

(Unofficial in November 2005 updated version)

Act on Credit Institutions

30.12.1993/1607

Chapter 1

General provisions

Section 1

(31.1.2003/69)

Scope of application

This Act shall apply to business activity (*credit institution activity*) where repayable funds are accepted from the public as well as

- 1) credit and other financing is offered for own account, or
- 2) general payment transmission is carried on or electronic money is issued.

This Act shall also govern the exclusive right of credit institutions to carry on the business of acquiring repayable funds from the public as well as exemptions relating thereto.

Financing referred to in subsection 1, paragraph 1 shall not include the time of payment granted by the seller of goods or services to the buyer nor financing exclusively to undertakings belonging to the same group which do not offer the financing referred to in subsection 1 as their business activity. Issuance of electronic money which only the issuer accepts as means of payment shall not be deemed to constitute issuance of electronic money as referred to in subsection 1, paragraph 2.

For the purposes of this Act, *electronic money* shall mean monetary value stored on an electronic device on receipt of funds of an equal amount paid to the issuer of electronic money and which one or several undertakings have committed to accept as payment.

The provisions of this Act on the issuance of electronic money shall also be applied when funds repayable on demand are accepted from the public to an account, the funds in which may be used as payment for goods or services provided by one or several undertakings and withdrawn in cash (*customer account*).

For the purposes of this Act, *funds repayable on demand* shall mean funds other than those borrowed for a fixed period, which the creditor may, in accordance with the loan terms, recall payable immediately or, at the latest, within a 30-day notice period as well as funds borrowed for a fixed period, the loan period of which is no more than 30 days or which the creditor may recall payable prior to maturity in situations also other than those exceptional situations separately mentioned in the loan terms.

Entry into force of Act of 31.1.2003/69:

This Act enters into force on 15 February 2003.

An undertaking which, upon the entry into force of this Act, carries on the activity referred to in section 1, subsection 1, paragraph 2 without an authorization of a credit institution, shall apply for the authorization referred to in subsection 1, submit the notification referred to in section 1 a, subsection 3 or terminate its activities subject to an authorization at the latest within one year from the entry into force of the Act. Funds accepted and electronic money issued prior to the entry into force of this Act shall be governed by the provisions in force upon the entry into force of the Act.

The provisions of section 10, subsection 5 shall not apply to an authorization granted prior to the entry into force of the Act.

The information referred to in section 25, subsection 3 and section 68, subsection 2 on the outsourcing contracts in force upon the entry into force of the Act shall be submitted to the Financial Supervision Authority at the latest within six months from the entry into force of the Act

Section 1 a

(31.1.2003/69)

Authorization requirement of credit institution activity and exemptions therefrom

Credit institution activity may not be carried on without an authorization referred to in this Act.

Notwithstanding the provisions of subsection 1, a limited company or a co-operative may carry on limited credit institution activity without an authorization. *Limited credit institution activity* shall in this Act mean:

1) provision of financing, the purpose of which is to grant time of payment when buying goods or services provided by an undertaking belonging to the same group of companies referred to in section 5 c as the limited company or the co-operative;

2) acceptance of repayable funds from the public to customer accounts, the funds in which may be used only as payment for the goods or services provided by an undertaking belonging to the same group of companies referred to in section 5 c as the limited company or the co-operative, and withdrawn in cash;

3) issuance of electronic money accepted as payment only by an undertaking belonging to the same group of companies referred to in section 5 c as the limited company or the co-operative.

A limited company or a co-operative which intends to carry on limited credit institution activity shall notify the Financial Supervision Authority thereof prior to commencing the activity. A limited company or a co-operative carrying on limited credit institution activity shall, without delay, notify the Financial Supervision Authority of the termination of the activity or of significant changes in the extent of the activity. The Financial Supervision Authority shall, within three months of the receipt of the notification, decide whether the intended activity is limited credit institution activity. The Financial Supervision Authority shall, without delay, withdraw the decision if the activity no longer is limited credit institution activity.

With the exception of section 2 a, section 2 c, subsection 2 as well as sections 87 a, 98 and 101, the provisions of this Act shall not be applied to a limited company or a co-operative carrying on limited credit institution activity.

A limited company or a co-operative carrying on the activity referred to in subsection 2, paragraph 2 or 3 shall report to the Financial Supervision Authority on a quarterly basis the sum total of liabilities arising from electronic money issuances and customer accounts. In addition, the Financial Supervision Authority shall have the right to obtain from a limited company and co-operative carrying on limited credit institution activity other information necessary with regard to the application of this section.

Reference to credit institutions in other Acts shall not be applied to a limited company or a co-operative carrying on limited credit institution activity. They shall, however, be governed by the provisions of the Act on Preventing and Clearing Money Laundering (68/1998).

Credit institution

A credit institution is an undertaking authorized to carry on credit institution activity. A credit institution may be a deposit bank, a financing institution or a payment institution.

Section 2 a
(31.1.2003/69)

*Exclusive right of credit institutions to accept repayable funds from the public
and exemptions therefrom*

An institution other than a credit institution may not carry on business operations where repayable funds are accepted from the public in another manner than by issuing securities referred to in the Securities Markets Act (495/1989) unless otherwise provided for in this section. The provisions of this section shall not, however, restrict the right of the Bank of Finland to accept repayable funds from the public, the right of a management company to carry on common fund activity referred to in the Act on Common Funds (48/1999), the right of an investment firm to accept repayable funds from the public in accordance with the Act on Investment Firms (579/1996) or the right of an insurance institution to carry on insurance business referred to in the Act on Insurance Companies (1062/1979). Nor shall the provisions of this section restrict the sale of means of payment which are not electronic money.

Notwithstanding the provisions of subsection 1, a limited company or a co-operative may accept from the public funds repayable on demand to a customer account the funds in which may be used only as payment for goods or services provided by the limited company or the co-operative, or withdrawn in cash, as well as issue electronic money accepted as payment only by the limited company or the co-operative itself. A limited company or a co-operative carrying on limited credit-institution activity may also accept from the public funds repayable on demand to a customer account referred to in section 1 a, subsection 2, paragraph 2 and issue electronic money referred to in paragraph 3 of the said subsection.

The limited company or co-operative referred to in subsection 2 or, if the limited company or co-operative belongs to a group of companies referred to in

section 5 c, all the limited companies and co-operatives belonging to the same group of companies may together accept to a customer account from one customer a maximum amount corresponding to 3,000 euros. The limited company or co-operative referred to in subsection 2 may store on one electronic medium a maximum amount of money corresponding to 150 euros.

Notwithstanding the provisions of subsection 1, a limited company and a co-operative may offer to the public debt instruments other than those repayable on demand. If these debt instruments are offered to the public in another manner than by issuing to public circulation securities referred to in the Securities Markets Act, the limited company or co-operative shall prepare and publish a semi-annual report, an annual report, annual accounts and an annual account release in compliance with, where applicable, the provisions of chapter 2, sections 5, 5 a, 6 and 6 a of the Securities Markets Act. Derogations from the duty of disclosure provided for in this section shall be governed by the provisions of chapter 2, section 11 of the Securities Markets Act.

Section 2 b
(31.1.2003/69)
Deposit bank

A deposit bank is a credit institution which may accept deposits and other repayable funds from the public as well as carry on activity referred to in section 1, subsection 1, paragraphs 1 and 2. A deposit bank may carry on business activity referred to in subsection 2 of this section and related activity.

The business activity of a deposit bank shall comprise:

- 1) acquisition of deposits and other repayable funds from the public;
- 2) other acquisition of funds;
- 3) granting of credits and other forms of financing as well as other facilitating of financing;
- 4) financial leasing;
- 5) general payment transmission and other payment transactions;
- 6) issuance of electronic money, related data processing and storing of data on an electronic device on behalf of another undertaking;
- 7) collection of payments;

- 8) currency exchange;
- 9) trustee operations;
- 10) securities trading in and other securities operations;
- 11) guarantee operations;
- 12) credit reference activity;
- 13) brokerage of shares and participations in housing corporations as well as of family-housing real estate relating to home saving activity;
- 14) other activity comparable to the activities referred to in paragraphs 1-13.

A deposit bank may also attend to postal services in accordance with a contract concluded with a holder of a license for postal operations as well as offer services relating to the management of an undertaking belonging to the same group or consolidation group with the deposit bank.

A deposit bank may be a limited company, a co-operative or a savings bank.

The deposit bank shall belong to a deposit-guarantee fund referred to in chapter 6 a.

Section 2 c

(31.1.2003/69)

Deposit

A *deposit* shall in this Act mean repayable funds which have to be compensated in full or in part from the deposit-guarantee fund in accordance with section 65 j.

Only funds referred to in subsection 1 may in marketing be referred to as "deposits" either as such or as part of a compound. Marketing relating to other acquisition of repayable funds from the public may not be carried out in a manner that can hamper the distinguishing of deposits from other repayable funds.

Deposits may be accepted only to accounts the general terms of which have been approved by the Financial Supervision Authority.

Section 2 d

(31.1.2003/69)

Financing institution

A financing institution is a credit institution which may accept repayable funds other than deposits from the public as well as carry on the activity referred to in section 1, subsection 1, paragraphs 1 and 2.

A financing institution may carry on business activity referred to in section 2 b, subsection 2 and related activities other than acquisition of deposits from the public. A financing institution may not accept from the public other funds repayable on demand otherwise than in connection with general payment transmission and the issuance of electronic money. A financing institution may carry on mortgage credit banking activity as provided for in the Act on Mortgage Credit Banks (1240/1999).

A financing institution may be a limited company, a co-operative or a mortgage society referred to in the Act on Mortgage Societies (936/1978).

The provisions of sections 51-54 on a deposit shall be applied to funds repayable on demand accepted to an account by the financing institution for general payment transmission.

Section 2 e

(31.1.2003/69)

Payment institution

A payment institution is a credit institution which may carry on the activity referred to in section 1, subsection 1, paragraph 2.

A payment institution may carry on business activities referred to in section 2 b, subsection 2, paragraphs 1, 2, 5, 6 and 8 and related business activity other than the acquisition of deposits from the public. Nor may a payment institution accept from the public other funds repayable on demand otherwise than in connection with general payment transmission and the issue of electronic money. A payment institution may not grant credits.

A payment institution may be a limited company or a co-operative.

A payment institution may not own shares or participations in other organizations than in an ancillary banking services undertaking referred to in section 3 a. The payment institution may not conclude derivatives agreements other than interest-rate and foreign-exchange-related standardized derivatives agreements

which are subject to a daily margin requirement and the purpose of which is to cover the risks relating to the funds and liabilities of the payment institution.

The provisions of sections 51-54 on a deposit shall be applied to funds repayable on demand accepted to an account by the payment organization for general payment institution.

Section 3

(31.1.2003/69)

Financial institution

For the purposes of this Act, a *financial institution* shall mean an organization other than a credit institution whose main activity is to offer services referred to in section 2 b, subsection 2, paragraphs 3-11 or to acquire holdings. A financial institution shall not comprise an insurance holding company referred to in the Act on Insurance Companies or a holding company of a conglomerate referred to in the Act on the Supervision of Financial and Insurance Conglomerates (44/2002).

Section 3 a

(26.7.1996/570)

Ancillary banking services undertaking

In this Act a ancillary banking services undertaking shall mean a firm whose main activity is to produce services for one or several credit institutions by owning, possessing or managing real estates or to produce services relating to data processing or other corresponding services relating to the main activities of the credit institution to one or several credit institutions.

Section 4

Financial holding company

In this Act a *financial holding company* shall mean a financial institution whose subsidiaries are mainly credit or financial institutions and at least one of whose subsidiaries is a credit institution.

The Financial Supervision Authority shall, after having learned that a financial holding company belongs to a consolidation group referred to in section 5, make a decision thereon and notify the parent company of the consolidation group thereof without delay. (25.1.2002/45)

Section 4 a
(5.12.1996/949)
Close link

In this Act a close link shall mean an engagement which arises when:

1) a natural person or a legal person directly or indirectly holds at least 20 per cent of the shares, membership participations, guarantee participations or partnership participations of a company; (25.1.2002/45)

2) a natural person or a legal person directly or indirectly has at least 20 per cent of the votes carried by the shares, membership participations, guarantee participations or partnership participations of an organization and the number of votes is based on holding, membership, the Articles of Association, the Articles of Incorporation or corresponding rules or other agreement; or when (25.1.2002/45)

3) a natural person or a legal person directly or indirectly has the right to appoint or dismiss at least one-fifth of the members of the Board of Directors or a corresponding body of a legal entity or the members of a body of a legal entity which has the said right, and the right of appointment or dismissal is based on the same facts as the number of votes as referred to in subparagraph 2.

If a natural person has a holding, number of votes or the right of appointment or dismissal referred to in paragraph 1 together with his spouse or with a person living with him in conditions resembling marriage, with his descendant or ascendant or with the spouse of such a person or with a person living in conditions resembling marriage with such a person or with a person who is otherwise economically significantly dependent on him, a close link shall also be deemed to exist between the natural person, the person living with him in conditions as referred to above in this paragraph and an organization or other legal person as referred to in paragraph 1.

A close link shall also arise between two or more legal persons who are under the control of the same natural or legal person.

Section 5

(19.12.1997/1340)

A group and a consolidation group

For the purposes of this Act, a group, parent company and subsidiary mean a group, parent company and subsidiary as referred to in the Accounting Act (1336/1997).

The consolidation group of a credit institution shall comprise the credit institution, its Finnish or foreign holding company as well as a Finnish or foreign credit institution, financial institution and ancillary banking services undertaking

1) over which the credit institution or its holding company exercises control in the manner referred to in chapter 1, sections 5 and 6 of the Accounting Act;

2) which has joint management with the credit institution, its holding company or their subsidiary; or

3) which is managed on a unified basis with the credit institution, its holding company or their subsidiary.

The provisions of paragraph 2, subparagraphs 2 and 3 on a subsidiary shall correspondingly be applied to an undertaking to which a credit institution or its holding company has a relationship referred to in subparagraph 2 or 3.

A holding company as well as a credit institution which exercises the control referred to in paragraph 2, subparagraph 1 over a credit institution, financial institution or ancillary banking services undertaking or has a relationship referred to in paragraph 2, subparagraph 2 or 3 to a credit institution, financial institution or ancillary banking services undertaking with a smaller balance sheet total shall in this Act be called the parent company of a consolidation group. A credit institution, financial institution or ancillary banking services undertaking over which a credit institution or a holding company exercises the control referred to in paragraph 2, subparagraph 1 as well as a credit institution, financial institution and ancillary banking services undertaking to which a holding company or credit institution with a bigger balance sheet total has a relationship referred to in paragraph 2, subparagraph 2 or 3 shall in this Act be called a subsidiary of a consolidation group.

In addition to the provisions above, when applying the provisions of section 16, subsection 4 as well as sections 21, 22 and 65 d of this Act, the notions of

parent company of a consolidation group and financial institution shall, unless the Financial Supervision Authority provides otherwise in an individual case, comprise a holding company of a conglomerate referred to in the Act on the Supervision of Financial and Insurance Conglomerates (699/2004), in the conglomerate of which the share of financial undertakings, calculated in accordance with section 4, subsection 2 (1) of the said Act, is bigger than that of insurance undertakings, and that the notion of subsidiary of a consolidation group shall comprise a management company and a custodian referred to in the Act on Common Funds (48/1999), in which the parent company of the consolidation group exercises the control referred to in subsection 2 (1). The Financial Supervision Authority shall, prior to making the decision referred to in this subsection, request an opinion on the issue from other central supervisory authorities. (30.7.2004/700)

A subsidiary of a consolidation group whose balance sheet total is less than one per cent of the balance sheet total of its parent company last adopted and less than an amount in marks corresponding to 10 million ECU need not be included in a consolidation group. If the balance sheet total of such a subsidiary of a consolidation group together with the balance-sheet total of the other such subsidiaries of the consolidation group is at least five per cent of the consolidated balance-sheet total or if the undertaking has to be included in the consolidated annual accounts, it shall, however, be included in the consolidation group. (25.1.2002/45)

An undertaking belonging to a consolidation group may be excluded in the application of the provisions on consolidated supervision in accordance with a decision issued by the Financial Supervision Authority in each separate case if the application is not necessary to achieve the goals of the consolidated supervision of the credit institution. (25.1.2002/45)

Section 5 a
(26.7.1996/570)
Trading book

The trading book of a credit institution and an undertaking belonging to the same consolidation group shall consist of:

1) securities, commodities and derivatives contracts which the credit institution or an undertaking belonging to the same consolidation group has acquired in order to benefit in the short term from actual or expected differences between their buying and selling prices or from other price or interest-rate fluctuations; (14.7.2000/684)

2) loans and derivatives contracts which hedge the items as referred to in subparagraph 1; as well as of

3) other items comparable with the items as referred to in subparagraphs 1 and 2.

The Financial Supervision Authority shall issue further provisions on the inclusion of the items as referred to in paragraph 1 in the trading book.

Section 5 b
(19.12.1997/1340)
Qualified holding

A qualified holding shall refer to a holding in a credit institution or in another undertaking which comprises at least ten per cent of all the shares or participations in a credit institution or another undertaking or a portion of shares or participations that carries at least ten per cent of the votes carried by all the shares or participations.

