio.
5. Loans and advances to customers :
  - a) repayable on demand;
  - b) with agreed maturity dates or periods of notice.

6. Debt securities held in portfolio :
  - a) issued by public bodies;
  - b) issued by other borrowers, including own debt securities.
7. Subordinated claims and debt securities.
8. Shares and other variable-yield securities, including :
  - participating interests;
  - shares in affiliated undertakings.
9. Assets as listed in Article 9, Assets B, C I and C II (2), (3) and (4) of Directive 78/660/EEC, including :
  - formation expenses;
  - goodwill, to the extent that it was acquired for valuable consideration;
10. - assets listed in Article 9, Assets C II (2), (3) and (4) of Directive 78/660/EEC.  
Land and buildings.
11. Subscribed capital unpaid,
  - called-up capital (unless national law provides for called-up capital to be included under liabilities, in which case capital called but not yet paid up must be included either in item 11 of the assets or in item 14 of the assets).
12. Own shares
  - in addition : nominal/accounting par value.
13. Other assets.
14. Subscribed capital, called but not paid-up (unless national law provides that called-up capital be shown as an asset under item 11).
15. Accruals and deferred income.
16. Loss for the financial year (unless national law provides for its inclusion under item 13 of the liabilities).

Total assets

Liabilities

1. Amounts owed to credit institutions :
  - a) repayable on demand;
  - b) with agreed maturity dates or periods of notice :
    - ba) of less than three months,
    - bb) of three months or more.
2. Amounts owed to customers other than credit institutions :
  - a) repayable on demand;
  - b) with agreed maturity dates or periods of notice;
  - c) savings deposits and savings bonds.
3. Commitments represented by certificates :
  - a) debt securities issued;
  - b) other.
4. Other liabilities.
5. Accruals and deferred income.
6. Profit for the financial year (unless national law provides for its inclusion under item 13 of the liabilities).
7. Provisions for liabilities and charges :
  - a) provisions for pensions and similar obligations;
  - b) provisions for taxation;
  - c) other provisions.
8. Subordinated liabilities.

9. Subscribed capital (unless national law provides for called up capital to be shown under this item. In that case, the amounts of subscribed capital and paid-up capital must be shown separately).
10. Share premium account.
11. Reserves.
12. Profit or loss brought forward.
13. Profit or loss for the financial year (unless national law provides for this item to be shown under "Assets" item 16 or "Liabilities" item 6).

Total Liabilities

Below the Line items

1. Contingent liabilities :
  - a) endorsements;
  - b) guarantees and indemnities;
  - c) assets pledged as collateral security for liabilities of third parties.
2. Commitments arising from forward transactions.
3. Commitments arising from sale and repurchase transactions.



Article 5

1. The Member States shall prescribe that the following shall be shown separately in sub-items to the respective items :
  - claims, whether or not represented by certificates, on affiliated undertakings and contained in "Assets" items 3 to 7;
  - claims, whether or not represented by certificates, on undertakings with which the credit institution is linked by virtue of a participating interest and contained in "Assets" items 3 to 7;
  - Liabilities, whether or not represented by certificates, to affiliated undertakings and contained in "Liabilities" items 1, 2, 3 and 8;
  - Liabilities, whether or not represented by certificates, to undertakings with which the credit institution is linked by virtue of a participating interest and contained in "Liabilities" items 1, 2, 3 and 8.
2. The Member States may <sup>however</sup> permit this information, broken down by the items referred to in paragraph 1, to be shown in the notes.

Article 6

1. Assets shall be shown under the relevant balance sheet headings even where the credit institution drawing up the balance sheet has pledged them as security for its own liabilities or for those of third parties or has otherwise assigned them as security to third parties.

2. The credit institution drawing up the balance sheet shall not include in its balance sheet assets pledged or otherwise assigned to it as security unless such assets are in the form of cash.

Such securities other than in the form of cash shall be shown as a total in the notes where this is necessary to provide a true and fair view of the credit institution's assets, liabilities, financial position and profit or loss.

#### Article 7

1. Where a loan has been granted by a syndicate consisting of a number of credit institutions, each credit institution participating in the syndicate shall include in the balance sheet only that part of the total loan which it has itself funded.
2. If, in the case of syndicated loans, the amount of funds indicated as having been made available by the credit institution drawing up the balance sheet exceeds the amount which it has guaranteed, any additional guarantee portion shall be shown as a contingent liability (in item 1b below the line).
3. The above provisions shall also apply to any other type of transaction carried out by syndicates.

