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A new Sveriges Riksbank Act, SOU 2019:46

The majority of the content of this consultation response was written prior to the outbreak of the coronavirus pandemic. During the crisis, the Riksbank has used a number of different tools to alleviate the effects of the economic downturn: loans to companies via banks, purchases of various securities including commercial paper, lending in SEK and USD on generous terms and with gradually eased conditions regarding collateral. The ongoing crisis brings to a head the main objections that the Executive Board of the Riksbank has against the Riksbank Inquiry's legislative proposal, that it is in practice impossible to make the proposed demarcation between monetary policy and financial stability that limits the monetary policy toolbox. In the situation in which the Swedish economy currently finds itself, where production, employment and financial stability are under threat, it is important that the Riksbank has the right conditions to take action quickly and flexibly.

Moreover, the effects of the crisis on the Swedish economy and the measures the Riksbank has introduced have consequences for the discussions on the Riksbank's financial independence and equity. The Riksbank's scenario analysis of the Inquiry's proposals regarding equity (which are presented in Annex 2 of the consultation response) was made prior to the current economic crisis. When there is a crisis and the Riksbank needs to take over some of the risks that other agents are unable or unwilling to take, the balance sheet will expand. This shows the importance of having a well-capitalised central bank that can take on the risks the task requires, and do so promptly.

If the legislative proposal had applied today, the Riksbank's room for manoeuvre and monetary policy toolbox would have been limited and it would have taken longer to make the necessary decisions. This would have entailed costs to the Swedish economy in the form of more jobs being lost and a larger number of companies going bankrupt.



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Consultation response to report A new Sveriges Riksbank Act (SOU 2019:46)

15 April 2020

Summary

The Executive Board of the Riksbank supports the overall objectives for monetary policy in the Inquiry's proposal and that the Riksbank's responsibility for financial stability shall be confirmed by law. Further, the Executive Board supports the proposal to give the Riksbank extended responsibility for cash management and crisis preparedness.

The Executive Board's main objections to the legislative proposal concern the proposed demarcation to be made between monetary policy and financial stability, which limits the monetary policy toolbox, and also the proposed limits to the Riksbank's financial independence. The Inquiry's proposals regarding demarcation and detailed regulation of the Riksbank's operations are difficult to understand, given the role of central banks in society, and will be difficult to implement in practice. The proposals disregard important lessons from the global financial crisis and the most recent decade - that monetary policy and financial stability are intertwined, particularly in times of crisis. A decisive, flexible and financially strong central bank is needed to counteract shocks to the financial system and the macroeconomy in general.

The proposals in the Inquiry limit the Riksbank's possibilities to take appropriate measures and thereby increase the risks to the Swedish economy. The aim of modernising and clarifying the Sveriges Riksbank Act is not attained. The Executive Board considers that the final draft law should contain more regulations of principle and reasoning and less detailed regulation. In the following we explain our main objections to the proposal. Annex 1 contains concrete proposals for changes and clarifications. Annex 2 describes the scenarios and calculations made with regard to how the Inquiry's proposals affect the Riksbank's equity.

The monetary policy toolbox is limited

The Inquiry's proposal for a new Sveriges Riksbank Act reflects a desire to distinguish tasks where the Riksbank is to be independent pursuant to EU law from tasks where the Riksbank is to consult with the Government and other public authorities. To attain this a division is made between the Riksbank's tools for its two policy tasks of monetary policy and financial stability. However, one important lesson learnt from the global financial

crisis 2008-2010 and, more generally, from the Riksbank's long history, is that central banks need to have the capacity to use all of their tools rapidly, flexibly and effectively. If a central bank is to carry out its tasks, it is not sufficient to merely decide on interest rates. It also needs to be able to sell various securities, give credit to the banking system and buy or sell foreign currency. During periods of turbulence on the financial markets, it is very difficult to specify whether the measures taken concern monetary policy or financial stability. In most cases, it is a question of both, that is, measures where the central bank uses both its policy rate tool and its balance sheet by buying and selling financial assets.

The effectiveness of monetary policy will be limited by the demarcation and the criteria and assessments the Inquiry wants to introduce with regard to when and how different tools may be used. Credit granting is classed as monetary policy in the event of "limited disturbance" on the interbank market (the market where the banks obtain their funding), but as financial stability policy if there is "considerable disturbance" on the financial markets. This risks severely limiting the scope for monetary policy to manage a financial crisis. If there is "considerable disturbance", it is more probable that inflation and economic developments in general will be affected than in the event of "limited disturbance", if it is actually possible to make such a distinction. Serious financial crises always affect inflation and economic developments. Monetary policy and financial stability are intertwined and the measures that are taken aim to stabilise the financial system as well as production, employment and inflation. This became clear not least during the global financial crisis, 2008–2010, and is also clear in the current stage of the ongoing coronavirus pandemic.

It is therefore more effective to give the Riksbank broad liquidity tools that can be used both for monetary policy purposes and to contribute to a stable and efficient financial system.

The monetary policy toolbox is further restricted by the Riksbank not being allowed to issue its own debt instruments in foreign currencies; or to buy or sell foreign currency, to avoid disruptions to the Riksbank's day-to-day liquidity management and avoid foreign exchange effects by smoothing large payments in foreign currency; to buy other securities than government paper unless there are special circumstances; or to make lending to the banks conditional on the banks increasing their lending to companies. As far as the Riksbank can see, there is no request for such restrictions to the monetary policy toolbox in the directives to the Inquiry and the Executive Board does not support the introduction of such restrictions.

The Riksbank's financial independence is limited

The Executive Board does not support the proposed model for the Riksbank's equity. The probability that the Riksbank will need to be recapitalised within the coming ten years is already too great with the current balance sheet and the uncertainty prevailing with regard to future interest and exchange rates.¹ The Inquiry has not taken into account the possibility of the Riksbank's income and its ability to cover its costs declining dramatically as cash use falls, too little equity and interest rates remaining low for a long period. If the Riksbank were moreover to need to increase the size of its balance sheet going forward, for instance, by buying more government securities or other types of financial assets, which is exactly what is happening now in the wake of the corona pandemic, there is an even greater risk that recapitalisation will be necessary. If the Riksbank is to be regarded as financially independent and to avoid recurring recapitalisation (bordering on appropriation financing), the Riksbank's equity and its earnings capacity must be secured through sufficiently large buffers. This is crucial to safeguard confidence in the

¹ The Riksbank has during its more than 350-year history never needed recapitalisation, according to correspondence between the Riksbank and Klas Fregert, Lund University.

Riksbank being able to carry out the tasks it has been set by the Riksdag both in normal times and in times of crisis. The proposed model for equity does not provide sufficient scope for this.

The Executive Board supports the Inquiry's proposal that the Riksbank's right to borrow foreign currency from the Swedish National Debt Office should be confirmed by law. However, the legislative proposal restricts the Riksbank's right to refill the foreign currency reserves if they have been used for monetary policy purposes. The legislative proposal regarding how and why the foreign currency reserves should be refilled is a further example of the problem with making a rigid demarcation between the Riksbank's different activities. In addition, it should remain possible for the Riksbank to borrow foreign currency in its own name if this is necessary. It is normal for central banks to have this possibility. It is also desirable that the new act should clearly state that it is the Executive Board of the Riksbank that decides on the size of the foreign currency reserves and how they should be financed. The Executive Board advocates a model where the Riksbank can borrow from the Swedish National Debt Office, but where the latter can make a debt management policy consideration and the Riksbank retains its possibility to borrow and issue its own debt instruments in foreign currency.

Detailed regulation of cash management risks leading to inefficiency

The proposal for a new Sveriges Riksbank Act gives the Riksbank much greater responsibility for cash management. The Executive Board considers it reasonable that its responsibility for supplying cash in Sweden is made clearer, but thinks that there should be flexibility with regard to how this task is carried out. The Executive Board considers it inappropriate to legislate on the number of cash depots and where these should be situated, as this could lead to operations being organised inefficiently.