Section 5 c
(31.1.2003/69)
Group of companies

For the purposes of this Act, a group of companies shall mean:

1) a group referred to in the Accounting Act;

2) a group comprising a central organization, undertakings belonging to the same group as the central organization as well as undertakings having a close and permanent business link to the central organization or to an undertaking belonging to the same group with it;

3) undertakings operating in the same building or on the same lot or on a clearly marked area comparable thereto.

Section 6

Other applicable legislation

A credit institution shall be governed by the legislation on limited companies, cooperatives or mortgage societies unless otherwise provided for in this Act. The duty of a credit institution to belong to an investor-compensation fund, hereinafter the compensation fund, shall be governed by the Act on Investment Firms (579/1996). (10.7.1998/524)

A deposit bank shall further be governed by the Act on Commercial Banks and Other Credit Institutions in the Form of a Limited Company (1501/2001), the Act on Savings Banks or the Act on Cooperative Banks and other Credit Institutions in the Form of a Cooperative. (28.12.2001/1500)

Paragraph 3 repealed by **Act of 28.12.2001/1500**.

Section 6 a

(13.6.2003/482)

Preparedness

A credit institution and a financial institution whose main business activity is to offer payment card and payment services shall ensure attendance to its duties with as little disturbance as possible also in exceptional circumstances by participating in the preparedness planning of financial markets and by preparing in advance the actions to be taken in exceptional circumstances as well as by other measures.

If the tasks resulting from subsection 1 require measures which clearly differ from the operations of a credit institution or financial institution to be considered ordinary and which entail considerable additional costs, such costs may be reimbursed from the National Emergency Supply Fund referred to in the Act on the Protection of National Emergency Supply (1390/1992).

The Financial Supervision Authority may issue instructions on the application of subsection 1.

The Act 13.6.2003/482 entered into force 1.8.2003. The obligation provided for in section 6 a of this Act shall be fulfilled at the latest within three years from the entry into force of this Act.

Section 7 repealed by Act of 31.1.2003/69.

Section 8

Trade name

(30.7.2004/700)

Other than a deposit bank, the Bank of Finland or the Nordic Investment Bank may not use the term "bank" in its trade name unless it is evident that the use of the term does not misleadingly refer to the activity of a deposit bank.

Notwithstanding the provisions of subsection 1, an undertaking may use in its trade name a reference to the trade name of a deposit bank belonging to the same group, consolidation group or financial or insurance conglomerate. An undertaking belonging to the consortium of co-operatives may also use in its trade name a reference to co-operative banks.

The provisions of this subsection shall correspondingly apply to an auxiliary trade name and a secondary symbol.

Section 9

(26.7.1996/576)

Supervision

Compliance with this Act and provisions issued thereunder by the authorities shall be supervised by the Financial Supervision Authority as referred to in the Act on the Financial Supervision Authority (503/1993). Savings banks shall further be supervised by the Savings Bank Inspectorate and cooperative banks belonging to the Consortium of Cooperative Banks shall be supervised by the Central Association of the Consortium.

Section 9 a

(30.7.2004/700)

The regional scope of application of the provisions applicable to a consolidation group

The provisions of this Act on a consolidation group shall be applied to a consolidation group comprising at least one Finnish credit institution

- 1) the domicile of the parent company of which is in Finland; or
- 2) the domicile of the parent company of which is in another State belonging to the European Economic Area if both of the following preconditions are met:

- a) there is no credit institution in the home State of the parent company of the consolidation group;

- b) the balance sheet total of the Finnish credit institution belonging to the consolidation group is bigger than the balance sheet total of any credit institution whose domicile is in another State belonging to the European Economic Area.

The Act shall also be applied to another consolidation group than that referred to in subsection 1 which meets all the following preconditions:

- 1) the parent company of the consolidation group or at least one credit institution belonging to the consolidation group has its domicile in Finland;

- 2) the parent company of the consolidation group or at least one credit institution belonging to the consolidation group has its domicile in a State belonging to the European Economic Area;

- 3) the Financial Supervision Authority has, in the manner referred to in section 9 b, subsection 2, agreed with the authorities in charge of the supervision of the foreign credit institutions belonging to the consolidation group that the Financial Supervision Authority acts as the supervisory authority in charge of consolidated supervision and that the consolidated supervision shall be governed by the laws of Finland.

Notwithstanding the provisions of subsection 1, the Act shall not be applied if the Financial Supervision Authority has agreed with the authorities in charge of the supervision of the foreign credit institutions belonging to the consolidation group that the competent authority of another State belonging to the European Economic Area assumes responsibility for the consolidated supervision.

Transfer of the supervisory duty to another supervisory authority

In derogation from the provisions of 9 a, the Financial Supervision Authority may conclude a contract with the supervisory authority of one or several other States belonging to the European Economic Area that the supervisory authority of another State belonging to the European Economic Area shall act as the supervisory authority in charge of consolidated supervision. The contract referred to in this subsection may be concluded if the parent company of the consolidation group is not a regulated Finnish undertaking.

The Financial Supervision Authority may, subject to the preconditions set in section 9 a, subsection 2, conclude a contract with the supervisory authority of one or several States belonging to the European Economic Area that the Financial Supervision Authority shall act as the supervisory authority in charge of consolidated supervision in the consolidation group referred to in section 9 a, subsection 2.

The contract referred to in subsections 1 and 2 may be concluded for a weighty reason required by the arrangement of efficient supervision of a consolidation group. A written memorandum of understanding shall be drawn up of the contract and it shall be signed by all the authorities in charge of the supervision of the credit institutions belonging to the consolidation group and the parent company of the consolidation group shall be notified thereof.

Chapter 2

Establishment and ownership of a credit institution

Section 10

(27.6.2003/588)

Authorization

The Financial Supervision Authority shall grant the authorisation of a credit institution on application. The authorisation may be granted for the activity of a deposit bank, a credit society or a payment organisation. The accounts to be attached to the application for authorisation shall be provided for by a Decree of the Ministry of Finance.

An opinion of the deposit-guarantee fund shall be requested on the application for authorisation of a deposit bank. An opinion of the investors' compensation fund shall also be requested on the application for authorisation if, in accordance with its Articles of Association, the credit institution may offer investment services. (30.7.2004/700)

If the organisation applying for an authorisation is a subsidiary of a credit institution, an investment firm or an insurance company authorised in another State belonging to the European Economic Area or a subsidiary of a parent company of such credit institution, investment firm or insurance company, an opinion of the relevant supervisory authority of that State shall be requested on the application. The same procedure shall apply if control in the organisation applying for the authorisation is exercised by the same natural or legal persons that exercise control over such credit institution, investment firm or insurance company. In the request for an opinion referred to in this subsection, the party submitting the opinion shall especially be requested to assess the suitability of the shareholders as well as the reputation and experience of the managers participating in the management of another undertaking belonging to the same group as well as notify any information regarding the said issues with relevance to the granting of the authorisation or the supervision of the credit institution. (30.7.2004/700)

The Financial Supervision Authority shall decide on the application for authorisation of a credit institution within six months of the receipt of the application or, if the application has been incomplete, of the submission by the applicant of the documents and accounts necessary for deciding the issue. A decision on the authorisation shall, however, always be made within 12 months of the receipt of the application. (30.7.2004/700)

If the decision has not been issued within the period provided for in subsection 3, the applicant may file a complaint. The complaint shall in that case be deemed to be directed at a decision rejecting the application. Such complaint may be filed until the decision has been given. The Financial Supervision Authority shall notify the appeal authority of the issue of the decision if the decision has been issued after the complaint has been filed. The provisions of the Procedure in Administrative Matters Act (586/1996) shall, where applicable, apply to the filing and handling of a complaint as referred to in this paragraph. (30.7.2004/700)

An authorisation shall also be granted to a European company referred to in Council Regulation (EC) No 2157/2001 on the Statute for a European company (SE), hereinafter the European company regulation, which has been granted a corresponding authorisation in another State belonging to the European Economic Area and which is aiming to transfer its domicile to Finland in accordance with section 8. An opinion of the authority supervising the financial markets of the State in question shall be requested on the application for authorisation. The same shall apply to the establishment of a European company by merger so that the receiving company whose domicile is in another State will be registered as a European company in Finland. (30.7.2004/700)

The Act of 27.6.2003/588 entered into force 1.7.2003. If an application for authorisation has been submitted to the Ministry of Finance prior to the entry into force of this Act, the Act in force upon the entry into force of this Act shall be applied to the handling of the authorisation.

Section 11

Granting an authorization

An authorisation shall be granted if, on the basis of the account received, it can be ascertained that the credit institution fulfils the general preconditions for the granting of an authorisation provided for in subsection 2 as well as the other requirements set for a credit institution elsewhere in this Act. An authorisation may also be granted to a credit institution to be established prior to its registration. (27.6.2003/588)

The general preconditions for the granting of an authorisation shall be that:
(27.6.2003/588)

1) on the basis of the reliability and suitability of the owners and the management personnel, the credit institution shall be managed with professional skill and in compliance with sound and careful business principles;

2) the close link between the credit institution and another legal person or a natural person as referred to in section 4 a shall not prevent the efficient supervision of the credit institution;

3) the acts, decrees or administrative provisions of a State outside the European Economic Area to be applied to a natural or legal person in a close link with the credit institution shall not prevent the efficient supervision of the credit institution; and that

4) the main office of the credit institution is located in Finland. (5.12.1996/949 and 27.6.2003/588)

If a credit institution belongs to a consolidation group which, under section 9 a, is not governed by the laws of Finland, another precondition for the granting of the authorisation is that it can be ascertained that the foreign authority has sufficient competence to supervise the entire consolidation group in a manner comparable to this Act or that the belonging of the credit institution to such consolidation group will not otherwise endanger the stability of the operation of the credit institution. The belonging of a credit institution to a consolidation group referred to in this subsection shall be deemed to endanger the stability of the operation of the credit institution unless it can be proved that the consolidated solvency, consolidated large exposures, the internal supervision of the consolidation group and its risk-management methods as well as the suitability and reliability of the owners and the management of the holding company comply with the requirements of this Act. The provisions of this subsection on a consolidation group shall correspondingly be applied to a financial and insurance conglomerate other than one referred to in section 6, subsection 1 or 2 of the Act on the Supervision of Financial and Insurance Conglomerates. (30.7.2004/700)

After hearing the applicant for the authorisation, the Financial Supervision Authority shall have the right to include restrictions and conditions in the authorisation concerning the business activity of the credit institution and necessary for the supervision. After the granting of the authorisation, the Financial Supervision Authority may, on application by the credit institution, change the terms of the authorisation. (27.6.2003/588 and 30.7.2004/700)

Unless provided otherwise in the terms of the authorisation, the credit institution may commence its operations immediately after the authorisation has been granted and the credit institution has submitted the information referred to in section 17 to the Financial Supervision Authority as well as, if the authorisation has been granted to an undertaking to be established, after the undertaking has been registered. (27.6.2003/588 and 30.7.2004/700)

Section 11 a

(13.8.2004/748)

Declaration of the authorization for registration

The Financial Supervision Authority shall declare the authorisation for registration. The authorisation of a deposit bank shall also be notified to the deposit-guarantee fund and the authorisation of a credit institution offering investment services to the investors' compensation fund. The authorisation granted to an undertaking to be established and a European company transferring its registered office to Finland shall be registered simultaneously with the registration of the undertaking.

Section 12

Withdrawal of the authorization or restriction of business

The Financial Supervision Authority may withdraw the authorisation of a credit institution if: (27.6.2003/588)

- 1) its activity has materially violated an Act or decrees or provisions issued or confirmed thereunder by the authorities;
- 2) it has ceased to engage in business for more than six months or if it has been placed in liquidation; (28.12.2001/1500)
- 3) it no longer fulfills the conditions under which the authorization was granted;
- 4) it does not start operating within 12 months from the date of the authorization; or if
- 5) false information has been given in the application for authorization.

Withdrawal of the authorization on request of a credit institution shall be governed by the Act on Commercial Banks and Other Credit Institutions in the Form of a Limited Company, the Act on Savings Banks as well as by the Act on Cooperative Banks and other Credit Institutions in the Form of a Cooperative. (28.12.2001/1500)

The Financial Supervision Authority shall withdraw the authorisation when a credit institution has been placed in bankruptcy, ordered into liquidation by a decision of a registration authority or a court of law or when the liquidators have presented the final settlement relating to liquidation. (19.5.2004/411)

The Financial Supervision Authority shall declare the withdrawal of the authorisation for registration. The withdrawal of the authorisation shall also be declared to the deposit-guarantee fund, the guarantee fund and the investor-compensation fund if the credit institution is a member of the fund. (27.6.2003/588)

The Financial Supervision Authority may restrict the activity of a credit institution as referred to in the authorisation for a fixed period of time and, if the state of affairs has not been corrected within the fixed period of time, after the termination of the fixed period of time, change the terms of the authorisation to restrict the activity permanently if incompetence or carelessness has been found in the management of the credit institution and if it is evident that this may seriously damage the stability of the financial markets, the undisturbed operation of the payment systems or the interests of the creditors. (27.6.2003/588)

A decision referred to in paragraphs 1 and 5 which has been appealed against shall, notwithstanding the appeal, be in force until further notice unless otherwise decided by the appeal authority. (28.12.2001/1500)

Upon withdrawal of the authorisation of a credit institution which also operates in another State belonging to the European Economic Area or upon restricting the activity of a credit institution as referred to in its authorisation, the Financial Supervision Authority shall inform the supervisory authority of the State in question of its decision. (27.6.2003/588)

When the authorisation of a credit institution has been withdrawn, the operation of a credit institution may, with the consent of the Financial Supervision Authority and under its supervision, be continued to an extent required by a proper liquidation. (19.5.2004/411)

The Act of 19.5.2004/411 entered into force 31.5.2004. A liquidation and a bankruptcy commenced before the entry into force of this Act shall be governed by the provisions in force upon the entry into force of this Act.

Section 13

Initial capital

(31.1.2003/69)

The share capital, co-operative capital or basic capital of a deposit bank and a financing institution shall not be less than five million euros. The share capital or co-operative capital of a payment institution shall not be less than one million euros. The capital shall be fully subscribed when the authorization is granted.

Section 14

(31.1.2003/69)

Contents of the Articles of Association and the rules of a deposit bank and a credit society

The Articles of Association or the rules of a deposit bank and a financing institution shall indicate whether the deposit bank or financing institution offers investment services referred to in section 3 of the Act on Investment Firms as well as safekeeping and administration services referred to in section 16, subsection 1, paragraph 5 of the said Act.

Section 15

Prohibition on co-management of a credit institution and an insurance company

(25.1.2002/45)

The Managing Director and Deputy Managing Director of a credit institution may not act as Managing Director or Deputy Managing Director of an insurance company belonging to the same group as the credit institution or to a conglomerate referred to in the Act on the Supervision of Financial and Insurance Conglomerates.

The majority of the members and deputy members of the Board of Directors of a credit institution shall be persons not acting as members or deputy members of the Board of Directors or as Managing Director or Deputy Managing Director of an

insurance company referred to in paragraph 1 unless an exemption therefrom is granted by the Financial Supervision Authority.

Section 16

Lending and investment in certain cases

Decisions concerning loans and other comparable financing to be granted to a natural person, an organisation or a foundation belonging to the close circle of a credit institution as well as decisions concerning investments in an undertaking belonging to the close circle or the general terms applicable to such lending and investment shall be approved by the Board of Directors of the credit institution. The provisions of section 71 a, subsection 3 shall apply to the terms of business transactions referred to in this section other than those of ordinary personnel loans.(30.7.2004/700)

The close circle of a credit institution shall comprise:

1) anyone who, on the basis of ownership, an option right or a convertible loan holds or may hold at least 5 per cent of the shares or participations of a credit institution or of the voting rights attached thereto or a corresponding holding or corresponding voting rights in an organisation belonging to the group of the credit institution or exercising dominant influence over the credit institution unless the company subject to the ownership is insignificant with regard to the entire group;

2) a member of the Supervisory Board, a member and a deputy member of the Board of Directors, a managing director and his deputy, an auditor as well as a person in a corresponding position in an undertaking referred to in paragraph 1;

3) the children and the spouse of a person referred to in paragraphs 2-3 or a common-law spouse;

4) an organisation and foundation where a person referred to in this subsection alone or together with another person exercises the dominant influence referred to in chapter 1, section 5 of the Accounting Act. (30.7.2004/700)

A credit institution shall keep a list of the natural persons, organisations and foundations referred to in subsection 2. The information in the list and any

changes therein as well as the decisions or terms referred to in subsection 1 concerning the loans granted to natural persons, organisation and foundations mentioned in the list or investments in an organisation shall be notified to the Financial Supervision Authority. (30.7.2004/700)

A credit institution may not grant a loan to a group company which does not belong to its consolidation group for the acquisition of shares, participations, capital loans or debentures of an undertaking belonging to the consolidation group. (25.1.2002/45 and 30.7.2004/700)

The provisions of this section on the granting of a loan shall correspondingly be applied to the granting of a guarantee or to the placing of another security for the payment of the loan granted by the other party. (25.1.2002/45 and 30.7.2004/700)

The provisions of this section on a credit institution shall correspondingly be applied to a Finnish financial institution belonging to the same consolidation group as the credit institution. (30.7.2004/700)

The Financial Supervision Authority may issue further provisions necessary with regard to supervision on the recording of the decisions referred to in subsection 1 as well as on the keeping of the list referred to in subsection 3 and on the notifying of the information referred to in the said subsection to the Financial Supervision Authority. The Financial Supervision Authority may also issue further provisions with regard to supervision as to when a company referred to in subsection 2 (1) is deemed insignificant with regard to the group. (30.7.2004/700)

Section 17

Information to be submitted to the Financial Supervision Authority

A credit institution may not commence its activity before it has obtained an authorization and submitted to the Financial Supervision Authority:

The subparagraph 1 repealed by Act of 27.6.2003/588.