#### Article 8

1. Funds which a credit institution receives for retransmitting to third parties in its own name but for the account of third parties shall be shown in the balance sheet only if the credit institution acquires legal title to the claims thereby established.  
The total amounts of such claims and liabilities shall be shown separately.
2. Loans granted in the name and for the account of third parties shall not be included in the balance sheet.

Article 9

1. The classification by maturity of certain assets and liabilities shall be based on the originally agreed maturity or period of notice. However, where a credit institution has acquired an existing loan not represented by a certificate, it shall classify that loan on the basis of the remaining maturity as at the date on which it was acquired.
2. The originally agreed maturity for loans shall be the period between the date of first drawing and the date of repayment. The period of notice shall be deemed to be the period between the date on which notice is given and the date on which repayment is to be made.
3. If loans and advances or other claims are redeemable by instalments, the agreed maturity shall be the period between the date on which such loans and advances or other claims arose and the date on which the last instalment falls due.
4. Only those amounts which can at any time be withdrawn without notice or for which a maturity or period of notice of not more than twenty-four hours or one working day has been agreed shall be regarded as repayable on demand.
5. The Member States may permit deviations from the provisions of paragraphs 2 to 4 provided that this is necessary to provide a true and fair view of the credit institution's assets, liabilities, financial position and profit or loss. In such cases, credit institutions shall indicate in the notes the extent to which they have deviated from these provisions.

Article 10

1. Sale and repurchase transactions are transactions which involve the transfer by a credit institution or customer (the "transferor") to another credit institution or customer (the "transferee") of assets which belong to it, in particular, bills, claims or securities against

payment of a specified amount, subject to an agreement that the same assets be repurchased by the transferor, at the purchase price or a different amount determined in advance, at a specified or still to be specified date.

2. If the transferee undertakes to return the assets at a date determined in advance or to be determined by the transferor, the transaction in question shall be deemed to be a genuine sale and repurchase transaction.
3. If, however, the transferee is merely entitled to return the assets at the purchase price or for a different amount agreed in advance at a specified or still to be specified date, the transaction in question shall be deemed to be a sale with an option to repurchase.
4. In the case of the genuine sale and repurchase transactions referred to in paragraph 2, the assets transferred shall continue to be carried on the balance sheet of the transferor; the purchase price received by the transferor shall be entered as an amount owed to the transferee.
5. In the case referred to in paragraph 3, however, the transferor is not entitled to enter in his balance sheet the assets transferred, and these items shall be carried as assets in the transferee's balance sheet. The transferor shall enter in item 3 below the line a contingent liability equal to the amount agreed in the event of repurchase.
6. Forward exchange transactions, options, transactions involving the issue of debentures with a commitment to repurchase all or part of the issue before maturity and any similar transactions shall not be regarded as sale and repurchase transactions within the meaning of this Article.

SECTION 4

Special provisions relating to  
certain balance sheet items

Article 11

Assets : Item 1

Cash in hand and balances with central banks and postal cheque offices

1. Cash in hand shall comprise legal tender including foreign notes and coin.
2. This item may include only balances with the central bank and postal cheque offices of the country in which the registered office of the credit institution drawing up the balance sheet is located, together with balances of the credit institution's branches with such bodies in their respective host countries. These balances must be readily available at any time. Other claims on such bodies shall be shown as loans and advances to credit institutions ("Assets" item 3) or as loans and advances to customers ("Assets" item 5).

Article 12

Assets : Item 2

Treasury bills and similar debt instruments of public bodies

1. This item shall comprise Treasury bills, Treasury certificates and similar debt instruments of public bodies with an initially agreed maturity of not more than two years which are eligible for rediscount with the central bank.
2. Those debt instruments of public bodies which fail to meet one of the two conditions mentioned shall be shown under "Assets" sub-item 6(a).