The Executive Board of the Riksbank supports the proposal that during a state of heightened alert in society, there should be an obligation to accept cash. But the protection for cash as legal tender is still too weak. There are groups in society who live in both financial and digital exclusion. They need both to be able to withdraw cash and to pay with it. Cash is needed in times of heightened alert and war, and it will be difficult to use cash in a crisis if it is not used to a reasonable extent during normal times. It is therefore essential that, for instance, business operators selling vital goods such as food and medicines to individuals are obliged to accept legal tender.

1. Problematic demarcation between the Riksbank's tasks

The Executive Board of the Riksbank largely shares the assessment of the Inquiry as regards the fundamental tasks of a central bank and agrees that there is a clear connection between these fundamental tasks. However, the Riksbank does not share the Inquiry's conclusions regarding how the Sveriges Riksbank Act should be designed on the basis of these fundamental tasks.

The main task of a central bank is to ensure the proper provisioning of liquidity in the economy.² This means that there must be access to a means of payment and a supply of credit that contributes to efficient and stable use of society's resources. The central bank performs this task by issuing cash and by being the lender of last resort. The latter involves settling the payments made by banks to each other during the day, lending money to or receiving deposits from the banking system in the slightly longer term, and supplying liquidity to individual banks or the entire banking system in emergency situations. A central bank needs to have the legal scope to use its entire balance sheet, both the asset and the liability side, in a variety of ways in different situations to ensure the implementation of monetary policy and the efficient functioning of the financial system.

Both the Swedish banking crisis of the 1990s and the global financial crisis of 2008–2010, as well as the current coronavirus pandemic, show clearly that monetary policy and financial stability are interconnected. The difficulty for Swedish banks to gain access to wholesale funding in 2008 led to a reduced supply of credit to households and companies. Interest rate cuts alone would not have been able to remedy the problem. The situation also required loans to the financial system in both Swedish kronor and US dollars and amended rules for the collateral that banks had to deposit as security in order to participate in the payment system. In addition, the Riksbank had to support central banks in some of Sweden's neighbouring countries. All this was done in order to stabilise the financial system *and* to ensure that the monetary policy transmission mechanism worked and thereby avoid an even greater downturn in employment, output and inflation. It was not possible in advance, nor even with the wisdom of hindsight, to say which of all these actions were monetary policy and which were financial stability measures. Moreover, in a crisis decisions need to be made flexibly and swiftly, which requires the law to be more general and be clear.

Monetary policy is much more than deciding the interest rate

Monetary policy is a concept that involves much more than decisions on an interest rate between banks with a short maturity. To conduct monetary policy of different kinds, it is therefore important that the Riksbank has control over its own balance sheet. Current and also previous legislation has enabled the Riksbank to perform its task flexibly based on the prevailing circumstances. This is true both in normal times and in times of crisis. To introduce technical and detailed restrictions into the law that link different items on the balance sheet to different purposes or policy areas, as proposed by the Inquiry, restricts the Riksbank's room for manoeuvre and leads to inefficiency. An example of such a proposed restriction is to only allow the Riksbank to replenish the foreign currency reserves in order to ensure stability in the financial system. If the Riksbank needs to lend US dollars to the banking system to limit a downturn in the economy or to ensure that the

² In a special comment on the Inquiry by Anders Vredin (pp. 1898 – 1908) this is raised as an argument against the demarcation between the Riksbank's different activities made in the legislative proposal. It is also claimed in the comment that the demarcation leads to confusion as to how the act should be interpreted and reduces the independence of monetary policy.

transmission mechanism is working, in other words for monetary policy purposes, the foreign currency reserves may not be replenished. Another example is that the Riksbank may only purchase securities other than government securities if there are exceptional grounds. The current international monetary policy debate highlights the importance of central banks having considerable flexibility in how various tools may be used and which assets and liabilities a central bank may have on its balance sheet.

The Inquiry proposes that the new Sveriges Riksbank Act shall have a structure in which the Riksbank is allocated specific objectives, tasks and powers in different areas of activity. As a result of the nature of central bank operations, however, there is some overlap between the powers allocated to the Riksbank to achieve its various objectives (see for example the chapters on monetary policy and the financial system respectively). The tools now being proposed, both to achieve price stability and to contribute to a stable and efficient financial system, are providing credit, entering into repurchasing agreements and buying and selling financial instruments. In the Inquiry's view, the Riksbank shall determine what the main purpose is of the measure being implemented and the Riksbank shall apply detailed demarcation criteria in order to determine this. The Inquiry also proposes that the processes prior to decisions on these tools shall differ depending on the main purpose.

“Limited disturbance” often becomes “significant disturbance” – it is difficult to separate them

It is the Executive Board's assessment that the demarcation criteria proposed by the inquiry are very difficult to apply in practice: it is proposed that “limited unease” on the interbank market (the banks' funding market) shall mean that the measures be classified as monetary policy, while “significant unease” on the financial markets shall result in the actions being classified as financial stability measures. This classification is difficult in practice and ineffectual as “significant disturbance” on the financial markets will always affect not just financial stability but also inflation and economic development more generally. Furthermore, crisis situations change rapidly. A decision can start to be prepared in a situation of “limited disturbance”, which may then rapidly become “significant disturbance”. If the Riksbank were to try to apply the decision criteria proposed in the Inquiry in a crisis situation, the risk is that disturbance in the market might get worse before the measure could be taken.

The RIX payment system is part of monetary policy

According to the preparatory work for the current Instrument of Government, the Riksbank's independence also covers its work on promoting an efficient payment system (see Government Bill 1997/98:40 page 76). A smoothly functioning payment system – particularly the Riksbank's system for electronic payments (RIX) – is a necessary instrument for monetary policy to have an impact on all parts of the financial system. According to the Treaty on the Functioning of the European Union, the national central banks and the ECB have the task of promoting the smooth operation of payment systems within the framework of the requirement for independence. The Inquiry has proposed an amendment to the Instrument of Government that corresponds to the text in the Treaty's provision, but with the restriction that the independence will only apply if the task is within the scope of the cooperation within the ESCB. This means in practice that the Riksbank will not retain its statutory independence on issues in this field that lie outside of the ESCB cooperation, despite there being a strong link between the national payment system and the implementation of monetary policy. The Executive Board therefore does not support the Inquiry's proposal regarding restrictions in this field. It should also be noted in this context that there was no such restriction to independence regarding the payment system as is

now being proposed in connection with the ban on instructions in the Instrument of Government in connection with the amendments made in 1999. If the Inquiry's proposal for an amendment is implemented, it will entail a departure from the EU legislative convergence.

Detailed regulation and complexity – risk of recurrent legislative amendments

The detailed regulation of the Riksbank's operations in different chapters with different tasks and powers means that the legislative proposal has become very extensive. In addition, it is unclear how certain concepts in the act are to be interpreted and how certain assessments are to be made. This has led to a complex regulatory framework which the Riksbank, the General Council, the Committee on Finance and all the target groups in society that follow the Riksbank must understand and relate to.

The Executive Board considers that the new act should focus more on principles so that it does not require constant revisions as a result of rapid technological advances, the emergence of new financial agents, new financial markets and new payment forms. This development will require that the Riksbank can act rapidly and use its entire monetary policy toolbox, as well as intervening with new instruments and in new ways, and a legal act that makes this possible is therefore essential.

1.1 The demarcation is not compatible with EU law

According to the Inquiry's proposal and based on the demarcation criteria, the Riksbank shall determine whether the main aim of a specific measure is a monetary policy aim or one that contributes to a stable and efficient financial system, for example, based on whether there is "limited disturbance" or "significant disturbance" as described above. This simultaneously determines the conditions for cooperation with other authorities. Regarding the measures that, in the Riksbank's view, fall within the framework of supporting the financial system, the requirements for cooperation with other authorities, including the Government, are greater than for measures that are considered to fall within monetary policy. This division is considered not to be compatible with the definition in EU law of monetary policy and the independence that the central bank shall have in this area.

Even though Sweden does not participate in the European Monetary Union, the Riksbank is covered by the ban on seeking or taking instructions laid down in the Treaty on the Functioning of the European Union (TFEU). This imposes a ban on other authorities giving instructions to the Riksbank's Executive Board members as they fulfil their monetary policy and other tasks. Neither may board members seek such instructions. The Inquiry's proposal implies a restriction of the Riksbank measures that are classified as monetary policy in accordance with EU law.

