

139th of Federal Act of 30 December 2009 on Management of the Federal Budget

Federal Organic Budget Act 2013 – BHG 2013

BGBl. I No. 139/2009 most recently amended by BGBl. I No. 62/2012

The National Council has resolved

Table of contents

Chapter 1

General provisions and the organisation of budget management

Part 1

General provisions

- Sec. 1. Scope
- Sec. 2. Aims and principles of budget management
- Sec. 3. Budget management
- Sec. 4. Budget period

Part 2

Organisation of budget management

- Sec. 5. Budget-managing entities
- Sec. 6. Line ministers
- Sec. 7. Budget-managing bodies
- Sec. 8. Superordinate and subordinate budget-managing bodies
- Sec. 9. Austrian Federal Accounting Agency
- Sec. 10. Paying agencies
- Sec. 11. Economic entities

Chapter 2

Budget planning

Part 1

Medium-term budget planning

- Sec. 12. Federal Medium-Term Expenditure Framework Act
- Sec. 13. Binding effect of Federal Medium-Term Expenditure Framework Act
- Sec. 14. Strategy report
- Sec. 15. Duties to make submissions for Federal Medium-Term Expenditure Framework Act, basic outline personnel plan, strategy report and long-term budget forecast
- Sec. 16. Achieving agreement on new legislation proposals and other projects with a financial effect on the federal budget

Sec. 17. Outcome-oriented impact assessment with respect to legislative proposals and other projects

Sec. 18. Internal evaluation of legislative proposals and other projects

Part 2

Structure of federal budget

Sec. 19. Rules on structure of federal budget

Sec. 20. Operating statement

Sec. 21. Cash flow statement and budget based on cash flow statement

Sec. 22. Statement of financial position

Part 3

Budgeting

Sec. 23. Federal Finance Act

Sec. 24. Structure of federal budget statement

Sec. 25. Depiction of budget based on operating statement and on cash flow statement in federal budget statement

Sec. 26. Budget appropriations and budget accounts

Sec. 27. Statutory and internal administrative binding effects

Sec. 28. Budgeting principles

Sec. 29. Departures from budgeting principles

Sec. 30. Breakdown into allocation groups and appropriation groups in the budget based on an operating statement

Sec. 31. Revenues and expenses affecting cash flow and revenues and expenses not affecting cash flow

Sec. 32. Recognition rules for the budget based on an operating statement

Sec. 33. Breakdown into allocation groups and appropriation groups in the budget based on a cash flow statement

Sec. 34. Exceptions to recognition in the budget based on a cash flow statement

Sec. 35. Mandatory expenditures

Sec. 36. Earmarked budget allocation

Sec. 37. Earmarking in the context of budgeting

Sec. 38. Task areas

Part 4

Single-year budget planning

Sec. 39. Preparation of draft budget statement

Sec. 40. Draft budget statement

Sec. 41. Details on outcome orientation

Sec. 42. Draft Federal Finance Act

Sec. 43. Supplementary budget documents

Sec. 44. Personnel plan

Sec. 44a. ICT solutions and IT processes for personnel management

Part 5

Sec. 45. Performance mandate

Chapter 3

Execution

Part 1

Allocation and appropriation

Sec. 46. Principles of budget management

Sec. 47. Reporting obligations

Sec. 48. 'Full coverage' principle

Sec. 49. Appropriation

- Sec. 50. Provision of financial resources
- Sec. 51. Monthly budget plan
- Sec. 52. Allocation commitments
- Sec. 53. Re-allocations
- Sec. 54. Overruns of approved budget allocations
- Sec. 55. Formation of reserves
- Sec. 56. Withdrawals from and release of reserves
- Sec. 57. Projects
- Sec. 58. Prerequisites to execution of a project
- Sec. 59. Execution of a project entailing expenditures only for the current fiscal year
- Sec. 60. Execution of a project entailing an obligation in future fiscal years; future obligations
- Sec. 61. Execution of a project creating entitlements on the part of the Federal Government; future entitlements
- Sec. 62. Creation of accounts
- Sec. 63. Remunerations transferred between entities of the Federal Government; shares of costs
- Sec. 64. Services by entities of the Federal Government to third parties
- Sec. 65. Execution of expenditures as an intermediary

Part 2

Controlling

- Sec. 66. Budget controlling
- Sec. 67. Investment and financial controlling
- Sec. 68. Outcome controlling

Part 3

Rights of disposal with respect to assets

- Sec. 69. Acquisition of items of property for Federal Government and responsibility for management thereof
- Sec. 70. Principles governing the management of federal property and third-party property held in the custody of the Federal Government
- Sec. 71. Acquisition of equity interests by the Federal Government and delegation of tasks of the Federal Government to other legal entities
- Sec. 72. Recovery of unowed payments of Federal Government
- Sec. 73. Deferral, consent to instalment plan, suspension and discontinuation of collection of receivables by Federal Government
- Sec. 74. Waiver of receivables of Federal Government
- Sec. 75. Dispositions over other items of moveable federal property
- Sec. 76. Dispositions over items of immoveable federal property
- Sec. 77. Order of federal property in asset accounting

Part 4

Financing and State guarantees

- Sec. 78. Financial debts
- Sec. 79. Terms and conditions for procurement of financing
- Sec. 80. Additional financing authorisations
- Sec. 81. Financing of other legal entities and the Austrian States
- Sec. 82. State guarantees

Part 5

Incentive and sanction mechanisms

- Sec. 83. Bonuses
- Sec. 84. Breaches of budgeting rules by civil servants
- Sec. 85. Breaches of budgeting rules by contract employees
- Sec. 86. Joint consultation in enforcement situations

Chapter 4

Instructions relating to the execution of budget transaction, settlement, cost and performance accounting, payment transactions, internal audits and financial audits and annual report

Part 1

Instructions relating to the execution of budget transactions

Sec. 87. General remarks on instructions

Sec. 88. Payment and settlement orders

Part 2

Recognition

Sec. 89. Principles of recognition

Sec. 90. Stages of recognition in the cash flow statement

Sec. 91. Rules on accounting treatment

Sec. 92. Valuation rules for accounting purposes

Sec. 93. Rules for the treatment and valuation of financial instruments

Sec. 94. Structure of statement of financial position

Sec. 95. Operating statement and statement of financial position

Sec. 96. Cash flow statement

Sec. 97. Future entitlements and future obligations

Sec. 98. Other cost accounting groups

Sec. 99. Separate transactions

Sec. 100. Monthly statements

Sec. 101. Final reports

Sec. 102. Comparison budget statements

Sec. 103. Principles governing IT-supported performance of budgetary duties

Sec. 104. Principles governing the use of automated processes in budgeting

Sec. 105. General remarks with respect to retention

Sec. 106. Retention in digital form

Sec. 107. Physical retention

Part 3

Cost and performance accounting

Sec. 108. Principles governing cost and performance accounting of Federal Government

Sec. 109. Simplified cost and performance accounting

Sec. 110. Records of working time and duty to produce

Part 4

Payment transactions

Sec. 111. Principles governing payment transactions

Sec. 112. Management of cash funds and items of value

Part 5

Internal audits

Sec. 113. Substantive and computational verification

Sec. 114. Verifications in transaction execution

Sec. 115. Audit

Sec. 116. Rules on instructions in transaction execution, accounting, cost and performance accounting, payment transactions and internal audit

Part 6

Audit of final reports and federal annual report

Sec. 117. Audits of final reports

Sec. 118. Comparison budget statements of Federal Government

Sec. 119. Federal annual report

Chapter 5
Transitional and final provisions

- Sec. 120. References
- Sec. 121. Interim and transitional rules
- Sec. 122. Entry into force and repeal
- Sec. 123. Execution

Austrian Federal Ministry of Finance, DG Budget & Public Finances

<http://www.bmf.gv.at> – English sub-site: <http://english.bmf.gv.at/>

This translation has been compiled with meticulous care and to the best of our knowledge. However, we cannot assume any liability for the up-to-dateness, completeness or accuracy of this translation. The original and binding legal text in German can be found at <http://www.ris.bka.gv.at>

Chapter 1

General provisions and the organisation of budget management

Part 1

General provisions

Scope

Sec. 1. (1) This Federal Act governs the budget management of the Federal Government and, unless otherwise provided hereinafter, shall apply to all of the entities of the Federal Government that participate in managing the federal budget.

(2) Entities of the Federal Government that are endowed with independent legal personality on the basis of federal law (institutions with partial legal independence), are excepted from the scope of this Federal Act as far as they act within the scope of their legal independence.

Aims and principles of budget management

Sec. 2. (1) The purpose of budget management pursuant to sec. 3 is to perform the tasks of the Federal Government by ascertaining and providing the financial and personnel resources required for this purpose, taking account of the principles of outcome orientation, and in particular also taking account of the aim of actual gender equality, transparency, efficiency and of obtaining a true and fair view of the financial condition of the Federal Government. In this context the Federal Government shall strive to ensure that the equilibrium of the national economy is maintained and that public finances are sustainable and sound, whilst taking particular account of the requirements of EU law.

(2) All budget-managing entities at every level and considering any budget appropriation must take account of the outcome orientation, also taking particular account of the aim of actual gender equality as an integral element of budget management. The principle of outcome orientation includes, in particular, medium-term and annual budget planning, outcome controlling, outcome-oriented impact assessments in the case of legislative proposals and other projects, duties of reporting and information and control and management of budget-managing bodies through the use of performance mandates (ressources, aims and achievements) , cost and performance accounting.

(3) Measures shall be put in place to take account of the need to preserve the national economic equilibrium; such measures must be aimed at achieving balanced economic growth, price stability, a social market economy which remains highly competitive, full employment and social progress as well as a high level of environmental protection and improvement of environmental quality.

(4) As a fundamental principle, the budget of the Federal Government has to be balanced according to European Union legislation (limits for structural deficits).

1. This principle shall be deemed to have been complied with where the Federal Government's share (including social insurance schemes) in the structural deficit does not exceed 0.35 per cent of nominal GDP.

2. The task of defining and calculating the structural deficit is the remit of the Federal Minister of Finance; in this process, account should be taken of relevant EU rules. In making a determination of the public-sector deficit required for this purpose, the Federal Minister of Finance shall likewise include, in addition to the federal budget, all such entities as are attributed to the Austrian State (sub-sector central government) within the meaning of EU law. The Federal Minister of Finance shall issue regulations defining the entities in question and their duties to forward the necessary data.

3. More detailed requirements shall be prescribed by regulation issued by the Federal Minister of Finance. Such regulations shall, in particular, set out rules for determining the structural deficit and managing the control account pursuant to sub-sec. 6.

(5) The Federal Minister of Finance shall base his/her calculations under sub-sec. 1 hereof on GDP, which shall be calculated on the following basis:

1. The Federal Government's formulation of the draft of a Federal Medium-Term Expenditure Framework Act or of a Federal Finance Act and the structural deficit deemed permissible in that context shall be based on gross domestic product as ascertained by an independent academic institution.

2. Determination of the actual structural deficit shall be based on gross domestic product as ascertained by *Bundesanstalt Statistik Österreich*.

(6) Deviations of the Federal Government's actual structural deficit from the deficit limits permitted under sub-sec. 4 hereof shall be posted to a control account. If the control account falls below a negative threshold of 1.25% of nominal gross domestic product, then this value shall be adjusted in a manner that takes account of the economic cycle. Further details thereof shall be prescribed by regulation to be issued pursuant to sub-sec. 4 (line 3).

(7) In the event of natural disasters or extraordinary emergency situations lying beyond the control of the Federal State and significantly impairing the government's financial position, departures from the balanced-budget principle under sub-sec. 4 may be permitted in accordance with the provisions set out below.

- a) The draft of a Federal Medium-Term Expenditure Framework Act or Federal Finance Act submitted by the Austrian Federal Government takes account of the extent to which it is necessary to exceed the deficit limit and of the associated need to authorise the Federal Government to incur additional financial debt and
- b) the explanatory notes to the draft Federal Finance Act and in the budget report contain a substantively correct and quantitatively precise depiction of the draft Federal Finance Act affected by the emergency situations referenced in the first sentence hereof.
- c) The explanatory notes to the draft Federal Finance Act, and the strategy report on the Federal Medium-Term Expenditure Framework Act, shall contain a draft plan providing for a reduction of the increased deficit level in future fiscal years within a reasonable time. In terms of the schedule for the reduction plan, each of the drafts of the relevant Federal Medium-Term Expenditure Framework Act or Federal Finance Act shall take account of the specific reduction budget transactions.
- d) Departures from the balanced-budget principle to which the National Council has consented by Federal Medium-Term Expenditure Framework Act or Federal Finance Act, based on emergencies pursuant to the first sentence hereof and for which the National Council has by Federal Medium-Term Expenditure Framework Act provided a reduction plan, shall not be posted to the control account (sub-sec. 6).
- e) Departures from the balanced-budget principle on the basis of emergency situations the Commission has not recognised under the EU rules on the Stability and Growth Pact, shall be debited to the control account and shall be the subject of reductions pursuant to sub-sec. 6.

Budget management

§ 3. Budget management includes

1. preparation and formulation of draft Federal Medium-Term Expenditure Framework Act and Federal Finance Act and adoption thereof,
2. management of the operating statement, cash flow statement and operating statement,
3. controlling,
4. settlement, cost and performance accounting, monetary transactions and internal audit as well as
5. preparation of final accounts and financial audit.

Budget period

§ 4. The federal budget shall be managed separately for each fiscal year. The fiscal year corresponds to the calendar year.

Part 2

Organisation of budget management

Budget-managing entities

Sec. 5. (1) The budget-managing entities are the instructing entities and the executive entities. 'Instructing entities' are the line ministers and the heads of the budget-managing bodies. 'Executive entities' are the Federal Accounting Agency, the paying agencies and the economic entities [*Zahlstellen und Wirtschaftsstellen*].

(2) The organisational structures for budget organisation shall be set up in accordance with the budget management principles prescribed by Art. 51 (8) Austrian Federal Constitution in conjunction with sec. 2 (1), in particular in line with the principle of outcome orientation. Superordinate and subordinate budget-managing bodies (sec. 8) may be set up and dissolved to the extent that this brings about better compliance with the above-referenced principles.

(3) Instructing entities may only permit executing entities to carry out the tasks referenced in secs. 9, 10 and 11.

(4) The Federal Minister of Finance shall, in consultation with the Court of Audit determine by regulations the cases and conditions in which the instructing entities may themselves attend to duties of the executing entities in connection with budget management where the technological and organisational prerequisites thereto have been met. The condition precedent hereto is that

1. a) the instructing entity has a direct link with the governmental accounting system or
b) data processing facilities are used to automatically deal with budget management tasks,
2. this helps to simplify administrative tasks,
3. compliance with rules and regulations for budget management and execution is assured,
4. the oversight role of the instructing entities is preserved.

(5) Civil servants may only be entrusted with carrying out budget management tasks where their complete impartiality and compliance with the rules and regulations for budget management and execution are assured.

Line ministers

§ 6. (1) Line ministries are

1. the Federal President, the President of the National Council, the President of the Federal Council;
2. the President of the Constitutional Court, the President of the Supreme Administrative Court, the Chairperson of the Austrian Ombudsman's Board, the President of the Court of Audit;
3. the Federal Chancellor and the other federal ministers, to the extent they are entrusted with management of a federal ministry.

(2) The tasks of the line ministers are

1. to determine, at least for the current financial year and the four following years, the tentative allocations and appropriations pertaining to their remits, including an outcome-oriented impact analysis in case of legislative proposals and other projects which may have financial effects on the federal budget, and an internal evaluation thereof;
2. to participate in preparing the Federal Medium-Term Expenditure Framework Act and the strategy report;
3. to participate in preparing the draft budget statement (secs. 40 and 41), the budget report (sec. 42 (3)), the additional summaries (sec. 42 (4)), the supplementary budget documents (sec. 43)) and the reports on public funding schemes (sec. 47 (3) to (5));
4. to prescribe the budget organisation, taking account of sec. 28 (3), in particular, setting up budget-managing entities (structure of budget-managing entities) pursuant to sec. 7 (1) (2);
5. to set up global budgets and detail budgets (budget structure) in consultation with the Federal Minister of Finance and allocation of the detail budgets to the budget-managing entities (sec. 24 (6));
6. to allocate personnel capacities to the budget-managing entity;

7. to prescribe the performance mandates (ressources, aims and achievements) of budget-managing entities (sec. 45);
8. to ensure management and oversight of budget funds, and exercise oversight of compliance with budget figures and the performance mandates (ressources, aims and achievements);
9. to prepare monthly budget forecasts (sec. 51);
10. to prepare and furnish explanatory notes to their periodic monthly statements (sec. 100) and final reports (sec. 101) as well as to report in respect of the budget chapters of the line ministries, and
11. to participate in controlling (secs. 66 to 68);
12. to conduct an internal evaluation of legislative proposals and other projects (sec. 18 (1));
13. to make determinations on binding monetary allocations (sec. 52 (4)).

In carrying out their duties, the line ministries shall strive to manage the global and detail budgets falling within their remits in a manner which complies with the principles of Art. 51 (8) Austrian Federal Constitution in conjunction with sec. 2.

(3) The line ministries referenced in sub-sec. (1) (3) hereof shall appoint a budget consultant to attend to the tasks referenced in sub-sec. (2).

(4) When setting up budget-managing entities and administrative authorities pursuant to sec. 2 (2) of the Public Services Procedure Act 1984, BGBl. No. 29/1984, and posts pursuant to sec. 2e (1) of the Contract Civil Service Employees Act 1948, BGBl. No. 86/1948, the line ministries, the Federal Minister of Finance and the Federal Chancellor shall proceed in a coordinated fashion, in line with secs. 3a and 7 (5a) of the Federal Ministries Act 1986 [BMG], BGBl. No. 76/1986.

(5) In cases in which this Federal Act requires consultation between the Federal Minister of Finance and another federal minister, in cases of a failure to agree, sec. 5 (3), final sentence of the Federal Ministries Act 1986 [BMG], BGBl. No. 76/1986, shall apply.

Budget-managing bodies

Sec. 7. (1) The heads of budget-managing bodies are

1. the entities referenced in sec. 6 (1) as well as the heads of the associated organisational units falling within their remits, to whom the competent line ministry has delegated duties under sec. 7 (2);
2. entities of the Federal Government to whom the competent line ministry, in consultation with the Federal Minister of Finance, has delegated the duties of a budget-managing body by regulation in accordance with sec. 6 (2) (4); only such entities may be designated as budget-managing bodies as are suited to dealing with budget matters in light of their organisation and staffing capacities;
3. the provincial governors, to the extent they act in the capacity of federal entities;
4. two managing directors jointly or one managing director together with an authorised representative [*Prokurist*] of the Austrian Federal Financing Agency [*Bundesfinanzierungsagentur, ÖBFA*] in respect of performing the duties of the ÖBFA under sec. 2 (1) and (4) of the Federal Financing Act, BGBl. No. 763/1992,
5. the heads of the branch offices and offices of the Labour Market Service.

(2) The duties of heads of budget-managing bodies are

1. to assist with respect to the duties of the line ministry pursuant to sec. 6 (2) (1 to 3) and (8 to 11);
2. to prepare a draft performance mandate (ressources, aims and achievements) (sec. 45) and to implement the performance mandate stipulated by the line ministry in accordance with sec. 6 (2) (7);
3. where subordinate budget-managing bodies have been established, to stipulate their respective performance mandates (sec. 45);
4. to manage the detail budget allocated by the line ministry (sec. 87) by
 - a) establishing and reversing pending liabilities (sec. 90 (2)) and of receivables and liabilities of the Federal Government;
 - b) issuing and cancelling instructions in executing budget measures, whenever there are payments to be accepted, disbursements to be paid or entries to be posted that will change the outcome of the settlement statement records;

- c) issuing instructions on additions or disposals of elements of Federal Government assets or of third-party assets;
 - d) to the extent that subordinate budget-managing bodies have been established, by stipulating binding allocations pursuant to sec. 52 (5);
 - e) handling re-allocations as between expense and expenditure groups under the allocated detail budget (sec. 53);
 - f) appropriating reserves following application to the Federal Minister of Finance in the capacity of a line ministry and following approval by the Federal Minister of Finance (sec. 56);
 - g) submitting final reports (sec. 101) in the capacity of a line ministry to the Court of Audit and
 - h) internally evaluating legislative proposals and other projects (sec. 18 (2)).
5. delegating authority to issue instructions within the remit of the detail budget allocated to it pursuant to 4 (a) to (c) to heads of suitable organisational units, with the consent of the line minister.

Superordinate and subordinate budget-managing bodies

Sec. 8. (1) To the extent that second-level detail budgets have been set up, the line ministry shall establish the budget-managing bodies belonging to the area of its remit, in accordance with sec. 5 (2) as superordinate and subordinate budget-managing bodies. The heads of superordinate budget-managing bodies are those who manage a first-level detail budget, and the heads of subordinate budget-managing bodies are those who manage a second-level detail budget.

(2) Where superordinate and subordinate budget-managing bodies have been established, the heads of subordinate budget-managing bodies shall be subordinate to the heads of superordinate budget-managing bodies. Where no superordinate and subordinate budget-managing bodies have been established, the heads of budget-managing bodies shall be subordinate to the line ministry.

Austrian Federal Accounting Agency

Sec. 9. (1) Budget-managing bodies as defined in sec. 7 (1) (1, 2, 4 and 5) shall make use of the Federal Accounting Agency in handling accounting duties under (3) and (5). To the extent that he or she is responsible for duties within the meaning of sec. 9 (3) (1 to 8), the head of a budget-managing body under sec. 7 (1) (3) shall set up and manage an internal system with controls within the meaning of sub-sec. 3 (9).

(2) In performing the duties incumbent upon it, the Federal Accounting Agency is bound by the directions of the competent heads of any budget-managing body whose duties it implements and with which it directly deals.

(3) The duties of the Federal Accounting Agency are

1. arranging, compiling and recording settlement data and transmission thereof, if not already carried out by the entity instructing it (sec.5 (4)),
2. oversight of compliance with annual and monthly budget figures,
3. preparation of final reports (sec. 101),
4. handling payment transactions (secs. 111 to 112) with the exception of cash payment transactions,
5. internal audits (secs. 113 to 116),
6. oversight with respect to satisfaction of the receivables and liabilities of the Federal Government, in line with their maturity dates,
7. necessary action in connection with establishing and closure of paying agencies,
8. recording settlement data from the paying agencies' accounting statements in the federal accounting system of the budget-managing bodies (secs. 7 and 8) and
9. monitoring proper performance of the duties delegated to it in connection with budget management of the Federal Government by means of an internal system of controls.

(4) With the consent of the competent line ministry pursuant to sec. 2 (3) Austrian Federal Accounting Agency Act [*BHAG-G*], the budget-managing bodies may entrust the Federal Accounting Agency with duties other than those referenced in sub-sec. 3 hereof, to the extent that this comports with the goals referenced in sec. 2 (1), that by their nature these duties bear a relationship with federal budget

accounting, and that these duties do not have any adverse impact on timely and proper performance of the duties referenced in sub-sec. 3.

(5) Where any head of a budget-managing body manages the business of another legal entity, the accounting duties referenced in sub-sec. 3 shall be handled by the Federal Accounting Agency; in this context, the rules on federal budget management shall apply.

(6) The Federal Minister of Finance shall, in consultation with the Court of Audit, issue regulations prescribing more details rules with respect to these duties.

Paying agencies

Sec. 10. (1) Where necessary, paying agencies shall be set up to handle cash transactions of the budget-managing bodies, which should be limited to only such transactions as are unavoidable. In organisational respects, these paying agencies form a part of the budget-managing bodies at which they are set up.

(2) In performing the duties incumbent on it, a payment agency is bound only by the instructions of the budget-managing body whose duties it carries out and with which it directly deals.

(3) The respective budget-managing body shall provide rules on the duties of the payment agency, with the consent of the line ministry.

(4) Sec. 9 (6) shall apply *mutatis mutandis*.

Economic entities

Sec. 11. (1) Economic entities shall be set up at the budget-managing bodies. To the extent this assists in simplifying administrative procedures, each line ministry shall delegate duties of multiple budget-managing bodies referenced in sub-sec. 2 hereof within its remit to a single economic entity. Subject to the same proviso, a single economic entity shall handle these duties falling within the remit of another line ministry.

(2) The economic entities are responsible for

1. carrying out the instructions regarding additions or disposals of elements of federal assets or third-party assets, to the extent that they relate to elements of moveable or immovable federal assets and third-party moveable and immovable assets held in the custody of the Federal Government, as well as maintenance and preservation of these items of property, unless these tasks have been delegated to the Federal Accounting Agency,
2. management of the asset accounting integrated within the governmental accounting system and
3. inventory (sec. 70 (6)).