Article 13

Assets : Item 3

Loans and advances to credit institutions

1. Loans and advances to credit institutions shall comprise all types of asset in the form of claims on domestic or foreign credit institutions, which arise from banking transactions, irrespective of their particular designation. The only exception shall be claims on credit institutions represented by commercial bills or debt securities, which shall be shown under "Assets" items 4 and 6 respectively.
2. Credit institutions within the meaning of this Article shall include all undertakings which are considered to be credit institutions under Directive 77/780/EEC, as well as foreign central banks, international organisations with a banking character and all private and public undertakings which have their registered offices outside the Community and which satisfy the definition in Article 1 of Directive 77/780/EEC.

Loans and advances to undertakings which do not satisfy the abovementioned conditions shall be shown under "Assets" item 5.

Article 14

Assets : Item 4

Bill portfolio

This item shall comprise all bills held in portfolio whose counter-values have been credited to a credit institution or customer, provided that they do not come under "Assets" item 2 as Treasury bills or under "Assets" items 3 or 5 as bills for collection.

Article 15

Assets : Item 5

Loans and advances to customers

Loans and advances to customers shall comprise all types of asset in the form of claims on domestic or foreign customers (other than credit institutions), irrespective of their particular designation. The only exception shall be claims on customers represented by commercial bills or debt securities, which shall be shown under "Assets" items 4 and 6 respectively.

Article 16

Assets : Item 6

Debt securities held in portfolio

1. This item shall comprise fixed-interest marketable debt securities issued by credit institutions, by other undertakings or by public bodies; debt securities issued by the latter, however, shall be included only if they are not to be shown under "Assets" item 2.
2. Instruments carrying interest rates that vary in line with a specific factor, in particular the interest rate on the inter-bank market or on the Euromarket, shall also be regarded as fixed-interest debt securities.
3. Only those own debt securities which are intended to be resold on the market may be included in sub-item 6(b).

Article 17

Assets : Item 7

Subordinated claims and debt securities

Where it has been agreed that, in the event of winding up or of bankruptcy, claims arising from loans and advances or debt securities are to be repaid only after the claims of all other creditors have been met, the loans and advances or debt securities in question shall be shown under "Assets" item 7.

Article 18

Assets : Item 12

Own shares

Own shares shall be shown in the balance sheet only if national law so

permits. Besides the balance sheet value, there shall be indicated the nominal value or, in the absence of a nominal value, the accounting par value of the own shares.

#### Article 19

##### Liabilities : Item 1

##### Amounts owed to credit institutions

1. Amounts owed to credit institutions shall include all types of claim, arising from banking transactions, of other domestic or foreign credit institutions, on the credit institution drawing up the balance sheet, irrespective of their particular designation. The only exception shall be commitments represented by debt securities evidenced in some other form, which shall be shown under "Liabilities" item 3.
2. Credit institutions within the meaning of this Article shall include all undertakings which are considered to be credit institutions under Directive 77/780/EEC, as well as domestic and foreign central banks, international organisations with a banking character and all private and public undertakings which have their registered offices outside the European Community and which satisfy the definition in Article 1 of Directive 77/780/EEC.

#### Article 20

##### Liabilities : Item 2

##### Amounts owed to customers other than credit institutions

1. This item shall comprise amounts, irrespective of their particular designation, owed to undertakings which are not credit institutions within the meaning of Article 19. The only exception shall be commitments represented by debt securities evidenced in some other form, which shall be shown under "Liabilities" item 3.



2. Only deposits satisfying the conditions laid down in law by the Member State concerned shall be treated as savings deposits.

#### Article 21

##### Liabilities : Item 3

##### Debts represented by certificates

1. This item shall include both debt securities and commitments for which negotiable certificates have been issued, notably certificates of deposit, "bons de caisse" and commitments from own acceptances and promissory notes.
2. Only commitments in respect of which the credit institution is the first party liable ("drawee") shall be treated as commitments from own acceptances.
3. Savings deposits, even if savings books or similar certificates are issued in respect of them, savings bonds and other registered debt securities shall not be included in this item but under "Liabilities" item 2.

#### Article 22

##### Liabilities : Item 8

##### Subordinated liabilities

Where it has been agreed that, in the event of winding up or of bankruptcy, liabilities, whether or not represented by certificates, are to be repaid only after the claims of all other creditors have been met, the liabilities in question shall be shown under "Liabilities" item 8.

Article 23

Liabilities : Item 9

Subscribed capital

This item shall comprise all amounts, irrespective of their particular designation, which, in accordance with the legal structure of the credit institution, are regarded under the national law of the Member State concerned as equity capital subscribed by the shareholders or other proprietors.

