II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE
of 3 December 1991
implementing Directive 89/299/EEC on the own funds of credit institutions

(91/633/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 89/299/EEC of 17 April 1989 on the own funds of credit institutions [1] and in particular Article 6 (2) thereof,

Having regard to the proposal from the Commission,

Whereas Directive 89/229/EEC gives a definition of the own funds of credit institutions including the way by which total own funds are to be calculated;

Whereas since, with regard to the fund for general banking risks within the meaning of Article 38 of Council Directive 86/635/EEC of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions [2] there was no final allocation, Article 6 (2) of Directive 89/299/EEC provides that within six months of the date of implementation the Commission shall propose the final treatment of this item either in original own funds or in additional own funds, in accordance with the procedure provided for in Article 8;

Whereas the Banking Advisory Committee has expressed its opinion; whereas taking into account the results of discussions wider international fora and in accordance with the treatment of the fund for general banking risks at international level, these are included within the category of original own funds;

Whereas Directive 89/299/EEC should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 89/299/EEC is hereby amended as follows:

1. Article 6 (1) shall be replaced by the following:

'1. The items referred to in Article 2 (1), points 3 and 5 to 8 shall be subject to the following limits:

(a) the total of items 3 and 5 to 8 may not exceed a maximum of 100 % of items 1 plus 2 and 4 minus 9, 10 and 11;

(b) the total of items 7 and 8 may not exceed a maximum of 50 % of items 1 plus 2 and 4 minus 9, 10 and 11;

(c) the total of items 12 and 13 shall be deducted from the total of the items.'

2. Article 6 (2) shall be deleted.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 1 January 1993. They shall forthwith inform the Commission thereof.

[1] OJ No L 124, 5. 5. 1989, p. 16.
[2] OJ No L 372, 31. 12. 1986, p. 1.