



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND 1992

ASSEMBLY
2nd extraordinary session
Agenda item 5

92FUND/A/ES.2/5
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ANY OTHER BUSINESS

AMENDMENTS TO THE FINANCIAL REGULATIONS

Note by the Director

1 Introduction

1.1 The 1992 Fund's Financial Regulations were adopted by the Assembly at its 1st session (document 92FUND/A.1/34, paragraph 24). They were amended by the Assembly at its 1st extraordinary session (document 92FUND/A/ES.1/22, paragraph 22.1).

1.2 The Director submits for examination by the Assembly proposals to amend the Financial Regulations governing the authority to make payments and investments. The proposals are made after consultation with the 1992 Fund's auditors.

2 Authority to make payments

2.1 The authority of the Director and other officers of the 1992 Fund to make payments is governed by Financial Regulation 9.2 which reads:

The 1992 Fund's bankers shall be empowered to accept payment instructions on behalf of the 1992 Fund as follows:

- (a) if signed by the Director, for any sum up to £15 000;
- (b) if signed by the Director and countersigned by another authorised officer, for any sum in excess of £15 000;

- (c) if signed by another officer empowered by the Director, for any sum up to £5 000;
- (d) if signed jointly by two other officers empowered by the Director, for any sum up to £30 000;
- (e) for the payment of salaries, if signed jointly by two other officers empowered exceptionally by the Director, in circumstances where he is unable to sign himself, for any sum up to £60 000.

2.2 Since Financial Regulation 9.2 was amended by the Assembly at its 1st extraordinary session, some banks have maintained that these provisions are somewhat ambiguous as regards the relationship between the provisions of Regulations 9.2 (b) and 9.2 (d), and as regards the absence of any defined authority to make payments for sums in excess of £30 000, except for the payment of salaries.

2.3 In the Director's view, the provisions as presently worded should not give rise to any difficulty in interpretation. He considers, however, that if banks with which the 1992 Fund is dealing consider that the provisions are ambiguous, it would be appropriate to reword them so as to meet the concerns expressed by the banks.

2.4 In the light of these observations, the Director proposes that Financial Regulation 9.2 should be amended to read as follows (amendments underlined)^{<1>}:

"The Director may authorise one or more officers to act as signatories on behalf of the 1992 Fund in giving payment instructions, and the 1992 Fund's bankers shall be empowered to accept payment instructions on behalf of the 1992 Fund as follows:

- (a) if signed by only one authorised officer, for any sum up to £5 000 or, in the case of the Director, for any sum up to £15 000;
- (b) if signed jointly by any two authorised officers, for any sum up to £30 000;
- (c) if signed by the Director and another authorised officer, for any sum in excess of £30 000;
- (d) for the payment of salaries to members of the Fund's Secretariat, if signed jointly by any two authorised officers, for any sum up to £60 000."

3 Authority to make investments

3.1 Financial Regulation 10.5 governs the authority of the Director and other officers of the 1992 Fund to make investments. This Regulation reads:

"Instructions relating to the 1992 Fund's investments shall be given by the Director. Such instructions shall be given or confirmed in writing by him. The Director may empower another officer or officers to act, if necessary, on his behalf. Any instructions relating to the transfer of funds from one financial institution to another should be confirmed in writing

- (a) by the Director and countersigned by another authorised officer; or
- (b) jointly by two other officers empowered by the Director."

<1> Items (a) and (c) of the existing Regulation have been merged.

3.2 Some banks have pointed out that the text of Financial Regulation 10.5 assumes that investment instructions will be given only in writing. In practice the terms of investments are agreed orally. Although written confirmation should be sent, oral agreements are considered binding in accordance with the London Code of Conduct issued by the Bank of England to regulate such transactions.

3.3 In view of these considerations, the Director proposes that Financial Regulation 10.5 should be amended to read as follows:

" Instructions relating to the 1992 Fund's investments, as well as instructions relating to the transfer of funds from one financial institution to another for the credit of the 1992 Fund's deposit accounts, shall be given by the Director. The Director may authorise another officer or officers to act on his behalf. Instructions shall be given either in writing, signed jointly by two authorised officers, or orally by one authorised officer followed by written confirmation signed jointly by two authorised officers."

4 Action to be taken by the Assembly

The Assembly is invited to consider for adoption the Director's proposals to amend Financial Regulations 9.2 and 10.5 as set out in paragraphs 2.4 and 3.3 above.