The Court of Justice of the European Union (CJEU) has recently passed judgement on what is included in the concept of monetary policy in two cases relating to the ECB's asset-buying programmes. The issue in these cases was whether the programmes were compatible with the ECB's mandate to conduct monetary policy in accordance with the TFEU. The aim of the asset-buying, as established by the ECB, to safeguard the appropriate transmission of monetary policy, was adjudged to contribute to the ECB's main objective of maintaining price stability. In the CJEU's view, the ECB's ability to affect price developments via its monetary policy decisions depends to a large extent on the transmission of the impulses sent out via the financial markets to the various sectors in the economy. If the transmission mechanism is impaired, it affects the effectiveness of the measures taken by the ECB. The fact that the programmes have effects outside the monetary policy area does not nullify

their monetary policy character. The conclusion of the CJEU was therefore that the asset-buying programmes were within the framework of the ECB's monetary policy mandate.

The demarcation proposed by the Inquiry as regards the main aim of different measures – financial stability or monetary policy – is considered by the Executive Board to be not only largely impossible to apply, but also incompatible with EU regulations. The need to be able to maintain financial stability and hence the transmission mechanism is crucial to a central bank's monetary policy. The division will therefore create problems for those who are to interpret the act when it comes to such a key issue as setting limits for the Riksbank's independence.

The principle of proportionality is sufficient

The Inquiry has proposed that a principle of proportionality shall be incorporated into the Sveriges Riksbank Act. The Executive Board supports the introduction of such a principle, but that it should be designed in the same way as in EU law.³ The principle reduces the risk of the Riksbank over-interpreting its independence and clarifies that the Riksbank's decisions must be transparent to the bank's auditors. The proposed principle of proportionality means that a measure may be taken if the intended result is in reasonable proportion to the costs and risks of the measure to the Riksbank's and the state's finances.

The ECB currently has through a similar principle of proportionality an obligation to thoroughly and impartially assess all the relevant circumstances in the case in question and to justify its decisions. The justification shall spell out the central bank's reasoning so that those concerned are aware of the reasons behind the implemented measure.

The aim with the Inquiry's proposal for a demarcation between monetary policy and financial stability is to ensure that the Riksbank does not have too much freedom to act under the protection of its monetary policy independence. However, the Executive Board considers that the proposed requirement for proportionality assessment is sufficient as it sets clear limits for the Riksbank's mandate.

1.2 Demarcation is not needed for cooperation with other authorities

Another aim of the Inquiry's proposal for demarcation is that consultation shall take place with other authorities with responsibility for financial stability. The Inquiry emphasises that the Riksbank will independently decide how it will use its powers of authority.⁴ However, the Inquiry's proposal clarifies that the Riksbank may nevertheless, taking into account the ban on taking instructions, pursue a dialogue with the Government and other authorities or organisations on issues that affect the design of monetary policy and the conditions for achieving the monetary policy objectives.⁵

The Riksbank has a strong interest in cooperating with other authorities. Cooperation is necessary for the Riksbank to be able to assess whether the measures being considered are appropriate and effective. Assessment is an important component of the proportionality testing the Riksbank will always need to do according to the Inquiry's proposal. The proposed demarcation is thus not necessary for the Riksbank to be able to cooperate without being in breach of the ban on instructions. According to the Executive Board's assessment, the cooperation between Swedish authorities and the Government worked very well during the financial crisis. The Inquiry does not express any criticism whatsoever

³ See further Annex 1, Chapter 1.

⁴ A new Sveriges Riksbank Act, p. 1131.

⁵ Ibid, p. 1219.

of how this cooperation worked then.

Swedish law states that decisions shall be made either in consultation or after consultation. Decisions made in consultation require in practice that the authorities are in agreement. Decisions made after consultation mean that the first authority can choose to what extent the second authority's views will affect the decision. In terms of administrative law, a decision by Swedish authorities is normally made after consultation with others. In line with this, the Executive Board considers it should be made clear that the Riksbank, to the extent that it takes decisions on issues that have been the subject of consultation, can take these decisions after consultation, that is, the Riksbank makes the decisions independently. The same system should apply in the reversed case, where other authorities make decisions after consultation with the Riksbank.

2. The Riksbank's financial independence is limited

The Riksbank's balance sheet, its size and composition, is largely a result of the tools that need to be used to conduct monetary policy and contribute towards the stability and efficiency of the financial system. The Riksbank's balance sheet could be said to be a mirror image of economic developments in Sweden and the Riksbank's contribution to these. Bad times normally coincide with periods and events that are linked to high economic risk and low economic activity. Under such conditions, it is necessary for the Riksbank to take on risk that others are unwilling or unable to carry, to help return the economy to a normal situation. The Riksbank's balance sheet will then grow and risk will consciously increase as a consequence of the Riksbank's mandate. The Riksbank therefore needs to have an amount of equity that means it can manage the risks demanded by its mandate.

Historically, the composition and size of the balance sheet have shown relatively wide variation. Both the global financial crisis 2008–2010 and the ongoing corona pandemic provide examples of periods with very large consequences for the balance sheet. It is clear that the balance sheet will increase significantly as a consequence of the support measures the Riksbank is now adopting to mitigate the economic consequences of the pandemic. But there is significant uncertainty regarding the need for further measures going forward, which illustrates the need to have a buffer of equity that will allow losses to be absorbed and powerful support measures taken, without threatening the Riksbank's financial independence.

The Executive Board of the Riksbank does not support the Inquiry's proposed model for the bank's equity and profit allocation. The risk that the Riksbank will have to be recapitalised within the next ten years is far too large. This is partly because the proposed level of equity will be very limited given the risk the Executive Board considers the Riksbank must be able to bear, and partly because the Inquiry does not take sufficient account of the risk of a fall in earnings due to interest rates being low and the use of banknotes and coins declining. The Riksbank would readily contribute to developing an adjustment of the current profit allocation model to ensure the most even deliveries possible to the state without undermining the Riksbank's financial independence.

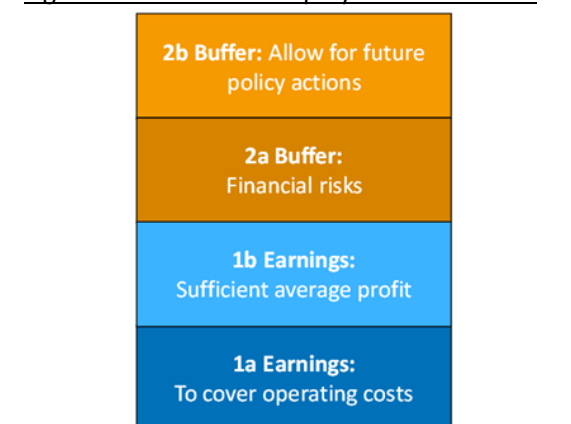
Severe fluctuations in recent decades

Until autumn 2008, the Riksbank's balance sheet total amounted to around SEK 200 billion or the equivalent of 7 per cent of GDP. During the crisis management years of 2008–2010, the balance sheet total increased to just over SEK 760 billion, corresponding to over 20 per cent of GDP, as a result of lending to the banking system. After the acute crisis had passed, the balance sheet shrank again. From 2015, when the Riksbank started purchasing large amounts of government bonds to bring inflation back on target, the balance sheet again

increased to over the equivalent of 20 per cent of GDP. The way in which the Riksbank uses its tools affects the size of the balance sheet which, in turn, affects the size of the buffers, in the form of equity, needed by the Riksbank. EU law also requires central banks to have adequate financial resources to carry out their tasks independently. The Riksbank's balance sheet will grow further in the wake of the ongoing coronavirus pandemic.

