

Act on the Implementation of Article 115 of the Basic Law (Article 115 Act)¹

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Full citation:

Article 115 Act of 10 August 2009 (Federal Law Gazette I, p. 2702, 2704), as amended by Article 4 of the Act of 15 July 2013 (Federal Law Gazette I, p. 2398).

Section 1 – Borrowing authorisations

The Budget Act² shall determine the level up to which the Federal Ministry of Finance may borrow

1. to cover expenditures,
2. to ensure cash payments can continue to be processed in an orderly manner (liquidity loans).

To the extent that these liquidity loans have been repaid, repeated use may be made of the authorisation. Liquidity loans may fall due no later than six months after the end of the fiscal year for which they have been taken out.

Section 2 – Principles for the budgeting of borrowing to cover expenditures

(1) When budgeting revenues and expenditures in normal economic conditions, revenues and expenditure shall in principle be balanced without revenues from borrowing; revenues and expenditures shall be adjusted for financial transactions. Borrowing of up to 0.35 percent in relation to nominal gross domestic product shall be permissible as a structural component.

(2) If an economic trend deviating from the normal conditions is expected for the fiscal year, as a cyclical component, the upper limit on revenues from borrowing to be included in the

¹ This working translation of the *Gesetz zur Ausführung von Artikel 115 des Grundgesetzes (Artikel 115-Gesetz – G 115)* is provided by the Language Service of the Federal Ministry of Finance. Only the German text of this Act is authentic.

² *Haushaltsgesetz*

budget under subsection (1) above shall vary by the amount of those revenues from borrowing or by the amount of budget surpluses which corresponds to the expected effect of the economic trend on the budget.

Section 3 – Adjustment for financial transactions

Expenditures for the acquisition of holdings, for repayments of principal to the public sector and for the granting of loans shall be factored out of the expenditures under section 2 subsection (1), first half-sentence; those revenues from the sale of holdings, from borrowing from the public sector and from loan repayments shall be factored out of the revenues under section 2 subsection (1), first half-sentence.

Section 4 – Principles for determining permissible structural borrowing

The Federal Statistical Office shall calculate the gross domestic product decisive in determining permissible structural borrowing under section 2 subsection (1), second sentence. The nominal gross domestic product for the year preceding the preparation of the budget shall serve as the reference.

Section 5 – Cyclical component

(1) The amount of the cyclically induced revenues from borrowing or budget surpluses to be included in the budget under section 2 subsection (2) shall be derived from the expected economic trend's deviation from normal economic conditions.

(2) A deviation of the economic trend from normal economic conditions shall be deemed to exist if an under-utilisation or over-utilisation of aggregate productive capacities is expected (output gap). This shall be the case if the potential output to be estimated on the basis of a cyclical adjustment method deviates from the expected gross domestic product for the fiscal year for which the budget is prepared.

(3) The cyclical component shall be the product of the output gap and budget sensitivity which expresses how the revenues and expenditures of the Federation change when aggregate economic activity changes.

(4) In agreement with the Federal Ministry of Economics and Technology, the Federal Ministry of Finance shall, by means of a statutory instrument and without the consent of the Bundesrat, stipulate the details of the procedure for determining the cyclical component in

conformity with the cyclical adjustment method applied within the framework of the European Stability and Growth Pact. The procedure shall be reviewed and developed further on a regular basis taking the current state of knowledge into account.

Section 6 – Exceptional situations

In the event of natural disasters or unusual emergency situations which are outside of the control of government and have a major impact on the financial position of the government, the borrowing limits under section 2 may be exceeded on the basis of a decision of the Bundestag under Article 115 paragraph (2), sixth sentence, of the Basic Law.³ This decision shall be combined with an amortisation plan. Repayment of the amounts borrowed under the first sentence above shall be effected within an appropriate period of time.

Section 7 – Control account

(1) Where actual borrowing deviates from the amount which, at the end of the relevant fiscal year, is arrived at as the upper limit under section 2 on the basis of the economic trend's actual effect on the budget, this deviation shall be posted to a variance account (control account). To the extent that the exemption in Article 115 subsection (2), sixth sentence, of the Basic Law has been exercised, the amount to be posted shall be adjusted for the increased net borrowing as a result of the corresponding decision. The deviation to be posted shall be determined annually on 1 March of the year following the fiscal year and updated over the further course of the year, for the last time on 1 September of the year following the fiscal year.

(2) Where the balance is negative, steps shall be taken to balance the control account. The control account's negative balance is not to exceed a threshold of 1.5 percent in relation to nominal gross domestic product. The decisive gross domestic product shall be determined under section 4.

(3) Where the control account's balance is negative and where the amount of the balance exceeds 1 percent in relation to nominal gross domestic product, the borrowing authorisation under section 2 subsection (1), second sentence, shall decrease in the next year respectively by the excess amount, but not exceeding 0.35 percent in relation to nominal gross domestic product; the decrease shall become effective only in years when there is a positive change in the output gap.

³ *Grundgesetz*

Section 8 – Rights of deviation in the case of supplements to the Budget Act and to the budget

In the case of supplements to the Budget Act and the budget, the amount of permissible borrowing calculated under section 2 subsection (1), second sentence, may be exceeded up to the amount of 3 percent of the tax revenues included in the budget. New measures which lead to increases of expenditures or reductions in revenue may not be budgeted for in this supplement. To calculate the cyclical component, only the expected economic trend shall be updated. The provisions of section 7 shall remain unaffected.

Section 9 – Transitional arrangement

(1) This Act shall be applied for the first time to the federal budget for the year 2011.

(2) Section 2 subsection (1) shall apply during the period from 1 January 2011 to 31 December 2015 subject to the proviso that the structural deficit for the 2010 fiscal year is reduced in equal steps from 2011 onwards.

(3) Section 7 shall apply subject to the proviso that the control account's cumulative balance for fiscal years 2011 to 2015 is reset to zero with effect from 31 December 2015.