2) a complete extract from the Trade Register on the credit institution containing its Articles of Association or bylaws;

3) the names of and other necessary information on the members and deputy members of the Supervisory Board and the Board of Directors as well as on

the Managing Director and Deputy Managing Director as well as on the auditors and deputy auditors; (5.12.1996/949)

4) the general instructions confirmed by the Meeting of the Trustees or the Supervisory Board concerning the activity of the credit institution and the supervisors elected by the Supervisory Board; as well as (5.12.1996/949)

5) an account of a close link referred to in section 4 a between a credit institution and another legal person or a natural person; (31.1.2003/69)

6) an account of the extent to which the credit institution intends to provide services through an agent or to refer tasks relating to risk management and internal supervision to be attended to by another undertaking. (31.1.2003/69)

Any changes in the information as referred to in paragraph 1 shall be forwarded to the Financial Supervision Authority without delay.

Section 17 a

Management of a credit institution and a holding company

(27.6.2003/588)

The Board of Directors and the Managing Director of a credit institution shall manage the credit institution with professional skill as well as in accordance with sound and prudent business principles. The members and deputy members of the Board of Directors as well as the Managing Director and deputy Managing Director shall be trustworthy persons who are not bankrupt and whose capacity has not been restricted. The members and deputy members of the Board of Directors as well as the Managing Director and the deputy Managing Director shall also possess such general knowledge of credit-institution activity as is deemed necessary with regard to the nature and scope of the operations of the credit institution. (30.7.2004/700)

A person referred to in subsection 1 shall not be deemed trustworthy if he has, with a non-appealable judgement, been sentenced to imprisonment within the last five years or to a fine within the last three years for a crime which can be deemed to indicate that he is manifestly unsuitable as a member or deputy member of the Board of Directors or the Managing Director or deputy Managing Director of the holding company of a credit institution. (30.7.2004/700)

The Financial Supervision Authority may, for a fixed period of time not exceeding five years, prohibit a person from acting as a member or deputy member of the Board of Directors or as a Managing Director or deputy Managing Director of a credit institution if:

1) the person, in attending to his duties, has shown clear incompetence or carelessness and if it is evident that this may seriously damage the stability of the business activity of the credit institution, the position of depositors or investors or the interests of the creditors; or if

2) he no longer fulfils the requirements provided for in subsection 1. (30.7.2004/700)

The provisions of subsections 1-3 shall correspondingly apply to a holding company. The holding company shall, without delay, notify the Financial Supervision Authority of any changes in the management referred to in subsection 1.

Section 18

Notification of an acquisition of shares and participations

(25.1.2002/45)

Anyone who intends to acquire, directly or indirectly, a holding in a credit institution or a financial holding company which is at least 10 % of its share or cooperative capital or which produces at least 10 % of the voting rights carried by its shares or participations, shall notify the Financial Supervision Authority of the acquisition in advance. (25.1.2002/45)

If a holding referred to in paragraph 1 is increased so that the proportion of the share capital or cooperative capital or voting rights held reaches 20, 33 or 50 % or so that the credit institution or financial holding company becomes a subsidiary, the Financial Supervision Authority shall likewise be notified of the acquisition in advance. (25.1.2002/45)

When calculating the proportion of the holding and the voting rights referred to in paragraphs 1 and 2, the provisions of chapter 1, section 5 and chapter 2, section 9, paragraphs 1 and 2 of the Securities Markets Act shall be applied. (29.12.1999/108)

A notification as referred to in paragraphs 1 and 2 shall also be made when the proportion of holdings falls below one of the thresholds laid down in paragraphs 1 and 2. (19.12.1997/1340)

The credit institution and the financial holding company shall notify the Financial Supervision Authority of the names of owners of holdings referred to in paragraphs 1 and 2 as well as of the sizes of such holdings at least once a year as well as immediately communicate any changes in the ownership of such holdings that have come to its notice. (25.1.2002/45)

The notifications shall contain the necessary information on the size of the holding and the name of the holder as well as the customer exposures of the holder. (19.12.1997/1340)

The notification referred to in this section need not be submitted if the holding in a credit institution or a financial holding company is acquired indirectly by acquiring shares in the holding company of a conglomerate referred to in the Act on the Supervision of Financial and Insurance Conglomerates and if a notification of such acquisition in the holding company is submitted to the Insurance Supervision Authority. (25.1.2002/45)

Section 19

(25.1.2002/45)

Objection to an acquisition

The Financial Supervision Authority may, within three months of the receipt of a notification referred to in section 18, object to the acquisition of the holding if, in accordance with information obtained on the reliability and suitability of the holders or otherwise, it is likely that the holding would endanger the business operations of the credit institution or its consolidation group carried out in accordance with prudent and sound business principles.

If an acquisition is not notified or if a holding is acquired despite the objection of the Financial Supervision Authority, the Financial Supervision Authority may forbid the entry in the share register and shareholder register or in the list of members of the title relating to the shares or participations acquired by a shareholder or a holder of a participation. If, after the acquisition, the Financial Supervision Authority notes that the holding seriously endangers the operations of

the credit institution or the holding company being carried out in accordance with prudent and sound business principles, the Financial Supervision Authority may demand that an entry relating to title to the shares or participations made in the share register and shareholder register or in the list of members be declared void for a period of time of not more than a year at a time.

If the result of the acquisition is that the credit institution becomes a subsidiary of a credit institution, investment firm or insurance company authorized in another State belonging to the European Economic Area or a subsidiary of the parent company of such credit institution, investment firm or insurance company, the Financial Supervision Authority shall request an opinion on the acquisition from the corresponding supervisory authority of that State. The same procedure shall apply if control of a credit institution is transferred to the same natural or legal persons as in the credit institution, investment firm or insurance company referred to above.

Section 19 a
(25.1.2002/45)

Acquisition of dominant influence in an undertaking outside the European Economic Area

A credit institution or an undertaking belonging to its consolidation group may not acquire a dominant influence referred to in chapter 1, section 5 of the Accounting Act in a credit institution, investment firm, management company or insurance company whose registered office is in a State outside the European Economic Area unless the undertaking has notified the Financial Supervision Authority thereof in advance or if the Financial Supervision Authority, upon receipt of the notification, has forbidden the acquisition within the period of time provided for in subsection 2. (30.7.2004/700)

The Financial Supervision Authority may, within three months from receipt of the notification referred to in paragraph 1, object to the acquisition referred to in paragraph 1 if the laws, decrees and administrative provisions applicable to the undertaking subject to the acquisition would materially endanger the efficient supervision of the credit institution or its consolidation group.

The notification referred to in this section need not be submitted if the undertaking referred to in paragraph 1 belongs to a conglomerate referred to in the Act on the Supervision of Financial and Insurance Conglomerates and if a corresponding notification has been submitted to the Insurance Supervision Authority.

Chapter 3

Operation of a credit institution

Section 20 repealed by **Act of 31.1.2003/69**.

Section 21

(19.12.1997/1340)

Ratio of qualified holdings to the own funds

A credit institution may not invest more than 15 per cent of its own funds in the shares, participations or capital loans of any one undertaking other than a credit institution or a financial institution or an ancillary banking services undertaking where the credit institution has a qualified holding.

The total amount of investments as referred to in paragraph 1 of a credit institution may not exceed 60 per cent of the own funds of the credit institution.

An undertaking belonging to the consolidation group of a credit institution may, either alone or jointly with other undertakings belonging to the consolidation group, invest in the shares, participations or capital loans of undertakings referred to in paragraph 1 in which the undertakings belonging to the consolidation group together have a qualified holding, at most an amount corresponding to the amount referred to in paragraphs 1 and 2 of the consolidated own funds of the credit institution. (25.1.2002/45)

In calculating the amount of the investments referred to in paragraphs 1 - 3, the amount of voting rights shall, where applicable, be calculated in compliance with the provisions of chapter 1, section 5 of the Accounting Act.

In calculating the amount of investments referred to in paragraphs 1 - 3, also the shares and participations of a financial institution and ancillary banking services

undertaking which does not belong to the consolidation group of the credit institution but which is an affiliated company of the credit institution as referred to in the Accounting Act shall be deemed to be owned by the credit institution and its consolidation group in the same proportion as the credit institution holds shares or participations in the financial institution or ancillary banking services undertaking. Shares, the specifications on which may be omitted from the annual accounts in accordance with chapter 11, section 8, paragraph 1, subparagraph 1 of the Companies Act (734/1978) as well as corresponding participations may, however, be disregarded.

Shares subscribed to by a credit institution or an undertaking belonging to its consolidation group under an underwriting commitment in connection with a share issue arranged by it shall not, however, be taken into account in calculating the ratios referred to in paragraphs 1 - 3 above nor shall shares in an insurance company referred to in the Insurance Companies Act (1062/1979) or shares or participations whose holding is necessary for the restructuring of the business of a customer of the credit institution or an undertaking belonging to its consolidation group.

Section 22

(19.12.1997/1340)

Restriction on ownership of real estate as well as shares and participations in real-estate companies

A credit institution may invest in real estate as well as in shares and participations of real-estate companies at most an amount which is 13 per cent of the sum total of its balance sheet value. A credit institution may together with undertakings belonging to its consolidation group invest in real estate as well as in shares and participations of real-estate companies at most an amount which is 13 per cent of the sum total of the consolidated balance sheet value of the credit institution.

In calculating the ratio referred to in paragraph 1, loans and guarantees granted to a real-estate company by the credit institution and an undertaking belonging to its consolidation group shall be comparable to the shares and participations held by the credit institution and by an undertaking belonging to its

consolidation group in a real-estate company in proportion to the ratio of the shares or participations held by the credit institution or an undertaking belonging to its consolidation group in the real-estate company to the share capital or cooperative capital of the real-estate company. In calculating the consolidated ratio referred to in paragraph 1, loans and guarantees granted to a real-estate company belonging to the consolidation group of the credit institution shall not be included therein if the real-estate company is included in the consolidated balance sheet.

In calculating the ratio referred to in paragraph 1, real estate and shares or participations of a real-estate company are to be disregarded if:

1) the credit institution or an undertaking belonging to its consolidation group has received them as collateral for an unsettled claim; or if

2) they have been leased in connection with financing operations and the risk resulting of any decrease in their value has, in pertinent part, been transferred to the leaseholder by agreement.

The consolidated balance sheet of a credit institution referred to in paragraph 1 shall be drawn up as a combination of the balance sheets of the undertakings belonging to the consolidation group in compliance with the provisions of the Accounting Act and section 39 on the drawing up of consolidated annual accounts. (25.1.2002/45)

The Financial Supervision Authority may, for a special reason, grant an exemption from the requirements of paragraph 1 for a set period of time.

Section 23 repealed by **Act of 19.12.1997/1340**.

Section 24

Re-pledging of collateral

Collateral pledged to a credit institution may not be re-pledged by the credit institution without permission of the owner.

Section 24 a

(19.12.1997/1340)

Financing of the acquisition and acceptance as a pledge of own shares, participations, capital loans and subordinated debts

A credit institution and a financial institution belonging to its consolidation group may grant a loan for the acquisition of its own shares or participations and shares and participations of the parent company and accept them as a pledge only subject to the restrictions laid down in paragraphs 2 and 3. Placing of collateral for the payment of a loan referred to above from the funds of a credit institution or a financial institution belonging to its consolidation group shall be deemed comparable to granting a loan.

A credit institution and a financial institution belonging to its consolidation group may, unless otherwise provided for in paragraph 3, without prejudice to the provisions of chapter 7, section 1, paragraph 1 and chapter 12, section 7, paragraphs 3 and 6 of the Limited Companies Act, chapter 8, section 7, paragraph 1 of the Act on Cooperatives as well as section 34, paragraph 3 of the Promissory Notes Act (622/1947), grant a loan for the acquisition of its own shares and participations or the shares and participations of the parent company or accept them as a pledge if they are listed securities or market securities referred to in chapter 1, section 3 of the Securities Markets Act (495/1989) and if the granting of the loan or acceptance of the pledge belongs to the ordinary business operations of the credit institution or a financial institution belonging to its consolidation group and if the loan has been granted or the pledge accepted under ordinary terms complied with in the operation of the credit institution or the financial institution.
(28.12.2001/1500)

A credit institution and a financial institution belonging to its consolidation group may accept as a pledge its own shares and participations and the shares and participations of the parent company as collateral for a loan granted for the financing of their subscription at most in an amount which corresponds in its nominal value to 10 per cent of the restricted capital of the undertaking which has granted the loan or, if the shares or participations pledged are those of the parent company of the undertaking which has granted the loan, of the restricted capital of the parent company.

The provisions above of this sections on the own shares and participations and the shares and participations of the parent company shall correspondingly apply to own basic-fund certificates, investment participations, capital investments, capital loans, subordinated debts and other commitments subordinate to the other debts of the issuer as well as to those issued by the parent company

Section 25

(31.1.2003/69)

Place of business and use of an agent

A credit institution shall have at least one fixed place of business for its activity. It may also carry on its activities in branch offices and other places of business. A credit institution may carry on its business activities also through an agent if the use of an agent does not impede the risk management and internal supervision of the credit institution nor other attendance to the business activities of the credit institution.

Upon referring its business activities to be attended to by an agent, the credit institution shall ensure that the credit institution continuously receives from the agent the information necessary for the supervision by authorities, risk management and internal supervision of the credit institution as well as that the credit institution can convey this information further to the Financial Supervision Authority and also to the Savings Bank Inspectorate if the credit institution is subject to supervision by the Savings Bank Inspectorate.

A credit institution which intends to carry on business activities through another agent than one belonging to the same consolidation group or consortium referred to in the Act on Co-operative Banks and Other Credit Institutions in the Form of a Co-operative (1504/2001) shall notify the Financial Supervision Authority thereof prior to referring the activities to be attended to by the agent. A notification need not be submitted if the business activities are carried on through an agent only to a minor extent. The Financial Supervision Authority shall be notified of significant changes taking place in the contractual relationship between the credit institution and the agent. The Financial Supervision Authority shall issue further provisions on

the contents of the notification as well as on cases where the business activities carried on through an agent may be deemed minor.

Section 26

Establishment of a branch in a State belonging to the European Economic Area

A credit institution that intends to establish a branch in a State belonging to the European Economic Area shall notify the Financial Supervision Authority thereof in advance. The notification shall provide information on the type of business envisaged as well as information on the management of the branch.

The Financial Supervision Authority shall, within three months from the receipt of the information referred to in paragraph 1, forward the information to the corresponding supervisory authority of the State in question as well as simultaneously provide information on the amount of own funds and solvency ratio of the credit institution, the deposit-guarantee scheme intended to protect the depositors, the investor-compensation scheme intended to protect the investors or on the lack thereof as well as other information necessary for the commencement of the operation of the branch. (10.7.1998/524)

The Financial Supervision Authority shall refuse to make the notification as referred to in paragraph 2 if it finds that the financial situation and the management of the credit institution do not comply with the requirements laid down for a credit institution in this Act. A branch may not be established if the Financial Supervision Authority has refused to make the notification. (26.7.1996/570)

Section 26 a

(26.7.1996/570)

Freedom of establishment and right to provide services of a financial institution belonging to a consolidation group

A financial institution belonging to a consolidation group may, after meeting the requirements set for the establishment of a branch or providing services in the European Economic Area, establish a branch or otherwise provide services in a State belonging to the European Economic Area. The provisions of sections 26 and 29 shall, where applicable, be applied to the establishment of a branch and the provision of services.

The Financial Supervision Authority shall examine that the requirements as referred to in paragraph 1 are met and, when a financial institution meets the requirements, issue a certificate thereof.

The financial institution shall notify the Financial Supervision Authority of any changes in circumstances that would have an effect on the requirements as referred to in paragraph 1. The Financial Supervision Authority shall notify the supervisory authority of the State belonging to the European Economic Area in question if the financial institution no longer meets the requirements as referred to in paragraph 1.

Section 27

Establishment of a branch in a State outside the European Economic Area (27.6.2003/588)

A credit institution that intends to establish a branch in a State outside the European Economic Area shall apply for authorisation for the establishment of the branch from the Financial Supervision Authority. The authorisation shall be granted if adequate supervision of the branch can be arranged and if, taking into consideration the management and financial status of the credit institution, the establishment of the branch is not likely to endanger the business activity of the credit institution. An opinion on the application shall be requested from the Bank of Finland. After hearing the applicant for the authorisation, the Financial Supervision Authority shall have the right to include restrictions and conditions in the authorisation concerning the business activity of the branch and necessary for the supervision.

The accounts to be attached to the application for authorisation shall be provided for by a Decree of the Ministry of Finance.