Article 24

Liabilities : Item 11

Reserves

This item shall comprise all the types of reserves listed in Article 9 of Directive 78/660/EEC under liabilities A(III) and (IV), as defined therein. Member States may also require other types of reserves to be shown where this is necessary in relation to credit institutions having a legal structure not covered by Directive 78/660/EEC.

These reserves shall be shown separately, as sub-items to "liabilities" item 11, in the balance sheets of the credit institutions concerned.

Article 25

Item 1 below the line

Contingent liabilities

Endorsement liabilities arising from rediscounted bills shall be shown under (a) only if national law does not require otherwise.

All personal guarantee obligations incurred for the account of third parties, particularly in respect of sureties and irrevocable letters of credit, shall be entered under (b).

Assets which the credit institution drawing up the balance sheet has pledged as security for liabilities of third parties shall be shown under (c); assets which the credit institution drawing up the balance sheet has pledged as security for its own liabilities shall be shown in the notes on the accounts.

Article 26

Item 2 below the line

Commitments arising from forward transactions

This item shall comprise all liabilities - broken down by obligations to sell and to purchase - which exist on the balance sheet date and which the credit institution drawing up the balance sheet has incurred by way of forward transactions in foreign currencies, precious metals, securities, certificates of deposit or goods.

Article 27

Item 3 below the line

Commitments arising from sale and repurchase transactions

This item shall be restricted to contingent liabilities which the credit institution drawing up the balance sheet has incurred by way of optional sale and repurchase agreements within the meaning of Article 10(3).

SECTION 5

Layout of the profit and loss account

Article 28

For the presentation of the profit and loss account, Member States shall prescribe one or both of the layouts contained in Articles 29 and 30. If a Member State prescribes both layouts it may allow credit institutions to choose between them.

Vertical layout

Article 29

1. Interest receivable,  
including that derived from fixed-interest securities.
2. a) Income from shares and other variable-yield securities;  
b) Income from participating interests;  
c) Income from shares in affiliated undertakings.
3. Commissions receivable.
4. Interest payable.
5. Commissions payable.
6. Other operating income.
7. Staff costs :
  - a) wages and salaries;
  - b) social security costs, with a separate indication of those relating to pensions.
8. Charges for value adjustments in respect of loans and advances to credit institutions and customers and provisions for guarantees in credit transactions with credit institutions and customers. Income from the writing-up of loans and advances to credit institutions and customers and from the writing-back of provisions for guarantees in credit transactions, with credit institutions and customers.
9. Charges for value adjustments in respect of securities, participating interests and shares in affiliated undertakings/Income from value adjustments in respect of securities.

10. Value adjustments in respect of "Assets" items 9 and 10.
11. Other operating charges.
12. Tax on profit or loss on ordinary activities.
13. Profit or loss on ordinary activities after tax.
14. Extraordinary income.
15. Extraordinary charges.
16. Extraordinary profit or loss.
17. Tax on extraordinary profit or loss.
18. Other taxes not shown under the above items.
19. Profit or loss for the financial year.

Article 30

Horizontal layout

A. Charges

1. Interest payable.
2. Commissions payable.
3. Staff costs :
  - a) wages and salaries;
  - b) social security costs, with a separate indication of those relating to pensions.
4. Charges for value adjustments in respect of loans and advances to credit institutions and customers and provisions for guarantees in credit transactions with credit institutions and customers.
5. Charges for value adjustments in respect of securities, participating interests, and shares in affiliated undertakings.
6. Value adjustments in respect of "Assets" items 9 and 10.

7. Other operating charges.
8. Tax on profit or loss on ordinary activities.
9. Extraordinary charges.
10. Tax on extraordinary profit or loss.
11. Other taxes not shown under the above items.
12. Profit for the financial year.

B. Income

1. Interest receivable,  
including that derived from fixed-interest securities.
2. a) Income from shares and other variable-yield securities;  
b) Income from participating interests;  
c) Income from shares in affiliated undertakings.
3. Commissions receivable.
4. Income from the writing up of loans and advances to credit institutions and customers and from the writing-back of provisions for guarantees in credit transactions with credit institutions and customers.
5. Income from value adjustments in respect of securities, participating interests, and shares in affiliated undertakings;
6. Other operating income.
7. Profit or loss on ordinary activities after tax.
8. Extraordinary income.
9. Loss for the financial year.