Figure 1 illustrates how equity fulfils several functions for the central bank. Firstly, equity is needed in the event of the contribution from banknotes and coins being too little, to help generate income to cover the Riksbank's costs (1a). Secondly, the Riksbank needs to generate an average profit that allows it to rebuild equity in the event of losses (1b). In addition, equity also functions as a buffer against financial risks. The size of the buffer needed depends on how much risk the central bank must be able to bear, both at present (2a) and if further measures are needed in the future (2b). As it is difficult to predict which balance sheet size and composition will be needed, it is not appropriate to legislate a specific level for equity. Instead, the level of equity needs to be flexible enough to be adjusted to changed circumstances. Recent events clearly illustrate the need for sufficiently large buffers (2b) to manage large shocks without jeopardising the Riksbank's financial independence.

Figure 1. The need for equity – an illustration



Source: The Riksbank. See also David Kjellberg and David Vestin (2019), "The Riksbank's balance sheet and financial independence", Sveriges Riksbank Economic Review, No. 2, pp. 5–41, Sveriges Riksbank.

2.1 Too narrow interpretation of financial independence

In the latest comprehensive review of the Sveriges Riksbank Act, conducted at the end of the 1990s (see Government Bill 1997/98:40), the Government concluded that the requirement for financial independence should be interpreted as the Riksbank having enough funds at its disposal to be able to perform its tasks without being controlled by appropriations from the Riksdag or Government. The Executive Board agrees with this view and notes that, most recently in the referral to the Council on Legislation⁶, "The Riksbank's financial independence and balance sheet", the Government has not found reason to interpret financial independence in any other way.

⁶ Consultation response to the proposal referred to the Council on Legislation regarding the Riksbank's financial independence and balance sheet, 7 April 2017.

The Executive Board considers that the Inquiry expresses a narrower interpretation of financial independence than in the proposal referred to the Council on Legislation for consideration. Having sufficient funds at its disposal to be able to fulfil its tasks independently implies a more robust independence than the Inquiry's proposal, which limits itself to the Riksbank being able to fund its own operating costs. The Inquiry's proposal does not take full consideration of the conditions under which the Riksbank's sources of income manage to comprise the linchpin of robust funding. The Inquiry underestimates the risks behind its assumptions of the need for equity.⁷ The proposal also underestimates the confidence effect of the Riksbank having to submit a request to the Riksdag for recapitalisation.

Apart from maintaining its long-term ability to cover its costs, a financially independent central bank should also be able to manage the financial risks with which its operations are associated. This includes, for example, issuing credits to the banking system or buying and selling financial instruments as a part of monetary policy. A robust framework should mean that submissions to the Riksdag on recapitalisation should only occur in isolated exceptional cases. Such a submission may be considered uncomplicated, but it is a question of confidence in the Riksbank. Its equity needs to be sufficiently large to contribute to maintaining confidence in the Riksbank's capacity to manage its tasks. The level of equity should therefore not be limited to a level that involves a significant risk for recapitalisation in the near future – such as five to ten years. At the same time, it is important that the process for assessing the need of equity is transparent and has a democratic foundation.

Incomplete impact analysis in the Inquiry's proposals

The Inquiry's proposals involve the Riksbank having equity of no more than SEK 60 billion (target level) that is hedged by being adjusted up by the consumer price index every year. Excess profits are to be paid as dividends to the Treasury. According to the legislative proposal, the Riksbank is to make a submission to the Riksdag if equity falls below SEK 20 billion. The Riksdag can then decide on recapitalisation, but only of up to SEK 40 billion in normal cases.⁸ However, the EU legal principle on the financial independence of central banks means that the Riksbank will have the right to make a submission to the Riksdag for recapitalisation irrespective of the level of the Riksbank's equity at the time of the submission.

The different levels for the Riksbank's capital make the model both complicated and inconsistent. In its calculations, the Inquiry has concluded that the Riksbank's equity shall amount to a target level of SEK 60 billion to secure the Riksbank's long-term ability to cover its costs. Given this view, the different sub-levels for the Riksbank's capital should be abandoned so that recapitalisation always takes place to the target level when the Riksbank needs a capital injection. Moreover, the Riksbank considers that the adopted target level of SEK 60 billion jeopardises the Riksbank's possibilities for self-financing over a longer perspective. It does not secure the Riksbank's long-term earnings capacity and does not take enough account of variations in the size of the balance sheet and the financial risks entailed by the Riksbank's operations.⁹

The return on SEK 60 billion in equity will not be enough to fund operations according to the Inquiry's own assumptions about interest rate levels. The Inquiry's proposals are implicitly based on banknotes and coins continuing to generate significant revenues for the

⁷ See also Annex 2, "Equity scenarios".

⁸ SEK 40 billion at present corresponds to around 0.8 per cent of GDP which is significantly lower than the equity capital in the major Swedish banks.

⁹ See also Annex 2, "Equity scenarios".

Riksbank. Furthermore, it assumes that interest rates will become normalised relatively quickly, leading to higher revenues on the Riksbank's assets.¹⁰ In such a scenario, the Inquiry's proposals would work well to cover the Riksbank's costs. However, the level of interest rates has been very low over the last ten years and demand for cash has fallen heavily. There is a considerable risk that interest rates will remain very low in the period ahead and that the volume of cash will continue to decline. In such a scenario, the proposed model will not generate enough revenue. Securing financial independence in such a situation will require either a significantly greater capital buffer, which can generate revenue, or an alternative source of funding, such as an appropriate reserve requirement on private banks. The Inquiry certainly proposes that, in such a scenario, the Riksbank can request an increase to targeted equity. But it is likely that earnings capacity would then be too weak to generate profits that can be retained to build equity up to the new level, and the Riksbank would instead risk needing recapitalisation.

Large risk of recapitalisation

The Riksbank has made calculations to analyse how its earnings capacity and equity are affected in different scenarios. If interest rates rise within a few years to the levels the Inquiry is assuming in the long term, it means that the Riksbank will make losses that reduce all of the revaluation accounts¹¹ to zero, with the exception of the value of the gold holdings. The Riksbank's earnings capacity will then be at the level the Inquiry had intended, as long as the amount of cash does not decline further, but the loss-absorbing capital (equity plus revaluation accounts and possible risk allocations) will be much lower, which increases the risk that equity will be so low that it falls below the limit for recapitalisation.

If interest rates instead remain at the low levels we have seen in recent years, equity and the revaluation accounts will remain at largely the same levels as now, but the Riksbank's long-term capacity to finance itself will instead become weak or non-existent. The situation will become even more problematic if the amount of cash declines further. An additional factor is that the Riksbank's balance sheet may need to be increased in the future to ensure a stable and efficient financial system or to attain the price stability target. The ongoing coronavirus pandemic, as mentioned earlier, clearly underlines this. Part of the assets the Riksbank has decided to buy are more risky than government bonds purchased earlier. This entails a higher expected profit, of course, but also a higher risk of losses.

An important part of the Riksbank's earnings comes from banknote seigniorage. If, for instance, the value of banknotes and coins halves in relation to the current level, or interest rates rise substantially, or the krona appreciates, there will be a high risk of recapitalisation in the coming 10 years, according to the Riksbank's calculations.¹² This entails a high risk of recurring recapitalisation, which borders on financing by appropriation.

¹⁰ The Inquiry assumes a real interest rate of 1 per cent, that is, a nominal interest rate of 3 per cent.

¹¹ The revaluation account is used to book unrealised gains and losses comprised of the difference between the acquisition value and current market value of the Riksbank's assets.

¹² See further Annex 1, views on the Inquiry's proposals regarding the text of the new act, Chapter 8 Article 9 and Annex 2, which describes an alternative scenario with a larger increase in interest rates and stronger krona than in the National Institute of Economic Research's main scenario. There, equity falls below the limit for recapitalisation within ten years (see Annex 2). See also the results of simulations showing that the probability of recapitalisation is clearly linked to the size and composition of the balance sheet (see Annex 2, and Tables 3 and 4).

Given that a large share of the Riksbank's assets are invested in foreign currency, the management of exchange rate risk will affect the volume of equity needed as a buffer. On the one hand, a high degree of hedging could reduce the need for buffers, but on the other hand it entails a cost. Hedging may also come into conflict with the price stability target, for instance, if it is desirable that the krona should not appreciate too rapidly for a given measure. Irrespective of the accounting rules expressed in SEK, the Riksbank, given its role in society, needs to hold both gold and foreign currency.