Section 28

Closing of a branch abroad (27.6.2003/588)

If the credit institution fails to fulfil the requirements provided for in sections 26 and 27, the Financial Supervision Authority may set a fixed period of time for rectification of the state of affairs and, unless the requirement is met within the fixed period of time, comply with the provisions of section 12, where applicable.

Section 29

Provision of services

A credit institution that intends to provide services as referred to in section 20 within the territory of another State without establishing a branch shall inform the Financial Supervision Authority in advance of the services it intends to provide.

The Financial Supervision Authority shall, within one month of receipt of the notification referred to in paragraph 1 communicate the information to the supervisory authority of a State belonging to the European Economic Area accompanied by its own notification as to whether the authorization of the credit institution in Finland covers the said services.

Section 29 a

(13.8.2004/748)

Transfer of the registered office to another State belonging to the European Economic Area

If a credit institution intends to transfer its registered office to another State belonging to the European Economic Area as provided for in article 8 of Council Regulation (EC) No 2157/2001 on the Statute for a European company (SE), hereinafter the European company regulation, the credit institution shall submit to the Financial Supervision Authority a copy of the transfer proposal and report referred to in article 8, paragraphs 2 and 3 of the European company regulation immediately after the credit institution has publicised the proposal for registration.

If the credit institution intends to continue credit-institution activity in Finland after the transfer of the registered office, it shall be governed by the provisions of the Act on the Operations of a Foreign Credit Institution in Finland.

The registration authority may not issue a certificate referred to in section 9, subsection 5 of the Act on European companies (742/2004) if the Financial Supervision Authority has notified the registration authority prior to the granting of the permission referred to in subsection 2 of the same section that the credit institution has not complied with the provisions on the transfer of the registered office or the continuance of the operations in Finland or the termination of operations. The permission may be given prior to the due date referred to in chapter 6, section 6, subsection 1 of the Companies Act (734/1978) only if the Financial Supervision Authority has notified that it shall not oppose the transfer of registered office.

Chapter 4

Annual accounts, interim report and auditing

(19.12.1997/1340)

Section 30

(19.12.1997/1340)

Provisions applicable to the drawing up of annual accounts

The annual accounts of a credit institution shall be drawn up and published in accordance with the provisions of this chapter and the Decrees of the Ministry of Finance and the regulations of the Financial Supervision Authority issued thereunder. The credit institutions shall be also be governed by the Accounting Act and the provisions issued thereunder to the extent not otherwise provided for in this Act or the Decrees of the Ministry of Finance issued thereunder or elsewhere in the law. A commercial bank and another credit institution in the form of a limited company shall also be governed by the provisions on annual accounts of the Companies Act and a co-operative bank as well as another credit institution in the form of a co-operative shall be governed by the provisions on annual accounts of the Act on Co-operatives. Chapter 11,

section 13 of the Companies Act and chapter 6, section 1, subsection 2 of the Act on Co-operatives shall not be applied to a credit institution. The provisions of this chapter on annual accounts shall be applied to an entity comprising the documents belonging to the annual accounts and attached to it unless otherwise separately provided for below. (30.12.2004/1305)

Chapter 1, section 4, subsection 1 of the Accounting Act on the financial period, chapter 3, section 1, subsection 3 on the restriction on the duty to draw up a financing calculation and subsection 4 on an annual report, section 2, subsection 2 on the exemption relating to the drawing up of the annual accounts and section 6 on the time of drawing up of the annual accounts, chapter 4, section 1 on the definition of turnover, section 3 on the definitions of fixed assets and current assets and section 4 on the definition of current assets and financial assets as well as chapter 5, section 2 on the entering of claims, financial assets and liabilities in the balance sheet, section 2 a on the valuation and entering in the annual accounts of financial instruments, section 4 on the entering of income as profit on the basis of the manufacturing stage and section 6 on the allocation of the purchase price of current assets shall not be applied to the drawing up of the annual accounts of a credit institution. Nor shall they be governed by the provisions of chapter 11, sections 1, 6, 7 and 8 or section 9, subsection 1 of the Companies Act on annual accounts and consolidated annual accounts of a limited company nor by chapter 6, section 1, subsection or sections 2 and 3 or section 7, subsection 1 of the Act on Co-operatives on annual accounts and consolidated annual accounts. (30.12.2004/1305)

The provisions of chapter 6, section 1, subsection 3 of the Accounting Act on the duty of a small undertaking to draw up consolidated annual accounts, section 2, subsections 2 and 3 on the financing calculation and the annual report of a group, section 7, subsection 6 of the division of the depreciation difference and voluntary provision of a small group as well as section 9 on the use of consolidation method, chapter 11, section 10, subsection 1 and section 11 of the Companies Act as well as chapter 6, section 8, subsections 1 and 3 of the Act on Cooperatives shall be applied to the drawing up of the consolidated annual accounts of a credit institution. Chapter 6, section 4, subsections 2 and 3 of the Accounting Act shall be applied to the consolidated annual accounts to the extent

that the calculation principles and legal provisions referred to therein are applied to a credit institution under subsection 2. (30.12.2004/1305)

The provisions of paragraphs 1 and 2 and sections 31 - 38 on the annual accounts of a credit institution shall correspondingly apply to a Finnish financial holding company belonging to the consolidation group of a credit institution and to another Finnish financial institution belonging to the consolidation group. The provisions of paragraph 3 and section 39 shall correspondingly apply to a Finnish financial holding company.

Chapter 3, sections 9 and 11 of the Accounting Act, chapter 11, section 14 of the Limited Companies Act and chapter 6, section 9 of the Act on Cooperatives shall not be applied to the registration or other publication of the annual accounts of a credit institution or a financial holding company. (28.12.2001/1500)

A credit institution which draws up annual accounts or consolidated annual accounts in accordance with the International Financial Reporting Standards referred to in chapter 7 a, section 1 of the Accounting Act shall not be governed by sections 31-39 of this chapter, with the exception of the provisions of section 31, subsection 3 on the issuing of instructions and opinions and subsection 4 on the exemption granted by the Financial Supervision Authority, section 32 on the financial period, section 33 on the time of drawing up of the annual accounts and section 34 on the annual report. The submission of notes to the accounts not required by the International Financial Reporting Standards may, however, be provided for by a Decree of the Ministry of Finance. (30.12.2004/1305)

Section 31

Issuing of further provisions, regulations, instructions, statements and exemptions
(30.12.2004/1305)

Further provisions on the entering in the annual accounts of financing instruments and real estate property in other than own use and any changes in their value, the layout for the balance sheet and the profit and loss account, the financing calculation, the information to be given in the notes to the balance sheet, the profit and loss account and the financing calculation, the layouts for the consolidated balance sheet and the consolidated profit and loss account, the

information to be given in the notes to the consolidated balance sheet, consolidated profit and loss account and consolidated financing calculation as well as on the balance-sheet breakdown and the breakdown of the notes to the accounts shall be issued by a Decree of the Ministry of Finance.

The Financial Supervision Authority may issue further provisions on the drawing up of the annual accounts of a credit institution. The Regulation may restrict the entering of interest and leasing income as income for the financial period, when they are based on claims or financial leasing contracts whose matured interest, amortisations or lease payments have, at the time of the closing of the books, remained unpaid for a period of time longer than the period referred to in the Regulation of the Financial Supervision Authority or which, due to the insolvency of the debtor, are likely to remain unpaid. The Financial Supervision Authority shall request an opinion thereof from the Ministry of Finance and the Accounting Board prior to issuing the Regulation.

The Financial Supervision Authority may issue instructions and statements on the application to credit institutions of the provisions on annual accounts of this chapter, the Companies Act, the Act on Co-operatives and of the Accounting Act as well as the Decrees issued thereunder. If the instruction or statement is significant with regard to the general application of the Accounting Act or Decree or the Companies Act or the Act on Co-operatives, the Financial Supervision Authority shall request an opinion thereof from the Accounting Board prior to issuing the instruction or statement.

The Financial Supervision Authority may, on application by a credit institution, for special reasons and for a specified period, grant an exemption from the time of drawing up of the annual accounts, the keeping of accounting material abroad as well as on the financial period of a domestic subsidiary to be incorporated in the consolidated annual accounts. A precondition for granting the exemption is that it is not in violation of the provisions of the European communities applicable to credit institutions.

Section 32

(19.12.1997/1340)

Financial period

The financial period shall be the calendar year. Upon the start or closing of business, the financial period may be shorter or longer than a calendar year, however, not more than 18 months.

Section 33

(30.12.2004/1305)

Time for drawing up the annual accounts

The annual accounts and the annual report shall be drawn up within two months from the end of the financial period.

Section 34

(30.12.2004/1504)

Annual Report

The annual accounts shall be appended with an annual report providing information on significant issues with regard to the development of the operations of the party liable to keep books. The party liable to keep books, subjected to the solvency requirement in accordance with this Act, shall in its annual report include a solvency calculation providing information on the capital requirement required by the operations of the party liable to keep books.

Section 35 repealed by **Act of 30.12.2004/1305**.

Section 36

(30.12.2004/1305)

Valuation of financial instruments

Claims and derivatives contracts as well as the shares, participations and other financial instruments owned by the party liable to keep books and entered as assets in the balance sheet (financial assets) shall be entered in the annual accounts at their fair value on the balance-sheet date unless otherwise provided for in subsections 2-5. Unless otherwise provided for in subsection 4, also

liabilities which are held as part of the trading portfolio or which are derivatives contracts shall be valued at fair value of the balance-sheet date.

The following items belonging to the financial assets shall, in derogation from subsection 1, be entered in the annual accounts at the purchase price or, if the value of the item on the balance-sheet date is found to be lower than the purchase price, at the purchase price deducted with the write-down loss.

- 1) loans and comparable financing contracts not held for trading purposes;
- 2) debt securities held to maturity;
- 3) shares and participations in subsidiaries and associated undertakings as well as equity-rated financial assets issued by the party liable to keep books;
- 4) other financial assets specified by the Financial Supervision Authority, which, in accordance with the International Financial Reporting Standards referred to in chapter 7 a, section 1 of the Accounting Act, need not be valued at fair value.

Liabilities other than those referred to in subsection 1 shall be entered in the annual accounts at nominal value.

Financial instruments which qualify as hedged items under the fair-value hedge accounting system may, by way of derogation from subsections 2 and 3, be entered in the annual accounts at a value in accordance with the hedge accounting. In accordance with the hedge accounting system requirements, a derivatives contract defined as a hedging instrument may, by way of derogation from subsection 1, be valued at the purchase price when the financial instrument qualifying as a hedged item is valued at the purchase price in accordance with subsection 2 or 3.

Unless otherwise provided for in section 36 a, the difference between the fair value at the time of the closing of the books and the book value in accordance with the previous annual accounts of the financial instruments referred to in subsection 1 or, if the financial instrument to be valued at fair value has been purchased during the financial period, the purchase price, shall be entered as income or expenses for the financial period.

If an amount that is more or less than the nominal value of a receivable or debt has been paid or received as capital of the receivable or debt, the receivable or debt shall, in the application of subsections 3 and 4, be entered, instead of at nominal value, at the amount paid or received as capital of the receivable or debt

when originating. The amount of the difference between the nominal price and the purchase price of such a receivable entered as income or expenses for the financial period shall be allocated and entered as an increase or decrease of the purchase price of the receivable. Correspondingly, the amount of the difference between the nominal value of a debt and the amount of capital received upon its origination entered as expenses or as a deduction of expenses for the financial period shall be allocated and entered in the annual accounts as an increase or decrease of the book value of the debt.

The Act of 30.12.2004/1305 entered into force 31.12.2004.

The Act shall be applied to accounts for the first time from the beginning of the first financial period immediately following the entry into force of the Act unless otherwise provided for below.

A party liable to keep books may apply the Act to accounting in the financial period during which the Act enters into force.

The financing calculation with comparison data relating to the previous year shall be drawn up at the latest for the financial period beginning on 1 January 2007 or thereafter. Notwithstanding the provisions of section 36, subsection 1, the financial instruments referred to therein may be entered in the annual accounts of the financial period during which this Act enters into force applying section 36, subsection 1 as it was upon the entry into force of this Act

Section 36 a
(30.12.2004/1305)
Fair value reserve

A change in the fair value shall be entered in the fair value reserve included in own capital if:

1) the financial instrument accounted for is a hedging instrument under a system of hedge accounting that allows some or all of the change in value not to be shown in the profit and loss account;

2) the change in value relates to an exchange difference arising on a foreign-currency item that forms part of the net investment of the credit institution in a foreign entity; or if

3) the instruments are financial instruments to be valued at fair value and not held for trading purposes, with the exception of financial derivatives.

The deferred tax liability or tax receivable included in the change in the fair value shall be entered in the balance sheet in compliance with special caution.

The fair value reserve shall be adjusted upon maturity or conveyance of a financial instrument.

Section 37

(30.12.2004/1305)

Valuation of real property not in own use

Real property not in own use included in tangible assets in the balance sheet may be entered in the annual accounts at the fair value of the balance-sheet date.

A credit institution, which applies subsection 1, shall value all the assets referred to in the subsection in accordance with the subsection.

The difference between the fair value at the time of the closing of the books and the book value of the previous annual accounts or, if such property has been purchased during the financial period, the purchase price of the property referred to in subsection 1 shall be entered as income or expenses for the financial period.

Only property valued at the purchase price in accordance with chapter 5, section 5 of the Accounting Act and referred to in subsection 1 may be revalued as referred to in chapter 5, section 17 of the Accounting Act.

Section 38

(30.12.2004/1305)

Restricted and non-restricted own capital

Restricted own capital shall comprise the share capital, co-operative capital or basic capital, additional capital, additional co-operative capital, co-operative investment capital, basic fund, reserve fund, premium fund, revaluation reserve and revaluation surplus. The non-restricted own capital shall comprise all the other reserves.

Section 39

Consolidated annual accounts

Paragraph 1 repealed by Act of 30.12.2004/1305.

A commodity conveyed to the use of the lessee under a financial leasing contract shall be entered in the consolidated annual accounts as it would be entered as sold if the group undertaking is the lessor, and as it would be entered as purchased if the group undertaking is the lessee. (30.12.2004/1305)

The consolidated annual accounts shall include a consolidated financing calculation including a report on the acquisition of the assets of the group and on their use during the financial period. In addition, the annual report of the parent company shall include the annual report and solvency information relating to the group. (30.12.2004/1305)

A subsidiary or an associated undertaking of a group, the balance sheet total of which is less than one per cent of the last adopted balance sheet total of the parent undertaking and less than 10 million euros may be excluded from the consolidated annual accounts. If the aggregate balance sheet total of such subsidiary or associated undertaking of a group and other such subsidiaries and associated undertakings belonging to the group amounts to at least five per cent of the consolidated balance sheet total, it shall, however, be included in the consolidated annual accounts. (30.12.2004/1305)

If an insurance company belongs to the group of a credit institution or a financial holding company, the consolidated annual accounts may, without prejudice to the provisions of this chapter, be drawn up as provided for in chapter 3 of the Act on the Supervision of Financial and Insurance Conglomerates where this is necessary in order to obtain a true and fair view of the result of the operations and the financial position of the group. (25.1.2002/45)

Section 40

(19.12.1997/1340)

Publication of the annual accounts and the annual report

(30.12.2004/1305)

A credit institution and a holding company shall submit the annual accounts and annual report for registration within two months from the adoption of the balance sheet and the profit and loss account. The notification shall be accompanied by a copy of the auditors' report as well as by a written statement of a member of the Board of Directors or the Managing Director indicating the date of the adoption of the annual accounts and the decision of the General Meeting of the Shareholders or the Meeting of the Co-operative, Delegates, Trustees or the Mortgage Society regarding the profit and loss of the credit institution. (30.12.2004/1305)

The credit institution shall keep copies of the documents on the credit institution as well as on the holding company or credit institution that is its parent company as referred to in paragraph 1 and last adopted available for anyone at each place of business of the credit institution after two weeks have passed from the adoption of the profit and loss account and the balance sheet. A financial holding company shall additionally keep copies of the documents relating to it available at the head office of the holding company. Copies of the documents to be kept available shall be made available to anyone requesting them within two weeks from the request.

Upon request, the parent company shall make available a copy of the annual accounts and annual report of a subsidiary referred to in section 39, subsection 1 unless they are submitted for registration. (30.12.2004/1305)

With the exception of the authorities, a credit institution and a financial holding company shall have the right to obtain payment for a copy made available by it in accordance with the grounds applied by a registration authority to a corresponding copy.

The registration authority referred to in paragraph 1 shall be the National Board of Patents and Registration. The registration authority shall supervise compliance with the duty of notification referred to in paragraph 1. If the duty of notification is neglected, the registration authority may obligate the person or party that, under section 32, is liable to sign the annual accounts to submit the annual accounts to it under the threat of a conditional fine within a period set by it. The decision imposing the conditional fine shall not be subject to ordinary appeal.