(3) Where a head of a budget-managing body manages the business of another legal entity, then the economic entity of the budget-managing body shall deal with the tasks referenced in sub-sec. 2 hereof; in this context, the rules governing federal budget management shall apply *mutatis mutandis*.

(4) Sec. 9 (6) shall apply *mutatis mutandis*.

Chapter 2

Budget planning

Part 1

Medium-term budget planning

Federal Medium-Term Expenditure Framework Act

Sec. 12. (1) The Federal Medium-Term Expenditure Framework Act is broken down by substantive criteria into the following headings:

1. General government affairs, Court and Security;
2. Employment, social services, health and family;
3. Education, research, art and culture;

4. Economic affairs, infrastructure and environment and
5. Financial management and interest.

(2) These headings shall be broken down into chapters or multiple chapters, in line with the matters to be dealt with. Fund allocations and appropriations by the National Council and the Federal Council shall be documented jointly in a single chapter.

(3) The Federal Medium-Term Expenditure Framework Act shall set ceilings on expenditures at the level of headings and chapters for the four following fiscal years, taking account of the aims prescribed by sec. 2 (1) and the balanced budget principle pursuant to sec. 2 (4 to 7). In addition, the Federal Medium-Term Expenditure Framework Act shall contain the basic outline of the personnel plan.

(4) In this context, the respective expenditure ceilings, relative to the individual chapters and individual headings, are made up of:

1. expenditures subject to a fixed limit as to amount in each respective chapter and heading;
2. variable expenditures subject to a ceiling which is capable of being calculated on the basis of appropriate parameters (sec. 5), and
3. funds which are available in the form of reserves (secs. 55 and 56).

(5) In areas in which

1. expenditures are dependent on fluctuations of the business cycle or on development of tax revenues or
2. the expenditures in question are expenditures which
 - a) will be re-funded by the EU or
 - b) are rendered necessary based on liabilities assumed by the Federal Ministry of Finance or
 - c) are rendered necessary based on sec. 93a (3) of the Banking Act,
 - d) are rendered necessary due to the European Stability Mechanism (ESM),

where in each of these cases it is not possible to plan for fixed amounts in advance, a variable expenditure ceiling may be provided for. Areas in which variable expenditure ceilings are permissible and definition of the parameters thereof shall be stipulated by regulation issued by the Federal Minister of Finance (in the case of definition of parameters, in consultation with the competent line ministry). In the case of statutory pension insurance and statutory unemployment insurance, variable expenditure ceilings shall be provided for.

(6) Expenditures for repayment of financial debt and monetary liabilities incurred for temporarily strengthening cash reserves as well as expenditures as a result of an exchange of capital on currency swaps are excepted from the scope of the Federal Medium-Term Expenditure Framework Act.

Binding effect of Federal Medium-Term Expenditure Framework Act

Sec. 13. (1) The ceilings at the level of headings laid down by the Federal Medium-Term Expenditure Framework Act may not be exceeded either in the course of preparation of or in the execution of the respective Federal Finance Act, except in cases of imminent harm [*Gefahr im Verzug*] and cases of national defence (Art. 51 (7) Austrian Constitution).

(2) The amounts of expenditures stipulated as ceilings in the chapters shall be binding with respect to the following fiscal year and may, in total, fall below the ceiling for the respective associated heading. Where the Federal Finance Act is adopted for the following year and the next following year, amounts of expenditures with respect to chapters for those two fiscal years are binding, but may be exceeded pursuant to sec. 54.

(3) The stipulations set out in the basic outline personnel plan shall be binding with respect to the respective Federal Finance Act.

Strategy report

Sec. 14. (1) The strategy report shall provide explanatory comments on the draft Federal Medium-Term Expenditure Framework Act and its objectives. To the extent the strategy report pertains to the basic outline personnel plan, it shall be formulated by the Federal Chancellor in consultation with the Federal Minister of Finance, and in other and further respects it shall be formulated by the Federal Minister of Finance and submitted to the Federal Government for adoption.

- (2) The strategy report shall, in particular, contain the following:
1. an overview of the economic situation and the tentative further development thereof;
 2. the budget-specific and economic aims as well as the budget strategy entailed thereby;
 3. a depiction of the extent to which the goals referenced in line 2 above comport with requirements under EU law and agreements as between the public authorities with respect to budget targets;
 4. a depiction of the expected development of main key data of the budget;
 5. explanatory comments on the individual headings and chapters, providing a depiction of the following, subject to the respective ceilings
 - a) objectives to be implemented, strategies and impacts, in particular also taking account of the goal of actual equality of women and men;
 - b) main focus areas of expenditure including material departures from the previous Federal Medium-Term Expenditure Framework Act and
 - c) necessary control and correction action in order to comply with the ceilings applicable in each case;
 6. the scope, composition and explanatory comments with respect to the developments as to anticipated inflows of payments during the following four-year period, separated by annual amounts; appropriate summaries may be made in this respect;
 - 6a. a depiction showing compliance with the balanced budget principle pursuant to sec. 2 (4 to 7);
 7. the assumptions on which the variable expenditure limits were based and
 8. the basic outline personnel plan.

Duties to make submissions for Federal Medium-Term Expenditure Framework Act, basic outline personnel plan, strategy report and long-term budget forecast

Sec. 15. (1) Every line ministry shall submit such documents to the Federal Minister of Finance as are required to prepare a draft Federal Medium-Term Expenditure Framework Act and the strategy report, pursuant to the guidelines to be issued by the Federal Minister of Finance.

(2) In every third fiscal year, the Federal Minister of Finance shall prepare an adequately substantiated, logically sound long-term budget forecast for a period of at least 30 fiscal years.

(3) The draft Federal Medium-Term Expenditure Framework Act, the strategy report and the long-term budget forecast shall be submitted by the Federal Minister of Finance to the Federal Government. The Federal Chancellor shall, in consultation with the Federal Minister of Finance, prepare and submit a draft of the basic outline personnel plan to the Federal Government.

(4) On an annual basis but by 30 April at the latest, the Federal Government shall submit to the National Council the draft Federal Medium-Term Expenditure Framework Act adopted by it, together with the strategy report, and in each third fiscal year, shall submit the long-term budget forecast to the National Council.

Achieving agreement on new legislation proposals and other projects with a financial effect on the federal budget

§ 16. (1) Prior to issuing any regulation, prior to concluding any supra-national or bi-lateral agreement or any agreement under Art. 15a of the Austrian Federal Constitution with financial effects on the federal budget, the competent federal minister shall timely achieve agreement with the Federal Minister of Finance. The Federal Minister of Finance shall in this context take care to ensure that the budget management goals referenced in sec. 2 (1) are adhered to. Excepted herefrom are regulations as to which federal acts already unambiguously prescribe the financial effects on their merits and as to quantum.

(2) Prior to entry into force of other legislative measures of a general type not falling within sub-sec. 1 hereof and which are of substantial financial significance, the competent federal minister shall reach agreement with the Federal Minister of Finance in a timely manner. In respect of making an assessment of when the financial significance of the measures should be regarded as substantial, the Federal Minister of Finance shall issue a regulation.

(3) Sub-sec. 2 shall be applied *mutatis mutandis* to collaboration of the Federal Government in measures based on supra- or international agreements.

Outcome-oriented impact assessment with respect to legislative proposals and other projects

Sec. 17. (1) All entities assigned to make preparations for issuing legal rules of the Federal Government (laws, regulations, supra- or international agreements, agreements pursuant to Art. 15a Austrian Federal Constitution) other legislative measures of fundamental type pursuant to sec. 16 (2) or of projects pursuant to sec. 58 (2), shall take account of their material effects when undertaking an impact assessment pursuant to sub-sec. 2. In any event, the financial, economic, environmental, consumer protection effects as well as the effects on children and youth and the administrative cost to citizens and to businesses including in social respects and, in particular, also on actual equality of the genders, shall be taken into account.

(2) The member of the Federal Government or the line ministry within whose remit the draft is prepared or the project was planned shall append an outcome-oriented impact assessment to every draft legislative proposal or any other project (sub-sec. 1). Only the material effects shall be the subject of the impact assessment; financial effects shall, in any event, be deemed material.

(3) The Federal Chancellor shall, unless otherwise provided in the sections set out below, issue regulations in consultation with the Federal Minister of Finance governing more specific details of outcome-oriented impact assessments. In this context, the following shall, in particular, be covered:

1. A description of the process of the assessment, the requirements in terms of methodological tools for determining impacts, the formulation of goals and measures and the manner of depicting the results;
2. what specific dimensions of impacts should be assessed and pursuant to what criteria impacts should be characterised as material; these dimensions shall be stipulated after soliciting comments from the member of the Federal Government whose remit is primarily affected, based on the type of dimension involved.
3. further rules as to the methodology for determining the specific impact dimensions; the member of the Federal Government within whose remit the specific matter falls shall stipulate these by issuing regulations. With respect to the requirements under sub-sub-sec. 1, agreement shall be reached with the Federal Chancellor as well as the Federal Minister of Finance.

(4) With respect to assessing financial impacts on the federal budget, the following shall apply:

1. In the case of legislative proposals and other projects (sub-sec.1), the assessment shall cover the question of how great the financial impacts will be on the asset, finance and operating statement during the current fiscal year and at least in the next four fiscal years, and how these financial impacts should be covered. The assessment must include a depiction of the impacts of legislative proposals and other projects (sub-sec. 1) with long-term financial impacts on the federal budget in terms of sustainability of public finances.
2. Where a draft legal rule pursuant to sub-sec. 1 has financial impacts on another public authority involved in revenue equalisation or on the social insurance entities, such impacts must be depicted.
3. Taking account of the principles stipulated by regulation pursuant to sub-sec. 3 hereof, the Federal Minister of Finance shall issue regulations prescribing further rules on determining and depicting impacts under sub-sub-sec. 1 and 2 hereof.

(5) Sub-sec. 4 (3) shall also apply to draft EU rules, subject to the proviso that funds to be remitted to the European Union pursuant to sec. 29 (4) (2) shall be the subject of a special presentation.

Internal evaluation of legislative proposals and other projects

§ 18. (1) Every line ministry shall, at reasonable intervals, internally evaluate Federal Acts, regulations, supra- or international agreements, agreements under Art. 15a Austrian Federal Constitution and other legislative measures of a fundamental nature pursuant to sec. 16 (2) the subject-matter of which pertains to matters falling within their remit pursuant to sec. 3 (1) (2) Austrian Federal Ministries Act.

(2) Every head of a budget managing body shall, at reasonable intervals, evaluate the implementation of a project (sec. 57) or of a programme comprising multiple related projects, which it shall determine in light of the nature or scope of the project or programme.

(3) That internal evaluation must show

1. whether the intended outcome and the measures contemplated to achieve it continue to be in line with the objectives referenced in sec. 2 (1);
 2. whether and to what extent the goals and targets have been achieved and what the impacts of the measures are and
 3. how great the actual financial impacts on the federal budget are.
- (4) More specific rules on carrying out an internal evaluation pursuant to sub-sec. 3 (1 and 2) shall be governed by regulation issued pursuant to sec. 17 (3), first sentence.
- (5) More specific rules on quality assurance and on reporting shall be governed by the regulation issued pursuant to sec. 68 (3).

Part 2

Structure of federal budget

Rules on structure of federal budget

Sec. 19. An operating statement, a cash flow statement and a statement of financial position shall be prepared for the federal budget.

Operating statement

Sec. 20. The operating statement shall show revenues and expenditures, appropriately accrued. The operating statement is made up of the planned budget based on the operating statement (sec. 32) and the resulting operating statement (sec. 95). An item of expense refers to the resource used, irrespective of the specific timing of payment. An item of revenue is a growth in value irrespective of the specific time of the payment.

Cash flow statement and budget based on cash flow statement

Sec. 21. (1) The cash flow statement shall record inflows and and outflows of funds in form of expenditures and receipts. The cash flow statement consists of the budget based on the cash flow statement (sec. 33) and the cash flow statement (sec. 96). An expenditure is an outflow of liquid funds during a fiscal year. A receipt is an inflow of liquid funds in a fiscal year.

(2) A distinction is made between a general transaction and cash flow from financing activities. General transactions include receipts and expenditures arising out of

1. operational administrative activity and transfers,
2. investment activity,
3. granting and repayment of loans and advance payments made.

Receipts and expenditures arising out of financing activity of the Federal Government are not included herein (sec. 3).

The difference between receipts and expenditures in sub-sub-secs. 1 to 3 yields the net borrowing for general transactions, where the above-referenced difference does not result in any government surplus.

(3) Cash flow from financing activities (sec. 33 (7)) includes receipts and expenditures from financing activities by the Federal Government.

Statement of financial position

Sec. 22. The statement of financial position is to be prepared as a statement recording government assets (sec. 95) and records inventories and ongoing changes to assets, external funds and net assets (revaluation accounts). The account of assets and liabilities must be broken down into current and long-term elements (sec. 94 (2) and (3)).

Part 3

Budgeting

Federal Finance Act

Sec. 23. (1) The Federal Finance Act consists of

1. rules governing coverage and authorisation of expenses and further principles material to budget management,
2. the budget statement, comprised of
 - a) the budget based on the operating statement,
 - b) the budget based on a cash flow statement,
 - c) details regarding outcome orientation,
3. the personnel plan,
4. schedules under sec. 29 (1 to 3).

(2) The budget statement shall indicate the outcome objectives and the measures planned for achieving them, based on indicators to be implemented by means of the budgeted fund allocations. The details with respect to outcome orientation are discretionary rules, and should be selected such that their relevance, substantive consistency, intelligibility, internal logic, comparability and verifiability are ensured.

Structure of federal budget statement

Sec. 24. (1) The federal budget statement shall be systematically broken down into headings, chapters, global budgets and first-level detail budgets, in each case taking account of variable (sec. 12 (5)) and fixed funds allocations (sec. 12), in accordance with the Federal Medium-Term Expenditure Framework Act (sec. 12) and within the ceilings set thereby in each case.

(2) As a basic rule, each chapter shall be fully broken down, along substantive criteria, into multiple global budgets. A global budget is a coherent administrative area in terms of subject matter in which the allocations and appropriations of funds are summarised for a coordinated spectrum of activities. In exceptional cases, a chapter may be broken down into a single global budget if it is not possible to sub-divide it by substantive criteria or if a more specific breakdown will not lead to any increase in transparency.

(3) The federal budget statement shall contain details on outcome orientation per chapter and per global budget, pursuant to sec. 41.

(4) As a basic matter, every global budget shall be broken down fully into first-level detail budgets, taking account of sec. 46 (4). Formulation of first-level detail budgets shall be undertaken pursuant to substantive criteria, oriented to individual entity. In exceptional cases, a global budget may be broken down into a single detail budget, if it is not possible to sub-divide it by substantive criteria or if a more specific breakdown will not lead to any increase in transparency.

(5) A first-level detail budget may be broken down into second-level detail budgets of the same global budget if this appears expedient for purposes of delegating budgetary responsibility. For purposes of preparing the draft federal budget statement, second-level detail budgets must be furnished in a timely fashion, in the IT system intended for this purpose.

Depiction of budget based on operating statement and on cash flow statement in federal budget statement

Sec. 25. (1) At the level of the overall budget, the headings, the chapters, the global budgets and the first-level detail budgets, a budget based on the cash flow statement shall be prepared, and in addition, budget based on the operating statement shall be prepared for each global budget and first-level detail budget. Second-level detail budgets are not depicted in the federal budget statement, but an operating statement and a based on the cash flow statement shall be prepared for them. Variable expenditures should be depicted at the level of detail budgets. The budget based on the operating statement and the budget based on a cash flow statement shall be broken down into allocation and appropriation groups at the levels referenced in the first sentence hereof. Fund allocations represent the expenses in the budget based on the operating statement and represent the expenditures in the budget based on the cash flow statement. Fund appropriations represent revenues in the budget based on the operating statement and represent the receipts in the budget based on the cash flow statement.

(2) In the budgets based on the operating statement and the cash flow statement, the figures for the federal budget statement to be adopted and the figures for the two preceding fiscal years should be shown.

Budget appropriations and budget accounts

Sec. 26. (1) For budgeting purposes, budget appropriations shall be used for each detail budget. Where a first-level detail budget is broken down into second-level detail budgets, then budget appropriations shall be used exclusively for the second-level detail budgets. The budget appropriations shall record the budget figures for the corresponding detail budget, from these figures, the budget figures for the first-level detail budgets, global budgets, chapters, headings and the overall budget are determined. For each budget appropriation, the respective, relevant fields of activity (sec. 38) should be indicated. Where based on organisational structures, it is necessary to do so, the line ministry – with consent of the Federal Minister of Finance – shall establish account assignment elements for those organisational units for which no detail budget is contemplated, such that receipts and expenses and revenues and expenditures can be clearly allocated to the respective account assignment element.

(2) The budget appropriation shall indicate budget figures, classified by fund allocations and appropriations:

1. as revenues pursuant to sec. 30 (1),
2. as expenses pursuant to sec. 30 (2),
3. as receipts pursuant to sec. 33 (1) (1 to 3) and
4. as expenditures pursuant to sec. 33 (1) (4 to 7).

(3) A budget appropriation may be created in the course of a fiscal year by consultation between the Federal Minister of Finance, the line ministry and the Court of Audit. When this is done, it should be ensured that the balanced budget and coverage of fund allocations within the global budgets in question are maintained or that approved excess budget allocations are ensured pursuant to sec. 54.

(4) The budget figures should be posted in the requisite number of accounts, taking account of sub-sec. 2. After soliciting the views of the Court of Audit, the Federal Minister of Finance shall issue regulations on budget transactions of the Federal Government governing the chart of accounts.

Statutory and internal administrative binding effects

Sec. 27. (1) The following ceilings on fund allocations stipulated in the budget statement are subject to statutory binding effect, and may not be exceeded when the Federal Finance Act is implemented:

1. ceilings on fixed and variable expenditures in each case at the level of the overall budget, the headings [*Rubrik*] and chapters and
2. ceilings on fixed and variable expenses and on fixed and variable expenditures of the global budgets.

(2) The following are subject to internal, administrative binding effect:

1. the ceilings on fixed and variable expenses and on fixed and variable expenditures of first and second-level detail budgets,
2. the budget figures at the level of the fund allocation groups of the
 - a) global budgets and
 - b) detail budgets.

The head of the budget-managing body, and in all further and other respects the line ministry, shall have authority to make decisions on internal, administrative binding effect pursuant to sub-sub-sec. 2 (b).

Budgeting principles

Sec. 28. (1) In the draft budget statement, all of the allocations anticipated during the following fiscal year, and all of the appropriations of the Federal Government anticipated tentatively during the coming fiscal year, shall be included, in their full (gross) amounts and separate from each other.

(2) Budget figures must be mathematically calculated, but where this is not possible, they must be estimated.

(3) Revenues and expenses must, as a fundamental principle, be posted in the detailed budget in which those revenues and expenses actually arise. Receipts and disbursements shall be posted in the same detailed budget as the associated revenues and expenses. The Federal Minister of Finance shall issue regulations with respect to more precise rules on budgeting.

(4) Budgeting of allocations shall be based solely on substantively permissible requirements, which cannot be waived; in that context, account must be taken of the personnel plan (sec 44).

(5) Expenses and expenditures for projects executed by the Federal Government (sec. 57) for which allocations will be made in multiple fiscal years should be attributed to the fiscal year in question to the extent of the allocations to be made during that fiscal year.

Departures from budgeting principles

Sec. 29. (1) In the case of administrative funds without independent legal personality, it is possible to depart from the principle established in sec. 28 (1), where the Federal Minister into whose substantive remit the matter falls, in consultation with the Federal Minister of Finance, regards this as expedient, in light of the particular nature of the transaction in question. In such a case, only subsidies for deficit coverage and surpluses flowing into the overall budget should be reported in the draft budget statement; notwithstanding this, however, the allocations and appropriations of the special asset fund in question shall be shown in a schedule to the Federal Finance Act, separated out from each other and in their full (gross) amounts.

(2) In derogation from sec. 28 (1) the transaction shall be budgeted in its net amount, in connection with the federal personnel rendering works and services for the legal entities and their successor entities which have been hived off from the federal budget; the relevant allocations and appropriations must be shown in a separate schedule to the Federal Finance Act, separate from each other and in their full (gross) amounts.

(3) In derogation from sec. 28 (1), when posting the transaction pursuant to sec. 50 (1) and pursuant to secs. 78 to 80, allocations and appropriations shall be budgeted in net amounts in the draft budget statement. The respective allocations and appropriations, however, shall be shown in a separate schedule to the Federal Finance Act, separate from each other and in their full (gross) amounts.

(4) The following shall be budgeted as reductions in revenues and receipts of public contributions (out transfers):

1. a) taxes and contributions to be transferred to *Länder*, municipalities and other legal entities under public and private law as well as to administrative funds without independent legal personality, or
- b) shares of such contributions and taxes, covered by federal statute and which are collected by the revenue authorities of the Federal Government and
2. funds to be remitted to the European Union to finance the overall budget pursuant to rules under EU law.

Breakdown into allocation groups and appropriation groups in the budget based on an operating statement

Sec. 30. (1) Revenues recognised on an accrual basis shall be subdivided into the following revenue groups:

1. revenues from operational administrative activities and transfers and
2. finance revenues.

(2) Expenses recognised on an accrued basis shall be subdivided into the following expense groups:

1. personnel costs,
2. transfer costs,
3. general administrative costs and
4. financing costs.

(3) Personnel costs include compensation together with fringe benefits and benefits in kind for federal civil servants.

(4) Personnel costs for federal civil servants performing works and services for legal entities and successor entities hived off from the federal budget do not constitute personnel costs within the meaning of sub-sec. 3, but rather transfer costs, and shall be offset in the budget statement and in the annual report by the corresponding reimbursements from the legal entity or successor entity hived off from the federal budget (sec. 29 (2)).

(5) 'Transfer costs' are the costs arising for the Federal Government's provision of a valuable benefit without any direct, reasonable valuable consideration in return. The foregoing shall also apply to subsidies. A 'subsidy' is the cost of cash loans, annuities, interest or borrowing subsidies provided at favourable interest or repayment rates, as well as other grants of money, provided by the Federal Government to a natural person or legal entity in exchange for goods or services to be rendered by them or intended to be rendered by them, in which there is a substantial public interest, which the Federal Government wishes to promote. The Federal Minister of Finance shall issue regulations stipulating uniform rules on the grant of subsidies.

(6) 'General administrative costs' are costs which cannot be categorised either as personnel, transfer or as financing costs.

(7) 'Financing costs' includes, at the least, interest expense and other financial expense.

(8) The operating statement shall depict the net profit or loss, which is the difference of the total of revenues and expenses.

Revenues and expenses affecting cash flow and revenues and expenses not affecting cash flow

Sec. 31. (1) Revenues and expenses shall be classified in the chart of accounts clearly as revenues and expenses affecting cash flow and revenues and expenses not affecting cash flow. Expenses affecting cash flow are expenses under sec. 30 (2), leading to a direct outflow of funds (expenditure). Expenses not affecting cash flow are expenses which do not lead to an outflow of funds (expenditure) in the fiscal year in question, but which arise due to a change in line items in the statement of financial position. Revenues affecting cash flow are revenues under sec. 30 (1) giving rise to an inflow of funds. Revenues not affecting cash flow are revenues which do not give rise to any inflow of funds.

(2) Expenses not affecting cash flow may not be reallocated in favour of expenses affecting cash flow.

Recognition rules for the budget based on an operating statement

Sec. 32. (1) Revenues from taxes and contributions and tax and contribution-like revenues shall be recognised in the budget based on an operating statement in that fiscal year in which the payment or transfer of a credit balance of a tax payer to accrued taxes is anticipated.

(2) Revenues from economic activities shall be recognised for the fiscal year to which they are economically attributable.

(3) Revenues from transfers are payment inflows arising from transactions without any direct exchange of consideration and shall be recognised in the fiscal year for which the transfer was provided. Where it is not possible to classify the revenues, the revenues shall be attributed to the point in time at which the inflow of liquid funds took place.

(4) Personnel costs shall be recognised for the fiscal year for which the consideration for the services of the civil servant was provided. In further and other respects, the following shall apply:

1. reserves shall be created for length-of-service bonuses and severance payments. The line ministry into whose remit the matter in question falls shall determine the amount of reserves for the personnel allocated to the specific detail budget, on the basis of estimated figures.
2. pension contributions (employer contributions) pursuant to sec. 22b of the Salaries Act 1956, as amended by Federal Act BGBl. I No. 111/2010, shall be recognised as expenses affecting cash flow in the operating statement, and as expenditures in the budget statement based on the cash flow statement. The pension contributions (employer contributions) shall be recognised as revenues and payments in the sub-chapter in which pensions for civil servants are accounted for.

(5) General administrative costs shall be recognised for the fiscal year to which they are economically attributable. Rents and other long-term contracts of obligation shall be attributed to the fiscal year in which they arise.