The Executive Board proposes a modified version of the current profit allocation model

The Riksbank thus does not support the Inquiry's proposal for a new profit allocation model and target level for the Riksbank's equity. The proposed model does not ensure the Riksbank's financial independence.

Instead, the Riksbank advocates that the current model for profit allocation be confirmed by law with a few minor amendments. Today's model means that the Riksbank transfers 80 per cent of the average profit for the past five years. The profit is calculated excluding exchange rate and gold revaluation effects, but including the price effects since 2004 reported in the revaluation account on the balance sheet. The Riksbank proposes that these two adjustments to the reported profit/loss should be excluded. It is proposed that the first adjustment be excluded as unrealised exchange rate and gold valuation gains have been excluded from the reported profit/loss since 2004 and are instead recorded in the revaluation account on the balance sheet. The second adjustment should be excluded as it means that unrealised price gains are included in profit allocation, despite being excluded from the reported profit/loss since 2004. The reason why the revaluation account was introduced into the ESCB accounting regulations was to make it easier for central banks to avoid dividends on unrealised price, gold and foreign exchange effects. The Riksbank must at the same time continue to have the right in law to make financial risk allocations to be able to increase the buffer against financial risks when needed.

To ensure that the Riksbank has sufficient buffers to carry out its tasks, the Executive Board of the Riksbank shall determine in a clear and transparent process the level for the Riksbank's equity needs and its financial risk allocations. The levels must be sufficient to ensure the long-term earnings capacity and to absorb losses. The Riksbank is to regularly account for its analyses and conclusions to the Riksdag Committee on Finance. If the Riksbank's analysis shows that the need for equity exceeds the applicable level, the Riksbank should be able to build up extra capital by retaining parts of the profits in addition to what is specified in the profit allocation model. Possible reasons could be that income from banknotes and coins declines, or that the risk outlook is such that a larger buffer is needed. If the need for buffers is estimated to fall below the applicable level, the Executive Board of the Riksbank needs to decide on special dividends. Further, the Riksbank needs to be able to use alternative earnings capacity such as reserve requirements, as a complement to safeguard its long-term earnings capacity.

The EU legal principle on the financial independence of central banks means that the Riksbank should have the right to make a submission to the Riksdag for recapitalisation irrespective of the level of the Riksbank's equity and this should be expressed clearly in the draft bill. Such submissions to the Riksdag should only occur in exceptional cases, for the reasons stated above. The Riksbank's proposal entails the Riksbank having the opportunity to build up reserves with its own funds that are sufficient to safeguard a long-term earnings capacity and to absorb losses. The overall proportionality principle means at the same time that the Executive Board of the Riksbank needs to ensure that its need of equity, the size of

the financial risk allocations and the need for potential alternative earnings are in proportion to its objectives.

In principle, the Committee's profit allocation proposal could lead to a profit allocation that is similarly even to the current system, on condition that the risk allocations can be used very flexibly. According to the ECB regulations, it is possible to make financial risk allocations based on a motivated estimation of the Riksbank's risk exposure. This regulation gives some flexibility but only allows allocations for market risk, credit risk and liquidity risk and then primarily for existing assets. This means, for instance, that financial risk allocations to counteract loss of income arising from a decline in the use of banknotes and coins are not clearly supported by this regulation.

To summarise, the Executive Board of the Riksbank does not support the Committee's proposal for a model for equity and profit allocation and instead advocates that the current model be stipulated in law, with some modifications. As mentioned earlier, the Riksbank would readily contribute to an adaptation of the current profit allocation model to ensure the most even deliveries possible to the state without undermining the Riksbank's financial independence.

The Executive Board of the Riksbank must take the financial decisions

Irrespective of how the proposed model for equity and profit allocation is finally designed, it is necessary to make clear that it is the Executive Board that assesses the amount of equity needed and the size of potential risk allocations.

The Inquiry proposes that the General Council shall adopt the profit and loss account and balance sheet as proposed by the Executive Board. However, for this to be compatible with EU law, it should be clarified in law that the profit and loss account and balance sheet are adopted at the proposal of the Executive Board and that the General Council cannot change it unless there are direct accounting errors. For the Executive Board to be able to support the Inquiry's proposal here, it must be made clear that it is the Executive Board of the Riksbank that bears responsibility for operations, financial allocations and the profit and loss account and balance sheet.

2.2 The size and financing of the foreign exchange reserves should be decided by the Executive Board

The Riksbank holds gold and foreign currency reserves to be able to perform its statutory tasks. The foreign currency reserves are central to monetary policy and also contribute to financial stability. The Riksbank has in principle unlimited scope for increasing the amount of Swedish krona (SEK) as and when necessary. But to enable liquidity support in foreign currency, which may also be needed if the banks suffer liquidity problems, the Riksbank needs to have foreign exchange reserves. The Riksbank's capacity to supply liquidity in both SEK and foreign currency is a question of ensuring that the monetary policy transmission mechanism can function smoothly and that financial stability is maintained. The foreign currency reserves are also needed to be able to sell and buy currency for monetary and exchange rate policy purposes, and to meet international commitments. Holding reserves of assets in foreign currency that can be used in a difficult situation, but have been built up in advance (that is, are pre-financed), creates confidence in the Riksbank's capacity to manage financial crises. In turn, this confidence can mitigate the risk of a crisis occurring or deepening.

The need for foreign exchange reserves may change over time, partly due to the size of the financial system and the way its dependence on foreign funding develops. The Riksbank

therefore supports that its right to borrow from the Swedish National Debt Office is confirmed in law. However, it should be made clear that it is the Executive Board of the Riksbank that decides on the size of the foreign exchange reserves and how they should be financed, regardless of which of the Riksbank's statutory tasks it intends to use the reserves for. Decisions on foreign exchange reserves, their management and financing, and their use are part of a central bank's fundamental tasks, according to EU law, and these should not be curtailed.

The Riksbank must be able to issue debt instruments in foreign currency

In light of this, there are a great many uncertainties in the actual legislative proposal. In the proposed new law, the Riksbank can issue credits in foreign currency both for monetary policy purposes and to promote financial stability. Chapter 10 of the legal text, which regulates the foreign currency reserves, currency swap agreements and borrowing for the foreign exchange reserves, specifies in several places, however, that the foreign currency reserves may only be restored or strengthened with respect to financial stability. The problem is that if the Riksbank issues credits in foreign currency for monetary policy purposes, it will use the foreign exchange reserves. It must therefore be possible to strengthen these by borrowing or by the Riksbank itself purchasing foreign currency against payment in Swedish kronor for monetary policy purposes too.

According to the legislative proposal, it will be forbidden for the Riksbank to issue debt instruments in foreign currency. In normal cases, it is an efficient arrangement for borrowing to take place via the Swedish National Debt Office, but the Riksbank should be able to retain the possibility of also issuing its own debt instruments. The Executive Board of the Riksbank would have preferred the current model, where the possibility of borrowing from the Swedish National Debt Office is confirmed by law but where the Riksbank shall not have unconditional drawing rights on the borrowing that takes place in the Swedish National Debt Office's name. Independent authorities must be able to take their own decisions and take responsibility for the effects they have. This was also expressed in the Riksbank's consultation response to the draft proposal referred to the Council on Legislation.¹³ It is reasonable that the Swedish National Debt Office, within the scope of its mandate, finds a balance between the Riksbank's need for appropriate foreign currency reserves and other public sector needs via the central government budget. At the same time, it must be possible for the Riksbank to strengthen the foreign exchange reserves by itself buying foreign currency against payment in Swedish kronor or by borrowing in foreign currency. A limitation of the Riksbank's possibilities for deciding the size of its foreign exchange reserves and how they should be funded would raise questions over its financial independence.

Furthermore, the Riksbank deems that removing the possibility of issuing its own debt instruments is not compatible with EU law. As has been pointed out above, a central bank should be able to use its entire balance sheet in different ways in different situations, and the distribution of assets and liabilities between domestic and foreign currency is thus something that the Executive Board of the Riksbank should have the ability to take decisions upon.

¹³ Consultation response to the proposal referred to the Council on Legislation regarding the Riksbank's financial independence and balance sheet, 7 April 2017.

