

# »»» KfW Regulation

# KfW Regulation

## Regulation

on the application of banking supervisory provisions to Kreditanstalt für Wiederaufbau and on the assignment of supervision of compliance with these provisions to the German Federal Financial Supervisory Authority (KfW Regulation – KfWV)

dated 20 September 2013 (BGBl. I, p. 3735), amended by the Tenth Ordinance on the Adaption of Responsibilities (Zehnte Zuständigkeitsanpassungsverordnung) of 31 August 2015 (BGBl. I, p. 1474)

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Based on Article 12a of the Law Concerning Kreditanstalt für Wiederaufbau (KfW Law / *Gesetz über die Kreditanstalt für Wiederaufbau*), which was inserted by Article 1 of the law of 4 July 2013 (Federal Gazette I p. 2178), the German Federal Ministry of Finance, in agreement with the German Federal Ministry of Economics and Technology and after consulting the German Federal Financial Supervisory Authority and Deutsche Bundesbank, hereby issues the following regulation:

## Article 1

### Object

(1) This regulation defines which provisions

1. of the German Banking Act (*Kreditwesengesetz*) as amended,
2. of the German Supervision of Financial Conglomerates Act (*Finanzkonglomerate-Aufsichtsgesetz*) as amended and
3. of Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 646/2012 (Federal Gazette L 176 of 27.6.2013, p. 1), as amended,

shall apply to Kreditanstalt für Wiederaufbau (KfW) and the KfW group and to the supervision of KfW and of the KfW group. The structure of the KfW group is defined with reference to article 10a of the German Banking Act. This is without prejudice to article 2 paragraph 1 no. 2, paragraph 2 and paragraph 6 no. 2 of the German Banking Act.

(2) Ordinances and acts implementing the banking supervisory regulations defined as applicable in this regulation shall be applied in their most recently amended version.

(3) The regulation also governs the assignment of supervision of compliance with the banking supervisory provisions defined as applicable in this regulation by KfW and the KfW group to the German Federal Financial Supervisory Authority (hereinafter referred to as BaFin).

## Article 2

### General provisions

The following provisions of Regulation (EU) no. 575/2013 and the German Banking Act shall apply:

1. the definitions and other provisions of articles 4 and 5 of Regulation (EU) no. 575/2013 and of article 1 of the German Banking Act, where they appear in provisions deemed applicable in accordance with this regulation,
2. articles 6 and 7 of Regulation (EU) no. 575/2013 and article 2a of the German Banking Act,
3. article 2d of the German Banking Act,
4. articles 6, 6a and 7 of the German Banking Act,
5. article 6b of the German Banking Act and
6. article 8 paragraph 2 of the German Banking Act.

## Article 3

### Provisions for institutions, groups of institutions, financial holding groups, financial conglomerates, mixed financial holding companies and mixed-activity holding companies

The following provisions of Regulation (EU) no. 575/2013 and the German Banking Act shall apply to KfW and the KfW group:

1. articles 25 to 91 of Regulation (EU) no. 575/2013 and articles 10 and 12a of the German Banking Act,
2. articles 92 to 386 and 500 of Regulation (EU) no. 575/2013,
3. articles 11 to 24 of Regulation (EU) no. 575/2013 and article 10a of the German Banking Act,
4. articles 10c to 10i of the German Banking Act,
5. articles 387 to 410 of Regulation (EU) no. 575/2013 and articles 13 to 13c, 15 and 17 to 22 of the German Banking Act,
6. article 23 of the German Banking Act,
7. articles 24 to 24b and 25 of the German Banking Act,
8. articles 25a and 25b of the German Banking Act, provided there is nothing to the contrary in article 8,
9. articles 25c to 25e of the German Banking Act, without prejudice to article 7 paragraph 5 of the KfW Law,
10. articles 25f to 25m of the German Banking Act,
11. article 26 of the German Banking Act,
12. articles 28 to 30 and 31 paragraph 3 of the German Banking Act and
13. articles 429 and 430 of Regulation (EU) no. 575/2013.

## Article 4

### Provisions on the supervision of the institutions

The following provisions of the German Banking Act shall apply to KfW and the KfW group:

1. article 33 paragraph 1 nos. 2 and 4 to 4b of the German Banking Act,
2. article 36 of the German Banking Act,
3. articles 44 and 44a of the German Banking Act,
4. articles 45 to 46 of the German Banking Act and
5. article 49 of the German Banking Act.

## Article 5

### German Supervision of Financial Conglomerates Act

The German Supervision of Financial Conglomerates Act shall be applicable.

## Article 6

### Special provisions

Articles 52, 52a and 53e to 53n of the German Banking Act shall be applicable.

## Article 7

### Other provisions

Articles 60a and 60b of the German Banking Act shall be applicable.

## Article 8

### Mandated transactions

For mandated transactions as defined by article 2 paragraph 4 of the KfW Law the decision to grant a loan and decisions on the purchase and sale of financial instruments are excluded from the application of articles 25a and 25b of the German Banking Act. This also applies to decisions of the German federal government arising from mandated transactions as defined by article 2 paragraph 4 of the KfW Law.

## Article 9

### Assignment of supervision of compliance with the banking supervisory provisions

- (1) BaFin shall exercise supervision of compliance with the banking supervisory provisions, which are defined as applicable in this regulation, by KfW and the KfW group. In carrying out this responsibility, BaFin shall co-operate with Deutsche Bundesbank in accordance with article 7 of the German Banking Act.
- (2) BaFin shall notify the Federal Ministry of Finance and the Federal Ministry of Economics and Energy immediately in every instance where, in exercising supervision over KfW under this regulation, it
  1. intends to issue instructions or take action, or
  2. has issued instructions or taken action.

This shall not affect the guidelines in force for the exercise of legal and general oversight of BaFin by the German Federal Ministry of Finance.

- (3) Article 9 of the German Banking Act shall apply for the persons listed there, if they are engaged in carrying out this regulation, with the exception of article 9, paragraph 1, sentence 4, nos. 7, 9 to 11 and 16 to 18 of the German Banking Act.

## Article 10

### Entry into force

- (1) This regulation shall enter into force on 1 January 2016, apart from paragraphs 2 to 4 below.
- (2) Article 4 nos. 3 and 5 and article 9 shall enter into force on the day after the regulation is promulgated.
- (3) Article 2 no. 1 shall enter into force on 1 January 2014.
- (4) Article 2 no. 3 shall enter into force with regard to the application of article 2d paragraph 1 of the German Banking Act on 1 July 2014 and article 3 no. 9 shall enter into force with regard to the application of articles 25c and 25d of the German Banking Act on 1 July 2014.

Berlin, 20 September 2013

The German Federal Minister of Finance  
Wolfgang Schäuble

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