(6) Transfer costs shall be recognised in the fiscal year to which they are economically attributable. Where attribution is not possible, then they shall be attributed to the time of the expenditure. Multi-year transfers shall be recognised and recorded as an expense for the fiscal year in which they are provided.

(7) The following shall be recognised as expenses not affecting cash flow:

1. depreciations of property, plant and equipment and intangible assets,

2. expenses arising from allowances and cancellation of receivables,
 3. expenses arising out of allocations to reserves,
 4. other expenses not affecting cash flow, arising out of changes and adjustments to assets and external funds.
- (8) Expenses not affecting cash flow pursuant to sub-sec. 7 shall be recognised as follows:
1. in respect of depreciable assets, the anticipated, scheduled depreciations shall be recognised in the budget based on an operating statement. The recognition of the depreciation shall be made in a linear fashion over the ordinary useful life of the asset, which the Federal Minister of Finance shall prescribe in a uniform manner.
 2. For unrecoverable receivables, the anticipated write-offs shall be recognised in the budget based on an operating statement.
 3. The expenses anticipated from allocations to reserves shall be recognised in the budget based on an operating statement. Unallocated reserves that are released shall be recognised as revenue from the release of reserves. The line ministries shall create the reserves in consultation with the Federal Minister of Finance. The following allocations and releases of reserves must be recognised:
 - a) reserves for severance payments and length-of-service bonuses,
 - b) reserves for remediation of old contamination,
 - c) reserves for litigation costs and
 - d) reserves for liabilities.

The Federal Minister of Finance may, by issuing regulations, provide for mandatory recognition of further reserves in the draft Federal Finance Act.

(9) Interest revenue and interest expense shall be recognised for the fiscal year to which the interest pertains, irrespective of when it is paid. Revenues and expenses for interest and currency swap agreements shall be recognised in their net amounts in the chapter entitled "Financing and currency swap agreements". Charges and provisions connected with the Federal Government's financing operations shall not be distributed across the term of the capital, but rather recognised at the time of payment.

(10) Profits transferred from businesses and other institutions in which the Federal Government owns shares shall be recognised for the fiscal year in which the shareholder resolution takes place, in such amounts as are anticipated to be received by the Federal Government.

Breakdown into allocation groups and appropriation groups in the budget based on a cash flow statement

Sec. 33. (1) Receipts and expenditures of general budget management should be broken down into:

1. receipts arising out of operational administrative activities and transfers,
2. receipts from investment activities,
3. receipts arising out of repayment of loans and advances granted,
4. expenditures arising out of operational administrative activities,
5. expenditures for transfers,
6. expenditures for investment activity and
7. expenditures arising out of the grant of loans and advances granted.

(2) The figures in the budget based on an operating statement arising on the basis of recognition under sec. 32 shall also govern with respect to the budget based on a cash flow statement. The sum of expenses having an effect on cash flow correspond to expenditures arising out of operational administrative activities and transfers in the budget based on a cash flow statement. The total of revenues having an effect on cash flow corresponds to the receipts from operational administrative activities and transfers to be recognised in the budget based on a cash flow statement. In well-founded exceptional cases, it is possible to make corrections where it is anticipated that the inflow or outflow of liquid funds will take place in a different fiscal year.

(3) An investment plan shall be prepared, which shall show the changes in asset positions arising out of

1. cash flow from investment activities (sec. 21 (2) (2)) and

2. cash flow arising out of the grant and repayment of loans and advances provided (sec. 21 (2) (3)). The resulting receipts and outflowing expenditures shall be planned on the basis of the investment plan.

(4) Expenditures made to procure or to produce non-current assets of the Federal Government shall be recognised as expenditures where the procurement or production costs individually exceed the threshold amount for *de minimis* tangible assets pursuant to sec. 13 Income tax Act, 1988, BGBl no. 400/1988. This includes tangible and intangible assets as well as equity interests. An equity interest is the Federal Government's share in the net revenue or net expense and in the net assets of a company or of an institution with independent legal personality administered by federal entities.

(5) Expenditures for self-produced items of moveable property shall not be recognised as expenditures arising out of investment activities.

(6) The total of the financing plan of the general budget (sec. 21 (2)) is the net borrowing. The total net borrowing for all chapters should be offset by cash flow from financing operations.

(7) In the cash flow from financing operations, the following receipts and expenditures shall be recognised:

1. payments received as a result of incurring financial debt,
- 1a. payments received as a result of liquid funds according to sec. 33 (8),
2. payments received as a result of incurring temporary monetary liabilities incurred for temporarily strengthening cash reserves
3. payments received as a result of an exchange of capital under currency swap agreements,
4. payments received as a result of disposal of financial assets,
5. expenditures for repayment of financial debts,
6. expenditures for repayment of cash liabilities temporarily incurred to increase cash positions,
7. expenditures arising out of an exchange of capital under currency swap agreements and
8. expenditures for acquiring financial assets
9. expenditures of liquid funds according to sec. 33 (8).

(8) For setting up the annual account, the sum of aggregated net borrowing of the general budget (Sec. 21 (2)) is deducted from the the cash flow of the financing operations. Subtracting these numbers leads to the change of liquid funds of the cash flow statement. Rising liquid funds are shown within the fiscal year as expenditures (sec 33 (7) 9), whereas a reduction of liquid funds is shown as payments (sec. 33 (7) 1a) in the cash flow statement.

Exceptions to recognition in the budget based on a cash flow statement

Sec. 34. (1) The following receipts and expenditures shall not be recognised in the budget based on a cash flow statement:

1. payments received from taxes and supplements to taxes collected by the Federal Government for other entities under public law and the transfer thereof;
2. payments received which flow to a budget-managing body and are intended for third parties, except for those under sec. 29 (4) (1), and except for transfers or repayments of the above-referenced payments received to the competent body;
3. payments received by the Federal Government and which are tentatively to be refunded or which are to be used for the purpose of securing potential subsequent receivables or other claims of the Federal Government and the repayment thereof;
4. payments received, where the purpose of the payment is not ascertainable at the time they are received, as well as repayment thereof;
5. payments received and expenditures made in connection with funds received in a custodial capacity;
6. payments received and expenditures made for legal entities managed by entities of the Federal Government;
7. cash shortfalls which are not immediately replaced, the refunding or other disposal thereof;

8. payments received and expenditures made from VAT and input tax transactions, where the head of a budget-managing body or sections thereof are obliged to remit VAT or entitled to deduct input tax pursuant to the provisions of the VAT Act 1994;
 9. refunds of cash payments which were made by mistake or for which the legal basis subsequently ceases to exist;
 10. compensation payments received within the meaning of sec. 65;
 11. tax credit balances and other creditable public taxes and contributions;
 12. salary, wage and pension deduction transactions;
 13. payments received flowing to the head of a budget-managing body and intended for another head of a budget-managing body, and the transfer thereof to the competent budget-managing body;
 14. a) expenditures made for purposes of investing cash funds of the Federal Government (sec. 50 (3)) and payments received from the withdrawal of such invested funds as well as payments received and expenditures made from executing assessments for special Federal Government accounts, except for charges and interest arising in connection with this and
b) in cases of investments of cash funds through purchase and forward sale of securities, payments received and expenditures made, in the amounts of their acquisition costs;
 15. payments received from capital payments in cases of incurring them and expenditures made for capital payments in cases of repayment of capital debts and currency swap agreements in connection with an extension or conversion thereof as well as payments received for and expenditures made for capital payments when concluding currency swap agreements pursuant to sec. 80 (2) (3);
 16. expenditures for acquisition of securities of the Federal Government for settlement purposes and swap agreements entered into in this context as well as payments received from capital payments in cases of incurring financial debts to refinance such repurchases and payments received from and expenditures made for capital payments under currency swap agreements entered into in this context;
 17. payments received and expenditures made in cases of transfers and withdrawals in connection with securities lending transactions where title to the security passes;
 18. transactions under sec. 81;
 19. *[deleted]*.
- (2) accounting under sub-sec. 1 hereof shall be undertaken in line with the principles under sec. 96 (3).

Mandatory expenditures

Sec. 35. (1) Funds which are based on claims that are stipulated by federal statutes and other legal norms at the level of a statute on the merits and as to quantum and which are required to be directly satisfied on that basis without any additional administrative action being required shall be recognised as mandatory expenditures.

(2) Mandatory expenditures shall be recognised in special accounts in the respective detail budget.

(3) Overruns of mandatory expenditures shall be offset or covered in the global budget or chapter in question.

Earmarked budget allocation

Sec. 36. (1) Appropriations which are required to be used only for particular purposes on the basis of a federal statute or directives of the EU shall be recognised as earmarked payments received in the anticipated cash flow amounts. The corresponding allocations shall be recognised in the same amounts as earmarked expenditures.

(2) Expenditures having an effect on cash flow and revenues in connection with earmarked budget allocations shall be recognised in the budget based on an operating statement in the amounts of the corresponding payments received and expenditures made.

(3) Where a Federal Act provides that the Federal Government is required to cover the disposal of an earmarked allocation, then the relevant expenses or expenditures shall be recognised within that allocation.

(4) The earmarked budget allocation shall be shown in separate accounts of the operating statement and cash flow statement of the respective global and detail budget.

(5) A reallocation as between earmarked allocations and appropriations and non-earmarked allocations and appropriations is not permitted. Exceptions to this rule may be stipulated in the Federal Finance Act.

(6) Earmarked payments received, which will not be allocated during the current fiscal year, shall be allocated as earmarked funds to reserves.

Earmarking in the context of budgeting

Sec. 37. (1) In well-founded exceptional cases, the Federal Minister of Finance, in consultation with the line ministry, may limit the authority to dispose of budgeted allocations (earmarking in the context of budgeting). Each such limitation shall be made evident in the supplementary documents when preparing the draft Federal Finance Act and shall be adapted to the Federal Finance Act passed.

(2) Earmarked allocations under sub-sec. 1

1. do not constitute earmarked allocations under sec. 52;
2. may not be used for re-allocations (sec. 53);
3. are not capable of being allocated to reserves (sec. 55 (4) (4)).

The agreed earmarking under sub-sec. 1 hereof may be cancelled in the course of a current fiscal year by the Federal Minister of Finance in consultation with the line ministry.

Task areas

§ 38. For purposes of statistical analysis, the federal budget statement shall be broken down into classifications of expenditure in line with an internationally customary standard.

Part 4

Single-year budget planning

Preparation of draft budget statement

Sec. 39. (1) The Federal Minister of Finance shall issue guidelines on preparing and formulating the draft budget statement, the schedules under sec. 29 (1 to 3), the supplementary budget documents (sec. 43) and the additional summaries under sec. 42 (4).

(2) For the preparation and formulation of the draft personnel plan and of the working aid to the personnel plan (sec. 44), the Federal Chancellor, in consultation with the Federal Minister of Finance shall issue directives to the line ministries providing more precise rules on the form and breakdown of the drafts and the timing of forwarding them.

(3) The Federal Chancellor, in consultation with the Federal Minister of Finance, shall issue directives containing more precise rules on coordinated preparation of the details on outcome orientation in the draft budget statement (sec. 41) and quality assurance with respect thereto.

Draft budget statement

Sec. 40. (1) For purposes of preparing the draft budget statement, the line ministries shall formulate draft budgets pursuant to the directives/guidelines issued by the Federal Minister of Finance and shall forward these to the Federal Minister of Finance. Documents to be used for preparing the supplementary budget documents (sec. 43) and the further budget documents referenced in sec. 39 (1) shall be appended to these draft budgets.

(2) The line ministry into whose specific remit the budget matter falls shall stipulate the budget structure (sec. 6 (2) (5)) for the chapters belonging to its remit in consultation with the Federal Minister of Finance.

(3) In the draft budget statements, explanatory comments thereto and documentation, the corresponding figures for the two preceding fiscal years shall be shown in addition to the budgeted figures for the budget statement to be adopted.

(4) The Federal Minister of Finance shall review the documents forwarded to him or her under sub-sec. 1 hereof with respect to the draft budget statements, subject to the budget aims and goals referenced in sec. 2 (1) and of the Federal Government's financial capacities, and subject to the balanced-budget principle pursuant to sec. 2 (4 to 7) and shall thereupon prepare the draft budget statement, where necessary including schedules pursuant to sec. 29 (1 to 3). At the same time, the Federal Minister of Finance shall prepare the supplementary budget documents needed to support the deliberations of the National Council.

Details on outcome orientation

Sec. 41. (1) The line ministry into whose remit the matter falls, in conjunction with the budget-managing body into whose remit the matter falls, shall prepare details on outcome orientation, taking account of actual equality of women and men. The details on outcome orientation in the draft budget statement shall, in particular taking account of the goal of actual equality of women and men, contain specific outcome objectives for the chapters and measures with respect to the global budget, which aid in achieving the outcome objectives of the corresponding chapter. Within the chapters falling within its remit, the line ministry shall ensure that all of the chapter levels of the federal budget statement are compliant in terms of relevance, substantive consistency, intelligibility, internal logic, comparability and verifiability of the details provided.

(2) The Federal Minister of Finance shall issue regulations defining more particular rules governing details on outcome orientation. Prior to issuing such regulations, a right of hearing shall be afforded to the Federal Chancellor. The regulations shall, in particular, contain rules on:

1. requirements for depicting details on outcome orientation in the draft budget statement and the supplementary budget documents (sec. 43) both in qualitative and quantitative respects, broken down by chapter level of the federal budget statement, taking particular account of the goal of actual equality of women and men;
2. the need to take account of recommendations of the Court of Audit and the comments of the competent line ministries made in respect thereof.

(3) The Court of Audit may submit comments on the details contained in the draft budget statement as to outcome orientation, in particular on the criteria referenced in sub-sec. 1 hereof, to the committee of the National Council charged with preliminary deliberation on the Federal Finance Act.

Draft Federal Finance Act

Sec. 42. (1) The Federal Minister of Finance shall submit the draft Federal Finance Act, including the schedules under sec. 29 (1 to 3) and the budget report (sub-sec. 3) and the supplementary budget documents (sec. 43) to the Federal Government for legislative action, and the Federal Chancellor, in consultation with the Federal Minister of Finance, shall submit the draft personnel plan (sec. 44) as a further schedule, to the Federal Government, for legislative action. In cases covered by Art. 51 (3) 2nd sentence Austrian Constitution, the Federal Government shall prepare a separate draft of the Federal Finance Act for the next fiscal year and the fiscal year following the next fiscal year, and submit it to the National Council.

(1a) The draft Federal Finance Act pursuant to sub-sec. 1 hereof shall be in line with the balanced-budget principle pursuant to sec. 2 (4 to 7).

(2) Following adoption of the Federal Finance Act by the National Council, the specific line ministry, in consultation with the Federal Minister of Finance, shall make any adjustments to the supplementary budget documents as necessary. In the directives under sec. 39 (1), the Federal Minister of Finance shall set the date by which the supplementary documents shall be adapted.

(3) In particular, the budget report shall contain the following:

1. an overview of the economic situation and its expected development;
2. an overview of the budgeting objectives and areas of focus;
3. a summary depiction of the allocation and appropriation groups of the overall budget, broken down by subject-matter and line ministry as well as by economic criteria and expenditure classifications;
4. a comparison with the comparison figures for the Federal Medium-Term Expenditure Framework Act then in force;

5. a depiction of the draft budget statement, in line with the principles of national accounting;
6. major budget key figures, in particular the public deficit and public indebtedness, including a reconciliation of net expenses from the operating statement and net cash flow from the cash flow statement with the public deficit within the meaning of the European System of National and Regional Accounts (ESA 95) [ESVG];
7. a depiction showing compliance with the balanced-budget principle under sec. 2 (4 to 7).

(4) For purposes of reflecting the statutory inter-relationships, and in order to facilitate better comprehension, the Federal Minister of Finance shall prepare additional summary overviews to the draft Federal Finance Act and to the Federal Finance Act currently in force. These summary overviews shall in any event contain the following information:

1. budgetary key figures and trends on a time-based comparison;
2. an overview of personnel capacities and of personnel costs for civil servants of the Federal Government, including pensioners;
3. transfer payments between public authorities;
4. EU transactions within the federal budget;
5. Federal Government allocations with an impact on research;
6. conceptualisation and plan and application of structural budget balancing under sec. 2 (4 to 7).

(5) By such time as the deliberations on the draft Federal Finance Act within the National Council committee into whose remit the matter falls, the Federal Minister of Finance shall submit to that committee a report with respect to corporate entities in which the Federal Government has a direct and majority equity interest as well as on legal entities pursuant to sec. 67 (1) (2) (including universities).

Explanatory budget documents

Sec. 43. (1) Supplementary budget documents shall be prepared for each chapter. The Federal Minister of Finance shall prescribe a uniform format for the supplementary budget documents. They must contain the following substantive content:

1. a summary depiction of
 - a) the structure of the budget,
 - b) the organisational units responsible for the global budgets, where they perform the role of line ministries and
 - c) the budget-managing bodies into whose remit the specific detailed budgets fall.
2. a depiction of the budgets based on an operating statement, statement of cash flow and investment plan;
3. a depiction of personnel resources;
4. explanatory notes on the budgeted figures and personnel resources, taking account of the main changes relative to previous years and
5. details on outcome orientation (taking particular account of the goal of actual equality of women and men) broken down by first-level detailed budget (sec. 41), each of which should be derived from the details on outcome orientation contained in the federal budget statement (sec. 24 (3)) and which must be in line with that budget statement. The base document in each case shall be the specific, current draft of the performance mandate (resources, aims and achievements).

(2) The supplementary budget documents are not constitutive elements of the draft federal budget statement.

(3) The following figures shall be shown separately in the respective detailed budgets in the supplementary budget documents:

1. statutory obligations (sec. 35),
2. earmarked budget items (sec. 36),
3. EU budget transactions in the federal budget,
4. variable allocations (sec. 12 (5) (1) in conjunction with sec. 27 (2)),
5. expenses having an effect on cash flow (sec. 31),
6. earmarking in the context of budgeting (sec. 37), and

7. allocations and appropriations with particular budgetary and management relevance.

(4) Following adoption of the Federal Finance Act, the Federal Minister of Finance shall make available on the Internet, on the website of the Federal Minister of Finance (www.bmf.gv.at) a list of budget figures, including the first- and second-level detailed budgets, free-of-charge.

Personnel plan

Sec. 44. (1) The personnel plan of the annual Federal Finance Act sets the highest permissible personnel capacity of the Federal Government from a quantitative and qualitative perspective. An 'established post' constitutes authorisation to employ personnel on a scale of up to one full-time employee equivalent. Actual personnel capacity (personnel level) for which compensation is paid, is determined as of a given record date, in full-time employee equivalents.

(2) To ensure qualitative management of personnel capacity, personnel controlling points are used. Personnel controlling points are point values expressing the level of funds allocated to an occupied established post and showing how the established posts relate to allocations. Point values are set by the Federal Chancellor.

(3) The personnel plan must be prepared within the limits of the basic outline personnel plan, pursuant to the most recently adopted Federal Medium-Term Expenditure Framework Act (sec. 12 (3)). Established posts may only be occupied provided that they are covered by the cash flow statement and the balanced operating statement is ensured. The personnel capacities which are the result of established posts and personnel controlling points may not be exceeded on any day of any fiscal year. For purposes of achieving personnel capacity targets over the course of multiple years, the Federal Chancellor may set binding target figures in quantitative and qualitative respects, which lie below the maximum permitted personnel capacity pursuant to sub-sec. 1.

(4) In any event, the personnel plan shall contain the following:

1. Rules on management of established posts,
2. A list of established posts for the following fiscal year, identifying the established posts and their respective personnel controlling points. The list of established posts shall in any event be broken down by chapters, analogous to the format for the federal budget statement (sec. 25). The established posts contained therein shall be broken down by salary and functional criteria into salary grade classes.
3. Summary details as to how many established posts may be occupied by civil servants in the salary grade groups for which both employment relations under public law and by private civil contract are contemplated.
4. A depiction of established posts for the current fiscal year and of actual personnel capacity during the current year and the preceding fiscal year.
5. Summary overviews of the individual ministries and an aggregate overview for all of the ministries.

(5) In order to ensure expedient management of established posts, variable pools shall be established which are defined by the total of established posts and personnel controlling points and which shall be shown in the list of established posts (sec. 121 (20)). The line ministries may set up established posts within these pools with the qualities existing within the pool group, provided that the total established posts and personnel controlling points which have been set for the pools in question are not exceeded.

(6) For reasons of organisational changes, the Federal Chancellor may, in consultation with the federal minister into whose remit the matter falls, make changes to the personnel plan, provided that this does not result in any increase of established posts and personnel controlling points. Such changes shall require the consent of the Federal Government, and notwithstanding the corresponding provisions in the Federal Finance Act, shall be limited to the established posts stipulated in sec. 121 (21).

(7) The Federal Chancellor, in consultation with the Federal Minister of Finance, shall prepare the draft personnel plan, together with explanatory notes thereon. For purposes of preparing to formulate the draft personnel plan, the line ministries shall forward the draft personnel plans to be prepared for their remits, together with explanatory comments, to the Federal Chancellor and the Federal Minister of Finance and shall forward additional documentation to them required for preparing the draft personnel plan upon their request. To facilitate preparation of the respective drafts, the data for the personnel plan

and for the working aid for the personnel plan (sub-sec. 8) and for the details on personnel resources in the supplementary budget documents (sec. 43 (1) (3 and 4) must be available in the electronic IT systems contemplated for this purpose, broken down by the chapters, global budgets and first- and second-level detailed budgets.

(8) The personnel resources for the global budgets and detailed budgets shall be depicted by analogous application of sub-secs. 4 (2) 1st and 2nd sentence, and (4) in a working aid to the personnel plan. These details do not constitute elements of the Federal Finance Act.

(9) The line ministries shall report on an annual basis as of a stipulated record date to the Federal Chancellor and Federal Minister of Finance on the personnel levels, together with personnel expenses of the entities with independent legal personality falling within their organisational or financial scope. In this context, they shall indicate separately the civil servants employed at these hived-off legal entities as well as the employees previously employed as contract staff within the federal administration and all other employees.

(10) The Federal Chancellor shall carry out personnel capacity controlling to manage personnel capacities and for this purpose shall issue regulations stipulating more detailed rules thereon, after soliciting remarks by the line ministry. The Federal Chancellor shall inform the Federal Minister of Finance of the results of his or her personnel capacity controlling.

ICT solutions and IT processes for personnel management

Sec. 44a. (1) The Federal Minister of Finance shall support the Federal Government's personnel management by providing standardised ICT solutions and IT processes. By means of arrangements or contracts, entities which do not form part of the Federal Government may also make use of the ICT solutions and IT processes which exist for the Federal Government's personnel management. The following, in particular, constitute 'entities not forming a part of the Federal Government'

1. Entities of other public authorities,
2. Entities of self-administration,
3. Municipalities and municipal institutions,
4. Public-law entities and
5. Companies within the meaning of Art. 126b Austrian Federal Constitution

(2) The Federal Minister of Finance is in charge, in particular, of technical and organisational matters in terms of attending to the duties stipulated in sub-sec. 1 hereof.

(3) 'Technical and organisational matters' within the meaning of sub-sec. 2 hereof include the entirety of all rules, measures and technical equipment ensuring correct, proper and efficient operations and further developments in respect of ICT solutions and IT processes for personnel management matters of the Federal Government. 'Technical and organisational management' within the meaning of sub-sec. 2 shall also include engagement of service providers, in particular BRZ GmbH.

(4) Support for the Federal Government's personnel management within the meaning of sub-sec. 1 hereof shall, in particular, substantively include ICT solutions and IT processes for

1. payroll, accounting and reconciliation within the federal budget,
2. personnel information and personnel reporting,
3. personnel administration and ID card management,
4. personnel organisation, personnel development and organisational management,
5. personnel documentation, management and archiving of personnel files and administration of written materials,
6. administration and management of business processes for personnel and recipients of pensions,
7. personnel controlling and key data management,
8. employee services, in particular time accounting and travel management,
9. management services and management information,
10. personnel plan,
11. personnel planning, personnel cost planning and personnel deployment planning,
12. pension accounts, calculation of pensions and pension fund,
13. management of training programmes,

14. event management,
15. job application management and job exchange and
16. interface management.

(5) All Federal Government entities shall use the Federal Government's ICT solutions and IT processes for personnel management in particular in light of the precepts of transparency, efficiency and outcome orientation. In consultation with the Federal Chancellor, the Federal Minister of Finance shall prescribe the following by regulation:

1. the substantive scope, scope of use and scope of users,
 2. the technical prerequisites and actions for technical and organisational deployment required at the Federal Government entities,
 3. standardised options for use and procedures and business processes,
- for using and providing the ICT solutions and IT processes for the Federal Government's personnel management.

(6) Operation of the ICT solutions and IT processes for the Federal Government's personnel management shall be charged *pro rata* to the Federal Government entities in a manner which covers the costs thereof. Proceeding from the charge regime currently in force, the Federal Chancellor shall issue regulations stipulating the more precise details of settling these charges, such as the accounting model or paying agency.