2.3 Currency swap agreements – the Riksbank needs to contribute where necessary, when necessary

One further lesson from the global financial crisis of 2008–2010 and the ongoing coronavirus pandemic concerns the importance of cooperation among central banks. Central banks' ability to support one another with their own currencies via so-called currency swap agreements helps to stabilise the global financial system. The Riksbank has participated in several such arrangements with the double aim of gaining access to US dollars to provide liquidity support to Swedish banks, and of supporting other central banks' crisis management both regionally and globally. If the Riksbank is to have the possibility of having access to foreign currency in this manner when Sweden needs it, it is vital that the Riksbank is also able to provide help and support to others.¹⁴ Being able to provide other central banks with currency swap agreements is part of international central banking cooperation. This type of reciprocity is of particular importance for Sweden, which is a small open economy with a large financial sector. By ignoring this mutual dependency, the Inquiry's proposal risks making it difficult for the Riksbank to enter currency swap agreements in situations where this could be of crucial importance for the Riksbank's ability to manage a financial crisis in Sweden.

The currently applicable Sveriges Riksbank Act gives the Riksbank the right to take decisions on measures of this kind. In contrast, the Inquiry's legislative proposals make a distinction between the right to enter into such agreements with the aim of contributing to a stable financial system in Sweden and the possibility of the Riksbank lending to help mitigate crises in the global financial system. In the latter case, it is assumed that the Riksbank has received the approval of the Riksdag before an agreement can be entered. The Riksbank considers that this part of the legislative proposal needs to be formulated so that it does not restrict the possibility of entering into a currency swap agreement in relation to the current situation. According to the Executive Board, it is important that the Sveriges Riksbank Act continues to give the Riksbank the ability to contribute to international financial stability rapidly and flexibly, in the same way that we hope that other countries would support us. The legislative proposal implies an asymmetry that is difficult to understand.

2.4 Replenishment principle for IMF increases administrative burden

One starting point for the Inquiry has been to make the Riksbank's balance sheet independent of the transactions made with the IMF, which is to say to ensure that they do not affect the size of the foreign exchange reserves. The Inquiry therefore proposes that a 'replenishment principle' be introduced. The proposal states that the Riksbank, in conjunction with the transfer of funds to the IMF, must borrow a corresponding amount from the Swedish National Debt Office. The Executive Board finds it difficult to understand the motives for this proposal and which problem the Inquiry is attempting to solve. The current arrangement for IMF transactions has worked well since the 1950s. Cooperation between the Riksbank and the Ministry of Finance over IMF issues has also worked well otherwise as regards positions, processes and decisions. The Executive Board does not support the proposed replenishment principle, as it does not contribute towards more efficient central government administration, but rather the opposite, in that it entails more bureaucracy and administration for both the Riksbank and the Swedish National Debt Office.

¹⁴ Since 1990, the Riksbank has signed currency swap agreements with about 15 different central banks or international organisations (Riksbank, internal working material).

3. Monetary policy – toolbox restricted

3.1 Price stability target and consideration to real economy part of the Riksbank's task

The main target for monetary policy is proposed to be price stability, as it is today. The current specification (the annual rate of increase of the CPIF is to be two per cent) will apply until further notice and any changes to this specification are to be proposed by the Riksbank and approved by the Riksdag. The legislative comments make clear that the price stability target is compatible with either an inflation target, a price level target or an average inflation target. This is a change compared with the legislative history of the current Sveriges Riksbank Act, where a price level target is explicitly ruled out. The price stability target thus becomes, in principle, broader than it is today, even if the current formulation will apply until the Riksbank proposes a change (and this is approved by the Riksdag). The Executive Board has no objections to these proposals, as long as they are compatible with EU law.

Without neglecting the price stability objective, the Riksbank shall also consider the real economy by contributing to a balanced development of output and employment. In principle, this is a codification of current practice in which the Riksbank, with the support of the legislative history of the current act, stabilises output and employment around long-term sustainable development paths.

Moreover, according to the Inquiry, monetary policy shall not consider financial imbalances as a separate, subordinate target. Such consideration may, however, be taken to the extent that it is deemed to improve the expected development of inflation and the real economy, at the same time as lasting satisfactory credibility for the price stability target is maintained. Consideration shall not be taken of financial imbalances apart from their effects on inflation and the real economy. The Executive Board has no objections to this proposal either. However, the Executive Board's view is that financial instability always has consequences for inflation and economic developments in general, for example by financial instability impairing the monetary policy transmission mechanism. The Executive Board's interpretation of the legislative proposal is therefore that there is no obstacle to taking into account financial imbalances in monetary policy decisions.

3.2 The monetary policy toolbox is limited

As discussed in Chapter 1 above, the Riksbank's monetary policy mandate will be limited by the demarcations proposed between measures taken by the Riksbank for monetary policy purposes and measures taken to contribute to the stability and efficiency of the financial system. This means that the definition of what comprises monetary policy is narrowed in relation to definition in EU law. The legislative proposal also contains a number of further restrictions of the monetary policy toolbox that the Executive Board does not consider should be transferred to the final proposed act. One example is only permitting the Riksbank to purchase other securities than government securities under exceptional circumstances. Even if the Riksbank would hardly purchase other securities at present without special reason, this is a limitation compared with today. The requirement for exceptional circumstances can hardly be distinguished from the requirement placed on the proportionality testing that the Inquiry has proposed and that the Riksbank supports.

Another limitation is that the legislative proposal does not allow the Riksbank to carry out foreign exchange transactions (for example purchasing and selling currency) with the aim of affecting the banking system's liquidity position in Swedish kronor towards the Riksbank without affecting the exchange rate. This kind of transaction is a standard tool for central banks and is implemented more or less every day, for example to avoid the effects on the

krona exchange rate against the euro of a major EU payment. According to the legislative comments, the Riksbank may only carry out foreign exchange interventions for monetary policy purposes to affect the exchange rate. The legislative proposal should therefore be supplemented so that the Riksbank will continue to have the possibility of conducting foreign exchange transactions (purchasing and selling foreign exchange to supply and drain liquidity in domestic currency without the ambition of affecting the exchange rate).

As mentioned above, it must be possible to strengthen the foreign exchange reserves even when lending in foreign currency has been for monetary policy purposes. The proposal means that such a strengthening may only be made with reference to financial stability. This also entails a restriction of monetary policy.

Loans to companies must be included in the toolbox

According to the Inquiry's assessment, the Riksbank cannot make lending to the banks conditional on the banks increasing their lending to companies. This is a limitation compared with today, and also compared with what other central banks may do. Such conditional lending is an important tool that is used on a large scale, in Sweden and in other countries, to subdue the effects on the economy of the ongoing coronavirus pandemic.

Furthermore, the Riksbank, according to the Inquiry's assessment, should follow the ECB's own restrictions on how large a share of the outstanding stock of government bonds and individual issues of government bond loans it may purchase. The ECB has removed these restrictions in the wake of the coronavirus pandemic. In addition, if the legislative history of the new legal text takes a stance on such an issue, it would entail a restriction of monetary policy compared with today, as the Riksbank owns more than 1/3 of the outstanding stock of government bonds and more than 2/3 of certain bond loans.

To sum up, the Executive Board essentially supports the proposal's targets for monetary policy but not the restrictions introduced as regards the definition of monetary policy, which is narrower than today and in relation to the definition under EU law and as regards the powers, which is to say how the balance sheet and tools may be used.

4. Financial stability – demarcation problems

4.1 The Riksbank has a broad responsibility for the financial system

The Executive Board supports the reformulation and clarification of the Riksbank's current task to "promote a safe and efficient payment system" to the objective to "contribute to the stability and efficiency of the financial system" and that this includes the general public being able to make payments. The Executive Board also largely supports the tasks and powers specified by the new Sveriges Riksbank Act for the Riksbank in this area.