The duty of a member credit institution of the central organisation of the consortium referred to in section 3 of the Co-operative Banks Act to keep the

consolidated annual accounts of the consortium available shall be governed by the Act on Co-operative Banks and Other Credit Institutions in the Form of a Co-operative. (30.12.2004/1305)

Section 41

(19.12.1997/1340)

Interim report and annual statement

(29.1.1999/108)

For each financial period exceeding six months, a deposit bank shall draw up an interim report covering either the first six months or the first three, six and nine months unless otherwise provided for in chapter 2, section 5, paragraph 1 of the Securities Markets Act. In other respects, the interim report of a deposit bank shall be governed by the provisions of paragraphs 2 and 3 below as well as the provisions of chapter 2, section 5, paragraphs 2 - 4 of the Securities Markets Act. Correspondingly, a deposit bank shall draw up an annual statement in compliance with, where applicable, chapter 2, section 5 a of the Securities Markets Act. The interim report and the annual statement of a deposit bank governed by chapter 2, section 5 of the Securities Markets Act or chapter 11, section 12 of the Limited Companies Act shall, additionally, be governed by the provisions of the said Acts on an interim report and an annual statement unless otherwise provided for in this section. (29.1.1999/108)

The interim report of a deposit bank shall contain the interim profit and loss account and the interim balance sheet or, if the deposit bank is the parent company of a group, the consolidated profit and loss account and the consolidated balance sheet as well as an account of the development of the net profit of the bank or the group as well as of any significant changes in the assets, debts and off-balance sheet items as well as in the operating environment during the reporting period, of significant exceptional circumstances affecting the development of the net profit, essential events after the reporting period as well as of the likely development of the bank or group during the financial period. The interim report shall additionally include information on the solvency ratio of the bank or, if the bank belongs to a consolidation group, on the development of the consolidated solvency ratio. The

information presented in the interim report shall allow a comparison with the information in the corresponding reporting period of the preceding financial period.

The interim report shall be published within two months from the end of the reporting period. The publication of the interim report shall, where applicable, be governed by section 40, paragraphs 2 and 4 in addition to provisions on the publication of an interim report elsewhere in the law.

The duty of the central organization of the consortium referred to in section 7 a of the Cooperative Banks Act to draw up and publish an interim report shall be governed by the Cooperative Banks Act.

The interim report of a holding company that is the parent company of a deposit bank shall be governed by the provisions of paragraphs 1 - 3. Unless otherwise provided for elsewhere in the law, the provisions above in this paragraph shall not be applied to a deposit bank whose parent company publishes an interim report complying with this section.

The Financial Supervision Authority may issue further regulations, instructions and statements on the drawing-up of the report or statement referred to above in this section as well as, for a special reason, for a fixed period of time, grant an exemption from the provisions of this section provided that the exemption does not endanger the position of an investor or a depositor. The issuing of regulations, instructions and statements and the granting of exemptions shall, where applicable, be governed by the provisions of section 31, paragraphs 2 - 4. The granting of an exemption shall be mentioned in the report or statement. (29.1.1999/108)

Section 42

(10.7.1998/524)

Application of the provisions on auditing and auditors

The auditing and auditor of a credit institution shall be governed by the Accounting Act (936/1994) and the auditing and auditor of a credit institution in the

form of a limited company also by the Limited Companies Act and the auditing and auditor of a credit institution in the form of a cooperative by the Act on Cooperatives (247/1954) unless otherwise provided below.

Section 24, paragraph 2 of the Accounting Act shall not be applied to an auditor of a credit institution. The auditor shall, however, notify the Financial Supervision Authority of a credit he has obtained from the credit institution or from an undertaking belonging to the same group or consolidation group or of a guarantee, a liability commitment, a collateral or a corresponding benefit granted by it on his behalf.

Paragraph 3 repealed by Act of 28.12.2001/1500.

The provisions of this section on the audit and auditor of a credit institution shall be correspondingly applied to the audit and auditor of a holding company. (25.1.2002/45)

Section 43

(25.1.2002/45)

Qualifications of an auditor

Only an authorized auditor referred to in section 2, subparagraph 2 of the Audit Act may be elected an auditor of a credit institution and a holding company. At least one of the auditors shall be an auditor referred to in section 4 of the Audit Act or an audit organization referred to in section 5 of the said Act.

Section 44

(28.12.2001/1500)

The duty of the Financial Supervision Authority to appoint an auditor as well as to order a special audit and to appoint a special auditor

The auditor referred to section 27 of the Audit Act and chapter 10, section 1, paragraph 4 of the Limited Companies Act and chapter 7, section 5 of the Act on Cooperatives as well as the special audit and auditor referred to in chapter 10, section 14 of the Limited Companies Act and chapter 7, section 7 of the Act on Cooperatives shall be appointed and ordered by the Financial Supervision Authority. In other respects, the appointment of an auditor as well as the ordering of a special audit and the appointment of a special auditor in the cases referred to above shall be governed by the provisions thereon in the Audit Act, the Limited Companies Act and the Act on Cooperatives. The Financial Supervision Authority shall additionally appoint, for a credit institution, an auditor meeting the qualifications required if the credit institution does not have an auditor meeting the qualifications laid down in section 43.

Sections 45 – 49 repealed by Act of 19.12.1997/1340, which amended chapter 4.

Chapter 5

Provisions on Deposit Banks

Section 50

(31.1.2003/69)

Trade name of a deposit bank

The trade name of a deposit bank shall always contain the term "bank" either separately or as part of a compound and it shall indicate the corporate form of the bank.

Section 50 a

(31.1.2003/69)

Right of a customer to basic banking services

A deposit bank may refuse to open an ordinary deposit account for a natural person staying legally in a State belonging to the European Economic Area and to grant him the medium meant for the use of the account or to attend to his order relating to payment transmission only if there are weighty grounds for the refusal. The grounds shall be linked to the customer or his earlier behaviour or to the fact that there evidently is no actual need for a customer relationship. The customer has to be notified of the grounds for the refusal.

The provisions of this section shall not be applied if otherwise provided for in section 95 or the Act on Preventing and Detecting Money Laundering.

Section 51

Account-holder

When an account is opened with a bank, a deposit agreement shall be concluded between the bank and the opener of the account. The identity of the opener shall always be verified and sufficient information on the opener, the account-holder and the persons authorized to operate the account shall be entered in the agreement.

If a separate certificate of deposit is issued, it shall be issued to a specified person and may be transferred only to a specified person.

Any special term contained in the deposit agreement as referred to in paragraph 1 shall also be entered on the certificate. Such term may be amended or cancelled only with the consent of the bank, with the exception of the account-holder's instructions concerning persons authorized to operate the account.

Section 52

A person under guardianship

A person under guardianship who has attained the age of fifteen may conclude a deposit agreement with a deposit bank in respect of funds which he has the right to dispose of under section 20, paragraph 2 of the Guardianship Act, and he may deposit and withdraw such funds and otherwise dispose of the deposit. With the consent of the Guardianship Board, the guardian may, however, take charge of the funds deposited if the interests of the person under guardianship so require.

If funds have been deposited in a deposit bank in the name of a person under guardianship who has attained the age of fifteen on condition that only he is authorized to withdraw the funds, the funds deposited shall be disposed of jointly by the person under guardianship and his guardian. Such a term may, however, be derogated from with the permission of the court.

Section 53

Limitation of the obligation to pay interest

Unless otherwise provided for in the terms of an account, the obligation of the deposit bank to pay interest on the funds deposited in a deposit account shall cease when ten years have elapsed from the end of the calendar year during which the account was last used.

Section 54

Set-off

A deposit bank may not use the funds in the account of or payable to a private customer to set off its counter-claim where the said funds may not be distrained under the law. Prior to set-off, the bank shall ascertain whether the funds can be distrained. The account-holder shall be informed of a claim of set-off. A set-off violating the provisions of this paragraph shall be null and void.

Where it is not possible, without an unreasonable amount of work, to ascertain whether the funds may be distrained, the bank may, however, present a claim for set-off provided that, in conjunction with notification of the claim for set-off, the bank notifies the account-holder in writing of the restriction for set-off laid down in paragraph 1 as well as of cancellation of set-off laid down in this paragraph. The set-off shall lapse if, within 14 days of receipt of the notification of the claim for set-off, the account-holder proves that the funds may not be distrained. In the absence of other proof as to the date of notification of the claim for set-off, the account-holder shall be deemed to have been notified of the claim on the seventh day after the notification was sent. If the account-holder is not provided with the information laid down in this paragraph, the set-off shall be null and void.

The provisions of paragraph 1 shall not apply to a charge against the funds in an account based on an express authorization of the account-holder. The account-holder may withdraw such authorization at any time. A contract restricting the rights of the account-holder under this section shall be null and void.

Chapter 6

(19.12.1997/1229)

Guarantee fund

Section 55

(19.12.1997/1229)

Membership of a guarantee fund

To safeguard the stable operation of deposit banks, a deposit bank may belong to a guarantee fund.

Section 56

(19.12.1997/1229)

Withdrawal from a guarantee fund

A deposit bank belonging to a guarantee fund may withdraw from the guarantee fund by notifying the board of directors of the fund thereof in writing. The withdrawal shall enter into force at the end of the calendar year following the issuing of the notice to withdraw.

If a bank that has withdrawn from the guarantee fund has, during its withdrawal year or during the five calendar years immediately preceding it, been granted a subsidy from the guarantee fund, it shall, on demand by the guarantee fund, repay the subsidy to the guarantee fund in the manner provided for in the bylaws of the fund.

Section 57

(19.12.1997/1229)

Bylaws of a guarantee fund

The bylaws of a guarantee fund and amendments thereto shall be confirmed by the Ministry.

The bylaws shall state:

- 1) the name of the fund and the place of its registered office;
- 2) the admittance as member of the fund and withdrawal therefrom of a deposit bank;
- 3) the basis for determining the admission fee and the annual contribution and the time of payment;
- 4) the number, retirement age and term of office of the members of the Supervisory Board as well as the constitution of a quorum of the Board and its duties;
- 5) the number, retirement age and term of office of members of the Board of Directors as well as the constitution of a quorum of the Board and its duties;
- 6) the basis for the disposal of the annual surplus of the fund;
- 7) the financial period of the fund;
- 8) the number and term of office of the auditors;
- 9) the manner in which the bylaws shall be amended, as well as
- 10) the dissolution of the fund.

Section 58

(19.12.1997/1229)

Administration of a guarantee fund

A guarantee fund shall be administered by a Supervisory Board elected by the member deposit banks and a Board of Directors elected by the Supervisory Board.

If the guarantee fund has been granted a subsidy loan or other support referred to in the Act on the Government Guarantee Fund (379/1992) or corresponding support under authority contained in the State budget, the Ministry shall have the right to appoint a member representing the State to the Supervisory Board and the Board of Directors.

Section 59

(19.12.1997/1229)

Contribution to a guarantee fund

The Supervisory Board of the guarantee fund may order that a deposit bank belonging to the guarantee fund shall pay an annual contribution adequate for the fulfillment of the liabilities of the guarantee fund.

The contribution shall be based on risks taken by the deposit bank in its operation. The basis for the calculation of the annual contribution shall be the same for all the banks belonging to the guarantee fund. The basis for the calculation of the annual contribution may, however, be different with regard to deposit banks of different corporate forms. When determining the basis for the calculation, deposit banks of different corporate forms may not, among themselves, be placed in unequal positions without cause. The total sum of the annual contributions collected for the guarantee fund shall be not more than 0.5 per cent of the aggregate total of the balance sheets last adopted for the banks belonging to the fund.

If the guarantee fund has been granted a subsidy loan or other support referred to in the Act on the Government Guarantee Fund or corresponding support under authority contained in the State budget, and the repayment of the support requires a higher contribution than 0.5 per cent, the annual contributions may be raised to no more than 1 per cent of the aggregate total of the said balance sheets. The Financial Supervision Authority may require the contribution to be raised if it considers that the amount determined by the Supervisory Board fails to provide adequate security for the fulfillment of the liabilities of the guarantee fund.

The Board of Directors of a guarantee fund may exempt a bank from the annual contribution for a specified period.

Section 60

(19.12.1997/1229)

Independence of a guarantee fund

A deposit bank belonging to a guarantee fund may not require that its share of the guarantee fund be appropriated to it or transfer it to a third party. This share shall not be included in the assets of the bank.

Section 61

(19.12.1997/1229)

Granting of subsidies

Rescue loans or subsidies may be granted from the assets of the guarantee fund to a deposit bank belonging to the fund which has encountered such financial difficulties that a rescue loan or subsidy is necessary to safeguard its operations. The guarantee fund may also issue guarantees for loans raised by a deposit bank belonging to the guarantee fund. With the permission of the Financial Supervision Authority, the guarantee fund may also subscribe a capital loan complying with section 38 and issued by the bank. If the guarantee fund has raised a subsidy loan under the Act on the Government Guarantee Fund or if a loan raised by the guarantee fund is guaranteed by the State or the Government Guarantee Fund, rescue loans, subsidies or guarantees may be granted and capital loans subscribed only within limits approved by the Ministry.

When making the support decisions referred to in paragraph 1, the guarantee fund may not put the deposit banks belonging to the fund in unequal positions among themselves without cause. Each support decision shall be based on a thorough investigation of the financial status of the bank to be supported.

A guarantee fund may decide to transfer the funds of the guarantee fund to the Government Guarantee Fund to be used for the support measures referred to in section 1 of the Act of the Government Guarantee Fund with respect to a Finnish bank.

If a bank referred to in paragraph 1 merges with another bank, a rescue loan or subsidy may also be extended to the acquiring bank.

If a subsidy loan referred to in paragraph 1 has been granted to the guarantee fund, the loan capital may be used to grant a rescue loan or subsidy to the bank only with the permission of the Ministry.

Section 62

(19.12.1997/1229)

Waiver of repayment of a rescue loan

Should the repayment of a rescue loan granted from a guarantee fund prove unreasonable to the deposit bank which has been granted the loan, the Supervisory Board of the fund may, on the proposal of the Board of Directors, waive all or part of the claim for repayment. The Supervisory Board and the Board of Directors shall, when deciding on the waiver of repayment of a rescue loan, comply with the provisions of section 61, paragraph 2. If the guarantee fund has been granted a subsidy loan referred to in section 61, paragraph 1, the waiver of repayment of a rescue loan shall be subject to the consent of the Ministry.

If a bank which has been granted a loan from a guarantee fund goes into liquidation or is declared bankrupt, a rescue loan may be repaid only from assets remaining after other commitments of the bank have been met.

Section 63

(19.12.1997/1229)

Borrowing of a guarantee fund

A guarantee fund may not raise a loan for its operations unless the Ministry grants it permission thereto for a special reason.

Section 64

(19.12.1997/1229)

Investment of the assets of a guarantee fund

The assets of a guarantee fund shall be invested prudently and in a manner safeguarding the liquidity of the fund.

Chapter 6 a

Deposit-guarantee fund

(19.12.1997/1229)

Section 65

(19.12.1997/1229)

Membership of a deposit-guarantee fund

To safeguard the claims of depositors, a deposit bank shall belong to a deposit-guarantee fund.

A deposit bank shall inform the deposit-guarantee fund and the Financial Supervision Authority of the manner in which the claims of the depositors of its foreign branch are safeguarded.

Section 65 a

(19.12.1997/1229)

Rules of a deposit-guarantee fund

The rules of a deposit-guarantee fund and amendments thereto shall be confirmed by the Ministry.

The rules shall state:

- 1) the name of the fund and the place of its registered office;
- 2) the time of payment of the contribution;
- 3) the number, retirement age and term of office of the members of the Supervisory Board as well as the constitution of a quorum of the Board and its duties;
- 4) the number, retirement age and term of office of members of the Board of Directors as well as the constitution of a quorum of the Board and its duties;
- 5) the financial period of the fund;
- 6) the number and term of office of the auditors; as well as
- 7) the manner in which the bylaws shall be amended.

With regard to the branch of a foreign credit institution established in Finland, the rules shall also contain a statement on admittance as member of a deposit-guarantee fund, exclusion and withdrawal therefrom, the basis for the admission fee of the deposit-guarantee fund and the basis for the liability to compensate of the guarantee fund.

Section 65 b

(19.12.1997/1229)

Administration of a deposit-guarantee fund

A deposit-guarantee fund shall be administered by a Supervisory Board elected by the member deposit banks and the member foreign credit institutions and by a Board of Directors elected by the Supervisory Board. At least one of the members of the Board of Directors shall represent the branches of the foreign credit institutions that are members of the deposit-guarantee fund.

Section 65 c

(19.12.1997/1229)

Contribution to a deposit-guarantee fund

A deposit bank and a branch of a foreign credit institution in Finland belonging to a deposit-guarantee fund shall pay an annual contribution to the deposit-guarantee fund for the safeguarding of the claims of depositors.

Section 65 d

(19.12.1997/1229)

Amount of the contribution

The contribution of a deposit bank shall include a fixed part and part based on the consolidated solvency of the bank. The fixed payment shall be 0.05 per cent of the total of the deposits of the bank subject to compensation on the basis of section 65 j, paragraphs 1 and 2. The contribution based on solvency shall be 0.125 per cent of an amount calculated by multiplying the ratio of the total amount of consolidated own funds required to cover the risks calculated in accordance with chapter 9 and the total amount of consolidated own funds calculated in accordance with chapter 9 by the total amount of deposits subject to compensation on the basis of section 65 j, paragraphs 1 and 2. The contribution based on solvency shall, however, be not more than 0.25 per cent of the said deposits.