(7) The Federal Minister of Finance may, in consultation with the Federal Chancellor, enter into special agreements on providing and operating ICT solutions and IT processes for the Federal Government's personnel management with other Federal Government entities, in order to be in a position to take account of specific extensions and services. As a general principle, the Federal Government entity which specifically requests such specific extensions and services shall bear the costs thereof.

(8) The operation of and extensions to the ICT solutions and IT processes existing for the Federal Government's personnel management shall be charged to entities using them which do not belong to the Federal Government, within the meaning of sub-sec. 1 hereof, on a *pro rata* basis, in a manner which covers the cost of providing the solutions and processes. In this context, BRZ GmbH is merely the paying agency.

Part 5

Performance mandate

Sec. 45. (1) In order to implement outcome-oriented management, a performance mandate (ressources, aims and achievements [*Ressourcen-, Ziel-, und Leistungsplan*]) shall be prepared for every budget-managing body on the basis of administrative regulations. The performance mandate covering the period of the Federal Medium-Term Expenditure Framework Act in force shall contain the following details:

1. financial and manpower resources,
2. the objectives envisaged by the budget-managing body,
3. the measures and actions required to achieve those objectives.

Account in this regard shall be taken of the Federal Medium-Term Expenditure Framework Act in force with its accompanying strategy report as well as the federal budget statement. The performance mandate (ressources, aims and achievements) shall be structured in line with the budget management principles pursuant to sec. 2 (1) such that the contents of the performance mandate are clearly capable of being matched to the respective detailed budgets and its actual implementation is verifiable.

(2) Each head of a budget-managing body shall prepare a draft performance mandate (ressources, aims and achievements) pursuant to sec. 7 (2) (2) and submit it in timely fashion to the line ministry for purposes of medium-term and annual budget planning, in particular for purposes of preparation of the supplementary budget documentation. The draft shall include all of the detailed budgets managed by the head of a budget-managing body. No later than one month from the promulgation of the Federal Finance Act, the line ministry shall stipulate the performance mandate (ressources, aims and achievements) . This section shall apply *mutatis mutandis* to heads of superordinate and subordinate budget-managing bodies.

Chapter 3

Execution

Part 1

Allocation and appropriation

Principles of budget management

Sec. 46. (1) Every budget-managing body shall apply the following as binding fundamental principles of budget management

1. the Federal Finance Act, Federal Acts amending or supplementing the foregoing or any Federal Act making preliminary provisions for management of the federal budget;
2. where the conditions precedent referenced in Art. 51a (4) Austrian Federal Constitution are met the most recently adopted Federal Finance Act, within the limits of the rules provided therein.

(2) The binding fundamentals of budget management referenced in sub-section 1 hereof neither establish nor rescind any claims or liabilities.

(3) Only the body which, on the basis of legal act, is authorised to receive payments or to establish liabilities in respect of cost or expenditures may dispose over a budget appropriation or portion thereof. In individual cases, the head of the budget-managing entity may authorise bodies of another budget-managing entity to issue instructions for the account of his or her budget-managing entity. Such authorisation must be specified both substantively and as to amount, and may be revoked at any time by the head of the budget-managing body. Each head of a budget-managing body shall exercise oversight over utilisation of its annual and monthly budget item figures such that it is able at any time to determine the amounts of costs and expenditures still available to it.

(4) The Federal Finance Act may stipulate that budgeting for multiple detailed budgets must be carried out separately in accordance with the principles of sec. 28 (estimated detailed budgets), but that execution of these detailed budgets may only be effected in common in a single detailed budget (execution detailed budget). This may be the case where the transactions shown in the operating statement, cash flow statement and statement of financial position cannot be clearly matched to a detailed budget, but instead predominantly pertain to multiple detailed budgets.

Reporting obligations

Sec. 47. (1) Twice each year, as of 30 April and 30 September, the Federal Minister of Finance shall report to the Federal Government, the other line ministries and the National Council in writing within one month's time on execution of the federal budget in the current fiscal year.

(2) On an annual basis by 31 March of each year, the Federal Minister of Finance shall transmit the interim actual budget figures for the preceding fiscal year; that report shall contain a juxtaposition of the operating statement and cash flow to the operating statement and cash flow as set out in the budget statement. Simultaneously, the Federal Minister of Finance shall submit an aggregated report at the end of each preceding fiscal year on

1. the deferrals, instalment payment agreements, forbearances and discontinuation of collections in respect of receivables of the Federal Government and
2. on the position of and changes to reserves in the detailed budgets (secs. 55, 56) and on the position and changes to re-evaluation reserves (sec. 91 (7)).

The line ministries shall transmit such documents and information to the Federal Minister of Finance as are required to prepare this report in a timely fashion; the procedure to be followed in this respect shall be prescribed by Directive of the Federal Minister of Finance.

(3) Each year, the Federal Government shall submit a quantitative overview (subsidy report) to the National Council, with respect to the following subsidy types in the preceding fiscal year:

1. direct subsidies granted from federal funds (sec. 30 (5)), with the exception of salary advances and pension payment advances, and

2. waivers of payment granted by the Federal Government to a natural person or legal entity in exchange for goods and services rendered by such natural person or legal entity as a subject of civil-law rights, in which there is a public interest to be attended to by the Federal Government, by means of exceptions to the general provisions of tax law (indirect subsidies)

no later than by the conclusion of the fiscal year following the reporting year.

(4) The direct subsidies must be shown in the breakdown of the budget statement at least by budget appropriation and task area; indirect subsidies must be broken down at least by the legal provisions in question and the tax-favoured subject-area. In addition, the subsidies shown for the reporting year shall in addition be juxtaposed with comparable figures from the two immediately preceding fiscal years, and in the case of direct subsidies, also with the corresponding budget figures for the current fiscal year.

(5) The subsidy report shall be formulated by the Federal Minister of Finance, who shall also prepare the Directives/guidelines on preparation of the report by the line ministries.

'Full coverage' principle

Sec. 48. (1) All receipts by the Federal Government shall be for the purpose of covering its overall expenditure needs.

(2) Receipts shall be used to cover expenditures made for particular purposes only pursuant to sec. 36 (1).

Appropriation

Sec. 49. (1) All payments received by the Federal Government, irrespective of the amounts recognised, shall be appropriated as of the time they fall due in accordance with the respective legal basis. Authority with respect to granting deferrals, instalment payments, forbearances and discontinuations of collection and to waive receivables of the Federal Government shall be governed by secs. 73 and 74.

(2) With respect to receivables of the Federal Government, due dates shall be provided which are no later than one month from the date the receivable arises and payment of default interest of 4 per cent over the applicable base interest rate as published by the Austrian National Bank from time to time, unless it is necessary to stipulate other payment terms due to the special nature of the receivable in question and the economic market rules applicable as a result thereof.

Provision of financial resources

Sec. 50. (1) As from such time as the binding basis of allocation takes effect (sec. 46), the Federal Minister of Finance shall ensure that the budget-managing bodies are provided with such financial means as is required to make the expenditures for the Federal Government, to such extent as is necessary in order to satisfy liabilities as they fall due.

(2) For purposes of satisfying payment obligations of the Federal Government, maturity dates shall be agreed in line with the financial funding available from time to time and in line with the objectives referenced in sec. 2 (1) and taking account of market rules. The foregoing will particularly be presumed applicable where, prior to receiving consideration therefor, expenditures of the Federal Government (e.g. for down-payments or pre-payments) may only be made where the obligation to provide consideration is provided by law or agreed by contract.

(3) The Federal Minister of Finance shall carry out liquidity planning pursuant to sub-sec. 1 hereof and maintain sufficient liquidity to ensure the ability of the Federal Government entity to make payment; the liquidity reserve required for this purpose may not exceed 33 per cent of the financing framework under the Federal Finance Act in question. Investment of financial resource is the remit of the Federal Minister of Finance; the Federal Minister of Finance shall invest such financial resources in coordination with the liquidity plan such that the minister may dispose of the resources when required.

Monthly budget plan

Sec. 51. (1) Each line ministry shall determine its anticipated receipts and expenditures for the following month in a monthly budget plan and shall advise the Federal Minister of Finance thereof by such time as the Federal Minister shall determine.

(2) The monthly budget plan must cover the receipts and expenditures in the cash flow statement (sec. 96) broken down in accordance with the federal budget statement, including transactions with no budgetary effect (sec. 34) and payments and expenditures of the transactions under sec. 29 (2 and 3).

(3) The Federal Minister of Finance shall set the expenditure ceilings applicable to the individual line ministries, taking account of the receipts expected during the following month and the financing abilities as well as the objectives referenced in sec. 2 (1). By the beginning of the following month, he or she shall inform the line ministries, which shall take such further action as is necessary without delay.

(4) The Federal Minister of Finance is authorised to permit departures from the maximum amounts set in the monthly budget plans where there is a corresponding economic need to do so and to permit carry-forwards of amounts of expenditure not utilised to the next month within the same financial year.

(5) The Federal Minister of Finance shall issue directives more precisely governing the preparation and handling of the monthly budget plan.

Allocation commitments

Sec. 52. (1) With the consent of the Federal Government or based on authority under the federal finance laws, the Federal Minister of Finance may earmark a particular share of the allocations provided in the Federal Finance Act, provided that this does not impair the Federal Government's ability to satisfy its liabilities when due (Art. 51b (2) Austrian Federal Constitution). The line ministry shall transfer these commitments to detail budgets. The competent line ministry may, with the consent of the Federal Minister of Finance, transfer a cost or expenditure commitment of this kind in whole or in part to other global budgets within his or her remit.

(2) The Federal Minister of Finance is required to report to the National Council committee charged with preliminary deliberations on Federal Finance Acts with respect to the commitment made pursuant to sub-sec. 1 hereof within one month of the time of ordering it.

(3) Where a line ministry exceeds the planned ceiling on expense or expenditures (sec. 27 (1)) without budgetary authority in the course of the current fiscal year at the global budget level, then the Federal Minister of Finance shall set a temporary or permanent reduction in approved budget allocations for the following fiscal year (negative reserve) with respect to the global budget in question equal to the allocation overrun. The line ministries shall transfer these commitments to detail budgets.

(4) Where, without budgetary authority, a head of a budget-managing body exceeds the planned ceiling on expense or expenditures (sec. 27 (2)) in the course of the current fiscal year at the detail budget level, then the line ministry may set a temporary or permanent reduction in approved budget allocations for the following fiscal year (negative reserve) with respect to the detail budget in question equal to the allocation overrun.

(5) The line ministry or the head of a superordinate budget-managing body may set and rescind internal administrative commitments without involving the Federal Minister of Finance even in cases where there is no allocation overrun.

Re-allocations

Sec. 53. (1) Re-allocation of budgeted allocations pursuant to lines 1 to 4 are permitted where this does not exceed the ceilings on expense and expenditures and on net borrowing either at the level of the chapters or at the level of the global budgets. In cases of re-allocations pursuant to lines 1 to 6, it is only possible to re-allocate cash items to other cash-items, and non-cash item expenses to other non-cash expenses. By re-allocating cash expenses, the corresponding expenditures are either increased or reduced. Re-allocations must be made at the level of the budget appropriations. Re-allocations may be made

1. between second-level detail budgets of a single first-level detail budget, by the head of a superordinate budget-managing body,
2. between the second-level detail budgets to various first-level detail budgets within the same global budget, by the line ministry,
3. between the first-level detail budgets of the same global budget, if no second-level detail budgets have been made, by the line ministry,
4. between a first-level detail budget for which no second-level detail budgets have been made, and a second-level detail budget of another first-level detail budget within the same global budget, by the line ministry,
5. between detail budgets of different global budgets, subject to the proviso that prior to re-allocation, an application by the line ministry for an overrun of the expenditure or expense

ceiling in exchange for coverage within the chapter has been submitted and it has been approved by the Federal Minister of Finance in line with an existing budgetary authorisation, and

6. between global budgets of chapters within the same heading, subject to the proviso that prior to re-allocation, an agreed application by the line ministries for these chapters in question has been submitted and has been approved by the Federal Minister of Finance in line with an existing budgetary authorisation.

(2) Re-allocations of budgeted expenditures for investment activity and for budgeted expenditures for the grant of loans and repayable advances to another detail budget may only be carried out in accordance with sub-sec. 1 (1 to 5)

1. to the expense and expenditure group 'Expenditures for investment activity' or
2. to the expense and expenditure group 'Expenditures for the grant of loans and repayable advances' or
3. expenses affecting cash flow (sec. 31 (1)).

(3) Re-allocations as between fixed and variable areas as well as between different variable areas are not permissible. Exceptions to this rule in connection with earmarked transactions may be stipulated in the Federal Finance Act.

(4) Within 14 days of an effective re-allocation, the line ministry shall notify the Federal Minister of Finance and the Court of Audit of the re-allocations pursuant to sub-sec. 1 (2 to 4) and indicate the grounds of such re-allocations.

Overruns of approved budget allocations

§ 54. (1) Budget allocations pursuant to sec. 27 (1) for which the Federal Finance Act does not make provisions (extra-budgetary allocations) or which exceed the budget allocations approved by the National Council (excess allocations, overruns of budget allocations) may only be carried out in connection with budget management where based on authority granted by federal finance statute.

(2) However, in cases of imminent harm, based on a ordinance of the Federal Government, which is to be the subject of an application by the Federal Minister of Finance (in consultation with the National Council committee charged with preliminary deliberations on the Federal Finance Act) unforeseeable and unavoidable additional funding may be made available within the limits provided in Art. 51 (7) (1 and 2) Austrian Constitution [*B-VG*]. The above-referenced qualitative prerequisites shall be deemed met if and only to the extent that an unforeseeable need arises during a current fiscal year and the extraneous or excess allocation arising from that need is so urgent that it is no longer possible in a timely manner to obtain the approval of the National Council required pursuant to sec. 1.

(3) The Federal Government may only submit ordinances covered by sub-sec. 2 hereof to the National Council committee charged with preliminary deliberations on Federal Finance Acts if it is ensured that the funding is covered by savings or additionally appropriated funds. In cases covered by Art. 51 (7) (2) Austrian Constitution (National defence cases), appropriations may also be procured by incurring or converting financial debts.

(4) In all further and other respects, excess allocations (overruns of approved budget allocations) are permitted subject to the prerequisites referenced in sub-secs. 5 to 10:

(5) A distinction must be made between approved budget overruns in the case of fixed allocation ceilings and variable allocation ceilings.

(6) Overruns of variable allocation ceilings which exceed the amount stated in the federal budget statement based on application of the parameters under sec. 12 (5), are permissible if, prior to the overruns, all of the reserves for the variable area in question which has been exceeded have been utilised. These approved allocation overruns must be covered by additional payments received from credit operations.

(7) Fixed allocation ceilings for global budgets may be exceeded if

1. financial coverage within the chapter is assured,
2. the ceilings on expenditures for the heading in question in the Federal Medium-Term Expenditure Framework Act are not exceeded,
3. budgetary authority has been given and

4. agreement has been reached with the Federal Minister of Finance.

(8) Fixed approved allocation ceilings for chapters may be exceeded by means of coverage from credit operations if

1. all possibilities for re-allocations have first been exhausted,
2. the budget-managing bodies in question, in collaboration with the line ministry, have first withdrawn the greatest possible extent of existing reserves in respect of the detail budgets managed by them,
3. the ceilings on expenditures for the heading in question of the Federal Medium-Term Expenditure Framework Act are not exceeded,
4. budgetary authority has been given and
5. agreement has been reached with the Federal Minister of Finance.

(9) The Federal Minister of Finance is authorised to consent to overruns of non-cash item expenses arising as a result of valuation actions or re-allocations pursuant to sec. 53.

(10) The line ministry shall apply for overruns of approved budget allocations with the Federal Minister of Finance. The Federal Minister of Finance may only grant the application if there is coverage for the budget allocation overrun in the budget based on cash flow, or where the operating statement is in balance. The Federal Minister of Finance shall issue regulations prescribing more precise rules on the contents of any application and on the procedure to be followed in the case of approved allocation overruns.

(11) The rules on earmarked budget transactions (sec. 36) and EU budget transactions are unaffected by sub-secs. 6 to 8; for this reason, it is not necessary to release these reserves in cases covered by sub-secs. 6 to 8.

(12) The Federal Minister of Finance shall submit quarterly reports to the National Council on the allocation overruns approved by the Federal Minister of Finance during the preceding calendar quarter. Each line ministry shall forward such documents to the Federal Minister of Finance as are needed for preparation of the report pursuant to regulations to be issued by the latter.

(13) The Federal Minister of Finance shall in each case inform the Court of Audit prior to execution in cases of

1. approved allocation overruns pursuant to sec. 54 and
2. re-allocations pursuant to sec. 53 (1) (5 and 6).

Formation of reserves

Sec. 55. (1) Where at the end of any fiscal year, net borrowings (sec. 21 (2)) under any detail budget are lower than the budgeted net borrowing, taking account of adjustments pursuant to sec. 90 (5), the difference may be allocated to reserves of that detail budget. The re-allocations and overruns of cash items as to which the provisions under secs. 53 and 54 have not been complied with should be deducted from this differential. Where at the end of any fiscal year net borrowing (taking account of adjustments pursuant to sec 90 (5)) is higher than the budgeted amount of net borrowing, then no reserves may be formed. Reserves should be formed at the first-level detail budget or, where second-level detail budgets have been set up, they should be formed at that level. Exceptions to the formation of reserves may be prescribed in the Federal Finance Act. The Federal Minister of Finance shall determine the amount of reserves by 30 January of the following fiscal year.

(2) Where the differential from budgeted net borrowings and actual net borrowings at the end of the fiscal year for any chapter, plus any overrun of cash items pursuant to sub-sec. 1, second sentence is

1. negative or
2. positive, but less than the total of the reserves formed in the detail budget of this chapter during the current fiscal year pursuant to sub-sec. 1 hereof,

then the Federal Minister of Finance shall bindingly set, in cases of line 1 hereof, a temporary or permanent reduction of approved budget allocations (negative reserves) for the following fiscal year pursuant to sec. 52, to the extent of the reserves formed, or, in cases covered by line 2 hereof, shall set a temporary or permanent reduction of approved budget allocations (negative reserves) pursuant to sec. 52 to the extent of the amount by which the differential defined in the first clause of this section exceeds the

reserves formed pursuant to sec. 1 during the current fiscal year. The line ministry shall transfer these reductions to detail budgets.

(3) Where during the current fiscal year, there are actual excess receipts relative to the budget statement in any chapter, then these excess receipts in the detail budget in question may be allocated to reserves already prior to the end of the fiscal year. Exceptions to this rule may be prescribed in the Federal Finance Act.

(4) The following are excepted from determination pursuant to sub-sec. 1 hereof

1. expenditures under earmarked budget transactions (sec. 36),
2. expenditures resulting from excess payments received from the EU (sub-sec. 6),
3. variable expenditures (sec. 12 (5)) and
4. commitments at the level of budgeting (sec. 37), temporary or permanent reductions of approved budget allocations (sec. 52) and temporary or permanent reductions of approved budget allocations under sub-sec. 2.

(5) Earmarked payments which were not utilised for expenditures in the fiscal year in question pursuant to sub-sec. 4 (1) shall be utilised within the meaning of sec. 48 (1) and allocated to reserves, preserving their earmarked status.

(6) Additional incoming funds from the EU which were not utilised for expenditures in the fiscal year in question pursuant to sub-sec. 4 (1) shall be utilised within the meaning of sec. 48 (1) and allocated to reserves, preserving their earmarked status.

(7) Variable expenditures for an area which were not utilised for expenditures in the fiscal year in question pursuant to sub-sec. 4 (3) shall be utilised within the meaning of sec. 48 (1) and allocated to reserves, preserving their earmarked status.

Withdrawals from and release of reserves

Sec. 56. (1) Where the level of liabilities at the detail budget level increases during the current fiscal year, the heads of budget-managing bodies shall preferentially utilise reserves to settle existing liabilities. The budget-managing bodies shall report on the level of their liabilities on a monthly basis in connection with budget controlling under sec. 66. The head of the budget-managing body to whom the detail budget is assigned may utilise the remaining portion of the reserves without any limitation to any particular purpose, with the exception of sec. 55 (4).

(2) Reserves are to be withdrawn from the detail budget in which the reserve was created (sec. 55 (1)) by the head of the budget-managing body who manages that detail budget. Reserves from a detail budget may only be withdrawn if that head of a budget-managing body has submitted an application for an approved allocation overrun pursuant to sec. 54 via the line ministry involving withdrawal of reserves to the Federal Minister of Finance and the Federal Minister of Finance has approved the application. As a general matter, the approval of reserves must be covered by credit operations. Where any head of a budget-managing body manages multiple detail budgets of the same global budget, then the reserves created there may be used for all of those detail budgets. The Federal Finance Act may provide for departures from this rule.

(3) Reserves must be released in each case as soon as the purpose served by them pursuant to sec. 55 (5 to 7) ceases to exist.

(4) The Federal Minister of Finance shall issue directives prescribing more precise rules on the contents of applications and on the procedure to be followed when withdrawing and releasing reserves. Where the budgetary prerequisites thereto have been met, the Federal Minister of Finance shall grant consent at the earliest possible date to applications for withdrawal of reserves, taking account of the requisite liquidity management.

(5) Prior to executing the withdrawal from reserves, the Federal Minister of Finance shall inform the Court of Audit where the global budget in question is exceeded by adding the contemplated withdrawal from reserves to the allocations already made.

Projects

Sec. 57. (1) The subject-matter of a project is a unitary process in economic, legal or financial respects.

(2) Where the subject of a project is investment in intangible assets, plant, property and equipment or the provision of other services, the project shall be deemed to encompass all goods and services relating thereto, capable of substantive delineation and economically connected therewith, which are provided as a rule on the basis of unitary planning.

Prerequisites to execution of a project

Sec. 58. (1) A project may only be executed where it is necessary to perform tasks of the Federal Government, is in line with the objectives pursuant to sec. 2 (1) and financial coverage thereof is assured by the Federal Medium-Term Expenditure Framework Act and the Federal Finance Act. The Federal Minister of Finance shall issue regulations prescribing more detailed rules with respect thereto.

(2) Where the intention is to execute a project pursuant to sec. 57 (1) from which it is envisaged that Federal Government allocations will arise which are of extraordinary financial significance in light of the type or scope of the project, the competent line ministry shall consult and reach agreement in a timely fashion during the planning stage with the Federal Minister of Finance. Such agreement may be dispensed with where projects of this kind have been previously prescribed by Federal Act. The Federal Minister of Finance shall issue regulations prescribing when a project is deemed to be of extraordinary financial significance. That regulation may authorise the Federal Minister of Finance, in consultation with any line ministry, to agree to departures from these rules which are specific to the ministry; compliance with the budgeting principles pursuant to Art. 51 (8) Austrian Federal Constitution [B-VG] in conjunction with sec. 2 may not be adversely impacted thereby. It is possible for higher ceiling amounts to be set with respect to reaching agreement where, on the basis of experience with budget execution over the course of several years, compliance with the principles of Art. 51 (8) Austrian Federal Constitution in conjunction with sec. 2 and thus simultaneously due performance of the duties of the Federal Minister of Finance under Art. 51b (1) Austrian Federal Constitution is not adversely impacted.

(3) To the extent that, for execution of any project or programme referenced in sec. 18 (2), agreement with the Federal Minister of Finance was or is required, the line ministry shall also reach agreement with the Federal Minister of Finance on the intended termination of or material change to the project or programme in question, or with respect to the continuation of the project or programme in question, which is deemed necessary despite a lack of conformity with the objectives referenced in sec. 2 (1); for purposes of evaluating when any change should be deemed material, the regulation issued pursuant to sub-sec. 1 by the Federal Minister of Finance shall apply *mutatis mutandis*.

Execution of a project entailing expenditures only for the current fiscal year

Sec. 59. (1) The competent head of a budget-managing body may only execute a project (sec. 57 (1)) and incur liabilities in relation thereto, the settlement of which is only payable in the current fiscal year by Federal Government expenditures in accordance with the due dates thereof, where financing of the project is assured within the framework of budget allocations under the detail budget in question.

(2) Prior to entering into any contract or agreement on a project and prior to creating any obligation relating thereto pursuant to sub-sec. 1 hereof, the competent line ministry shall reach agreement with the Federal Minister of Finance where the allocations arising in total from such liabilities would exceed the ceiling amounts stipulated in the regulation under sec. 58 (1). It is not necessary for such agreement to be reached where agreement has already been reached with the Federal Minister of Finance at the planning stage with respect to this project and where no material changes to the terms and conditions contemplated for executing this project have arisen since that time. The regulation issued by the Federal Minister of Finance under sec. 58 (1) shall contain rules on assessing when a change should be regarded as material.