The Executive Board supports the proposal that the Riksbank be given the task of overseeing financial stability. However, the proposed provision includes a number of concepts and breakdowns that require the reader to consider, in parallel, both other parts of the Sveriges Riksbank Act and various legislative comments to be able to understand the task. The Act should clearly state that the Riksbank has the overall task of identifying vulnerabilities and risks that could cause either serious disturbance or significant efficiency losses in the financial system or that could lead to financial imbalances. Furthermore, the Executive Board finds it important that the legal text makes clear that the Riksbank shall report its assessments of such vulnerabilities and risks.

The Riksbank's work on crisis preparedness – the Executive Board should determine the degree of transparency

The Executive Board supports the proposal that the Riksbank be given the task to “planning and preparing in order to create a strong capacity to counteract serious disturbances in the financial system in Sweden”, including “identifying liquidity support measures that can be used to counteract such disturbances”. However, the Executive Board does not find it appropriate, as the Inquiry proposes, to order the Riksbank under law to publish in advance the facilities the Riksbank will provide and the detailed conditions for them, even if the possibility of refraining from this is included in the event that this is inappropriate in light of the stability or efficiency of the financial system.

It is important to ensure that liquidity support reaches the right recipients in an emergency situation without risk-taking among the banks increasing in a way that risks being excessively costly for the national economy. Achieving this, as a rule, needs complicated considerations, both in the design of the conditions for liquidity support and in the degree of transparency in advance around these. The Riksbank always strives to be transparent and, in the world of central banking, is considered to be one of the most transparent central banks, but the choice of timing in the publication of liquidity support measures is a decision that may need to be considered carefully. The Executive Board therefore considers it inappropriate to introduce a basic rule into law that requires the Riksbank to publish facilities and the detailed conditions for these in advance. This is basically a matter of policy analysis and taking such a decision should fall upon the Executive Board of the Riksbank. In addition, as far as the Riksbank is aware there is no other central bank that has been subjected to such a requirement.

4.2 General liquidity support should not be separated from monetary policy

The Executive Board supports the proposal that the Riksbank should be given the statutory power to offer credits and enter repurchasing agreements to counteract serious disturbances to the financial system, named general liquidity support by the Inquiry. However, the way in which this possibility is introduced is problematic in several aspects.

One problem is that the legal conditions for this tool are unclear. This is because both credits and repurchase agreements are also included in the monetary policy toolbox. The new type of general liquidity support that the Inquiry proposes, that is a general liquidity support separated from monetary policy, has no equivalent in the EU and other countries.¹⁵ Furthermore, it should be noted that, if an instrument called general liquidity support – unlike monetary policy credits and repurchase agreements – needed to be used, it would have to be approved on the EU level to ensure that it did not contravene EU government support regulations and the prohibition of monetary financing. This is thus a consequence of the proposed division into different toolboxes for monetary policy and financial stability policy.

As described earlier in Chapter 1, an arrangement which requires the Riksbank to assess whether the main purpose of a measure falls under monetary policy or financial stability gives rise to difficult problems of definition, as crisis measures usually help meet both aims. It is difficult to identify any crisis measures that affect financial stability without simultaneously affecting inflation and the real economy. The result of these demarcation problems, combined with a lack of clarity over the conditions under EU law, may be

¹⁵ The Inquiry provides no examples of other EU countries in which the possibility of using these tools to promote financial stability is not integrated with the monetary policy toolbox. Even the liquidity facilities set up by the Bank of England, to which the Inquiry frequently refers, are included in the bank's monetary policy framework.

unnecessarily long preparatory times. This entails a risk of shocks to the financial markets becoming exacerbated before the right measures can be adopted. The same demarcation problems exist for the Riksbank's role as market maker as they do for general liquidity support.

Emergency liquidity assistance should be designed on the basis of the prevailing situation

The Executive Board largely supports the proposed legal text on emergency liquidity assistance, but would like to comment on two aspects. Firstly, the Riksbank considers that the legal text should state that emergency liquidity assistance may be provided on special terms, which is to say alongside the collateral requirement, which is the only special term currently specified in the proposal. For example, as a main rule under EU law, the Riksbank must charge a penalty interest rate and limit maturity. In certain cases, there may also be reason for the Riksbank to demand a restriction on how the funds may be used or to place requirements on reporting. The Riksbank's possibilities to provide support on such special terms is made clear by the legislative comment but, if this is not specified in the legislative proposal, there will be no legal support for terms of this type.

The second aspect concerns the circle of counterparties. The Executive Board would like to point out the importance of flexibility and finds it unfortunate and unnecessarily limiting to narrow down the circle of foreign counterparties to only those institutions conducting operations through branches in Sweden. The payment market is developing at a rapid pace. As some types of institution have the right to act across borders in the EU, these can use the internet to turn to the Swedish market and to Swedish households without having branches in Sweden. Restrictions of this type contribute to the risk that the new Sveriges Riksbank Act will have a short shelf life.

5. Means of payment and preparedness – maintain flexibility and a holistic perspective

5.1 Preparedness – important to adopt a holistic perspective

The Executive Board supports the proposal to give the Riksbank an increased responsibility for preparedness with regard to electronic payments and cash management. The Executive Board sees a need for the ongoing Civil Defence Inquiry (Ju 2018:05)¹⁶ to consider the Riksbank Committee's proposals in its work to ensure an efficient, comprehensive plan for how the financial sector shall work with preparations for peacetime crisis situations and heightened alert and how the sector shall be led in a real-life situation. If the two inquiries put forward separate proposals without a holistic perspective, there is a major risk of unclear divisions of responsibility within the financial sector.¹⁷

The Executive Board also notes that there are no sanctions to ensure that those companies that are not under the supervision of Finansinspektionen but are of special importance to the execution of payments, will live up to the requirements regarding participation in the Riksbank's planning for crisis situations and heightened alert.

¹⁶ The Inquiry shall analyse and submit proposals for, among other things, a structure of central government authorities divided into sectors and sector-specific authorities. A report is to be presented by 1 March 2021 at the latest.

¹⁷ In a special comment to the Inquiry, Christina Wejshammar (pp. 1909–1912) emphasises that the new provisions on crisis management should enter into force no later than 21 July 2021 to enable necessary measures for total defence in the financial sector to be taken as soon as possible. She also expresses criticism in this comment of the Inquiry's proposal regarding depots, the price of cash services and legal tender as expressed in the Riksbank's consultation response below.

5.2 Number of depots should not be specified

The Executive Board supports the proposal to give the Riksbank a clear responsibility for cash provision in the country and to ensure flexibility regarding how the Riksbank is to fulfil this task. However, it is not appropriate to legislate on the number of depots and where these should be located. The proposal counteracts the flexibility needed for the Riksbank to be able to fulfil its mandate to promote efficient cash management that helps to ensure the availability of cash throughout the country.

The Executive Board does not therefore support the proposal to specify in law the number of depots and where these are to be located.

5.3 Difficult to attain lower costs for cash services

According to the Inquiry, the state, via the Riksbank, shall support the cash supply chain by promoting pricing in the wholesale channel that leads to lower costs for the trade sector and others. The aim of this is stated to be to support cash management in its entirety by reducing the trade sector's costs and thereby contributing towards fewer traders choosing to become cash-free. According to the report, the Riksbank should also check that any reductions in the prices for the depositing and withdrawal of cash at the Riksbank shall as far as possible be passed on from wholesalers to retailers and to end-users so that traders and smaller banks that handle cash face lower prices for cash. However, the Inquiry has not analysed in closer detail how the Riksbank can influence other agents in the cash management chain in a way that leads to lower prices for end-users and nor which tools the Riksbank would need for this.

The Executive Board understands the Inquiry's endeavour to achieve lower costs for cash management in the retail sector. However, the Executive Board finds it difficult to understand how the Riksbank – via compensation to banks that is supposed to lead to reductions in prices for depositing and withdrawing cash in the wholesale channel – shall be able to ensure that these reductions are passed on. Instead, the proposal risks only benefiting larger banks and other credit institutions. Furthermore, the Executive Board considers it not to be the Riksbank's task to subsidise banks' costs for cash management. If the state wishes to achieve lower costs for other agents in the cash management chain, it should instead take measures other than cutting costs for major credit institutions.

