
Changes to legislation: This version of this Decision was derived from EUR-Lex on IP completion day (31 December 2020 11:00 p.m.). It has not been amended by the UK since then. Find out more about legislation originating from the EU as published on legislation.gov.uk. (See end of Document for details)

ANNEX⁽¹⁾

Article 2(1)(e)

Germany will ensure that the Bankgesellschaft group will sell the Berliner Bank department of LBB as an economic entity, inclusive at least of the trade name (and all related intellectual property rights), all private, corporate and other customers associated with the business carried on under the trade name Berliner Bank, the branches and the front#office staff. The effective date for the number of customers, branches and front#office staff is 31 December 2003, taking into account the planned implementation of the restructuring plan notified to the Commission in accordance with Article 2(1)(a) and natural business fluctuations, i.e. increases and decreases in the number of customers, staff, assets and liabilities, that are based on individual decisions (such as the relocation of customers or employees and dissatisfaction with the previous bank or employer) and not influenced by the bank. Other assets or staff may be included in the sale as appropriate. A trustee will closely monitor compliance with these conditions. The tendering procedure must be open, transparent and non#discriminatory and must be started in 2005. It must be completed by 1 October 2006 so that the sale can take effect by 1 February 2007 at the latest.

Within three months of receipt of this decision, Germany will propose to the Commission a suitable trustee mandate and an independent trustee who will be required by law to observe professional secrecy and who will, at the expense of Germany, monitor the proper course of the sale and ensure in particular that the bank continues to restructure Berliner Bank in a sound business manner, invest in it and do nothing that will reduce its value, above all by transferring private or corporate customers or sales personnel to Berliner Sparkasse or to any other part of the Bankgesellschaft group. The trustee will take up his work without delay after having been commissioned. If the trustee discovers any irregularities, the Commission is to be notified immediately.

The buyer must be independent of Bankgesellschaft Berlin and must have the financial resources, proven expertise and incentives to maintain and develop Berliner Bank as a viable and active economic force in competition with Bankgesellschaft Berlin and other competitors. This does not rule out incorporation of Berliner Bank into the buyer's company and corporate identity.

The amendments to the mid-term financial plan of 29 January 2004 that are necessary for the implementation of this commitment will be submitted forthwith by Germany to the Commission for approval.

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- (1) The following summarises the contents of the commitments communicated by Germany on 6 February 2004. The original German text of the communication contains the wording relevant for this decision.

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