Execution of a project entailing an obligation in future fiscal years; future obligations

Sec. 60. (1) The competent line ministry shall reach agreement with the Federal Minister of Finance on execution of any project (sec. 57 (1)) and creation of related liabilities, the settlement of which upon maturity shall require expenditures by the Federal Government in multiple fiscal years or at least in a single future fiscal year (future obligations). The Federal Minister of Finance shall in the context of his or her collaboration take particular care to ensure that the prerequisites under sec. 58 (1) have been met and that the requisite report is submitted pursuant to sub-sec. 3 or that the required federal statutory authority under sub-sec. 4 is obtained.

(2) It shall not be necessary for such agreement to be reached under sub-sec. 1 hereof if agreement has already been reached with the Federal Minister of Finance under sec. 58 (2) with respect to this

project and there have been no material changes to the terms and conditions envisaged for execution of this project since that time (sec. 59 (2)).

(3) Within one month from the end of each calendar quarter, the Federal Minister of Finance shall report to the National Council committee charged with preliminary deliberations on the Federal Finance Acts with respect to every future obligation, the creation of which the Federal Minister of Finance has consented to within the preceding calendar quarter, provided that the total of future obligations reaches the value equal to the ceiling on expenditures for a global budget contemplated in the current Federal Finance Act at the time of consenting to creating the future obligation. All liabilities previously incurred, to the extent of maturing liabilities in future fiscal years, shall be debited against this maximum amount.

(4) Where the expenditures relating to a future obligation (calculated on an annual basis in each case) exceed in at least one future fiscal year

1. a 10 per cent share of the expenditure ceiling contemplated for the chapter in question in the most recently promulgated Federal Medium-Term Expenditure Framework Act or
2. 30 million euros, and if, when applying substantive criteria, the future obligation cannot be allocated to any global budget envisaged by federal statute,

then the future obligation may only be permitted based on federal statutory authority. In no case may the ceiling on expenditures under the Federal Medium-Term Expenditure Framework Act be exceeded.

(5) Future obligations resulting from a statutory obligation (sec. 35), a long-term obligation or in connection with personnel costs (sec. 30 (4)) are excepted from the provisions contained in sub-secs 1 to 4. No separate federal statutory authority under sub-sec. 4 hereof is required if a federal statute already envisages the setting of amounts of financing covering multiple fiscal years by line ministries for legal entities to be financed by the Federal Government.

(6) The Federal Minister of Finance shall issue regulations specifying more precise rules, which shall, in particular, make provisions in the interests of simplifying administrative procedures in light of the particular nature of a project as to the reaching of agreement under sub-sec. 1 hereof may be waived on particular types of projects and up to what ceiling amounts.

Execution of a project creating entitlements on the part of the Federal Government; future entitlements

Sec. 61. (1) Where the execution of a project (sec. 57 (1)) is envisaged which is expected to give rise to entitlements of the Federal Government, in particular, including receivables, the competent line ministry shall reach agreement thereon with the Federal Minister of Finance where the creation thereof will have significant financial impacts on the Federal Government as a consequence. This provision shall be applied both to entitlements for the current fiscal year and to entitlements which are created for multiple fiscal years for at least one future fiscal year (future entitlements).

(2) The Federal Minister of Finance shall issue regulations stipulating more precise rules under sub-sec. 1 hereof, in particular taking account of ensuring that

1. the execution of any such project which has the purpose of performing an administrative task of the Federal Government and of achieving the objectives referenced to in sub. 2 (1) and
2. the entitlement arising from the project bears a reasonable relationship to the associated financial impacts and it appears to be certain that such expenditures of the Federal Government as may arise therefrom will be coverable.

Creation of accounts

Sec. 62. The requisite number of accounts shall be created in budget appropriations on the basis of the chart of accounts (sec. 26 (4)), in light of budget accounting and recognition. The Federal Minister of Finance shall issue a directive on the procedure to be followed when creating an account.

Remunerations transferred between entities of the Federal Government; shares of costs

Sec. 63. (1) Entities of the Federal Government are required to pay remuneration for goods and services (sec. 859 Austrian Civil Code [ABGB]) received from another entity of the Federal Government. Exceptions to this rule may be permitted in the interests of administrative simplification, in light of the special type or the scope of the goods or services. Remuneration must be agreed based on the fair market value (sec. 305 Austrian Civil Code) but standard amounts (tariffs or the like) should be provided in the

case of goods or services which are continually recurring and of the same type. The line ministry within whose remit the goods or services in question are rendered may, in consultation with the Federal Minister of Finance, depart from this valuation principle where and to the extent this is required by the special characteristic of the goods and services and the associated performance of obligation.

(2) The Federal Minister of Finance shall issue regulations stipulating the more precise rules governing sub-sec. 1, in particular on the conditions precedent pursuant to which no remuneration is to be paid, or exceptions from the duty to pay remuneration may be permitted by the Federal Minister of Finance.

(3) Where differences of opinion arise as to the remuneration to be paid under sub-sec. 1 hereof either on the merits or as to quantum, the Federal Minister of Finance shall initially act as mediator. Sec. 5 of the Federal Ministries Act 1986 [BMG], BGBl. No. 76/1986, shall remain unaffected by the foregoing.

(4) The entities of the Federal Government referenced in the first sentence of sub-sec. 1 hereof shall recognise the expense or revenues arising in this context, showing their effect on cash flow, in the budget accounting system.

Services by entities of the Federal Government to third parties

Sec. 64. In respect of goods and services provided to third parties, entities of the Federal Government shall agree on compensation, based at least on the fair market value thereof (sec. 305 Austrian Civil Code), applying sec. 63 (1), second and last sentence and sub-sec. 2 *mutatis mutandis*. The provisions set out in secs. 75 and 76 shall remain unaffected by the foregoing.

Execution of expenditures as an intermediary

Sec. 65. Every head of a budget-managing body pursuant to sec. 7 (1) (1 and 2) may execute expenditures as an intermediary for another head of a budget-managing body, upon request by such other head. Such request may only be made where the execution of expenditures as an intermediary serves to considerably simplify the payment transaction. The expenditures made as an intermediary shall be deemed earmarked until such time as they are reimbursed. No reimbursement shall be payable for values less than EUR 100. The Federal Minister of Finance may issue regulations prescribing more detailed requirements on the handling of payments made as an intermediary and the conditions precedent thereto.

Part 2

Controlling

Budget controlling

Sec. 66. (1) To ensure achievement of the objectives of budget management, compliance with the Federal Medium-Term Expenditure Framework Act from time to time in force and with the federal budget statement, a system of budget controlling supporting the management and control of allocations shall be set up and implemented. The intention underlying budget controlling is to ascertain, at as early a stage as possible, the financial impacts of planning, decision-making and executory processes as well as material changes as to the performance of the budgeted revenues, costs, payments and expenditures and to elaborate proposals on the requisite management measures to be undertaken.

(2) After soliciting the views of the line ministries, the Federal Minister of Finance shall issue regulations prescribing more precise rules on budget controlling. These regulations shall, in particular, contain rules on the following:

1. objectives and tasks of financial controlling;
2. organisation and execution of controlling;
3. reporting and
4. formulation of specific controlling concepts by the line ministries.

(3) On an annual basis within one month from 30 April and 30 September in each case, the Federal Minister of Finance shall forward to the National Council committee charges with preliminary deliberations on the Federal Finance Act a report on the results of its budget controlling.

Investment and financial controlling

Sec. 67. (1) Notwithstanding other pre-existing statutory duties of information, reporting and controlling, investment controlling shall, in particular, be undertaken for

1. companies in which the Federal Government holds a direct or indirect majority interest, by the Federal Ministers charged with management of shareholder rights, and
2. companies under public law and entities under public law subject to oversight by the Federal Government (except for social insurance entities), by the Federal Ministers charged with oversight

and the foregoing shall inform the Federal Minister of Finance with respect thereto in line with the regulations issued under sub-sec. 2 hereof. The foregoing shall also apply to hived off institutions of the Federal Government as legal entities under public law, the legal form of which is designated otherwise by Federal Act. Investment controlling also encompasses risk controlling.

(2) The Federal Minister of Finance shall perform financial controlling for the legal entities covered by sub-sec. 1 hereof and shall issue regulations on uniform establishment of a system of planning, information and reporting, which ensures execution of investment and financial controlling. The Federal Minister of Finance shall expand the regulations to encompass a dimension of risk controlling, taking account of the day-to-day business of the legal entities under sub-sec. 1 (1 and 2).

(3) The management of the legal entities covered by sub-sec. 1 hereof shall take care to set up a planning and reporting system which ensures that the reporting obligations under the requirements of statutory law and the regulation issued under sub-sec. 2 hereof are satisfied.

(3a) In the case of stock companies in which the Federal Government holds a direct or indirect majority stake, sub-secs. 1 to 3 shall only be applied for so long as their shares are not admitted to official trading or to the regulated over-the-counter trading on an Austrian stock exchange or are admitted to trading in a comparable fashion on a foreign exchange.

(4) On an annual basis, within two month of the record dates 31 March and 30 September, the Federal Minister of Finance shall forward a report on the results of its investment and financial controlling to the National Council Committee charged with preliminary deliberation on the Federal Financial Acts.

Outcome controlling

Sec. 68. (1) In order to achieve the objective of outcome orientation (outcome objectives and measures), each line ministry shall set up an internal system of outcome controlling. The Federal Chancellor shall support the line ministries in setting up and implementing this system (cross-departmental outcome controlling). This support is provided through methodological and process-related assistance as well as quality assurance.

(2) The Federal Chancellor shall implement regular cross-departmental outcome controlling pursuant to sub-sec. 1. This shall include details on outcome orientation in the draft budget statement (sec. 41) as well as details on internal evaluation of legislative proposals and other projects (sec. 18 (3) (1 and 2)). The purpose of cross-departmental outcome controlling is quality assurance, in line with the criteria referenced in sec. 41 (1).

(3) The Federal Chancellor shall, in consultation with the Federal Minister of Finance, issue regulations prescribing more precise rules on cross-departmental outcome controlling. Prior to issuing the regulations, the views of the line ministry shall be solicited. These regulations shall, in particular, contain rules on the following:

1. tasks encompassed by cross-departmental outcome controlling in connection with budget planning and execution;
2. organisation and implementation of cross-departmental outcome controlling;
3. reporting and duties of reporting to the Federal Chancellor in connection with cross-departmental outcome controlling;
4. the tools involved in cross-departmental outcome controlling.

(4) The Court of Audit and Federal Chancellor may request documents on outcome controlling from the respective line ministry during the current fiscal year.

(5) On an annual basis, within 30 days from the record dates of 30 April and 30 September, the Federal Chancellor shall forward a report on the results of outcome controlling to the National Council Committee charged with preliminary deliberations on the Federal Finance Acts. This report shall in any event contain specific information on those areas of outcome controlling that have the purpose of achieving the aim of actual equality of women and men.

Part 3

Rights of disposal with respect to assets

Acquisition of items of property for Federal Government and responsibility for management thereof

Sec. 69. (1) The acquisition of items of property (secs. 285 *et seq.* Austrian Civil Code [*ABGB*]) for the Federal Government and the management thereof as well as the management of third-party items of property held in the custody of the Federal Government is the remit of the competent budget-managing body; to the extent that the provisions of secs. 58 to 60 are applicable, the Federal Minister of Finance shall cooperate with respect thereto.

(2) Items of property may be acquired on a non-gratuitous basis for the Federal Government only to the extent they are required to enable the Federal Government to perform its tasks without any unnecessary accumulation of inventories. To the extent that allocations of substantial financial significance are associated therewith, agreement must be reached with the Federal Minister of Finance in line with sub-sec. 4 hereof.

(3) The acquisition of items of property on a gratuitous basis for the Federal Government shall require the consent of the Federal Minister of Finance where substantial consequential costs or conditions or terms are associated with any such acquisition which will entail obligations on the part of the Federal Government.

(4) For purposes of implementation of sub-secs. 2 and 3 hereof, the Federal Minister of Finance may prescribe more precise rules via regulation, whilst taking particular care to ensure that the property acquisition in question is in line with the objectives referenced in sec. 2 (1) and performance of the obligations arising from that acquisition is ensured.

(5) The Federal Minister of Finance may issue regulations on acquisitions of vehicles (motor vehicles, aircraft and aquatic vehicles) unless the Federal Act on Establishment of a Federal Procurement Company with Limited Liability [*BB-GmbH-Act*], BGBl. I No. 39/2001, is applicable; such regulations shall, in particular, contain provisions governing the use and deployment of vehicles, taking account of the objectives under sec. 2 (1).

Principles governing the management of federal property and third-party property held in the custody of the Federal Government

Sec. 70. (1) Each head of a budget-managing body under sec. 7 (1) (1 and 2) shall diligently manage the items of property entrusted to him or her and furnish a proper accounting therefor. With respect to dispositions over items of federal assets, secs. 73 to 76 shall apply.

(2) Insurance contracts may only be entered into with respect to items of federal property where

1. there is a statutory duty to take out an insurance policy,
2. the insurance premium may be passed on to third parties,
3. the continued existence of a particularly valuable element of federal assets temporarily appears to be at risk or
4. by entering into a contract of insurance, the objectives under sec. 2 (1) are achieved to a greater extent than they would be in the absence thereof.

The foregoing shall also apply *mutatis mutandis* to the conclusion of insurance contracts for the benefit of third parties and for third-party property held in the custody of the Federal Government.

(3) Items of federal property, which the competent Federal Government entity no longer requires to perform its tasks, should be notified to the Federal Minister of Finance and should be offered to other Federal Government entities for asset transfer for a period of one month. The Federal Government entity accepting the item shall pay compensation equal to the book value for the transferred item of property.

Where within the one-month period, no acceptance of the item of property by asset transfer takes place, the competent entity may also dispose of the item by sale to third parties.

(4) Items of federal property which are manifestly no longer capable of expedient use are deemed excepted from notification for asset transfer and from disposal under sub-sec. 3.

(5) The Federal Minister of Finance shall issue a regulation prescribing more precise rules on sub-secs. 1 to 4 as well as the manner of proceeding in the event that damage occurs to elements of moveable and immovable property held in the ownership or custody of the Federal Government. In the regulations setting out the procedure to be followed in cases of damage, the Federal Minister of Finance, by way of analogous application of sec. 73 (6), shall determine the extent to which the Federal Minister of Finance will delegate decisions on the assertion of claims (from examination to collection) to the line ministry whose remit is affected thereby.

(6) In the event that significant organisational changes occur, each head of a budget-managing body under sec. 7 (1) (1 and 2) shall carry out a global inventory through its economic entity (sec. 11 (2) (3)) by the conclusion of the fiscal year in which the organisational change took place, and otherwise once within every five fiscal year period. In cases of assets of particular value, this shall be done on an annual basis by means of a partial inventory. The head of a budget-managing body shall use the economic entity when conducting its inventory.

Acquisition of equity interests by the Federal Government and delegation of tasks of the Federal Government to other legal entities

Sec. 71. (1) Equity interests in companies and cooperative societies under private civil law constitute items of long-term assets. They may only be acquired by a line ministry for the Federal Government where

1. in this way it is possible to better respond to a significant economic concern, in line with the objectives referenced in sec. 2 (1),
2. the payment obligation of the Federal Government arising out of any such equity interest is limited to a defined amount,
3. the Federal Government receives an appropriate level of control in the oversight body of the company or cooperative society in question and it is ensured that the members of that oversight body elected or delegated by action of the Federal Government will be able to consider the particular interests of the Federal Government when discharging their duties; at least one representative of the Federal Ministry of Finance must be a member of the oversight body if
 - a) at least two members elected or delegated by the Federal Government are members of the oversight body, and
 - b) the Federal Government makes allocations of extraordinary financial significance for the company or cooperative society in question; rules in this regard shall be made by regulation under sec. 58 (2),
4. agreement has been reached with the Federal Minister of Finance.

(2) Federal statutory authority to acquire equity interests of the type referenced in sub-sec. 1 hereof must be procured where

1. the expenditures for acquiring the equity interest (including the miscellaneous costs associated with such acquisition, but without consideration of the interest arising therefrom) would exceed EUR 75 million, or
2. the amount of any such equity interest in one of the above-referenced companies would exceed one-half of the share capital (equity capital) arising thereby or, in the case of cooperatives and industrial societies, would exceed one-half of the total of all of their shares

for the first time.

(3) Where, by an agreement made under private civil law, tasks or projects of the Federal Government are delegated to a legal entity under private civil law in which the Federal Government does not hold an equity interest within the meaning of sub-sec. 1 hereof, and if the costs arising thereby to the legal entities in question ultimately will be charged to a predominant extent or, in individual cases, if costs of more than EUR two million are charged to the Federal Government on a permanent basis, then such a delegation, unless otherwise provided by this Federal Act, may only be undertaken in consultation

with the Federal Minister of Finance, by way of analogous application of sub-sec. 1 hereof. With the exception of analogous application of sub-sec. 1 (3) hereof, the foregoing shall apply also to delegations of this kind to legal entities under public law.

Recovery of unowed payments of Federal Government

Sec. 72. As soon as a competent entity learns of a payment or benefit from the Federal Government which has been made in error (sec. 1431 Austrian Civil Code), it shall demand the return thereof or if such recovery is no longer possible, it shall request restitution corresponding in value to the fair market value thereof (sec. 305 Austrian Civil Code) from the recipient thereof. Where they do not relate to long-term obligations, assertion of such claims may be waived if the value of the unowed benefit or payment is less than EUR 100.

Deferral, consent to instalment plan, suspension and discontinuation of collection of receivables by Federal Government

Sec. 73. (1) The Federal Minister of Finance may grant a deferral of satisfaction of a receivable of the Federal Government based on a request filed by the debtor via the line ministry or may approve payment thereof in instalments if

1. immediate or immediate full payment of the amount of the receivable due would be associated with significant hardship to the debtor and
2. recoverability of the receivable is not put at risk by granting more favourable terms of payment; otherwise, the furnishing of an appropriate security must be demanded.

Furthermore, in the event that any partial payment fails to be made, the Federal Minister of Finance shall reserve the right to revoke its approval to make payment in instalments and to demand immediate payment of all outstanding partial payments.

(2) Where deferral is granted with respect to settling a receivable of the Federal Government or where payment in instalments thereof is approved, deferral interest at a rate of 3 per cent over the base interest rate in effect from time to time, as published by *Oesterreichische Nationalbank, per annum* must be contracted. The Federal Government authority may refrain in whole or in part from insisting on contracting for deferral interest if the payment of deferral interest

1. would be inequitable in light of the situation of the particular case, particularly taking account of the financial circumstances of the debtor, or
2. would give rise to administrative expenses which bear no reasonable relationship to the amount of the deferral interest.

(3) The Federal Minister of Finance may suspend collection of a receivable if it is determined that recovery action manifestly appears initially to be without prospects of success, but where, based on the factual situation, it may be assumed that at a later point in time they will meet with success.

(4) The Federal Minister of Finance may discontinue collection of a receivable *ex officio* where

1. the administrative effort and cost involved in effecting collection would bear no reasonable relationship to the amount of the receivable, or
2. all options for collection have been attempted without success, or
3. collection action is manifestly without prospects of success from the outset

and in cases covered by lines 2 and 3, where based on the factual situation there are no grounds to assume that collection action at a later point in time would meet with success. 'Collection of a receivable' is deemed to include every form of asserting a demand for payment, through to recovery of funds; the recoverability of a receivable should be assessed by reference to the legal and factual circumstances of the individual case.

(5) Where the grounds which led to a suspension or discontinuation of collection of a receivable (sub-secs. 3 and 4) cease to apply within the prescription period, then collection on the receivable shall be re-commenced.

(6) The Federal Minister of Finance may delegate the making of such orders to the line ministry whose remit is affected thereby to the extent that, in the due discharge of his or her office, the Federal Minister of Finance discerns that the particular type or scope of the order or disposition to be made is in the interests of simplifying public administration for managing the overall budget.

Waiver of receivables of Federal Government

Sec. 74. (1) The Federal Minister of Finance may, *ex officio*, waive a receivable in whole or in part based on a request by the debtor filed via the line ministry if

1. collection of the receivable, in light of the facts of the case, in particular taking account of the financial circumstances and the extent to which the debtor may bear fault in the fact that the receivable has arisen, would be inequitable or where such waiver of the receivables is in the economic interest of the Federal Government and
2. the amount of the receivable which is to be waived does not exceed the maximum amount set by the Federal Finance Act or by a special Federal Act within the meaning of Art. 42 (5) Austrian Federal Constitution.

(2) Where the receivable or partial receivable which is to be waived exceeds the maximum amount referenced in sub-sec. 1 (2), the waiver shall require approval by federal statute within the meaning of Art. 42 (5) Austrian Federal Constitution.

(3) In the event of a waiver of a receivable of the Federal Government, the federal authority shall in any event impose the contractual condition that revocation shall be permitted where the waiver was procured by falsification of a deed, false testimony or any other judicially punishable criminal act or otherwise.

(4) Sec. 73 (6) shall apply *mutatis mutandis*.

Dispositions over other items of moveable federal property

Sec. 75. (1) The Federal Minister of Finance may make dispositions over other items of moveable federal property by

1. alienation (sale or exchange)
2. encumbrance by pledge
3. lease, lend and the grant of a loan *in rem*
4. gratuitous transfer or
5. abandonment of a right related to the moveable asset (sec. 298 Austrian Civil Code)

(2) A disposition under sub-sec. 1 (1 to 3) may only be made if

1. that disposition is intended to aid in performing an administrative task of the Federal Government or such administrative task is not materially adversely affected thereby or
2. the item of federal property is no longer required at all or will not be required within a foreseeable time and, in addition,
3. in the case of a disposition under sub-sec. 1 (1 and 2), the maximum amount set for this purpose by the Federal Finance Act or by a special Federal Act within the meaning of Art. 42 (5) Austrian Federal Constitution is not exceeded.

(3) In a case involving a disposition under sub-sec. 1 (1), the compensation must equal either a tariff, a similar general set amount, the exchange price or market price or otherwise its fair market value (sec. 305 Austrian Civil Code), depending on the particular nature of the item of moveable asset; in the case of a grant of a lease tenancy or other grant of a right of use on a non-gratuitous basis, these valuation principles shall be applied *mutatis mutandis* with respect to determination of the compensation therefor.

(4) An item of moveable federal property shall be deemed not to be required within the meaning of sub-sec. 2 (2) where the line ministry with responsibility for managing it notifies the Federal Minister of Finance that it is not required. Items of moveable federal property which manifestly are no longer capable of being used for their intended purpose are excepted from the duty of notification.

(5) The Federal Minister of Finance may transfer an item of moveable federal property held by another legal entity on a non-gratuitous basis where

1. a) such an item is no longer required within the meaning of sub-sec. 2 (2),
- b) the fair market value (sec. 305 Austrian Civil Code) of that item of a property does not exceed the amount thresholds set under sec. 13 Austrian Income Tax Act 1988, BGBl. No. 400/1988 for *de minimis* fixed assets,

- c) taking account of the interests in performing public-sector duties applicable in the individual case, there is no more profitable and expedient option for disposal thereof,
 - d) a transfer of this kind is made by exchange of documents (consignment note, acknowledgement note), and
 - e) the documents contain the date of the transfer, a description of the item of property in question and the names and signatures of the transferor and the transferee, or
2. a) a transfer of this kind becomes necessary as a consequence of the particular nature of the tasks incumbent on a line ministry and
- b) the fair market value (sec. 305 Austrian Civil Code) of the item of such transfer does not exceed the usual amount involved on the special occasion of making such a transfer.
- (6) A disposition under sub-sec. 1 (5) may only be made where the prerequisites referenced in sub-sec. 5 (1) (a to c) have been met.
- (7) The following are excepted from the foregoing authorisations:
- 1. Dispositions of equity interest in nationalised businesses;
 - 2. Dispositions of equity interests of the Federal Government in capital stock companies, where the equity stake exceeds 25 per cent of the share capital (equity capital); provided that the equity stake of the Federal Government is not changed thereby, a reduction of stock capital (equity capital) shall not constitute any disposition over federal property;
 - 3. Dispositions of equity interests of the Federal Government in other business entities, where the value of the equity stake over which the intended disposition is to be made exceeds one-quarter of the value of the business entity.
- (8) Where in the case of a disposition under sub-sec. 1 (1 and 2), the consideration (price, value) of the individual item of moveable property over which the disposition is to be made exceeds the maximum amount referenced in sub-sec. 2 (3), then such a disposition shall require approval by federal statute within the meaning of Art. 42 (5) Austrian Federal Constitution, just as any other disposition over items of moveable federal property excepted from the above-referenced authorisations.
- (9) Sec. 73 (6) shall be applied *mutatis mutandis*.