When calculating the amount of the contribution, deposit banks belonging to the consortium of cooperative banks shall be deemed as one deposit bank. The contribution of the cooperative banks belonging to the consortium of cooperative banks shall be paid to the deposit-guarantee fund by the central organization of the consortium. The contribution paid by the central organization shall be distributed among its member credit institutions to be paid in proportion to the solvency of the

member credit institutions in accordance with chapter 9. By permission of the Financial Supervision Authority, the contribution payment may be distributed also in another manner.

The total amount of deposits and the amount of own funds referred to in paragraph 1 shall be determined on the basis of the annual accounts adopted for the financial period preceding the payment of the contribution.

Section 65 e

(19.12.1997/1229)

Annual contribution of a branch of a foreign credit institution

The annual contribution of a branch of a foreign credit institution established in Finland and authorized in a State belonging to the European Economic Area and belonging to a deposit-guarantee fund shall be determined in accordance with section 65 d. The basis of the contribution of a branch shall, however, be the total amount of deposits of the branch subject to compensation pursuant to section 7 a of the Act on the Operation of a Branch of a Foreign Credit and Financial Institution in Finland (1993/1608). When calculating the contribution based on solvency, the total amount of the own funds required to cover the risks of a foreign credit institution shall comprise items which may be included in the said items in accordance with the provisions of the home State of the credit institution.

The annual contribution of a branch of a foreign credit institution established in Finland and authorized in a State outside the European Economic Area shall be 0.05 per cent of the total amount of deposits of the branch.

The total amount of the deposits referred to in paragraphs 1 and 2 as well as the amount of own funds referred to in paragraph 1 shall be determined on the basis of the annual accounts adopted for the financial period preceding the payment of the contribution.

Section 65 f

(19.12.1997/1229)

Lowering and raising of the contribution

When the net assets of a deposit-guarantee fund, calculated as the difference between the assets and liabilities of the fund, amount to at least two per cent of the aggregate total of the deposits subject to compensation pursuant to section 65 j, paragraphs 1 and 2 of the deposit banks, the contribution shall be a one-third of the contribution provided for in sections 65 d and 65 e.

If the deposit-guarantee fund, in accordance with section 65 n, has had to raise a loan for its operations, the Financial Supervision Authority may order the contribution provided for in paragraph 1, section 65 d and section 65 e, paragraph 1 to be raised to a maximum of 1.5 per cent of the aggregate total of the deposits subject to compensation pursuant to section 65 d and section 65 e, paragraph 1 or to a maximum of 0.25 per cent of the aggregate total of the deposits of a branch referred to in section 65 e, paragraph 2 until the deposit-guarantee fund has repaid the said loan.

Section 65 g

(19.12.1997/1229)

Suspension of collection of contributions

The Supervisory Board of the deposit-guarantee fund may decide that the collection of contributions be suspended whenever the net assets of the deposit-guarantee fund, calculated as the difference between the assets and liabilities of the fund, amount to at least ten-hundredths of the aggregate total of the deposits subject to compensation under section 65 j, paragraphs 1 and 2 of the deposit banks.

Section 65 h

(19.12.1997/1229)

Independence of a deposit-guarantee fund

A deposit bank belonging to a deposit-guarantee fund shall not have the right to require that its share of the deposit-guarantee fund be appropriated to it or transfer it to a third party. This share shall not be included in the assets of the bank.

Section 65 i
(19.12.1997/1229)

Commencement of the liability to pay of a deposit-guarantee fund

If a deposit bank has failed, in accordance with the deposit agreement and this Act, to pay matured and undisputed claims of a depositor deposited with the deposit bank in an account referred to in section 50, the depositor may notify the Financial Supervision Authority thereof.

Within 21 days from the notice referred to in paragraph 1 or after having otherwise received notice of the matter, the Financial Supervision Authority shall decide whether the deposit-guarantee fund shall pay the claims of the bank's depositors as referred to in section 65 j, paragraphs 1 - 3. A prerequisite for the ordering of the liability to pay shall be that the failure to pay the claim referred to in paragraph 1 has, on the basis of an account obtained thereof, resulted from payment or other financial difficulties of the bank and that the difficulties, in the opinion of the Financial Supervision Authority, are not temporary.

When evaluating the temporality of the difficulties referred to in paragraph 2, the Financial Supervision Authority shall take into account the joint liability referred to in section 65 j.

The Financial Supervision Authority shall notify the deposit-guarantee fund, the guarantee fund of the deposit bank, the deposit bank and the Ministry of its decision referred to in paragraph 2. If the bank has a branch abroad, the supervisory authority and cover scheme of the State where the branch is established shall also be notified of the decision.

In order to implement a decision of the Financial Supervision Authority referred to in paragraph 2, the deposit bank shall submit to the deposit-guarantee fund information on the depositors and their claims referred to in section 65 j, paragraphs 1 - 3. The deposit-guarantee fund may not disclose this information to others than the authorities that under section 94 are entitled to receive information subject to a secrecy obligation.

Section 65 j
(19.12.1997/1229)

Claims subject to compensation

The claims of a depositor in an account with a deposit bank and the claims in payment transmission in the same deposit bank and not yet registered in the account shall be compensated from the assets of the deposit-guarantee fund, however, at most to an amount of 25,000 euros. If the account is used for an investment service as provided for in section 33, subsection 2 of the Act on Investment Firms, the compensation shall, however, be paid from the compensation fund referred to in the said Act as provided for in chapter 6 of the said Act. (31.1.2003/69)

The claims of depositors of a branch of a deposit bank established in the European Economic Area shall be compensated from the assets of the Finnish deposit-guarantee fund to the amount to which they would be compensated under the cover scheme of the State of establishment of the branch, however, to a maximum of 150 000 marks.

Notwithstanding the provisions of paragraph 1 on the maximum amount of compensation, the claim of a depositor shall be paid in full from the assets of the deposit-guarantee fund if the depositor can reliably verify that the claim is based on assets which the depositor has received from the sale of a residence in his own use and that the assets shall be used to acquire a new residence for the own use of the depositor. This paragraph shall be applied only to the assets of a depositor deposited in an account in the deposit bank no more than six months prior to the decision of the Financial Supervision Authority referred to in section 65 i, paragraph 2.

The deposit-guarantee fund shall, however, not compensate the claims of another credit or financial institution nor the items belonging to the own funds of a deposit bank referred to in sections 73 and 74. Nor shall the fund compensate claims based on assets resulting from a crime referred to in chapter 32 of the Penal Code. If a preliminary investigation or a trial relating to a crime referred to above is pending, the deposit-guarantee fund may defer the payment of the compensation until the decision of the court has become final. Nor shall the fund compensate claims in the client-fund account referred to in chapter 4, section 5 a of the Securities Markets Act in the name of a securities intermediary referred to in the Securities Markets Act. (10.7.1998/524)

If the deposit-guarantee fund has already earlier compensated the claims of an investor in accordance with paragraphs 1 - 3, the fund shall compensate the claims of the investor in the same deposit bank only to the extent that the claims are based on assets deposited in the bank after the payment of the compensation referred to in this paragraph.

In the application of this section, deposit banks which under the law, an agreement or another arrangement are fully or partially responsible for the commitments or obligations of each other shall be deemed as one deposit bank. Notwithstanding the provisions above, this paragraph shall not be applied to a deposit bank which, in accordance with section 56, paragraph 1, has notified of its withdrawal from the guarantee fund. This paragraph shall, however, be applied to a bank which after the submission of the notice of withdrawal is granted the support referred to in section 61. The Financial Supervision Authority shall be notified of an agreement or another arrangement referred to above.

The deposit-guarantee fund shall have a receivable from the deposit bank with regard to claims it has compensated under paragraphs 1 - 3. The interest payable on the receivable shall be provided for in the rules of the deposit-guarantee fund.

Section 65 k

(19.12.1997/1229)

Payment of the claims of depositors

The deposit-guarantee fund shall pay the claims of depositors referred to in section 65 j, paragraphs 1 - 3 in Finnish markka within three months from the decision of the Financial Supervision Authority referred to in section 65 i. If the deposit bank has been placed in liquidation before the decision referred to in section 65 i, the time limit referred to in this paragraph shall be calculated from the date on which it was placed in liquidation.

The Financial Supervision Authority may grant the deposit-guarantee fund a maximum of three extensions for the payment of the claims of the depositors and each extension may at most be three months. The granting of the extension shall require that the need of the deposit-guarantee fund for the extension is based on exceptional circumstances and a special reason.

If the deposit-guarantee fund has failed to compensate a claim of a depositor as referred to in section 65 j, paragraphs 1 - 3 within the time laid down in this section, the depositor shall have obtained a receivable which the depositor may claim from the deposit-guarantee fund through a court.

Section 65 l

(19.12.1997/1229)

Notification of the commencement of the duty to pay

The deposit-guarantee fund shall notify the depositors of the deposit bank in question of the decision referred to in section 65 i. The deposit-guarantee fund shall also, by a public notice, notify the depositors of the measures that the depositors shall undertake to safeguard their claims. The notice shall also be published in the official languages of the country in the major daily newspapers published in the operating area of the deposit bank.

Section 65 m

(19.12.1997/1229)

Duty of a deposit bank to inform

A deposit bank shall inform its depositors of the cover provided by the deposit-guarantee fund for the claims of the depositors or of other corresponding protection as well as of changes in information given previously.

A deposit bank shall submit the information referred to in paragraph 1 also in the official languages of the country in which its branch is established.

Section 65 n

(19.12.1997/1229)

Borrowing of a deposit-guarantee fund

If its own funds are not sufficient for the payment of the compensations referred to in this chapter, a deposit-guarantee fund may raise a loan for its operations in the way provided by its rules. The rules of the deposit-guarantee fund shall include a provision on the obligation of the deposit banks belonging to a deposit-guarantee fund to grant loans to the deposit-guarantee fund for the fulfillment of the liabilities of the fund.

Section 65 o

(19.12.1997/1229)

Investment of the assets of a deposit-guarantee fund

The assets of a deposit-guarantee fund shall be invested in a safe and profitable manner safeguarding the liquidity of the fund as well as in compliance with the principle of deconcentrating the risks. The yield payable on the investments shall be added to the capital of the deposit-guarantee fund.

The assets of the fund may not be invested in the shares or participations of a deposit bank belonging to the fund or in an organization belonging to the same consolidation group with it nor in other securities issued by a bank belonging to the fund or an organization belonging to the same consolidation group with it or by the guarantee fund of the bank. Nor may the assets of the fund in another manner be invested in a deposit bank belonging to the fund or in an organization belonging to the same consolidation group with it or in the guarantee fund of the bank. The provisions of this paragraph on a deposit bank shall also apply to a foreign credit institution belonging to the deposit-guarantee fund and to an organization belonging to the same consolidation group with it.

The liquidity of the deposit-guarantee fund shall be adequately safeguarded vis-à-vis its operations.

Section 65 p

(26.7.2003/588)

Withdrawal of the authorization as well as the claims of depositors and investors

When deciding on the withdrawal of the authorisation of a deposit bank under section 12, the Financial Supervision Authority may simultaneously order the claims of depositors payable from the funds of the deposit-guarantee fund. When deciding on the withdrawal of the authorisation of a credit institution under section 12, the Financial Supervision Authority may simultaneously order the claims of investors payable from the funds of the investor-compensation fund as provided for in chapter 6 of the Act on Investment Firms

Section 65 q

(28.12.2001/1500)

Effects of transfer of the total funds in deposit

Without prejudice to the provisions of section 65 j, paragraph 1 on the maximum amount of compensation, a deposit to be compensated under the said section of law that has been transferred to another deposit bank due to a merger, division or conveyance of business operations shall be compensated up to the same amount as before the transfer of the deposit unless otherwise provided for in paragraph 2.

Paragraph 1 shall be applied to a deposit payable on demand for a period of three months after the registration of the enforcement of the merger, division or conveyance of business operations.

Chapter 7

Liquidity

(30.7.2004/700)

Section 66

Liquidity

The liquidity of a credit institution shall be adequately safeguarded vis-à-vis its operations.

Paragraph 2 repealed by Act of 19.12.1997/1340.

Section 66 a
(31.1.2003/69)

Liquidity of a payment institution

A payment institution shall have investments in the following items at least in an amount corresponding to the total amount of liabilities based on the funds accepted by the payment organization against an issue of electronic money and for general payment transmission:

- 1) the items referred to in section 76, Group I;
- 2) deposits in credit institutions referred to in section 76, Group II, paragraph 1;
- 3) other debt instruments approved by the Financial Supervision Authority.

Upon application of this subsection, the asset items shall be valued at their acquisition cost or, if their fair value at the time of reporting is lower than that, at that value.

A payment institution may invest funds referred to in subsection 1 in items referred to in subsection 1, paragraphs 2 and 3 at most an amount corresponding to twenty-fold the amount of the own funds of the payment institution.

If the amount of the asset items referred to in subsection 1 falls below the amount referred to in the subsection, the Financial Supervision Authority shall set a time period within which the payment institution shall undertake measures to raise the amount of the asset items to the level referred to in the subsection. The Financial Supervision Authority may at that time or otherwise, upon application of the payment institution, allow, for a set period, the liabilities of the payment institution referred to in subsection 1 to be backed by asset items other than those referred to in subsection 1. The maximum of these asset items may, however, not exceed five percent of the amount of the said liabilities or the own funds of the payment institution, depending on which of them is smaller.

The Financial Supervision Authority shall issue further provisions on the application of this section necessary for the implementation of Directive 2000/46/EC of the European Parliament and of the Council on the taking up, pursuit of and prudential supervision of the business of electronic money institutions.

Section 67 repealed by **Act of 30.7.2004/700.**

Chapter 8

Risk monitoring

Section 68

(19.12.1997/1340)

General provisions on risk management

A credit institution and an undertaking belonging to its consolidation group may not, in the course of their operations, incur a risk that fundamentally endangers the solvency or consolidated solvency or the liquidity of the credit institution. A credit institution and an undertaking belonging to its consolidation group shall have adequate internal control and adequate risk management systems vis-à-vis its operations. (30.7.2004/700)

Transfer of the duties relating to the risk management and other internal control of a credit institution to be attended to by an undertaking not belonging to the same consolidation group as the credit institution or to a consortium referred to in the Act on Co-operative Banks and Other Banks in the Form of a Co-operative shall be governed by the provisions of section 25, subsections 2 and 3. (31.1.2003/69)

The Financial Supervision Authority shall issue further regulations on the requirements to be set for the risk management systems and other internal control referred to in subsection 1 and for reliable administration as well as for the submission of the notification referred to in subsection 2 as well as on cases where the tasks referred to in subsection 2 to be attended to by another undertaking may be deemed to be so minor that the notification may be omitted. (31.1.2003/69)

Section 68 a

(30.7.2004/700)

Control of risk concentrations

A credit institution shall monitor the country, foreign-exchange, interest-rate and sector-related risks included in its business operations and set internal limits thereto. A credit institution shall notify the Financial Supervision Authority of the information necessary to control the concentrations arising from these risks.

The provisions of subsection 1 on a credit institution and its risks shall correspondingly be applied to a holding company and the total risks of the consolidation group.

The Financial Supervision Authority may issue further provisions on the content of the duty to notify in accordance with this section and on the frequency of the notifications.

Section 69

(19.12.1997/1340)

Exposures to customers and their disclosure

For the purposes of this Act, an exposure of a credit institution shall mean the total amount of claims and investments referred to in section 76 as well as of off-balance sheet items referred to in section 77 to any one natural or legal person or to any natural or legal person sharing substantial economic interests with the said person.

The following shall, however, not be included in the exposures to customers of a credit institution:

- 1) items referred to in section 75, subsections 1-4 deducted from the own funds of the credit institution;
- 2) items arising from the purchase or sale of currency appearing in normal settlement within 48 hours from the payment;
- 3) items arising from the purchase or sale of securities appearing in normal settlement within five banking days from the payment or the delivery of the security depending on which is implemented earlier. (31.1.2003/75)

For the purposes of this Act, a large exposure shall mean an exposure equal to or exceeding 10 per cent of the own funds of the credit institution.

A credit institution shall notify the Financial Supervision Authority of large exposures to customers at least four times a year.

In order to meet the requirements of Council Directive on the monitoring and control of large exposures of credit institutions (92/121/EEC) and Council Directive on the supervision of credit institutions on a consolidated basis (92/30/EEC), the Financial Supervision Authority shall issue further regulations on the reporting of information as referred to in this section and in section 71 to the Financial Supervision Authority and on the calculation of the ratios as referred to in sections 70 and 71.

The Act of 31.1.2003/75 entered into force 15.2.2003. The large exposures to customers referred to in section 69 shall be calculated and disclosed to the Financial Supervision Authority in accordance with this Act for the first time of the last day of the quarter starting three months after the entry into force of this Act or immediately thereafter.

Section 70

Limitations on exposures to customers

An exposure to a customer shall not exceed 25 per cent of the own funds of the credit institution or, where the customer as organization referred to in section 69, paragraph 2 is the parent company or subsidiary of the credit institution or a subsidiary of the parent company, 20 per cent of the own funds of the credit institution.

The total amount of large exposures of a credit institution may not exceed 800 per cent of its own funds.