Neither is the Riksbank given any tools with which to influence and monitor pricing in relation to end-users or to take action against institutions that do not pass on the cost reductions to end-users to a corresponding degree. Nor is it appropriate to charge the Riksbank with such responsibility through preparatory statements alone.

5.4 The term 'legal tender' needs to be strengthened further

It is positive that the obligation to accept cash will be enforced during a situation of heightened alert. In addition, there is a statement to the effect that the public sector should also accept cash in normal times. However, the term 'legal tender' needs to be strengthened in relation to the current situation. One reason for this is that there are groups in society living in financial and/or digital exclusion and who are thus not only dependent on being able to withdraw cash but also on being able to pay with it. Another reason is that it is difficult to get cash to work in the way it is intended in times of heightened alert and war, if cash is not used to a certain extent in normal times as well. In other words, the obligation to accept legal tender in times of heightened alert imposes requirements on cash management in normal times as well. It is therefore reasonable that, for instance, civil law agents, such as public authorities, municipalities and publicly owned companies that supply important **services to society**, as well as private business operators

selling essential goods and services to individuals are obliged to accept legal tender even under normal circumstances.¹⁸ The Executive Board therefore opposes the Inquiry's proposal that freedom of contract shall apply even in these legal situations. The possibility to pay in cash must not be worsened in relation to the current legal situation.

A means of payment can be described as an ecosystem. This means that there must be both access to and a way to use a means of payment for it to function. Under the Inquiry's proposal, the asymmetry will continue as there is legal support only on the access side, not on the use side. It would have been appropriate to, as in Denmark and Norway, legally oblige business operators to receive cash from consumers. As mentioned above, this should at least apply to business operators who supply vital goods and services to consumers.

The Executive Board also notes that there are no sanctions to ensure it is possible for consumers to use cash in the event of heightened alert.

6. Information provision and scrutiny

6.1 Important with effective scrutiny

The forms of information to the general public and reports to the Riksdag are codified in the new act largely in accordance with the practice that has been developed at the Riksbank. A responsibility is being introduced into the Riksdag Act for the Committee on Finance to monitor the Riksbank's entire operations with regard to target attainment and efficiency. The Swedish National Audit Office shall scrutinise the Riksbank's regulatory compliance as part of the annual audit. Furthermore, the monitoring function of the General Council of the Riksbank has been confirmed by law. The General Council shall monitor the Executive Board's work and the Riksbank's operations otherwise. The General Council shall keep the Committee on Finance informed about issues of greater importance. The General Council shall also at regular intervals and at the request of the Committee on Finance report its observations to the committee. It is clarified that the General Council's audit function shall scrutinise the work of Executive Board in its entirety.

Scrutiny and evaluation are also considered to be facilitated thanks to the general paragraph written into the law on proportionality.

The scope for the Riksdag to monitor the Riksbank and require accountability, both for monetary policy and financial stability and for the Riksbank's other operations, is already considerable. Information provision, scrutiny and evaluation can always be improved and strengthened, however. The Riksbank largely supports the proposals for amendments to the Sveriges Riksbank Act in this area. The proposals mean, for instance, that there will now be more bodies with a mandate to scrutinise the activities. It is important that the evaluation and scrutiny are effective and that the ban on instructions is not transgressed.

6.2 Judicial review should be considered

It is proposed that the National Audit Office be given the task of scrutinising the Riksbank's regulatory compliance and the Inquiry has also considered whether or not the National Audit Office should have the scope to initiate a judicial review of the legality of the Riksbank's decisions (p. 1517). The Inquiry comes to the conclusion that such an arrangement would be inappropriate. However, the Executive Board sees some benefits of

¹⁸ Examples of private business operators selling essential goods are for example, pharmacies, groceries and petrol stations.

a judicial review as regards the issues related to regulatory compliance covered by the independence established by EU treaties.

In its convergence reports, the ECB has stressed that the ban on seeking and giving instructions implies that a review of the national central bank's decisions may only be performed on legal grounds and then only by an independent court. The Swedish National Audit Office has a far-reaching independence but cannot be equated entirely with a court. This entails a practical limitation as regards the fundamental decisions that the National Audit Office may need to take in accordance with the Inquiry's proposals on regulatory compliance. In those contexts, there may be good reason to request a preliminary ruling from the Court of Justice of the European Union (CJEU). But this possibility is only available to authorities that can be categorised as a court of law in accordance with the Treaty on the Functioning of the European Union (TFEU). The Swedish National Audit Office is not such an authority.

The alternative which the Inquiry has considered but nevertheless rejected – that the National Audit Board in such cases initiate proceedings at the Supreme Administrative Court – means that the CJEU may be asked for a preliminary ruling. In the Riksbank view, this would promote a standardised application of the law. The Inquiry has pointed out that the judicial review will create uncertainty as to whether the Riksbank's decision are valid, which could be a disadvantage in a financial crisis. However, it is the Executive Board's assessment that this uncertainty would not be any less in cases where the National Audit Office determines that the Riksbank has failed in its regulatory compliance without this leading to a judicial review. The Executive Board therefore advocates that the continued legislative work should consider the procedure with a judicial review of decisions covered by the independence established by EU treaties.

7. Future outlook

The last ten years have seen intensive discussions among central banks and researchers about what a normalisation of monetary policy could look like in the future. Expectations of a return to the conditions and the policy that prevailed prior to the global financial crisis have time and again come to nothing. Recently, there has also been an increasingly intensive discussion about the tools available when the next recession, or a new crisis, occurs – especially bearing in mind the low level of interest rates to begin with. In recent months, this issue has come to the fore in light of the very extensive economic and financial consequences of the corona pandemic. The various forms of “unconventional” monetary policy conducted for many years, in which changes in central bank balance sheets have played a major part, can very well be here to stay or at least be needed for longer than previously thought. In addition, what is considered to be conventional monetary policy has varied over time. What is considered conventional during a certain period becomes unconventional in another and vice versa. Detailed rules for what is to be regarded as monetary policy, in contrast to financial stability policy, and restrictions in how the balance sheet can be used, are not the right way to build up resilience in the Swedish economy.

Despite a somewhat outdated conceptual structure, the current Sveriges Riksbank Act has worked well as a regulatory framework for conducting central bank operations during widely differing economic conditions. It has been and is possible to develop the toolbox to meet needs both during a financial crisis and in a low interest-rate environment and over time and where necessary to participate in and fulfil various international commitments, and to develop transparency in the Riksbank's operations. At regular intervals, the Riksbank has presented its interpretation of its mandate in the Riksdag, and operations have been



regularly evaluated by the Committee on Finance and the National Audit Office (without any major criticism). At the same time, the Riksbank has highlighted unclear aspects regarding the Sveriges Riksbank Act that are in need of clarification, for example in light of experiences from the financial crisis, but also in light of developments on the payment market and state of readiness. It should however be possible to resolve these issues by making less extensive changes to the current Sveriges Riksbank Act. Instead of seeking to micro-regulate the Riksbank, the work should strive for a modern piece of legislation aimed at strengthening the structure for cooperation that exists among authorities in the financial field.

The current Inquiry with the task of modernising and clarifying the Sveriges Riksbank Act is an extremely broad initiative. But the proposed detailed regulation should not be converted into a new piece of legislation. Part of the aim of the Inquiry's proposals seems to be to curtail the Riksbank's operations and independence as far as possible and with the help of extensive micro-regulation. This is different from streamlining and modernisation.

If the Government, despite what has now been presented, nevertheless chooses to proceed with the proposed approach of a detailed act divided into chapters with objectives and tasks for each one, the Executive Board sees the need to at least review the demarcation between monetary policy and financial stability and to safeguard the Riksbank's financial independence, in accordance with the proposals in Annex 1. It should be possible to reach a broad consensus as regards the Riksbank's continued scope to meet various economic challenges in a powerful and effective way.

On behalf of the Executive Board:

Stefan Ingves

Sophie Brauner

Taking part in the decision: Stefan Ingves (Chairman), Cecilia Skingsley, Anna Breman, Per Jansson, Martin Flodén and Henry Ohlsson.

Reports were presented by Deputy Chief of Staff Pernilla Meyersson, and Senior Advisor Frida Fallan.