Dispositions over items of immoveable federal property

- Sec. 76.** (1) The Federal Minister of Finance may make dispositions over items of immoveable federal property by
- 1. alienation (sale or exchange),
 - 2. encumbrance with building rights, pledges, easements and other rights *in rem*,
 - 3. grants of tenancy and any other grant of a right of use, whether gratuitous or for consideration,
 - 4. gratuitous transfer or
 - 5. relinquishment of a right associated with the immoveable property (sec. 298 Austrian Civil Code).
- (2) A disposition under sub-sec. 1 (1 to 3) may only be made where
- 1. the disposition is intended to perform an administrative task of the Federal Government or such a task is not substantially adversely affected thereby, or
 - 2. the item of federal property will no longer be required at all or will no longer be required within a foreseeable time and, in addition
 - 3. in cases of dispositions under sub-sec. 1 (1 and 2) the maximum amount set out for this purpose in the Federal Finance Act or in a special federal act within the meaning of Art. 42 (5) Austrian Federal Constitution is not exceeded.
- (3) An item of immoveable federal property shall be deemed not to be required within the meaning of sub-sec. 2 (2) where the line ministry with responsibility for managing it notifies the Federal Minister of Finance that it is not required.
- (4) In cases of dispositions under sub-sec. 1 (1 and 2), the consideration (price, value) must correspond at least to the fair market value (sec. 305 Austrian Civil Code); in cases of grant of a tenancy or other grant of a right of use for consideration, this valuation principle shall be applied *mutatis mutandis* to calculation of the compensation (rent, fee for right of use).

(5) A gratuitous grant of a right of use may only be made to a legal entity where there is a substantial federal interest in that legal entity's performance of its tasks and where that entity has no income of its own or only *de minimis* income of its own.

(6) The Federal Minister of Finance may convey properties already used for purposes of public transport by gratuitous transfer to another local authority where

1. that local authority undertakes to transfer such properties to the corpus of public properties, to use them as transport routes and to assume the costs of maintaining them or
2. that local authority has at an earlier point in time transferred properties to the Federal Government in connection with road construction and it now requires properties from the federal roadways which have become dispensable for its own purposes, to the maximum extent of the areas previously transferred by that local authority,

provided that in both cases, the estimated value in any individual case does not exceed the maximum amount set for this purpose in the Federal Finance Act or in a special federal act within the meaning of Art. 42 (5) Austrian Federal Constitution, and provided that it is possible to avoid costs or unreasonable administrative work on the part of the Federal Government in connection with the gratuitous transfer.

(7) The Federal Minister of Finance may, furthermore, encumber immoveable federal property with easements for the purposes of another local authority or for purposes of power supply management where

1. the disposition does not adversely impact its performance of superordinate duties to the Austrian State as a whole;
2. the estimated value of the encumbrance in any individual case does not exceed the maximum amount set for this purpose in the Federal Finance Act or in a special federal act within the meaning of Art. 42 (5) Austrian Federal Constitution and
3. the grant of an easement appears to be necessary in order to enable the local authority to perform its duties or to develop and expand the power supply system.

(8) A disposition under sub-sec. 1 (4 and 5) may only be made in the light of sub-sec. 9 hereof where the item of immoveable federal property in question or the right in question is no longer intended to serve the purpose of performance of an administrative task of the Federal Government and where no more economic and expedient opportunity to use such right exists.

(9) Where in the case of a disposition under sub-sec. 1 (1 and 2), the consideration (price, value) or in the case of a disposition under sub-sec. 1 (4) the estimated value of the individual item of immoveable property over which the disposition is to be made exceeds the maximum amount referenced in sub-sec. 2, 6 and 7, then such a disposition shall require approval by federal statute within the meaning of Art. 42 (5) Austrian Federal Constitution, just as any other disposition over items of immoveable federal property excepted from the above-referenced authorisations.

(10) Sec. 73 (6) shall apply *mutatis mutandis*, subject to the proviso that the conveyance of a right of disposition with respect to grants of tenancy shall in any event be made to the competent line ministry where this appears more expedient in light of the type or scope of these grants of tenancy in connection with management of the items of property in question.

Order of federal property in asset accounting

Sec. 77. (1) Items of property shall be shown in systematic order in the Federal Government's asset accounting (sec. 98 (3) (1)) showing the inventory of assets, as well as additions thereto and reductions thereof, broken down by type, number, value and change in value. The Federal Minister of Finance is authorised, in consultation with the Court of Audit, to issue regulations prescribing more particularly requirements for the depiction of the items of federal property in financial accounting.

(2) In the case of legal entities managed by entities of the Federal Government or by persons appointed for this purpose by entities of the Federal Government, the principles set out in this section shall apply *mutatis mutandis*.

Part 4
Financing and State guarantees
Financial debts

Sec. 78. (1) Financial debts are all monetary obligations of the Federal Government incurred for the purpose of procuring for the Federal Government authority to make dispositions over funds. They may only be incurred by the Federal Minister of Finance in compliance with the authorisations contained in the Federal Finance Act for this purpose or in a special federal act within the meaning of Art. 42 (5) Austrian Federal Constitution [B-VG]. In particular, financial debts may be incurred by taking out loans in exchange for the provision of Treasury certificates or other bonds, taking up book debts or agreed overdrafts, assuming bills of exchange liabilities or debts within the meaning of secs. 1405 and 1406 Austrian Civil Code. The mere issue of Treasury certificates or other notes of obligation as collateral, and liabilities under currency swap agreements does not constitute financial debt. Currency swap agreements are contracts entered into in order to exchange sums of interest and/or capital.

(2) Monetary obligations entered into by the Federal Minister of Finance in order to temporarily increase the cash position are only deemed to create financial debt to the extent that such obligations are not repaid within the same fiscal year.

(3) Furthermore, monetary obligations of the Federal Government shall be treated as financial debt where such monetary obligations arise from transactions

1. on the basis of which a third party assumes the obligation to pay expenses of the Federal Government when due and the Federal Government is not required to reimburse that party for the expenses until after the expiry of the financial year in which the expenses were payable by the Federal Government or
2. which, whilst not entered into for the purpose referenced in sub-sec. 1 hereof, nevertheless involved the grant of unusual favourable financing terms to the Federal Government such that the counter-consideration of the Federal Government is set for or deferred to a maturity date lying more than ten years from the date the benefit was received; in the case of counter-consideration rendered by multiple instalment amounts, the 'maturity date' will be determined by the due date of the last instalment amount.

(4) In each case, only the nominal amount of the associated financial obligation entered into by the Federal Government under sub-sec. 1–3 shall be counted with respect to the scope of the authority referenced in sub-sec. 1, second sentence. Crediting with respect to amounts in foreign currency [for purposes of the scope of authorisation] shall be made at the exchange rate published in each case as applicable at the time of crediting the proceeds.

(5) Within one month of the end of each financial year, the Federal Minister of Finance shall report to the National Council committee charged with preliminary deliberations on the Federal Finance Acts with respect to the creation, extension or conversion of financial debts and currency swap agreements.

Terms and conditions for procurement of financing

Sec. 79. (1) In the exercise of the authority to perform credit operations granted by the Federal Finance Act in question or any special Federal Act within the meaning of Art. 42 (5) Austrian Federal Constitution, the Federal Minister of Finance may incur financial debt and enter into currency swap agreements with domestic or foreign creditors during the current fiscal year if

1. the term thereof does not exceed seventy years;
2. the overall percentage of Federal Government's indebtedness incurred in domestic currency, taking account of any currency swap agreements and taking account of the multiplier set out in sub-sec. 2 hereof, is not more than the secondary market yield on the capital market benchmark rate (in domestic currency) plus 3 per cent *per annum* in effect one banking day prior to the date on which the terms were set; in that context, the governing bond rate is the bond rate whose remaining term comes the closest to the term of the credit transaction at the time of its issue; where there are no capital market benchmark rates, then such rate shall be determined by reference to comparable interest rates in the banking sector;
3. the overall percentage of Federal Government indebtedness incurred in foreign currency, taking account of any currency swap agreements and taking the multiplier set out in sub-sec. 2 hereof

into account, is not more than the secondary market yield for a relevant currency-specific government security plus 3 per cent *per annum* in effect one banking day prior to the date on which the terms were set; in that context, the governing bond rate is the rate on the bond issued by the government in whose currency the credit transaction is ultimately stated (issued in that currency) and the term of which comes the closest to the term of the credit transaction at the time of its issue; where there are no government securities with a comparable remaining term, then the rate shall be governed by State guaranteed bonds issued by local authorities, bonds issued by international issuers or by comparable interest rates in the banking sector, in that order.

(2) The overall percentage burden under sub-sec. 1 (2 and 3) is the annual interest rate, calculated in arrears, which is derived mathematically from the discount factor at which all payments contractually agreed to be made during the term of the loan (except for commissions to paying agents, other fees and cost reimbursements), discounted to their cash value at the time the loan is issued, equal the net proceeds from the credit transaction. Any such credit transaction may not, in any individual case, exceed the amount referenced in the applicable Federal Finance Act or in any special Federal Act under Art. 42 (5) Austrian Federal Constitution (consideration). In credit transaction agreements, it is possible for an agreement to be made that obligations of the Federal Government under such agreements may be collateralised using federal property or federal receipts *pro rata* in the same manner as such collateral is provided in the case of other Federal Government obligations arising out of financial debt following conclusion of these agreements. For purposes of calculating the overall level of indebtedness in the case of the financial debt and currency swap agreements in which the interest rates are stated as variable, the interest rate for the first interest period (as calculated at the time at which the terms of financing were set) shall be taken as a basis over the contractual term.

(3) In the case of credit transactions denominated in foreign currency, when debiting of the amounts of such transactions against the maximum amounts set by this Federal Act, by the annual Federal Finance Act or by any special federal act within the meaning of Art. 42 (5) the following principles shall be complied with:

1. where at the time the proceeds are credited, no sale of the foreign currency in exchange for euros is made, then the mean exchange rate published by the Austrian National Bank two banking days prior to the date the funds are credited shall be taken as the basis of calculation;
2. where a sale of the foreign currency for euro is made at the time the loan proceeds are credited, then the rate invoiced for this purpose shall be taken as the basis of calculation;
3. in the case of credit transactions involving currency swap agreements, sub-secs. 1 and 2 shall apply *mutatis mutandis*. The basis of calculation shall be the nominal amounts ultimately obtained from the currency swap;
4. short-term liabilities of the Federal Government which will not be settled before the end of the fiscal year in question shall be charged against the limits of authorisation issued in the Federal Finance Act in question or in any special Federal Act within the meaning of Art. 42 (5) Austrian Federal Constitution.

(4) The Federal Minister of Finance may depart from these terms and conditions on the basis of the annual Federal Finance Act or of a special Federal Act within the meaning of Art. 42 (5) Austrian Federal Constitution.

(5) By 31 October of each calendar year, the Board of the Austrian Federal Financing Agency shall submit a proposal to the Federal Minister of Finance on management and coordination of financial and other federal debt, including currency swap agreements, for the next fiscal year. Based on this proposal and the Federal Government's tentative financing requirements, the Federal Minister of Finance shall stipulate the business policy and strategy of the Austrian Federal Financing Agency and shall inform its management thereof, taking account of risk management for financing transactions.

Additional financing authorisations

Sec. 80. (1) The Federal Minister of Finance may incur financial debt and enter into currency swap agreements equalling up to 10 per cent of the receipts budgeted in the current Federal Finance Act in Chapter "Financing, currency swap agreements" in cash flow from financing activities beyond the authorisation set out in the current Federal Finance Act or a special Federal Act within the meaning of Art. 42 (5) Austrian Federal Constitution. The foregoing shall apply to the extent that it is anticipated that

this will result in a financial benefit to the Federal Government and provided that the total receipts in the statement of cash flow contained in the draft Federal Finance Act submitted by the Federal Government to the National Council for the following fiscal year corresponds at least to the amount of total expenditures in the budget based on the cash flow statement (in each case without taking account of receipts and expenditures arising out of financing operations). Such financial debts and currency swap agreements entered into in accordance with the terms and conditions set out in sec. 79 shall be charged against the limits of authorisation to incur financial debts and enter into currency swap agreements contained in the Federal Finance Act or a special Federal Act within the meaning of Art. 42 (5) Austrian Federal Constitution for the following fiscal year.

(2) In addition, the Federal Minister of Finance is authorised to enter into contracts for the following purposes with respect to obligations of the Federal Government arising out of financial debts and currency swap agreements

1. for purposes of postponing obligations of the Federal Government arising out of financial debts, taking account of currency swap agreements, by extending their maturity date, with all other terms and conditions remaining unchanged, on an annual basis up to a maximum of 20 per cent of the liabilities existing at the beginning of the preceding fiscal year, where the obligation to be extended in the individual case does not exceed the amount (consideration) of 18 per cent of the total credit transactions budgeted by the Federal Finance Act in question or a special Federal Act within the meaning of Art. 42 (5) Austrian Federal Constitution, and the new overall term of the obligation does not exceed a term of fifty years and this does not result in a change of the level of financial debt of the Federal Government;
2. for purposes of converting such obligations, up to an annual maximum of 20 per cent of the federal obligations arising out of financial debts, taking account of currency swap agreements, existing at the beginning of the preceding fiscal year, where the obligation, in the individual case, does not exceed the amount (consideration) of 18 per cent of the total credit transactions budgeted by the respective Federal Finance Act or a special Federal Act within the meaning of Art. 42 (5) Austrian Federal Constitution, the new term of the obligation does not exceed a term of fifty years and the overall debt burden to the Federal Government does not exceed the overall debt burden contemplated under sec. 79 (1) (2 or 3) and the amount of the indebtedness to be converted corresponds to the amount of new indebtedness; on the basis of this authorisation, it is also possible for indebtedness to be incurred by converting obligations of the Federal Government arising out of financial debt and currency swap agreements in the following year; in the case of financial debts and currency swap agreements denominated in foreign currencies, at the time of incurring them, the amount of the debt obligations to be converted, at their respective exchange rate on the currency market relevant to the credit transaction in question, must correspond to the amount of new indebtedness; the provisions of this sub-sec. shall also apply where there is a change in the identity of the creditor;
3. for purposes of subsequently amending such federal obligations by acquiring securities of the Federal Government for redemption purposes and for currency swap agreements entered into in this context, incurring financial debt and entering into currency swap agreements to re-finance the acquisition of federal securities for redemption purposes and the currency swap agreements entered into in this context, and by entering into currency swap agreements, in which cases sub-section 2 shall be applicable.

Financing of other legal entities and the Austrian States

§ 81. The Federal Minister of Finance may

1. carry out and conclude credit transactions in the exercise of the authorisations contained in the respective Federal Finance Act or in a special Federal Act under Art. 42 (5) Austrian Federal Constitution to carry out credit transactions
 - a) for other legal entities in which the Federal Government holds a majority stake or for whose credit transactions the Federal Government has assumed liability as a guarantor and payor under sec. 1357 Austrian Civil Code or in the form of guarantees, or
 - b) the Federal States;in exercise of the authorisations contained in each case in the respective Federal Finance Act or a special Federal Act within the meaning of Art. 42 (5) Austrian Federal Constitution, the Federal

- Minister of Finance shall then grant loans from these funds to the States in question or provide financing from these funds to the legal entities in question, and in such context shall comply with the framework conditions of sec. 79 and make use of the Austrian Federal Financing Agency and
2. conclude currency swap agreements, in order then to enter into contracts with other legal entities in which the Federal Government holds a majority stake or for whose credit transactions the Federal Government has assumed liability as a guarantor and payor under sec. 1357 Austrian Civil Code or in the form of guarantees, or enter into contracts with the Federal States, in order to subsequently modify obligations arising out of the credit transactions of those legal entities or those Federal States by substantively delegating the receivables and liabilities under those currency swap agreements; in that context, he or she shall make use of the Austrian Federal Financing Agency. The annual maximum amount of capital obligations of the Federal Government under these currency swap agreements may not exceed 10 per cent of the obligations of the Federal Government arising out of financial debt at the beginning of the preceding fiscal year, taking account of the currency swap agreements, whilst ensuring compliance with the other provisions of sec. 80 (2) (2).

State guarantees

Sec. 82. (1) Only the Federal Minister of Finance may assume liability on behalf of the Federal Government (statutory guarantee [*Bürgschaft*] under secs. 1346 and 1348 to 1367 Austrian Civil Code or contractual guarantee [*Garantie*]). The Federal Minister of Finance may only assume liability in line with the authorisations granted for this purpose by the Federal Finance Act or a special Federal Act within the meaning of Art. 42 (5) Austrian Federal Constitution, and in particular shall take care to ensure that

1. the maximum amounts of liabilities which may be assumed in individual cases as well as the aggregate amounts of such liabilities as stipulated therein are not exceeded;
 2. liabilities are only assumed for obligations relating to projects more precisely described in the statutory authorisation in question;
 3. assumption of the liability is in line with the objectives referenced in sec. 2 (1);
 4. where, in addition to the Federal Government, there are other legal entities assuming liability for the same obligation, the Federal Government's liability is limited by a recourse agreement with the other guarantors to its share of the liability.
- (2) Wherever liability is to be assumed by the Federal Government, the following must be stipulated by contract:
1. the debtor shall provide all such information and documents to the Federal Government upon request as appear necessary to the Federal Government in connection with the existence or assumption of the liability;
 2. the Federal Minister of Finance is granted the right to audit the books and operations of the debtor at any time and to inspect all such records and accounts of the debtor as are necessary in connection with the performance of its obligations and enforcement of its rights;
 3. the debtor shall report in writing without delay and unbidden to the Federal Government with respect to all facts and circumstances which may affect the basis and amount of liability of the Federal Government in terms of a material increase of its risk;
 4. for the duration of the term of the obligation for which liability has been assumed, the debtor shall submit its annual financial statement together with the balance sheet and profit and loss statement together with an officially certified auditor's report of an auditor authorised under the Austrian Chartered Accountants Professional Act [*WTBG*], BGBl. I No. 58/1999;
 5. the debtor shall pay a fee to the Federal Government for its assumption of liability, which shall be calculated in light of the special nature of the project referenced in sub-sec. 1 (2), but which shall not exceed 1 per cent *per annum*, based on the outstanding portion of the obligation to which the liability refers;
 6. in the event that a claim is made against the Federal Government arising out of its assumption of liability, the Federal Government shall, in addition to the right of reimbursement of the debt paid (sec. 1358 Austrian Civil Code [*ABGB*]), also have the right to demand that the debtor reimburse it for all such costs as the Federal Government has incurred in connection with the redemption of the assumed liability, in particular also including the costs expended by the Federal Government

in any litigation with the creditor. The extent to which any account may be taken of the financial and commercial circumstances of the debtor in the exercise of this right of recourse shall be determined pursuant to secs. 73 and 74.

It is only possible to derogate from these rules based on a federal statute within the meaning of Art. 42 (5) Austrian Federal Constitution.

(3) Where the liability for obligations in a sum of foreign currency is being assumed, such amount shall be calculated at the time the liability is assumed at the euro referenced exchange rate published by the European Central Bank. Where liability for interest at a variable rate of interest is being assumed, then for purposes of calculating the amount of interest to be charged against the limits of permissible liability, the agreed interest rate value in effect at the time of assuming the liability shall be taken as the basis over the entire term thereof.

(4) Within one month from the end of each fiscal year, the Federal Minister of Finance shall report with respect to the assumption of a State liability to the National Council committee charged with preliminary deliberations on the Federal Finance Acts.

(5) Where the federal budget is managed pursuant to Art. 51a (4) Austrian Federal Constitution, the Federal Minister of Finance shall be authorised to enter into liabilities pursuant to sub-secs. 1 to 3 in conjunction with the authorisations under the most recently promulgated Federal Finance Act.

Part 5

Incentive and sanction mechanisms

Bonuses

Sec. 83. Civil servants and contract employees of the Federal Government may be granted bonuses if

1. their performance mandates are largely achieved and
2. the requisite funding is coverable by the detail budget in question.

Breaches of budgeting rules by civil servants

Sec. 84. (1) Where a civil servant culpably breaches the provisions of this Act and where disciplinary proceedings under the Civil Servants Employee Law Act 1979, BGBl. No. 333, are initiated, the competent line ministry shall notify the Federal Minister of Finance of the outcome of any such proceedings.

(2) Where, by a breach as referenced in sub-sec. 1 hereof, a civil servant causes harm to the Federal Government, the competent line ministry shall notify the Federal Minister of Finance and the Court of Audit of the assertion of a relevant claim for compensatory damages asserted under the legal rules pertaining to liability of officials or employees and of the outcome of such assertion of a claim or of the determinative grounds for any abandonment of the assertion of such a claim.

Breaches of budgeting rules by contract employees

Sec. 85. (1) Where a contract employee who is in an employment relationship with the Federal Government by private civil contract commits a breach of the rules under this Act, the competent line ministry shall notify the Federal Minister of Finance thereof as to whether the option of terminating the employee's employment under the Contract Staff Act 1948 was exercised.

(2) Where, by a breach as referenced in sec. 84 (1), a contract employee causes harm to the Federal Government, the competent line ministry shall notify the Federal Minister of Finance and the Court of Audit of the assertion of a relevant claim for compensatory damages asserted under the legal rules pertaining to liability of officials or employees and of the outcome of this assertion of a claim or of the determinative grounds for any abandonment of the assertion of such a claim.

Joint consultation in enforcement situations

Sec. 86. (1) In cases involving breaches by line ministries of the budget rules (in particular of this Federal Act and of the Federal Finance Act), the Federal Minister of Finance is authorised to impose sanctions pursuant to sub-secs. 2 to 4.

(2) In cases in which global budgets are exceeded without budgetary authority, sec. 52 (3) (negative reserves) shall be applied.

(3) Where a budget-managing body breaches the provisions of the regulations issued under sec. 58 (1), then until the end of the next fiscal year, the ceiling amounts set under the regulations issued under sec. 58 (1) with respect to the competent line ministry shall be deemed reduced by 50 per cent. In addition, the Federal Minister of Finance shall impose a temporary or permanent reduction of approved budget allocations to the extent of the liability assumed for and during the next fiscal year, for the account of the budget chapter in question. In cases involving liabilities assumed over the course of multiple years (sec. 60), the temporary or permanent reductions of approved budget allocations shall be made for the fiscal years in question equal to the amounts of the annual partial amounts in question.

(4) In the event of other breaches of budget law by budget-managing bodies or line ministries, the Federal Minister of Finance may impose to the detriment of the Chapter in question a temporary or permanent reduction of up to 2 per cent on the Chapter in question with respect to approved budget allocations, but to a maximum of euro 10 million. In setting the temporary or permanent reduction of approved budget allocations, the Federal Minister of Finance shall take account of the harm to the federal finances occasioned by the breach of budget law. These measures shall not be applied to line ministries pursuant to sec. 6 (1) (1).

(5) The line ministries shall allocate the negative reserves under sub-sec. 2 hereof and the temporary or permanent reduction of approved budget allocations pursuant to sub-secs. 3 and 4 to the global and detail budgets of the budget chapter in question, such that its satisfaction of liabilities when they fall due is not adversely affected.

(6) The Federal Minister of Finance shall inform the Federal Government of the imposition of sanctions being contemplated within the meaning of sub-sec. 2 to 4 hereof. Wherever this is in fact possible, the Federal Minister of Finance shall grant the line ministry in question a reasonable time to eliminate the breach. The Federal Minister of Finance shall notify the Federal Government as to elimination of the breach or the imposition of sanctions.

(7) The Federal Minister of Finance shall inform the National Council committee charged with preliminary deliberations on the Federal Finance Acts as to the imposition of sanctions without delay.

Chapter 4

Instructions relating to the execution of budget transaction, settlement, cost and performance accounting, payment transactions, internal audits and financial audits and annual report

Part 1

Instructions relating to the execution of budget transactions

General remarks on instructions

Sec. 87. (1) Unless otherwise provided hereinafter, the executing entity may not do any of the following in the absence of written instructions:

1. Accept receipts or make disbursements (payment instructions),
2. Record revenues and expenditures, pending liabilities and receivables and liabilities and post settlements (settlement instructions),
3. Accept or deliver items of property and record the associated increase and decrease (instructions to make additions and disposals) and
4. Account for changes in value of assets or external funds.

(2) The requirement of a physical writing with respect to instructions shall not apply where the technological and organisational prerequisites thereto are met and the instructing entities directly transmit their instructions by means of electronic mail or, via the accounting agency of the Federal Government, transmit such instructions to the budget accounting system, or where instructions under sub-sec. 5 (4) are provided or transmitted over IT systems by way of electronic mail transmission.

(3) Every competent head of a budget-managing body under sec. 7 (1) (1 and 2) shall record in writing the grant of authority to issue instructions and the scope thereof.

(4) Instructions must be issued without delay as soon as the facts and circumstances giving rise to the transaction have occurred. As soon as the facts and circumstances underlying the transaction have arisen, transactional documents shall be recorded immediately in the budget accounting system and forwarded to the executing entity.

