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**Consultation response to the proposal referred to the Council on
Legislation regarding the Riksbank's financial independence and balance
sheet**

5 May 2017

Pursuant to Chapter 2, Article 4 of the Sveriges Riksbank Act, the General Council may submit consultation opinions on behalf of the Riksbank within its area of competence.

The General Council notes that several of the areas discussed in the draft proposal referred to the Council on Legislation for consideration (hereinafter referred to as the Draft) are within the Executive Board's area of competence, for example the issue of the size and funding of the foreign currency reserve. Nonetheless, the General Council shall, pursuant to Chapter 10, Article 3, second paragraph of the Sveriges Riksbank Act, submit proposals to the Riksdag and the Swedish National Audit Office for the allocation of the Riksbank's profit. As the Draft contains a legislative proposal for a new profit allocation model, it falls in these respects within the General Council's area of competence. It could also be argued that since the size of the currency reserve affects the Riksbank's profit, issues regarding the currency reserve could also be said to fall within the General Council's area of competence.

The General Council submits the following comments.

The General Council welcomes the Draft's proposal for a profit allocation model. The proposal amounts to clear and statutory regulations governing when profit allocation can take place. Alongside regulations in force governing the Executive Board's right to make provisions for certain risks in accordance with ECBS accounting guidelines – which the Executive Board of the Riksbank are obliged to apply pursuant to Chapter 10, Article 3 of the Sveriges Riksbank Act – the proposal will fulfil requirements in EU law regarding the Riksbank's financial independence.

The proposed profit allocation model rests on the idea that the so-called targeted capital shall constitute a threshold for profit allocation. Only if the Riksbank's equity exceeds this threshold (SEK 60 billion) shall profit allocation of the extra amount take place. The General Council supports the proposed model but also notes that its automatic nature makes it particularly important to ensure that the Riksbank at any time – and regardless of the level of equity – can petition the Riksdag for a recapitalisation or increase in capitalisation of the bank. The proposal does contain a provision on recapitalisation, but its wording implies that the Riksbank may only

submit such a petition if the bank's equity falls below SEK 20 billion. The proposal therefore limits the scope which the Riksbank already has to, pursuant to Chapter 4, Article 1 of the Sveriges Riksbank Act, raise the issue of a constitutional amendment or other measure by central government, for example regarding recapitalisation regardless of the level of equity. Such a limitation is undesirable. Against the backdrop of this provision, it is obvious that the Riksbank can always submit a petition to the Riksdag requesting recapitalisation. This should be clarified in the legislative text. The General Council agrees with the Executive Board's position that a recapitalisation rule should be incorporated into the Sveriges Riksbank Act clarifying central government's responsibility in accordance with EU law to ensure that the Riksbank is adequately capitalised.

In contrast with what was proposed in the Flam Inquiry, the Draft has no automatic mechanism for restoring the Riksbank's equity, cf SOU 2013:9 p 155 ff. The Draft nevertheless stipulates the level to which the Riksdag may choose to recapitalise the Riksbank "guaranteed level" (SEK 40 billion), see the Draft's proposal for Chapter 10, Article 2 of the Sveriges Riksbank Act. Bearing in mind that the Riksbank may in the future have an equity level that is far below the guaranteed level for a long time without the Riksbank having the right to petition the Riksdag for recapitalisation, it appears to be misleading to refer to this level as "guaranteed". The General Council considers that it should be clarified that the guaranteed level is at least an implicit capital guarantee.

In summary, the General Council supports the profit allocation model. The General Council supports the introduction of a recapitalisation regulation, on condition that it does not curtail the Riksbank's right to petition the Riksdag for recapitalisation, regardless of the capital level. Although the proposed levels for recapitalisation and guaranteed level are not binding for the Riksdag, it may be useful to clarify that the rule entails an implicit capital guarantee. In addition, central government's responsibility for the Riksbank's capital should be clarified in the legislative text.

On behalf of the General Council:

Susanne Eberstein

Maria Svalfors

Taking part in the decision: Susanne Eberstein (Chairperson), Michael Lundholm (Vice Chairperson), Hans Hoff, Peter Egardt, Caroline Helmersson Olsson, Olle Felten, Hans Birger Ekström, Anders Karlsson, Roger Tiefensee, Agneta Börjesson and Chris Heister.

The rapporteur was Eric Frieberg.