If the exposure or the total amount of large exposures of a credit institution exceeds the limit laid down in subsection 1 or 2, the credit institution shall, without delay, notify the Financial Supervision Authority thereof and undertake measures to meet the requirements relating to exposure. After receipt of the notification referred to above or after otherwise learning about the exceeding of the limits laid down in subsection 1 or 2, the Financial Supervision Authority shall set a fixed period of time within which the credit institution shall meet the requirement laid down in subsections 1 and 2 under the threat of withdrawal of the authorisation. If the requirement has not been met after the termination of the fixed period of time, the Financial Supervision Authority may decide on the withdrawal of the authorisation.
(27.6.2003/588)

In the application of this section, the following shall not be included in the exposures to customers:

1) items included in section 76, Group I unless their inclusion in Group I is only based on a guarantee referred to in Group I, paragraph 6;

2) items included in section 76, Group II, paragraphs 1 and 2 with a maturity of one year or less unless their inclusion in Group II is only based on a guarantee referred to in Group II, paragraphs 1 and 2; when calculating the exposure, 80 percent of each item to be included in section 76, Group II, paragraph 1 with a maturity of more than one year but not more than three years need not be taken into consideration;

3) claims secured by a deposit or another security comparable thereto in the credit institution that has granted the loan or in its parent or subsidiary undertaking;

4) claims, investments and off-balance sheet commitments referred to in subsection 1 on a subsidiary of a credit institution if the subsidiary is a credit institution, a financial institution or an ancillary services undertaking belonging to the same consolidation group as the credit institution; the provisions of this paragraph on undertakings belonging to a consolidation group shall correspondingly be applied to undertakings referred to in section 17 of the Act on the Supervision of Financial and Insurance Conglomerates that belong to the same financial or insurance conglomerate referred to in the same Act and which are subsidiaries of the credit institution; (30.7.2004/700)

5) binding commitments to lend and commitments comparable thereto valid for less than one year which may be unilaterally terminated;

6) bonds with public-sector collateral and bonds with mortgage collateral referred to in the Act on Mortgage Credit Banks (1240/1999) and foreign bonds with collateral comparable thereto;

7) other claims, investments and off-balance sheet items collateralized by securities approved by the Financial Supervision Authority easily converted into cash as well as, in calculating the exposures to customers of savings banks and co-operative banks not belonging to the consortium of co-operative banks, the claims of the said banks from the central organisation. (31.1.2003/75)

The provisions of paragraph 4 on credit and financial institutions and ancillary banking services undertakings belonging to a consolidation group shall, when calculating the exposure of a member credit institution of the central

organisation of the consortium of co-operative banks, be applied to the organisations which, in accordance with section 3, subsections 1-3 of the Act on Co-operative Banks and Other Credit Institutions in the Form of a Co-operative, shall form a consortium. (31.1.2003/75)

The Financial Supervision Authority may, on application by a credit institution, grant an exemption from the requirements provided for in this subsection if the large exposure on a customer is directed at an undertaking that is not a credit institution, financial institution, ancillary services undertaking or an insurance company referred to in subsection 4 (4) and belonging to the same consolidation group or financial and insurance conglomerate as the credit institution. The provisions of this subsection shall also be applied when calculating the exposures to customers of member credit institutions of the central organisation of a consortium referred to in section 3 of the Act on Cooperative Banks and Other Credit Institutions in the Form of a Cooperative if the large exposure to a customer is directed at organisations included in the consortium referred to in the said section. (30.7.2004/700)

In the application of this section, an exposure to customers is deemed to be directed at the guarantor if another credit institution or investment firm has granted an absolute guarantee on behalf of the customer. Credit derivatives fulfilling terms approved by the Financial Supervision Authority may be deemed comparable to an absolute guarantee and a deposit complying with subsection 4, paragraph 3. (31.1.2003/75 and 30.7.2004/700)

Section 71

(19.12.1997/1340)

Consolidated exposures

If a financial holding company or a credit institution is the parent company of a consolidation group, it shall notify any large consolidated exposures of the credit institution in accordance with the provisions of section 69.

The ratio of the consolidated exposures to own funds shall correspondingly be governed by the provisions of section 70.

When calculating consolidated exposures, the exposures of joint ventures referred to in the Accounting Act shall be taken into account using the same ratio as

in including the balance sheet of the joint venture in the balance sheet of the credit institution or the consolidated balance sheet of the holding company. A joint venture need not be taken into account applying, where applicable, the provisions of section 5, paragraph 4 on the subsidiary of a consolidation group.

If the financial holding company or credit institution referred to in paragraph 1 is a subsidiary of a Finnish financial holding company or credit institution, the provisions of this section above shall not be applied thereto.

Section 71 a

Intra-group transactions

(30.7.2004/700)

A credit institution or, if the credit institution belongs to a consolidation group, the parent company of the consolidation group shall report to the Financial Supervision Authority on transactions where one of the parties is the credit institution or an undertaking belonging to its consolidation group and the other party is:

- 1) an undertaking belonging to the same consolidation group;
- 2) an undertaking not belonging to the same consolidation group which belongs to the same group as the credit institution or in which the credit institution or an undertaking belonging to the same group has a participating interest referred to in the Accounting Act;
- 3) a pension foundation referred to in the Act on Pension Foundations (1774/1995) and established by the credit institution or an employer undertaking belonging to the same group or consolidation group as the credit institution when the persons covered by its sphere of activity are employed by the employer undertaking;
- 4) a pension fund referred to in the Employee Benefit Funds Act (1164/1992) when the persons covered by its sphere of activity may be employed by the credit institution or an employer undertaking belonging to the same group or consolidation group with it. (30.7.2004/700)

The report referred to in subsection 1 shall be submitted at least quarterly of transactions when their value, or in case several transactions of the same class have been concluded during the period of time referred to in this

subsection, their aggregate value exceeds five million euros or 5 per cent of the own funds of the credit institution or of an undertaking belonging to its consolidation group being parties to the transaction, unless the Financial Supervision Authority approves a higher limit for reporting. (30.7.2004/700)

The transactions referred to in this section may not be executed under terms derogating from the terms generally complied with in similar transactions between independent parties. The provisions of this subsection shall not be applied to the acquisition of administrative services needed by the group companies from an undertaking belonging to the group nor to capital and debenture loans granted by the parent company to the subsidiary which are necessary to strengthen the capital structure of the subsidiary, nor to other financing of the subsidiary when the subsidiary is a financial institution or an ancillary services undertaking belonging to the same consolidation group or a financial or insurance undertaking belonging to the same financial and insurance conglomerate and the parent company generally attends to the asset management of the consolidation group or conglomerate. (30.7.2004/700)

The Financial Supervision Authority shall issue further regulations on the reporting of the intra-group transactions referred to in this section. (25.1.2002/45 and 30.7.2004/700)

Chapter 9

Solvency of a credit institution

Section 72

(26.7.1996/570)

Minimum own funds and consolidated own funds

(19.12.1997/1340)

In order to ensure the solvency and consolidated solvency of a credit institution, the ratio of the own funds and consolidated own funds of the credit institution to the risks included in the assets and off-balance-sheet commitments of the credit institution as well as in the consolidated assets and consolidated off-balance sheet

items shall not be less than that provided for in this chapter.

(19.12.1997/1340)

The total amount of the own funds of the credit institution shall at all times be no less than the amount of initial capital provided for in section 13.

The own funds of a credit institution shall include the original and additional own funds of the credit institution in accordance with sections 73 and 74 deducted by the deductible items in accordance with section 75.

The own funds of a credit institution shall additionally include the own funds in accordance with section 74 a when covering the requirement for own funds resulting from the risks referred to in section 78 a as well as from the exposures of the items included in the trading book. (19.12.1997/1340)

Section 73

(19.12.1997/1340)

Original own funds

The own funds of a credit institution shall include as original own funds the following items:

1) share capital, cooperative capital and additional cooperative capital as well as basic capital;

2) cooperative investment capital and basic fund;

3) funds in share issue, cooperative investment issue or basic fund issue account;

4) capital loans the terms of which the Financial Supervision Authority has approved; (30.12.2004/1305)

5) reserve fund and premium fund;

6) non-restricted own capital reserves and retained profits excluding the items to be included in additional own funds in accordance with section 74; (30.12.2004/1305)

7) a voluntary provision; (30.12.2004/1305)

8) profit accrued during the financial period and indicated in an interim report if, according to the statement of the auditor, it has been calculated in a manner approved by the Financial Supervision Authority and in compliance with the same principles as are used in the calculation of the result for the financial period; as well as

9) other items comparable to those referred to above and approved by the Financial Supervision Authority.

The items referred to in subsection 1, paragraphs 1-5 may not include items, the capital of which has not been paid to the credit institution, or items, which produce a cumulative right to dividend, interest or other compensation. Before including the items referred to in subsection 1 in original own funds, any tax thereon in accordance with the corporate tax rate of the credit institution shall be deducted therefrom. (30.12.2004/1305)

The items referred to in paragraph 1, subparagraphs 1 - 4 may not include items for the re-payment of whose capital or the payment of whose dividend, interest or other compensation a security has been placed by:

1) the credit institution itself or an organization belonging to the same group or consolidation group;

2) an organization that under the law or under a contract is liable for the debts of the credit institution or under the control of such an organization in the manner referred to in section 5, paragraph 2, subparagraph 1 or which has to it a relationship referred to in subparagraph 2 or 3 of the same paragraph; or by

3) an organization of whose voting rights the organizations referred to in subparagraph 2 together hold a majority or by an organization under the control of such an organization as referred to in section 5, paragraph 2, subparagraph 1 or having to it a relationship as referred to in subparagraph 2 or 3 of the same paragraph.

The items referred to in subsection 1, paragraphs 6-9 shall be available to the credit institution immediately and without restriction to cover risks or losses as soon as they arise. (30.12.2004/1305)

Entry into force and application of the amendments:

Act of 19.12.1997/1340 entered into force 1.1.1998.

Without prejudice to this Act, capital loans issued prior to the entry into force of this Act shall be governed by the provisions in force upon their issue. However, own funds may not include capital loans for the re-payment of the capital of or

interest or dividend on or other compensation for which collateral referred to in section 73, paragraph 3 has been placed after the entry into force of this Act.

Section 74

(19.12.1997/1340)

Additional own funds

The own funds of a credit institution shall include as additional own funds the following items:

- 1) the revaluation reserve and the revaluation surplus; (30.12.2004/1305)
 - 1 a) the fair value reserve and the amount of corresponding own capital items with the exception of items referred to in section 36 a, subsection 1 (1); (30.12.2004/1305)
- 2) debt instruments issued for an unlimited period under conditions laid down in paragraph 2; as well as
- 3) subordinated debts with a maturity of no less than five years and other corresponding commitments under conditions laid down in paragraph 3.

The debt instruments referred to in paragraph 1, subparagraph 2 may be included in the additional own funds if they meet the following conditions:

- 1) their capital shall be re-paid only upon permission granted by the Financial Supervision Authority upon an application of the issuer;
- 2) under the terms of the agreement, the payment of interest thereon may be deferred for reasons attributable to the financial position of the credit institution;
- 3) their capital may be used to cover losses during the operation of the credit institution or they can otherwise be compared to own capital when assessing the obligation to place the credit institution in liquidation;
- 4) they are subordinate to the other debts of the credit institution;
- 5) the credit institution or another undertaking referred to in section 73, paragraph 3 has not given a security for the re-payment of the capital or the payment of interest or other compensation;
- 6) their capital has been paid to the credit institution.

If the amount of the fair value reserve or the comparable own capital items in accordance with subsection 1, paragraph 1 a is negative in value, it shall be

taken into account as a deduction from the amount of additional own funds.

(30.12.2004/1305)

Before including the items referred to in subsection 1, paragraphs 1 and 1 a in additional own funds, the deferred tax thereon in accordance with the corporate tax rate of the credit institution shall be deducted therefrom.

(30.12.2004/1305)

The debt instruments referred to in paragraph 1, subparagraph 3 may be included in the additional own funds if they meet the conditions laid down in paragraph 2, subparagraphs 4 - 6 above and if they may not be re-paid until five years after their issue unless the Financial Supervision Authority grants permission for their premature redemption. However, during the last five years prior to their due date, these debt instruments may be included at a maximum amount arrived at by deducting one-fifth of the original amount of the commitment from the amount included in the preceding year. (30.12.2004/1305)

Items referred to in paragraph 1 may be included in the own funds only up to an amount equal to the total of the items referred to in section 73. Items referred to in paragraph 1, subparagraph 3 may, however, be included in the own funds only up to an amount equal to half of the total of the items referred to in section 73.

(30.12.2004/1305)

Section 74 a

(19.12.1997/1340)

Other own funds

In calculating the requirement for own funds referred to in section 78 a and the maximum amount of large exposures referred to in section 78 c, paragraph 2, the own funds may, in addition to the items laid down in sections 73 and 74, include:

Subparagraph 1 repealed by **Act 30.12.2004/1305**.

2) subordinated debts and other comparable commitments meeting the conditions of section 74, paragraph 2, subparagraphs 4 - 6 which may not be re-paid until two years after their issue unless the Financial Supervision Authority grants permission for their premature redemption and the re-payment of whose capital may, under the terms of the contract, be deferred if the re-payment would

result in the amount of own funds falling below the limit laid down in section 78 a; as well as

3) commitments referred to in section 74, paragraph 1, subparagraph 2 which may not be included in the additional own funds under section 74, paragraph 4.

Section 75

Deductions

In calculating the ratio referred to in section 72, the following shall be deducted from the original own funds of the credit institution: own shares, participations or basic fund certificates held by the credit institution, the balance of the acquisition costs of long-term intangible assets not written off, items of the profit for the financial period or accrued profits originating from the valuation at fair value of real estate property not in own use, which exceed the additional requirement of own funds arising from this revaluation as well as the losses for the previous financial periods and the current financial period. (30.12.2004/1305)

The following shall be deducted from the aggregate original and additional own funds of the credit institution:

1) shares, participations and capital loans in another credit or financial institution in which all the shares or participations held by the credit institution exceed 10 per cent;

2) shares, participations and capital loans in credit and financial institutions other than those referred to in subparagraph 1 to the extent that their aggregate amount together with the items referred to in subparagraph 4 exceeds 10 per cent of the own funds of the credit institution before the deductions to be made from the aggregate amount of original and additional own funds;

3) shares, participations and capital loans in insurance companies in which all the shares or participations held by the credit institution exceed 10 per cent; as well as

4) claims on the guarantee funds of deposit banks to the extent that their amount together with the items referred to in subparagraph 2 exceeds the amount referred to in subparagraph 2. (19.12.1997/1340)

Instead of a deduction in accordance with paragraph 2, subparagraph 3, the share of the minimum operating capital of an insurance institution that is calculated in accordance with the Insurance Act or a corresponding foreign act and which corresponds to the holding of the credit institution in the insurance institution may be deducted from the aggregate original and additional own funds. (25.1.2002/45)

In calculating the deductions referred to in paragraph 2, subparagraphs 1 - 3, claims on undertakings subordinate to the other debts of the debtor shall be comparable to shares, participations and capital loans. In calculating the deductions referred to in paragraph 2, subparagraph 1, the holdings of the credit institution shall be deemed also to include the shares, participations, capital loans and claims comparable thereto of financial institutions and ancillary banking services undertakings referred to in section 21, paragraph 5 calculated in accordance with the said paragraph. In calculating the deductions referred to in paragraph 2, subparagraphs 1 and 3 and in paragraph 3, the holdings of the credit institution shall be deemed also to include the shares, participations, capital loans and claims comparable thereto of an insurance holding company and the holding company of a financial and insurance conglomerate which are subsidiaries or affiliated undertakings of the credit institution, in the same proportion as the credit institution holds shares or participations in the holding company in question. In calculating the deductions referred to above in this paragraph, investments in undertakings belonging to the same consolidation group as the credit institution shall not be taken into account. (25.1.2002/45)

Under permission of the Financial Supervision Authority, a deduction under paragraph 2 or 3 need not be made where the investment referred to in paragraph 2 or 3 in another credit or financial institution or an insurance company is necessary in conjunction with the restructuring of its business or where the purpose of the financial institution is primarily to hold shares or participations in other than credit or financial institutions and the financial institution does not belong to the consolidation group of another credit institution or investment firm. (25.1.2002/45)

In calculating the solvency of a member organization of the central organization of the consortium referred to in section 7 a of the Cooperative Banks Act, the above provisions of this section on organizations belonging to a consolidation group shall be applied to organizations referred to in section 7 a,

paragraph 1 of the Cooperative Banks Act as well as to organizations under their joint control which are included in the consortium when calculating its solvency. (19.12.1997/1340 and 25.1.2002/45)

Section 76

(19.12.1997/1340)

Risk weighting of assets

In calculating the ratio referred to in section 72, the assets of the credit institution shall be weighted as follows: (19.12.1997/1340)

Group I

1) cash in hand;

2) claims on the Government of Finland and central governments of States with a comparable credit risk, Finnish Government business enterprises and the Social Insurance Institution as well as claims guaranteed by securities issued by these organizations;

3) claims on Finnish municipalities, joint municipal authorities, the Municipal Guarantee Centre, a municipal pension institution referred to in the Pension Act of Municipal Civil-Servants and Employees (202/1964), the Province of Åland and municipalities of a State belonging to the European Economic Area comparable to Finnish municipalities and other public bodies comparable to such municipalities as well as claims guaranteed by them as well as claims collateralized by securities issued by these organizations; (14.7.2000/684)

4) claims on the Bank of Finland and other comparable central banks and claims guaranteed by these as well as claims guaranteed by securities issued by the Bank of Finland or comparable central banks;

5) claims on the European Communities and claims guaranteed by them as well as claims secured by collateral in the form of securities issued by the European Communities; (26.7.1996/570)

6) claims on States and central banks other than those as referred to in subparagraph 2 or 4, respectively, denominated and funded in the national currencies of the borrowers as well as such claims guaranteed by them; (25.1.2002/45)

7) claims collateralized by cash deposits in the same credit institution or by certificates of deposit or other comparable securities issued by the credit institution and lodged with the latter; as well as (25.1.2002/45)

8) items referred to in section 75, paragraphs 1 – 4 deducted from the own funds of the credit institution. (25.1.2002/45)

Group II

1) claims on Finnish credit institutions and comparable foreign credit institutions as well as claims on the guarantee funds of Finnish deposit banks and claims guaranteed by these;

1 a) claims on a Finnish deposit guarantee fund and the Investors' Compensation Fund as well as on a clearing fund referred to in chapter 4 a, section 7 of the Securities Markets Act (495/1989) and a registration fund referred to in section 18 of the Act on the Book-Entry System (826/1991); (31.1.2003/75)

2) claims on or guaranteed by foreign credit institutions other than those as referred to in subparagraph 1 with a maturity of one year or less;

3) claims on a Finnish parish as well as on a parish of a State belonging to the European Economic Area comparable to a Finnish parish as well as on foreign municipalities and joint municipal authorities comparable to Finnish municipalities and other public bodies comparable to such municipalities, other than those referred to in Group I, subparagraph 3, as well as claims guaranteed by them and claims collateralized by securities issued by these organizations; (14.7.2000/684)

4) claims on international development banks approved by the Financial Supervision Authority and claims guaranteed by these as well as claims collateralized by securities issued by such development banks;

5) claims secured by cash deposits in a Finnish credit institution or comparable foreign credit institution other than that granting the credit or by collateral in the form of deposit certificates or corresponding securities issued by such institutions; as well as

6) cash items in the process of collection.