(5) The head of any budget-managing body may only issue instructions giving rise to obligations on the part of the Federal Government where this does not cause the ceilings on expense and expenditure for that detail budget to be exceeded.

(6) Instructions which are not in compliance with these rules may not be carried out until such time as the instructing entity has corrected the instructions or has confirmed that it is adhering to them. Where the instructing entity does not take account or does not fully take account of objections of the executing entity, this shall be noted on the instructions or, in the case of instructions issued by electronic mail, on the print-out thereof. The executing entities shall notify the Court of Audit and the Federal Minister of Finance via the competent line ministry, and simultaneously inform the competent line ministry.

Payment and settlement orders

Sec. 88. (1) Payment and settlement orders must at least contain the following:

1. the name and address of the obligor or the recipient,
2. the amount to be accepted or disbursed,
3. the payment period,
4. the bank details of the recipient of the payment,
5. the number or reference of the G/L account (profit and loss or stock account), the budget appropriation and the cost centre or payer,
6. the basis for the payment or the settlement,
7. settlement instructions and
8. the date of the instructions, with the signature of the instructing agent.

(2) Where the instructions of the instructing entity are directly sent by electronic mail or, through the involvement of the Federal Accounting Agency of the Federal Government, to the budget accounting system pursuant to sec. 87 (2) in conjunction with sec. 5 (4), such instructions shall each contain the material substance of a payment and settlement order under sub-sec. 1 hereof; an electronic signature or *Signatur* shall take the place of the physical signature of the instructing agent.

(3) Where claims or payment obligations are determined by automated IT processes, it is possible for the details in the payment and settlement instructions to be limited to those data that clearly identify all facts and circumstances relevant to execution of the transaction.

(4) By regulations issued under sec. 116 (1), the Federal Minister of Finance may, in consultation with the Court of Audit, specify cases in which

1. a signature under sub-sec. 1 (8) may be dispensed with, provided that the instruction issued is clearly identifiable, that this serves the purpose of simplifying administration and that complete impartiality and transactional security are ensured;
2. the power to issue instructions is delegated to the competent executing entity;
3. settlement orders under sec. 87 (1) (2) may be dispensed with, provided that the substance of the required settlement appears from the documents on the transaction or is provided in connection with an automated process (secs. 103 and 104);
4. payments are to be accepted or made without written instructions, where this serves the purpose of simplifying administration and this does not adversely impact the security of payment transactions.

Part 2
Recognition
Principles of recognition

Sec. 89. (1) Transactions under secs. 95 to 98 shall be recognised in their full (gross) amounts, in chronological and substantive order.

(2) Subject to sec. 46 (4), transactions shall be assigned on a proper accrued basis to the statements of income and financial position of the detail budget in question for the fiscal year to which the transactions are economically attributable, irrespective of the actual flow of payments.

(3) Recognition records and transaction documents shall be maintained separately by fiscal year.

(4) Each posting shall be carried out

1. based on an instruction,
2. without delay and
3. on the basis of reliable information.

(5) A receivable or liability of the Federal Government will be deemed due for payment or satisfaction where

1. there is a contractual claim to payment based on goods or services provided,
2. there is a contractual claim to a transfer or
3. there is a statutory claim

and the invoice has been submitted properly in substantive and mathematical respects and the agreed payment period has elapsed.

(6) Every head of a budget-managing body under sec. 7 (1) (1 and 2) shall maintain an integrated, closed system for each detail budget consisting of an operating statement, cash flow statement and statement of financial position and of changes in net assets (balancing items) in accordance with a uniform chart of accounts (sec. 26 (4)), by primary cost accounting groups. In addition to these primary cost accounting groups, it is possible to set up other cost accounting groups (sec. 98) to separately record substantively inter-related accounting values.

(7) The accounting system shall ensure that it is possible to make comparisons between accounting recognition for different fiscal years, as between detail budgets, global budgets and chapters for all final reports (sec. 101).

(8) The rules on accounting shall apply *mutatis mutandis*, unless provisions deviating therefrom are made by the recognition in question.

Stages of recognition in the cash flow statement

Sec. 90. (1) Recognition shall be carried out in the following stages:

1. Recognition of pending liabilities,
2. Recognition of receivables and liabilities and
3. Recognition of payments (receipts and expenditures).

The rules under sec. 91 and sec. 92 shall remain unaffected by the foregoing.

(2) Transactions shall be recognised as pending liabilities

1. where allocations have been noted or reserved without a liability having already been established and
2. allocations for which no receivable has yet been established.

(3) Transactions shall be recognised as receivables or liabilities where they create financial claims on the part of the Federal Government to the receipt of payments of money or create obligations on the part of the Federal Government to make payments of money.

(4) Instructions which are based on receivables or liabilities which have been discharged or which directly lead to receipts and disbursements on the part of the Federal Government shall be shown as payments in the cash flow statement. The figures of the budget based on the cash flow statement shall be contrasted with the accounting results as to payments.

(5) Measures which lead to an increase or a reduction in the budget figures in detail budgets without this resulting in the ceiling on expenditures set by the Federal Finance Act for the global budget being exceeded, temporary or permanent reductions of approved budget allocations (sec. 52), re-allocations (sec. 53), allocation overruns (sec. 54), withdrawal of reserves (sec. 56), variable expenditures (sec. 12 (5)) as well as all measures to increase or reduce budget figures which have an impact only within the administration shall be shown as adjustments in the federal budget statement and the second-level detail budgets.

Rules on accounting treatment

Sec. 91. (1) Budget accounting is carried out by means of an integrated operating statement, cash flow statement and statement of financial position. Accounting shall be based on the Euro. The rules on the breakdown of the statement of financial position (sec. 94) remain unaffected hereby.

(2) Assets shall be recorded in the statement of financial position as soon as the Federal Government has at least acquired beneficial ownership thereof. In line with sec. 92 (7) cultural assets may be excepted from accounting.

(3) Receivables shall be recognised at the point in time at which the Federal Government has acquired a contractual or statutory claim thereto.

(4) As soon as the expense associated with the transaction is recognisable, the related liability shall be recognised. As soon as the amount of an obligation for which a contingency reserve has been created is capable of precise definition, the actual amount arising from that obligation shall be recognised as a liability.

(5) Contingency reserves under sec. 32 (8) (3) shall be created, adjusted or released. Such reserves shall be created in the detail budget in question for Federal Government obligations where

1. the budget-managing body has already incurred the obligation prior to the accounting date,
2. the event giving rise to the obligation already occurred prior to the accounting date, and
3. the amount of the actual obligation is not capable of precise definition.

(6) Contingency reserves for severance payments, length-of-service bonuses and liabilities shall in each case be recognised separately. Contingency reserves shall also be recognised where

1. it is at least more likely than not that a future claim event will occur or
2. the obligation is or is expected to be the subject-matter of litigation or
3. a head of a budget-managing body gains knowledge of the fact that, to a greater likelihood than not, an obligation will lead to a reduction of future economic benefit or potential benefit

and the value of the contingency reserve is capable of being reliably calculated.

(7) Re-valuation reserves or currency conversion reserves shall be shown in each case relative to specific assets and external funds and shall be released in the operating statement at the time of alienation.

(8) Expenditures and revenues arising out of operational administrative activities and from transfers shall be recognised in accordance with the actual loss and increase in value.

(9) Gratuitous provisions of personnel and services and self-made intangible assets shall not be recognised as revenues.

Valuation rules for accounting purposes

Sec. 92. (1) All receipts and expenditures shall be recognised in the cash flow statement at their nominal value.

(2) Liquid funds shall be recognised at their nominal value. Amounts in foreign currency shall be converted at the European Central Bank (ECB) reference rate; where that rate is not available, then at the respective national, low exchange rate.

(3) Receivables shall be recognised at their nominal value. Individual impairments of receivables shall be recognised taking account of secs. 73 and 74 where a receivable is unrecoverable in part or in whole. Receivables shall be reversed (taking account of any claims for VAT refunds) as soon as they are determined to be unrecoverable on a permanent basis.

(4) Inventories shall be recognised at their cost of acquisition or production and shall subsequently be recognised at the lower of the two following values (provided that they are of significant value):

1. value of original acquisition or production costs
2. replacement value.

(5) Equity interests shall be recognised at their acquisition cost at the time of acquiring them. Subsequent to this, the value of an equity interest shall be adjusted by changes in *pro rata* net asset value. Valuation beyond acquisition costs shall be recognised without impact on the income statement by means of a re-valuation reserve.

(6) Property, plant and equipment and intangible assets shall be recognised by amortised acquisition or production costs. Non-current assets subject to depreciation through use should be depreciated in a linear fashion by their anticipated useful life. Real property assets shall only be depreciated where they suffer a loss in value due to degradation. *De minimis* assets may be excepted from valuation.

(7) Cultural assets under sec. 91 (2) should be valued at their fair value. Where no quantification of fair value is possible, then the respective cultural assets shall be recorded for purposes of fixed asset accounting as having no value pursuant to sec. 98 (3) (1).

(8) A decrease in the value of assets under sub-secs. 4 to 6 exceeding linear depreciation under sub-sec. 6 hereof should be recognised where the book value exceeds the amount recoverable on a long-term basis. A reinstatement of value is permitted exclusively for assets that have suffered a previous impairment in value where the circumstances which led to the impairment in value have changed; the adjusted book value that would have applied at the time of the reinstatement of value in the absence of the original impairment in value may not be exceeded.

(9) Liabilities should be recognised in the amount of repayment. The benefits *in rem* received by public-sector employees (sec. 30 (3)) should be recognised at such values as they have in the assessment basis for the employee's income tax.

(10) Short-term contingency reserves should be recognised in the amount of the anticipated payment required to perform the current obligation. Long-term contingency reserves should be recognised at their cash value. Valuation of reserves for severance payments and length-of-service bonuses shall be performed by means of the projected unit credit method.

Rules for the treatment and valuation of financial instruments

Sec. 93. (1) Asset-side financial instruments must be assigned for accounting purposes clearly to one of the three following categories:

1. financial instruments held until their final maturity date or
2. assets available for alienation or
3. securities of the Republic of Austria.

(2) Financial debts shall be valued at their nominal value pursuant to sec. 78.

(3) The treatment of currency swap agreements and other derivative financial agreements as hedging transactions shall be undertaken in tandem with the underlying transaction. Transaction costs shall be shown in financing costs.

(4) Liabilities stated in foreign currencies shall be recognised at the European Central Bank (ECB) reference rate on the record date of the final reports (sec. 101). Increases and decreases in value shall be recognised without any effect on the income statement in foreign currency conversion reserves. These reserves shall be reversed with an effect on the income statement at the time of alienation.

Structure of statement of financial position

Sec. 94. (1) The statement of financial position shall be broken down into assets, external funds and net assets (balancing items). Increases, decreases and changes in value of assets, external funds and net assets (balancing items) are to be recognized in the statement of financial position, and total assets must correspond to the total of external funds and net assets (balancing items). The foregoing also applies to legal entities managed by entities of the Federal Government or by persons appointed for this purpose by Federal Government entities.

(2) Assets shall be shown as short-term and long-term assets and external funds as short-term and long-term external external funds.

(3) 'Short-term assets' are all assets expected to be consumed or converted to liquid funds within one year's time. At least liquid funds, short-term financial assets, short-term receivables and inventories should be shown as short-term assets.

(4) All external funds with a maturity date of up to one year shall be shown as short-term external funds. Short-term external funds should be broken down at least into cash liabilities for increasing the cash position, short-term financial debts, short-term liabilities and short-term contingency reserves.

(5) Assets and external funds are deemed to be long-term where they are not required to be shown as short-term. At least financial assets, equity interests, long-term receivables, plant, property and equipment and intangible assets should be shown as long-term assets. Long-term external funds should be shown at least in long-term financial debt, long-term liabilities and long-term contingency reserves.

(6) In terms of minimum content, net assets (balancing items) must reflect the cumulative net income and the equity shown in the opening balance sheet.

(7) In the case of legal entities managed by Federal Government entities or by persons appointed for this purpose by Federal Government entities, sub-secs. 1 to 4 shall apply *mutatis mutandis*.

Operating statement and statement of financial position

Sec. 95. (1) Expenditures and revenues and changes in assets, in external funds and in net assets (balancing items) shall be recognised in accounts of the operating statement and statement of financial position in accordance with the requirements of the chart of accounts.

(2) Expenditures and revenues shall be posted to the accounts in the operating statement and the opening balance, additions and disposals and the closing balance should in each case be recognised in the statement of financial position. Annual reconciliation of accounts should be made by posting closing entries to the accounts in question. Subject to sec. 94, all closing balances should be completely incorporated into the operating statement and statement of financial position. When this is done, the net income for the fiscal year shall in each case be added to the cumulative net income of the previous fiscal year.

(3) Upon request of the Court of Audit, for purposes of preparing the annual report, the Federal Minister of Finance shall furnish back up documentation on the operating statement and on the statement of financial position.

(4) In the budget based on the operating statement, the actual operating statement shall be contrasted with the figures from the budgeted operating statement. Where necessary, budget corrections must be added under sec. 90 (5).

Cash flow statement

Sec. 96. (1) The receipts received and expenditures to be made by the Federal Government based on statutory, contractual or other provisions, which are to be accounted for under sec. 33 should be recognised in accounts in accordance with the requirements of the chart of accounts. For recognition of tax revenue receipts, the principles on budgeting set forth in secs. 32 (1 and 34) (1) (1) shall apply.

(2) At such time as payment is recognised (sec. 90 (4)), the budget figure is incorporated on a final basis in the budget based on the cash flow statement.

(3) Receipts and expenditures with no budgetary effect under sec. 34 should be recognised in cash flow from transactions with no budgetary effect. The total of receipts and expenditures under sec. 34 (1) and the receipts and expenditures with budgetary effect yield the net change in liquid funds. The net change in liquid funds must correspond to the net change in the statement of financial position.

(4) Refunds of receipts and expenditures should be posted to the accounts in which the original payment was posted.

(5) Payments made by a head of a budget-managing body as an intermediary under sec. 65 on behalf of the head of another budget-managing body should be posted to the account to which the expenditures may be allocated. The repayment and accompanying receipt should be recognised within the same fiscal year.

(6) The expenditures and revenues arising in connection with sec. 63 hereof should be recognised with an effect on the cash flow statement.

(7) Down-payments or prepayments (sec. 50 (2)) should be recognised with budgetary effect and should as a general principle be recognised after actual payment is made, and within three years at the latest.

(8) In the budget based on the cash flow statement, the actual cash flow statement shall be contrasted with the figures from the budgeted cash flow statement.

Future entitlements and future obligations

Sec. 97. (1) Future entitlements (exposures and receivables) and future liabilities (pending liabilities and liabilities) as to which the obligation to make payment or the maturity date will arise in a future fiscal year should be recognised as future entitlements and future liabilities.

(2) Amounts broken down by the individual fiscal year should be recorded in line with their maturity dates.

(3) Loans granted and financial debts incurred shall be recognised as future entitlements and future liabilities, in such amounts as will fall due in future fiscal years.

(4) The areas of tax receivables and tax credit balances of the Federal Government are excepted from the duty of recognition as future entitlements and future liabilities. Obligations of the Federal Government for future personnel expenditures should be recorded for the next four fiscal years, in the respective amounts of the budget statement for the current fiscal year.

(5) Future liabilities for pension claims of public-sector employees shall be shown in a schedule to the final report.

Other cost accounting groups

Sec. 98. (1) In addition to the primary cost accounting groups to be kept pursuant to secs. 95 to 97 and sec. 108, the transactions generated by activities of a public-sector actor which are capable of delimitation may be recorded in other cost accounting groups.

(2) The balances from the accounts recorded in these other cost accounting groups in the operating statement and the statement of financial position should be integrated individually or in an aggregate fashion into the primary cost accounting groups if the accounting values recorded there have changed.

(3) In any event, the following shall be kept as 'other cost accounting groups':

1. asset accounting,
2. debit accounting,
3. credit accounting,
4. payroll accounting,
5. tax accounting and
6. accounting of financial debts.

(4) Financial assets, equity interests, plant, property and equipment and intangible assets shall be recognised in the asset accounting in accordance with the Federal Uniform Rules.

(5) Receivables should be accounted for in debit accounting.

(6) Liabilities should be accounted for in credit accounting.

(7) Personnel expense shall be accounted for in payroll accounting.

(8) Taxes shall be accounted separately in tax accounting, by individual tax and by tax obligor.

(9) Records on contingency reserves shall be maintained, containing details on the value at the beginning and end of the fiscal year, on additions, utilisations and reversals and on changes in interest rates and changes due to the passage of time and as to reliable calculations of contingency reserves.

Separate transactions

Sec. 99. Transactions shall be recorded separately from the accounting pursuant to secs. 95 to 97

1. in the case of legal entities managed by Federal Government entities or by persons appointed by Federal Government entities for this purpose,

2. where the transaction in question is a transaction under sec. 81 in conjunction with sec. 34 (1) (18) and in the case of receipts and disbursements arising out of the performance of investments for other legal entities under sec. 2 of the Federal Financing Act, BGBl. No. 763/1992, and
 3. where the transaction in question is a transaction under sec. 29 (2) and (3),
- and in each case, the principles of accounting under secs. 95 to 97 shall be complied with.

Monthly reports

Sec. 100. (1) The budget-managing bodies shall prepare monthly reports each month for each detail budget with respect to the operating statement, cash flow statement, statement of financial position, future entitlements and future liabilities.

(2) In addition to the monthly reports to be prepared pursuant to sub-sec. 1 hereof, the line ministry shall prepare monthly reports for their entire remits and shall forward these without delay to the Federal Minister of Finance, to the extent that the Federal Minister of Finance does not already have direct access thereto by automated processes.

(3) At the end of each month, the Federal Minister of Finance shall reconcile the amount of cash on hand with the receipts and expenditures with budgetary effect and without budgetary effect.

(4) The monthly reports of the operating statement shall contain the accounting totals. The monthly reports of the financial position shall show the opening balances, the accounting totals and the closing balances. The monthly reports on future entitlements and future liabilities shall show additions and disposals and the full amounts of pending liabilities, receivables and liabilities.

(5) The monthly reports of cash flow shall show the monthly budget figures, the receipts and expenditures, the amount of the difference and the closing totals of entitlements, receivables, obligations and liabilities. The Federal Minister of Finance shall stipulate in the regulations to be issued under sec. 51 (5) the extent to which amounts of differences should be covered by explanatory comments by the line ministries. The Federal Minister of Finance shall publish the monthly reports for Chapter "Public taxes and contributions", broken down by the most important types of taxes and contributions, on an ongoing basis.

Final reports

Sec. 101. (1) The budget-managing bodies shall prepare final reports pursuant to secs. 95, 96 and 102 for each fiscal year.

(2) The line ministries shall prepare final reports under secs. 95, 96 and 102 for their entire remits.

(3) The final reports under sub-sec. 1 shall be forwarded to the Court of Audit, and those under sub-sec. 2 should be forwarded also to the Federal Minister of Finance, both via the line ministry. The Court of Audit, in consultation with the Federal Minister of Finance, shall stipulate the timing of the delivery thereof.

(4) The Court of Audit shall set the time for eliminating deficiencies which are found in such a way that it is ensured that the federal annual report is submitted in a timely fashion to the National Council in accordance with the Court of Audit Act 1948 [RHG].

(5) The final reports shall correspond with the principle of providing as true a picture of the Federal Government's financial position as is possible (sec. 2 (1)).

(6) Facts and circumstances which were already in existence on the annual report record date, but which only came to light between the record date and the date on which the annual report was prepared, should be included in the final reports.

(7) Facts and circumstances which arise only after the annual report record date shall not be included in the final reports.

(8) Each final report of the statement of financial position under sub-sec. 1 and 2 shall show a breakdown of

1. the equity interests of the Federal Government,
2. the securities of the Federal Government not constituting equity interests,
3. the financial debts, broken down by due dates into short-term (sec. 94 (4)) and long-term (sec. 94 (5)) financial debts and

4. guarantees of the Federal Government.

Documentation on equity interests under sub-sub-sec. 1 hereof shall contain details of the main holding companies, their equity position, the Federal Government's share of ownership and its voting rights and the valuation method used.

(9) The Federal Minister of Finance shall prepare a consolidated final report for the Federal Government and submit it to the Court of Audit.

(10) In the final reports for Chapter "Public taxes and contributions", the amounts deducted from tax revenues for bonuses, refunds and deduction amounts which are directly paid out should be shown separately.

Comparison budget statements

Sec. 102. (1) In the comparison budget statement for the operating statement, based on the breakdown contemplated by the Federal Finance Act and on allocation and appropriation groups, the budget figures for the budget based on the operating statement and the actual expenditures and revenues should be depicted and the differences between the budget figures for the operating statement and actual expenditures and revenues should be shown.

(2) The comparison budget statement for the cash flow statement should, based on the breakdown provided in the Federal Finance Act and on the allocation and appropriation groups, should show

1. a) the budget figures of the budget cash flow statement and
b) actual receipts and expenditures and
2. a) should show the differences between the budgeted cash flow figures and the actual receipts and expenditures,
b) the outstanding balances of receivables,
c) liabilities
d) commitments in the cash flow statement.

(3) The results of the comparison budget statements under sub-sec. 1 and 2 hereof should be substantiated. In addition, a breakdown of future entitlements and future liabilities should be shown, separated by receipts and expenditures.

(4) Upon request of the Court of Audit, further documentation on the comparison budget statement should be provided for purposes of preparing the federal annual report.

Principles governing IT-supported performance of budgetary duties

Sec. 103. (1) IT projects within the meaning of this Federal Act are projects for which IT systems or other technological aids are used to automate the performance of budgetary duties or which constitute material changes to existing automated processes.

(2) Federal Government entities under sec. 5 (1) BHG 2013 shall make use of the ICT solutions and IT processes provided by the Federal Minister of Finance for Federal Government budgeting and accounting.

(3) Prior to introducing any measure referenced in sub-sec. 1 hereof, the competent line ministry shall

1. conduct a needs assessment and
2. reach agreement with the Federal Minister of Finance; to the extent that the matters in question pertain to the matters referenced in secs. 6 and 9 Court of Audit Act, agreement should also be reached with the Court of Audit.

(4) Operation of ICT solutions and IT processes for the Federal Government's budgeting and accounting shall be charged to Federal Government entities *pro rata* in a manner which covers the cost thereof. The Federal Minister of Finance shall issue regulations stipulating more particularly the details of such charges, based on the current charge scheme.

(5) The Federal Minister of Finance may enter into separate agreements with Federal Government entities for specific extensions and services with respect to financial responsibility for expenditures and funds for providing and operating ICT solutions and IT processes for the Federal Government's budgeting and accounting.

Principles governing the use of automated processes in budgeting

Sec. 104. (1) When using IT processes in connection with budgeting, it must be assured that

1. documented, released and valid programs are used,
2. the correctness and completeness of the data processing, data entry, data storage and data output are ensured by means of controls,
3. it is not possible for unauthorised persons to interfere with process operations,
4. precautions are put in place to prevent a loss or any unauthorised alteration whatsoever of the stored data,
5. the areas of responsibility and duties of the individuals involved in the processes are defined and delineated one from the other, and
6. in the event an automated process fails, precautions are put in place to continue budgetary duties to the extent absolutely necessary.

(2) Where data or calculatory results are recorded only in a form which is not visually readable, the competent entity shall ensure throughout the retention period that it is able to make such data and calculatory results visually readable within a reasonable time; in this context, the entity must ensure that the data is correctly and completely reproduced.

(3) Documentation of data processing must, in particular, include

1. documents documenting problem issues,
2. documentation of data and processing rules,
3. documentation of means of coordination and execution.

General remarks with respect to retention

Sec. 105. (1) All accounting documents and accounting records, including monthly statements, shall be retained in a secure and orderly fashion for seven years. This period shall begin as of the end of the fiscal year to which the documents and records relate. In addition, accounting documents and records shall be retained for as long as they are of significance in pending proceedings for evidentiary purposes.

(2) Where the documents are of lesser importance and verification may be performed, the competent line ministry may, with the consent of the Federal Minister of Finance and the Court of Audit, approve the removal and destruction of accounting documents and records prior to the expiry of the period referenced in sub-sec. 1 hereof.

(3) In general respects, retention of accounting documents and records is the remit of the Federal Accounting Agency of the Federal Government. The Federal Accounting Agency of the Federal Government will not be in charge thereof where the accounting documents are kept in other accounting groups under sec. 98 (3) or where it is not mandatory for the Federal Accounting Agency of the Federal Government to participate in the accounting.

Retention in digital form

Sec. 106. (1) As a general rule, retention of accounting documents and records shall be effected in digital form on data storage media. To the extent that documents exist only in digital form on data storage media, the requirement that reproductions are true copies of the original shall not apply.

(2) Accounting documents and records shall be retained both during the execution of the transaction and following conclusion of the transaction in the budget accounting system.