1. These items shall include charges for value adjustments in respect of loans and advances and provisions for guarantees to be shown under "Assets", items 3 and 5, and below the line, or, as appropriate, income from the recovery of written-off loans and advances and from the writing-back of earlier value adjustments in credit transactions and provisions for guarantees.
2. The charges and income covered by these items may be set off one against the other, so that only a net item (income or charge) is shown.

#### Article 35

Article 29, item 9 (vertical layout) and Article 30, items A.5 and B.5 (horizontal layout).

Charges for value adjustments in respect of securities, participating interests and shares in affiliated undertakings and  
Income from value adjustments in respect of securities.

1. These items shall include, in respect of the assets to be shown in "Assets", items 6 and 8, all the charges for value adjustments and all the income from value adjustments in respect of securities, participating interests, and shares in affiliated undertakings.
2. The charges and income covered by these items may be set off one against the other, so that only a net item (income or charge) is shown.

SECTION 7

Valuation rules

Article 36

1. "Assets", item 9, shall always be valued as fixed assets. The assets included in other balance sheet items shall be valued as fixed assets where they are intended for use on a continuing basis in the normal course of the credit institutions's activities.
2. Where reference is made to "Financial fixed assets" in Section 7 of Directive 78/660/EEC, this term shall in the case of credit institutions be taken to mean participating interests, shares in affiliated undertakings and securities intended for use on a continuing basis in the normal course of the credit institution's activities.

Article 37

Article 39 of Directive 78/660/EEC shall be applied in the valuation of credit institutions' loans and advances subject to the following provisions :

1. Loans and advances to credit institutions and customers ("Assets", items 3 and 5), may be shown at a lower value than permitted under Article 39(1)(b) and (c) of Directive 78/660/EEC, where this is necessary in view of the prudence dictated by the particular risks attaching to banking business. Nevertheless, the difference between this lower value and that which would result from the application of the provisions mentioned above must not be greater than 5%.
2. The valuations thus established may be maintained until the credit institution drawing up the balance sheet wishes to write up the items in order to avoid undue fluctuations in value adjustment charges.



Article 38

1. The conversion into national currency of foreign currency assets and liabilities and unmatured forward exchange contracts which do not have to be shown in the balance sheet and the recording of the results of foreign exchange transactions shall be carried out in accordance with the provisions of paragraphs 2 to 4.
2. Assets and liabilities denominated in foreign currencies and unmatured forward exchange contracts shall be converted to national currencies at the spot rate ruling at the balance sheet date. However, the Member States may stipulate that in converting unmatured forward exchange contracts the forward rate ruling at the balance sheet date shall be used.
3. The difference between the book value of assets and liabilities denominated in foreign currencies and of unmatured forward exchange contracts, and the amount resulting from conversion in accordance with paragraph 2 shall be included in the profit and loss account. However, the Member States may stipulate that, where forward exchange contracts are not covered by specific foreign exchange swaps or by assets or liabilities denominated in foreign currencies, any conversion gains shall not be included in the profit and loss account.
4. The charges and income resulting from specially covered forward exchange contracts shall be included in the profit and loss account pro rata temporis.

SECTION 8

Contents of the notes on the accounts

Article 39

1. Article 43 of Directive 78/660/EEC shall apply subject to the following provisions.
2. In place of the information required under Article 43(1)(6) of Directive 78/660/EEC, credit institutions shall in the notes on the accounts provide an analysis of fixed term claims and liabilities in respect of credit institutions and customers other than credit institutions ("Assets", items 3(b)(bb) 5(b) and 7 and "Liabilities", items 1(b)(bb) 2(b) and (c) 3(b) and 8) in accordance with the following periods :
  - up to and including 1 year;
  - more than 1 year but less than 5 years;
  - 5 years and over.

In addition, credit institutions shall indicate, in respect of the balance sheet items specified above and also in respect of "Assets", item 6, debt securities held in portfolio, and "Liabilities", item 3(a), debt securities issued, what proportion of assets and liabilities with an original maturity of 5 years or more will become due within one year of the balance sheet date.

The Member States may stipulate that this information be given in the balance sheet.

