

Association of German Public Banks – Lennéstraße 11 – 10785 Berlin – Germany

European Commission
Directorate-General FISMA
Banking regulation and supervision (FISMA.D.1)

Rue de Spa 2
B-1000 Bruxelles

Implementation of Basel III – Amendment of Art. 2 paragraph 5 CRD

16.06.2022

Dear Mr. [REDACTED]

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On 27 October 2021, the European Commission published its legislative package implementing the Basel III Reform. With reference to the related revision of the Capital Requirements Directive (CRD), we would kindly like to ask you to advocate for the addition of another institution to the catalogue of German exemptions from the scope of application of the CRD in Art. 2 (5) No. 5 CRD:

Attachment(s)
1

Pursuant to the Act of the Federal State of Saxony-Anhalt on the establishment of Investitionsbank Sachsen-Anhalt as a legally independent promotional bank of December 15, 2021 - published on December 21, 2021 - (IB ErrG, cf. attachment), the hitherto legally dependent promotional bank of the Federal State of Saxony-Anhalt with partial legal capacity will be transferred to the then newly established independent institution under public law with full legal capacity "Investitionsbank Sachsen-Anhalt" as of March 1, 2023. As the universal successor, Investitionsbank Sachsen-Anhalt will take over the assets and liabilities of the previously legally dependent entity and assume all its rights, obligations and responsibilities. The sole owner and guarantor of the bank is the Federal State of Saxony-Anhalt.

The Act establishing Investitionsbank Sachsen-Anhalt as a legally independent promotional bank is based in all material regulatory areas on the laws establishing the already existing independent promotional banks of the German federal states. This applies, on the one hand, regarding the tasks and responsibilities of the bank in fulfilling public tasks of implementing and administering state development programmes and development measures in accordance with the state aid regulations of the European Union (Section 5 ErrG). On the other hand, the liability situation is similar to that of the already existing independent

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promotional banks of the German federal states: The federal state of Saxony-Anhalt has unlimited and direct liability for all obligations of Investitionsbank Sachsen-Anhalt (Section 3 ErrG).

For Investitionsbank Sachsen-Anhalt, which was established by the Act, a corresponding application for permission to conduct banking business was submitted to the Federal Financial Supervisory Authority (BaFin) on December 21, 2021.

The legally independent German promotional banks were exempted from the scope of application of the CRD with effect from June 27, 2019, under Article 2 (5) No. 5 CRD as amended by Directive 2019/878 EU. The reasons relevant for the exemption apply accordingly also to the newly established Investitionsbank Sachsen-Anhalt. Taking this into account and in order to ensure equal treatment between legally independent promotional banks in Germany, we think that "Investitionsbank Sachsen-Anhalt" should be added to Art. 2 (5) No. 5 CRD during the ongoing review of the banking package. The German Federal Ministry of Finance has been informed about our initiative.

Should you have any further questions, please feel free to contact us.

Yours Sincerely,
Association of German Public Banks, VÖB