(3) Retention of accounting documents and records may also be performed outside of the budget accounting system under sec. 98 where this aids in simplifying administrative procedures and transaction security and the oversight role of the executing entities is preserved. The competent line ministry may only approve retention of documents outside the budget accounting system with the consent of the Federal Minister of Finance and of the Court of Audit.

Physical retention

Sec. 107. (1) Transaction documents in paper form, which are unsuitable for retention in digital form due to their size, condition or for other reasons, should be retained in physical form.

(2) Transaction documents under sub-sec. 1 hereof shall be retained in a systematic fashion, separated by fiscal years. Where the transactional documents relate to multiple fiscal years, they shall be

retained in the orderly files on the fiscal year in which the transaction was completed. Where the transactional documents pertain to multiple accounting groups, they shall be retained in an orderly fashion, broken down by account.

Part 3

Cost and performance accounting

Principles governing cost and performance accounting of Federal Government

Sec. 108. (1) Every head of a budget-managing body under sec. 7 (1) (1 and 2) shall maintain a cost and performance accounting system in accordance with the Federal Government's rules on cost and performance accounting [*BKLR*]. That cost and performance accounting shall support outcome-oriented planning and budget management and also support outcome-oriented management of those budget-managing bodies.

(2) The costs and revenues derived from expenditures and receipts in the operating statement shall be broken down in the cost and performance accounting in a traceable fashion by cost and performance accounting objects. Goods and services procured within a Chapter shall be transparently depicted in the cost and performance accounting, provided that this is expedient and they are not already reflected in the operating statement.

(3) Comparable detail budgets of a single Chapter should be depicted in the cost and performance accounting in accordance with the same principles.

Simplified cost and performance accounting

Sec. 109. Line ministries under sec. 6 (1) (1 and 2) and heads of budget-managing bodies under sec. 7 (1) (2) may, in consultation with the Federal Minister of Finance, keep simplified cost and performance accounting in accordance with the rules governing federal cost and performance accounting.

Records of working time and duty to produce

Sec. 110. (1) Working time shall be recorded or estimated for purposes of the cost and performance accounting under secs. 108 and 109.

(2) The Federal Chancellor, the Federal Minister of Finance and the Court of Audit may request the results of the cost and performance accounting under secs. 108 and 109 from the line ministry, whereupon the line ministry shall submit the same to the foregoing.

Part 4

Payment transactions

Principles governing payment transactions

Sec. 111. (1) The payment transactions of the Federal Government shall, as a basic rule, be carried out on a cashless basis. Cashless payment transactions should, wherever possible, be executed via the *Österreichische Postsparkasse*. Cash transactions should be limited to what is indispensable and necessary. The handling of payment transactions is the remit of the executing entities.

(2) The Federal Minister of Finance, in consultation with the respective competent line ministry, shall open at least one sub- or ancillary account to the Federal Government's primary account with the *Österreichische Postsparkasse* for each budget-managing body, where this serves the purpose of consolidating and ensuring general availability of federal funds. When opening a sub- or ancillary account to the primary account of the Federal Government with the Austrian National Bank, the same procedure shall apply, *mutatis mutandis*. It is only permitted for another account to be opened with a banking institution where the particular local or substantive prerequisites so require and the Federal Minister of Finance has consented to the opening of such account via the respective competent line ministry.

(3) The Federal Minister of Finance is authorised to make such agreements with the *Österreichische Postsparkasse*, with *Oesterreichische Nationalbank* or with other banking institutions as are necessary to perform cashless payment transactions and to stipulate the forms of payment permitted for handling the Federal Government's payment transactions, taking account of the rules of commercial business.

(4) Acceptance of funds transfers and cheques as well as card payments or other electronically supported forms of payment is permitted provided that they are covered by an agreement under sub-sec. 3 hereof and their redemption is assured. Acceptance of bills of exchange by entities of the Federal Government or by the accounting agency of the Federal Government for satisfaction of receivables is not permitted.

(5) The executing entity shall execute its expenditures in a manner which makes optimum use of terms of payment granted or in accordance with their due date. Receivables of the beneficiary should be offset against receivables of the Federal Government in line with existing rules and regulations.

Management of cash funds and items of value

Sec. 112. (1) The levels of cash shall be limited to what is indispensable and necessary.

(2) Cash funds may only be accepted, disbursed and held by executing entities. Receipt, delivery and custodial safekeeping of items of value, securities and other ownership documents may only be undertaken by the executing entities. The above-referenced duties may be delegated to the Federal Accounting Agency pursuant to sec. 9 (4).

Part 5

Internal audits

Substantive and computational verification

Sec. 113. (1) Every claim to payment and every obligation to make a disbursement shall be reviewed as to its basis and amount. The substantive and computational correctness must be confirmed in writing.

(2) Determination of substantive and computational correctness should be delegated to the entity which is in a position to assess all of the facts to be certified as correct.

(3) Public-sector employees who provide signatures on instructions may only be charged with determining substantive and computational correctness where their full impartiality is ensured and there is no incompatibility.

(4) Substantive and computational verification should be confirmed prior to issuing instructions. Where, in exceptional cases, it is not possible to do so, then such verifications shall be performed without delay following receipt or release of payment.

(5) No substantive and computational verification of a document shall be undertaken where the document in question is a decision or order of a public administrative authority or a court.

Verifications in transaction execution

Sec. 114. (1) Instructions received by the executing entity in writing or by electronic mail should be reviewed to determine whether they comport with the budgetary rules and the other rules and regulations issued by the competent budget-managing body.

(2) The executing entity shall perform appropriate verifications to ensure that the duties incumbent on it in the context of transaction execution are duly and properly performed. Only such public-sector employees may be charged with executing such verifications whose full impartiality is ensured and as to whom there is no incompatibility.

Audit

Sec. 115. (1) The Federal Accounting Agency is responsible for case-by-case and unannounced audits of the entirety of federal accounting, including payroll accounting of the budget-managing bodies and of the legal entities managed by the foregoing, and such audits may also take place on the spot.

(2) In such audits, a determination shall be made as to whether payment transactions and accounting have been properly carried out, whether payment documentation is properly in place and in line with the law and regulations and whether the items of value and other assets are present and accounted for. For this purpose, access to and a right of inspection of any and all documents at site shall be afforded to the Federal Accounting Agency.

(3) An audit report shall be prepared on every audit pursuant to sub-sec. 1 hereof, which shall contain details on the type and scope of the audit and the major findings of the audit. Where the audit

yields material objections, the head of a budget-managing body shall cause the necessary actions to be taken.

(4) The results of such audits shall be forwarded to the Court of Audit.

Rules on instructions in transaction execution, accounting, cost and performance accounting, payment transactions and internal audit

Sec. 116. (1) The Federal Minister of Finance is authorised to issue regulations stipulating the more precise details with respect to secs. 87 to 100 and 103 to 115. Sub-sec. 2 shall remain unaffected by this authorisation.

(2) The Court of Audit shall, in consultation with the Federal Minister of Finance, issue regulations stipulating more precise rules on final reports under secs. 101 and 102 and on the federal annual report pursuant to sec. 117 to 119.

(3) In the case of legal entities managed by Federal Government entities or by persons appointed for this purpose by Federal Government entities, the principles laid down in this Chapter with respect to the individual sections shall apply *mutatis mutandis*.

Part 6

Audit of final reports and federal annual report

Audits of final reports

Sec. 117. (1) Final reports shall be forwarded to the Court of Audit for its review. The review of the final reports for computational correctness and for compliance with the rules on accounting and preparation of final reports shall be undertaken in conformity with professionally recognised auditing guidelines and standards.

(2) For purposes of preparing the federal annual report, beginning on 1 September the Court of Audit may audit transactions of the current fiscal year where those transactions have already been completed.

(3) For previous fiscal years, the line ministries shall grant the Court of Audit a right of inspection of all accounting documents and records upon its request.

Comparison budget statements of Federal Government

Sec. 118. On an annual basis by 30 April of each year, for purposes of deliberations on the Federal Medium-Term Expenditure Framework Act and the strategy report, the Court of Audit shall submit the comparison budget statements for the previous fiscal year to the National Council. The results of the comparison budget statements shall be substantiated.

Federal annual report

Sec. 119. (1) The federal annual report shall be broken down into a narrative portion and numerical portion.

(2) The Court of Audit shall append a breakdown of allocations and appropriations pursuant to the criteria governing national accounting.

(3) The federal annual report shall include the final reports (sec. 101), in particular

1. the cash flow statement of the Federal Government, broken down pursuant to the Federal Finance Act, separated by receipts and expenditures, and indicating the budget appropriations; the figures of the budget based on the cash flow statement shall be shown against the cash flow statement (comparison budget statement for cash flow statement);
2. the operating statement of the Federal Government, broken down pursuant to the Federal Finance Act; the figures of the budget based on the operating statement shall be shown against the operating statement (comparison budget statement for operating statement);
3. the statement of financial position of the Federal Government, broken down in accordance with federal uniform standards;
4. the final reports of the legal entities managed by the Federal Government.

Chapter 5

Transitional and final provisions

References

Sec. 120. References contained in this Federal Act to other Federal Acts should be understood to be references to such version thereof as is from time to time in force, unless the individual reference refers to a specific version.

Interim and transitional rules

Sec. 121. (1) The Federal Minister of Finance shall issue regulations on structuring preparatory actions with respect to the entry into force of this Federal Act.

(2) The Federal Minister of Finance shall, in consultation with the respective line ministry, stipulate reconciliation of the budget figures with the new budget and account structure. The Federal Minister of Finance shall prescribe by regulations how and by what time reconciliation of the federal budget statement in accordance with the rules of the Federal Organic Budget Act, BGBl. No. 213/1986 shall be undertaken pursuant to the principles of this Federal Act. The line ministries shall supply such information to the Federal Minister of Finance and record in the budget accounting system as is needed for reconciliation with respect to their budget chapters.

(3) The budget figures for fiscal year 2011 and 2012 transactions with budgetary effect shall be transferred as comparison budget figures for purposes of the budget based on the operating statement and cash flow statement. Receipts and expenses with budgetary effect shall be posted as revenues and expenditures with budgetary effect in the budget based on an operating statement and as receipts and expenditures in the budget based on the cash flow statement, in the amounts estimated. Revenues and expenses from accounting with budgetary effect which have an effect on inventories should be posted as receipts and expenditures in the budget based on a cash flow statement, in the amounts shown. The transferred budget figures shall be supplemented and adapted by the figures resulting from the terms of this Federal Act beyond the foregoing.

(4) The comparison budget figures under sub-sec. 3 shall be shown in the breakdown provided under this Federal Act. Where such transfer of figures under sub-sec. 3 is not reconcilable with the terms of Chapter 2 of this Federal Act, then adjusted figures shall be used in consultation with the line ministry and the Federal Minister of Finance.

(5) Reserves of organisational units as to which the flexibility clause under secs. 17a and 17b of the Federal Organic Budget Act, BGBl. No. 213/1986, was applied should be allocated as reserves to the specific detail budget corresponding to the specific organisational unit. A decision thereon shall be made by the line ministry in consultation with the Federal Minister of Finance. Allocation of the reserves shall be undertaken pursuant to the provisions of this Federal Act.

(6) Reserves from earmarked and variable receipts as well as from EU return transfers may only be used for the same purpose for which they were created in preceding fiscal years. They must be allocated to reserves for the corresponding detail budgets. The decision thereon shall be taken by the line ministry in consultation with the Federal Minister of Finance. Allocation of the reserves shall be undertaken pursuant to the provisions of this Federal Act.

(7) The following applies to reserves created on or before the end of the 2012 fiscal year:

1. The line ministry shall apportion reserves created prior to the close of the 2012 fiscal year pursuant to sec. 53 of the Federal Organic Budget Act, BGBl. No. 213/1986, beginning in fiscal year 2009 and which do not come under sec. 101 (13) of the Federal Organic Budget Act, BGBl. No. 213/1986, amongst the detail budgets of its remit in accordance with the principles of sec. 55 of this Federal Act. With respect to reserves under sec. 53 (1 to 4) of the Federal Organic Budget Act, BGBl. No. 213/1986, the same provisions apply, but the earmarking in each case shall be preserved.
2. The line ministry shall apportion reserves under sec. 101 (12) of the Federal Organic Budget Act, BGBl. No. 213/1986, created by the close of the 2008 financial year and not released pursuant to sec. 101 (13) of the Federal Organic Budget Act No. 213/1986 by the end of the 2012 fiscal year, amongst the detail budgets of its remit at the beginning of 2013 fiscal year in accordance with the

principles of sec. 55 hereof, whilst preserving their previous earmarkings. The Federal Minister of Finance shall then withdraw these reserves, with effect on cash flow; the amount of the reserves in the respective detail budget shall remain unaffected.

(8) As of the record date 1 January 2013, the Federal Minister of Finance shall, for the first time, create a statement of financial position (opening balance sheet) in accordance with the provisions of this Federal Act and shall issue regulations stipulating the more detailed provisions thereof. Each line ministry shall forward to the Federal Minister of Finance the data from its remit required for the first-time preparation of the statement of financial position (opening balance sheet). In particular, the data from the inventory and profit and loss statement shall be incorporated.

(9) Entities covered by sec. 6 (1) (3) shall prepare their cost and performance statement as of 1 January 2011 to the end of 31 December 2012, structured as stipulated by regulation of the Federal Minister of Finance. As from 1 January 2013, the cost and performance statement under secs. 108 to 110 shall apply to all budget-managing bodies under sec. 7 (1) (1 and 2).

(10) Notwithstanding the existing obligation to manage the budget in accordance with the Federal Organic Budget Act, BGBl. No. 213/1986, the following shall apply in respect of the entry into force of this Federal Act:

1. During fiscal year 2011, the option exists for line ministries to test individual items of the rules applicable under this Federal Act as from 2013 in consultation with the Federal Minister of Finance (pilot operations). In addition, beginning in fiscal year 2011, preparatory measures may be undertaken for an outcome-oriented assessment of new legislative measures and proposals having financial impacts on the federal budget (sec. 17) and for the internal evaluation of legislative measures and implementation of projects (sec. 18).
2. By 30 June 2010, the line ministry shall, in consultation with the Federal Minister of Finance, stipulate the budget structure pursuant to the provisions of this Federal Act, in particular pursuant to sec. 6 (2) (5). In respect thereof, the Federal Minister of Finance shall issue regulations stipulating more precise rules thereto.
3. In fiscal year 2012, it is incumbent on line ministries to additionally execute the rules applicable as from 2013 under this Federal Act in accordance with the regulations issued by the Federal Minister of Finance pursuant to sub-sec. 2 (parallel operations).

(11) In the 2013 federal budget statement, prior years will not be depicted. In the 2014 federal budget statement, only the 2013 fiscal year will be depicted, not the profit and loss for the 2012 fiscal year.

(12) The Federal Minister of Finance shall ensure that transaction cases from fiscal years up to and including the 2012 fiscal year which are not yet closed are transferred in the budget accounting system and in the accounting groups to the budget accounting system to be implemented beginning in fiscal year 2013 (including 'other accounting groups'). The line ministries, the budget-managing bodies and the executing entities shall support the Federal Minister of Finance in connection therewith. In order to ensure orderly processing, the Federal Minister of Finance shall issue guidelines.

(13) In connection with the preparation of drafts of the Federal Medium-Term Expenditure Framework Acts for fiscal year 2013 to fiscal year 2016 and for the Federal Finance Act for fiscal year 2013, the corresponding provisions of this Federal Act shall be applied; this also includes preparation of the regulations and directives/guidelines related thereto.

(14) The provisions of secs. 23, 43 to 48 of the Federal Organic Budget Act, BGBl. No. 213/1986, shall apply to individual projects, on which agreement with the Federal Minister of Finance was reached prior to entry into force of this Federal Act.

(15) Dispositions over federal property and the related agreements made prior to entry into force of this Federal Act under the provisions of Part 6 of the Federal Organic Budget Act, BGBl. No. 213/1986 shall remain in force following the entry into force of this Federal Act, to the extent that they do not conflict with the present Federal Act.

(16) All of the ceilings on spending stipulated in the most recently adopted Federal Medium-Term Expenditure Framework Act shall constitute ceilings on expenditures in the same amounts beginning in fiscal year 2013.

(17) In case the federal budget for the fiscal year 2013 is managed in accordance with Art. 51a (4) Austrian Federal Constitution, it shall be executed in accordance with the provisions of this Federal Act. In such case, the spending stipulated in the Federal Finance Act 2012 shall be deemed to correspond to the ceilings on expenditures in the budget based on the cash flow statement and the expenses with an effect on cash flow in the budget based on an operating statement. The budget structure applied thereto shall comport with the budget structure in accordance with sub-sec. 10 (2) where that structure is not modified in consultation between the respective competent line ministry and the Federal Minister of Finance.

(18) The long-term budget forecast pursuant to sec. 15 (2) shall be prepared for the first time during fiscal year 2013, at the latest in fiscal year 2014. The report pursuant to sec. 47 (2), second sentence, shall be prepared for the first time as of 31 March 2014 for fiscal year 2013.

(19) The subsidy report for fiscal year 2012 shall be prepared in line with the budget structure under the Federal Organic Budget Act, BGBl. No. 213/1986; the budgeted amounts of direct subsidies for the current fiscal year shall not be included therein. The subsidy report for 2013, to be prepared in accordance with the provisions and in line with the budget structure of this Federal Act shall not include comparison figures for fiscal year 2011 and 2012 in the case of direct subsidies, and the subsidy report for 2014 shall not include comparison figures for fiscal year 2012.

(20) Notwithstanding the corresponding provisions in the Federal Finance Act, variable pools pursuant to sec. 44 (5) exist in the following areas:

1. General administrative services:
 - a) Deployment group A1 (basic career path and functional categories 1 to 3);
 - b) Deployment group A2 (basic career path and functional categories 1 to 5); deployment group A3 (basic career path and functional categories 1 to 5) and deployment groups A4 to A7.
2. Executive services:
 - a) Deployment group E1 (basic career path and functional categories 1 to 6);
 - b) Deployment group E2a (basic career path and functional categories 1 to 4) as well as the deployment groups E2b and E2c.
3. Military services:
 - a) Deployment group M BO 1 (basic career path and functional categories 1 to 3);
 - b) Deployment group M BO 2 (basic career path and functional categories 1 to 5), deployment group M BUO 1 (basic career path and functional categories 1 to 4) and deployment group M BUO 2;
 - c) Deployment group M ZO 1 (basic career path and functional categories 1 to 3);
 - d) Deployment group M ZO 2 (basic career path and functional categories 1 to 5), deployment group M ZUO 1 (basic career path and functional categories 1 to 4) as well as the deployment groups M ZUO 2 and M ZCh.
4. Judges in salary classes R 1a and R 1b;
5. Teaching staff:
 - a) Directors, department heads, specialist boards and heads of educational departments from deployment groups L1, L2 and L3;
 - b) Other teaching staff from deployment groups L1, L2 and L3;
6. Staff with an ADV special contract in salaried staff groups SV/5 to SV/7.

(21) Within the areas of salary categories and partial salary categories summarised as follows, a modification of the personnel plan under sec. 44 (6) may be made:

1. General administrative services:
 - a) Deployment group A1 (basic career path and functional categories 1 to 7);
 - b) Deployment group A2 (basic career path and functional categories 1 to 6);
 - c) Deployment groups A3 to A7.
2. Executive services:
 - a) Deployment group E1 (basic career path and functional categories 1 to 9);
 - b) Deployment group E2a, E2b and E2c.

3. Military services:
 - a) Deployment group M BO 1 (basic career path and functional categories 1 to 7);
 - b) Deployment group M BO 2 (basic career path and functional categories 1 to 6);
 - c) Deployment group M BUO 1 und M BUO 2;
 - d) Deployment group M ZO 1 (basic career path and functional categories 1 to 6);
 - e) Deployment group M ZO 2 (basic career path and functional categories 1 to 6);
 - f) Deployment groups M ZUO 1, M ZUO 2 and M ZCh.
4. Judges from salary categories R 1a, R 1b and R2, judges of the asylum court and trainee judges;
5. State Prosecutors from salary categories St 1 and St 2;
6. Teachers;
7. School and department inspectors;
8. Nursing service;
9. Staff with an ADV special contract;
10. Postal and telecommunications administration.

(22) The maximum permitted personnel capacity for the personnel plan for fiscal year 2013 is the figure calculated within the basic personnel plan for 2013 on the basis of the full employment targets to be set by the Federal Government, taking account of a management reserve. Any difference to the established posts set by the basic outline personnel plan may be converted to personnel controlling points and may be credited in the personnel plan of the respective line ministry.

(23) The Federal Medium-Term Expenditure Framework Act for fiscal year 2013 to fiscal year 2016 and the Federal Finance Act 2013 shall be prepared in light of sec. 32 (4) (2).

(24) The Federal Minister of Finance shall commission an external evaluation of the Federal Organic Budget Act 2013 no later than five years from the date it enters into force, thus no later than 2017.

Entry into force and repeal

Sec. 122. (1) This Federal Act shall enter into force as of 1 January 2013, sec. 121 thereof and sec. 122 (3) thereof shall, by contrast, enter into force on the day following their promulgation.

(2) Regulations on the basis of this Federal Act as from time to time amended may be issued beginning already on the day following the date of promulgation; however, they may not enter into force prior to the date of the implementing statutory provisions.

(3) The Federal Organic Budget Act, BGBl. No. 213/1986, shall be deemed repealed at the end of 31 December 2012, subject to the following provisos:

1. Payments of the Federal Government which are to be transferred prior to the beginning of fiscal year 2013 in order to ensure timely payment shall be attributed to fiscal year 2012. The corresponding revenues and expenses in connection with the incurring of financial debt and the conclusion of currency swap agreements under sec. 65 a (1 and 2) shall be attributed to fiscal year 2012.
2. Calculation of reserves for fiscal year 2012 shall be undertaken in accordance with the provisions of the Federal Organic Budget Act, BGBl. No. 213/1986, on or before 15 January 2013.
3. The federal annual report for fiscal year 2012 shall be prepared in accordance with the provisions of the Federal Organic Budget Act, BGBl. No. 213/1986 and subject to the provisions of this section.
4. For fiscal year 2012, accounting may be undertaken on or before 31 March 2013
 - a) with respect to entitlements and liabilities, receivables and debts and future entitlements and future liabilities under sec. 52 (4) BHG, BGBl. No. 213/1986, and
 - b) with respect to the closure of the inventory and profit and loss statements pursuant to secs. 95 and 96 BHG, BGBl. No. 213/1986.
 - c) The Federal Minister of Finance may, by regulation, bring forward the date of the conclusion of accounting under sub-sub-sec. 4 hereof for purposes of an orderly transition to the new accounting system in accordance with the provisions of this Federal Act.

5. Accounting of budget management in fiscal year 2012 (parallel operations – sub-sec. 10 (3)) shall be undertaken in accordance with the provisions of the Federal Organic Budget Act, BGBl. No. 213/1986, and the Federal Organic Budget Regulation 2009, as well as and in accordance with the provisions of this Federal Act and the Federal Organic Budget Regulations 2013.

(4) Sec. 7 (1) (4), sec. 67 (1 and 2) and sec. 79 (5), each of which in the version of Federal Act BGBl. I No. 67/2010, shall enter into force as of 1 January 2013.

(5) Sec. 17 (1), sec. 67 (3a), sec. 82 (2 and 3) and sec. 121 (20 and 21) in the version of Federal Act BGBl. I No. 149/2011, shall enter into force as of 1 January 2013.

(6) Sec. 2 (4 to 7), sec. 12 (3), sec. 14 (2), sec. 40 (4), sec. 42 (1a), (3 and 4), in the version of Federal Act BGBl. I No. 150/2011 shall apply with effect for fiscal year 2017 for the first time in preparing the Federal Medium-Term Expenditure Framework Act for fiscal year 2014 to 2017 and the Federal Finance Act for fiscal year 2017, subject to the proviso that the balance in the control account under sec. 2 (6) at the beginning of fiscal year 2017 shall be deemed to equal zero.

(7) Sec. 7 (1), sec. 9 (1), sec. 32 (4), sec. 33 (8), sec. 44a, sec. 79 (1) (1) and sec. 103, in the version of the 2nd Stability Act 2012, BGBl. I No. 35/2012, shall enter into force as of 1 January 2013.

(8) Sec. 12 (5), sec. 33 (7 and 8), sec. 34 (1), sec. 36 (1) and sec. 67 (4), in the version of BGBl. I No. 62/2012, shall enter into force as of 1 January 2013.

Execution

Sec. 123. (1) Unless otherwise provided by the foregoing provisions, the following are charged with execution of this Federal Act:

1. the Federal Minister of Finance,
2. in matters pertaining to the remit of a federal minister, that federal minister and in administrative matters in the realm of the legislative entities of the Federal Government, the President of the National Council,
3. with respect to provisions on auditing and on the federal annual report, the President of the Court of Audit.