Lastly, credit institutions shall provide information on the assets which have been pledged as security for their own liabilities (including contingent liabilities); the information should be in sufficient detail to indicate, for each item under "Liabilities" and for each item below the line, the total amount of the assets pledged as security.

3. Where credit institutions have to provide information within the meaning of Article 43(1)(7) of Directive 78/660/EEC in the items below the line, such information need not be repeated in the notes on the accounts.
4. In place of the information required under Article 43(1)(8) of Directive 78/660/EEC, credit institutions shall indicate in the notes the proportion of their operating income (items 1 to 3 and 6 of the profit and loss account) which arises from domestic and foreign markets respectively.
5. By way of derogation from Article 43(1)(13) of Directive 78/660/EEC, credit institutions need indicate only the amounts of advances and credits granted to the members of their administrative, managerial and supervisory bodies, and the commitments entered into on their behalf by way of guarantees of any kind.

#### Article 40

1. The information required under Article 15(3) of Directive 78/660/EEC shall apply to fixed assets as defined in Article 36 of this Directive.
2. The Member States shall require credit institutions to give in addition the following information in the notes on the accounts:
  - (a) A breakdown of the securities included in "Assets" items 6, 7 and 8 into listed and unlisted securities and into securities which, pursuant to Article 36 of this Directive, were or were not valued as fixed assets.
  - (b) Information on the value of leasing transactions apportioned between the relevant balance sheet items.
  - (c) The book values, separately, of land and buildings,

included in "Assets" item 10, occupied by the credit institution and land and buildings held for resale.

- (d) A breakdown of "Assets", item 13, "Liabilities", item 4, charges items 11 and 15 in the vertical layout or A.7 and 9 in the horizontal layout and income items 6 and 14 in the vertical layout or B.6 and 8 in the horizontal layout into their main component amounts, where such amounts are important for the purpose of assessing the annual accounts, as well as explanations of their nature and amount.
- (e) Information on the amounts of interest which the credit institutions have received for subordinated assets in the year under review or have expended for subordinated liabilities. .

## SECTION 9

Certain provisions not applicable

### Article 41

Articles 11, 12, 27, 44, 45(2), second subparagraph, 47(2) and (3) and 51(2) and (3) of Directive 78/660/EEC shall not apply to credit institutions.

## SECTION 10

### Publication

#### Article 42

1. The properly authorised annual accounts of credit institutions, together with the annual report and the opinion of the person responsible for auditing the accounts shall be published in the manner required by the legislation in each Member State in accordance with Article 3 of Council Directive 68/151/EEC(1).

However, for credit institutions not having one of the legal forms specified in Article 1 (1) of Directive 78/660/EEC and not subject to the national legislation concerning publication referred to above, Member States shall lay down appropriate requirements which will at least make the above mentioned documents available to the public, on demand and without charge, at the registered office of the credit institution.

The annual accounts of a credit institution shall be published in all Community countries where the credit institution has branches as defined by Article 1, 3rd indent, of Directive 77/780/EEC, in the official language of each country concerned.

## SECTION 11

### Final provisions

#### Article 43

1. The Contact Committee established in accordance with Article 52 of Directive 78/660/EEC shall, when constituted appropriately, also have the following functions :  
(1) OJ No L 65 of 14.3.1968, p. 8.

- (a) to facilitate, without prejudice to the provisions of Articles 169 and 170 of the Treaty, harmonized application of this Directive through regular meetings dealing in particular with practical problems arising in connection with its application;
- (b) to advise the Commission, if necessary, on additions or amendments to this Directive.

Article 44

1. The Member States shall bring into force the laws, regulations and administrative provisions necessary for them to comply with this Directive by \_\_\_\_\_ They shall forthwith inform the Commission thereof.
2. The Member States may stipulate that the provisions referred to in paragraph 1 shall not apply until two years after the end of the period provided for in that paragraph.
3. The Member States shall ensure that they communicate to the Commission the texts of the main provisions of national law which they adopt in the field covered by this Directive.

Article 45

This Directive is addressed to the Member States.

## FINANCIAL SHEET

Certain cost might arise when meetings of the Contact Committee mentioned in Article 42 of the proposed Directive will have to be organised. It is impossible to give a precise estimation of this cost (which will not be high in any case), since presently both the frequency of such meetings and the number of Committee members are still unknown. However this may be, the proposal will not give rise to any cost in the budgetary year 1981.