7) claims on investment firms referred to in the Act on Investment Firms and on foreign investment firms subject to supervision corresponding to that laid down in the Act on Investment Firms as well as claims guaranteed by them as well as claims collateralized by securities issued by such an investment firm; (14.7.2000/684)

8) claims on option organizations referred to in the Act on Trade in Standardized Options and Futures (772/1988), stock exchanges referred to in the Securities Markets Act and on a central securities depository referred to in the Act on the Book-Entry System (826/1991) as well as on corresponding regulated foreign option organizations, stock exchanges and clearing houses subject to supervision corresponding to that laid down in the said Acts as well as claims collateralized by securities issued by such organizations; as well as (14.7.2000/684)

9) unpaid share of the subscribed capital of the European Investment Fund.
(14.7.2000/684)

Group III

1) claims fully collateralized, with the approval of the Financial Supervision Authority, by a mortgage on residential real estate occupied or rented out by the borrower or intended for such use or by shares entitling to possession of a residential apartment in, or intended for, such use; as well as

1 a) securities fully collateralized by claims referred to in Group III, subparagraph 1; as well as (14.7.2000/684)

2) prepayments and accrued income where the counter party has not been ascertained.

Group IV

1) loans to and claims on customers not included in Groups I-III;

2) claims on foreign States, foreign central banks and credit institutions not included in Group I or II,

3) shares and participations with the exception of shares and participations to be deducted from the original own funds as well as from the sum total of the original and additional own funds referred to in section 75;

4) subordinated debts with the exception of subordinated claims to be deducted from the aggregate original and additional own funds as referred to in section 75;

5) real estate; as well as

6) other assets.

Paragraph 2 repealed by Act of 19.12.1997/1340.

Section 77

(19.12.1997/1340)

Off-balance-sheet items

In calculating the ratio referred to in section 72, guarantees issued by a credit institution and other off-balance-sheet items shall be weighted by multiplying their credit counter value calculated in accordance with Council Directive 89/647/EEC on a solvency ratio for credit institutions by a coefficient determined in accordance with sections 76 and 78.

Section 78

(19.12.1997/1340)

The amount of own funds required to cover the credit risks

The own funds of a credit institution shall be not less than at least eight per cent of the sum total of its assets included in Groups II-IV of section 76 and its off-balance-sheet items and derivative contracts calculated by taking into account 20 per cent of the items included in Group II, 50 per cent of the items included in Group III and 100 per cent of the items included in Group IV so that these items are valued at their book value or at a value determined in accordance with section 77.

In derogation from the provisions of section 76 and paragraph 1 of this section, ten per cent of the amount of the bonds with mortgage collateral and bonds with public sector collateral referred to in the Act on Mortgage Credit Banks (1240/1999) as well as of corresponding foreign collateralized bonds may be taken into account. (14.7.2000/684)

Section 78 a

The amount of own funds required to cover position risk, settlement risk, counter-party risk, foreign-exchange risk and commodity risk

(14.7.2000/684)

In addition to the above provisions of this chapter, a credit institution shall hold own funds at least in an amount required to cover the following risks relating to its trading book:

- 1) a risk resulting from the general development of the markets (*general risk*);

2) the risk resulting from an issuer of a security or of the underlying of a derivative contract (*specific risk*);

3) the risk resulting from subscription commitments (*other position risk*);

4) the risk resulting from unsettled transactions in securities (*settlement risk*);
as well as

5) the risk resulting from the insolvency of the counter-party (*counter-party risk*).

In addition to that laid down in paragraph 1, the amount of the own funds of a credit institution shall be sufficient to cover its foreign-exchange risk and commodity risk resulting from all its operations as well as risks similar to the risks referred to in paragraph 1. (14.7.2000/684)

The requirement of own funds referred to in paragraphs 1 and 2 shall be calculated in accordance with the provisions of Council Directive on the capital adequacy of investment firms and credit institutions (93/6/EEC).

Section 78 b repealed by Act of 19.12.1997/1340.

Section 78 c

(26.7.1996/570)

Exceptions resulting from the trading book

In calculating the minimum requirement for own funds of a credit institution as referred to in section 78, items included in the trading book shall not be included in the claims and investments as referred to in section 76 or to the off-balance-sheet commitments as referred to in section 77.

The claims, investments and off-balance-sheet commitments included in the trading book shall be taken into account in the manner prescribed by the Financial Supervision Authority when calculating the customer exposure referred to in section 69. (31.1.2003/75)

Upon an application of the credit institution, the Financial Supervision Authority may grant it permission to include the items included in the trading book in the assets referred to in section 76, in which case the provisions of section 78 a, paragraph 1 shall not be applied to the credit institution. The permitted credit institution shall also calculate the exposure of the items included in the trading book

in accordance with section 69, paragraph 2, as a result of which the provisions of paragraph 2 above shall not apply thereto. (19.12.1997/1340)

A precondition for the granting of the permission as referred to in paragraph 3 shall be that the value of the trading book does not permanently exceed five one-hundredths and never six one-hundredths of the balance-sheet total last adopted and of the total amount of the off-balance-sheet commitments, nor permanently 15 million euros and never 20 million euros. (31.1.2003/75)

Section 78 d

(31.1.2003/69)

The minimum amount of own funds of a payment institution

In derogation from sections 76-78, a payment institution shall have own funds of an amount corresponding to two percent of the total amount of funds accepted against issuance of electronic money and general payment transmission by the payment institution or, if the monthly average of the total amount of such liabilities for the past six months is higher, two percent of the said average. If less than six months have passed since the commencement of operations of the payment institution, a target value set by the payment institution in its operating plan and approved by the Financial Supervision Authority shall be applied instead of the average referred to above.

With regard to funds to be invested in accordance with section 66 a, subsection 2, the payment institution shall apply restrictions that are necessary for covering the payment organization from market risks relating to the funds.

Section 79

(19.12.1997/1340)

Consolidated own funds

The original consolidated own funds shall include the following items of the consolidated balance sheet of the credit institution or, if a financial holding company is the parent company of the consolidation group of a credit institution, consolidated balance sheet of the holding company:

- 1) the items referred to in section 73;

- 2) the consolidated reserves; as well as
- 3) the minority share of the own capital of the consolidation group.

Good-will shown on the consolidated balance sheet shall be deducted from the original own funds of the consolidation group.

The items referred to in section 74 shall be included in the consolidated additional own funds in accordance with the consolidated balance sheet and the items referred to in section 74 a in the other own funds in accordance with the consolidated balance sheet.

The items referred to in section 75 shall be deducted from the aggregate amount of consolidated original and additional own funds in accordance with the consolidated balance sheet.

If the consolidation group includes credit or financial institutions or ancillary banking services undertakings referred to in section 5, paragraph 2 which have not been included in the consolidated annual accounts as subsidiaries, the items referred to in paragraph 1 shall be calculated from a consolidated balance sheet including, in addition to the undertakings of the consolidation group, the undertakings referred to in section 5, paragraph 2 applying, where applicable, the provisions on the inclusion of credit and financial institutions and ancillary banking services undertakings in consolidated annual accounts.

Section 79 a

(19.12.1997/1340)

Minimum consolidated own funds

If a credit institution or a financial holding company is the parent company of a consolidation group, the credit institution shall meet the requirement relating to consolidated own funds in accordance with this chapter in addition to the requirement for the own funds of the credit institution.

In calculating the requirement of consolidated own funds in accordance with section 78 as well as section 78 a, paragraph 1, subparagraphs 4 and 5, the consolidated assets, liabilities and off-balance sheet items to be taken into account shall include the assets and liabilities in accordance with the consolidated annual accounts as well as the aggregate amount of off-balance sheet commitments made

by the undertakings of the group deducted by commitments made to the other undertakings of the group.

If the consolidation group includes credit or financial institutions or ancillary banking services undertakings referred to in section 5, paragraph 2 which have not been included in the consolidated annual accounts as subsidiaries, the assets and liabilities referred to in paragraph 2 shall be calculated from a consolidated balance sheet including, in addition to the undertakings of the group, the undertakings referred to in section 5, paragraph 2 applying, where applicable, the provisions on the inclusion of credit and financial institutions and ancillary banking services undertakings in consolidated annual accounts. The consolidated off-balance sheet items to be taken into account shall include the aggregate amount of off-balance sheet commitments made by the undertakings of the consolidation group deducted by commitments made to the other undertakings of the consolidation group.

In calculating the requirement of consolidated own funds in accordance with section 78 a, paragraph 1, subparagraphs 1 - 3 and paragraph 2, the risks referred to therein shall, for the undertakings belonging to the consolidation group, be summed in a manner to be specified further by the Financial Supervision Authority.

If a credit institution or holding company referred to in subsection 1 is a subsidiary of the consolidation group of another Finnish credit institution, the provisions of subsection 1 shall not be applied thereto. The Financial Supervision Authority may grant a permission to the effect that, in derogation from subsections 2 and 3, the own funds as well as claims, investments and off-balance-sheet commitments of a foreign undertaking belonging to the consolidation group are taken into account in accordance with the legislation of the home State of the foreign undertaking. (31.1.2003/75)

In calculating the minimum amount of consolidated own funds, the joint ventures referred to in the Accounting Act need not be taken into account complying, where applicable, with the provisions of section 5, paragraph 4 on the subsidiaries of a consolidation group.

Section 80

(27.6.2003/588)

Duty to increase own funds and consolidated own funds

If the own funds or consolidated own funds of a credit institution fall below the minimum laid down in this Act, the credit institution or holding company shall, without delay, notify the Financial Supervision Authority thereof and undertake measures to meet the requirements relating to own funds. After receipt of the notification referred to above or after otherwise learning about the falling of the own funds or consolidated own funds below the limit laid down in the Act, the Financial Supervision Authority shall set a fixed period of time within which the requirement relating to the own funds and consolidated own funds of a credit institution shall be met under the threat of withdrawal of the authorisation. If the requirement has not been met even after the termination of the fixed period of time, the Financial Supervision Authority may decide on the withdrawal of the authorisation.

If the credit institution is an associated undertaking of a financial and insurance conglomerate referred to in the Act on Financial and Insurance Conglomerates or a subsidiary of the parent company of such conglomerate and the amount of own funds of the conglomerate falls below the amount laid down in section 19 of the said Act, the provisions of subsection 1 shall correspondingly apply to the credit institution. The Financial Supervision Authority shall, before making the decision referred to in subsection 1, request an opinion thereon from the other relevant supervisory authorities referred to in the said Act. (30.7.2004/700)

Section 81

(19.12.1997/1340)

Restrictions on the distribution of profit due to solvency and large exposures to customers

(31.1.2003/75)

If the amount of the own funds or consolidated own funds of a credit institution falls below the requirement laid down in this Act, the credit institution may not distribute profit or other return on own capital nor use its profit funds to redeem its own shares or to acquire them in another way unless the Financial Supervision Authority, for a special reason, grants an exemption for a fixed period. If the amount of the consolidated own funds of a credit institution is below that laid down in this Act, the credit institution or an undertaking belonging to its consolidation group may not distribute profit or other yield on capital nor use their profit funds to redeem their

own shares or to acquire them in another way unless the Financial Supervision Authority, for a special reason, grants an exemption for a fixed period.

Without prejudice to paragraph 1, the right to a dividend of the shareholder of a financial institution in the form of a limited company other than an investment firm, belonging to the consolidation group of the credit institution, shall be governed by the provisions of chapter 12, section 4, paragraphs 2 and 3 of the Limited Companies Act.

If the credit institution is an associated undertaking of a financial and insurance conglomerate referred to in the Act on Financial and Insurance Conglomerates or a subsidiary of the parent company of such conglomerate and the amount of own funds of the conglomerate falls below the minimum laid down in section 19 or 22 of the said Act, the provisions of subsections 1 and 2 shall correspondingly apply to the credit institution and an undertaking belonging to its consolidation group. The Financial Supervision Authority shall, before making the decision referred to in subsection 1, request an opinion thereon from the other relevant supervisory authorities referred to in the said Act. (30.7.2004/700)

Section 81 a

(31.1.2003/69)

Further regulations

The Financial Supervision Authority shall issue further orders on the application of the provisions of this chapter necessary for the implementation of the requirements of Council Directive 93/6/EEC on the capital adequacy of investment firms and credit institutions, Directive 2000/12/EC of the European Parliament and of the Council relating to the taking up and pursuit of the business of credit institutions as well as Directive 2000/46/EC of the European Parliament and of the Council on the taking up, pursuit of and prudential supervision of the business of electronic money institutions.

Chapter 10

Customer Protection

Section 82

Marketing

In its marketing a credit institution shall provide the customer with all the information on the commodity that may be of significance when the customer makes decisions concerning the commodity.

A credit institution shall not provide false or misleading information in its marketing nor otherwise use a procedure that is unfair from the point of view of the customer or contrary to good practice.

Marketing which does not convey the information necessary from the point of view of the economic security of the customer shall always be deemed unfair.

Paragraph 4 repealed by Act of 31.1.2003/69.

Section 82 a

(19.12.1997/1229)

Marketing restriction

In its marketing, a deposit bank may not use information relating to the cover provided by the deposit-guarantee fund or other corresponding deposit protection or guarantee-fund protection in a manner endangering the stability of the financial market or the trust of the depositors.

In its marketing, a deposit bank may use only information submitted by the deposit-guarantee fund or relating to other corresponding deposit protection or to its own guarantee-fund protection.

A deposit bank may not direct a customer to make a deposit in another deposit bank. Nor may such transfer of deposits be arranged in cooperation with another deposit bank or through or assisted by the central organization of the bank or another corresponding organization or in another manner.

Section 83

Terms of contract

In its operation a credit institution shall not apply a contract term which does not fall within the scope of the operation of a credit institution or the content of which shall be deemed unreasonable to the customer with regard to the positions or the

circumstances of the parties. A contract term shall always be deemed unreasonable if the granting of a loan, the validity of an agreement or other contract terms are made dependent on the acquisition or use of goods falling outside the scope of the operation of the credit institution to an extent that is inappropriate from the point of view of the customer on the whole or if the right of the customer to conclude contractual relations with another supplier is restricted.

A credit institution shall submit to the Financial Supervision Authority the terms of standard contracts applied in its operations.

Section 84

Supervision of marketing and contract terms

The Financial Supervision Authority shall supervise the application of contract terms and the marketing of a credit institution. The Consumer Ombudsman shall also supervise the legality of marketing and the use of contract terms from the point-of-view of consumer protection.

The Financial Supervision Authority and the Consumer Ombudsman shall work in appropriate cooperation with each other.

Section 85

Opinion of the Consumer Ombudsman

Whenever the Financial Supervision Authority notes that, in its use of contract terms, a credit institution violates the Consumer Protection Act (38/1978) the Financial Supervision Authority shall request the opinion on the matter from the Consumer Ombudsman.

Section 86

Injunction

Where necessary from the point of view of customer protection, the Financial Supervision Authority may issue an injunction against a credit institution forbidding it to continue a marketing operation or the use of contract terms violating this section or provisions or orders issued thereunder or to repeat the same or similar marketing operation or use of contract terms.

The Financial Supervision Authority may also order that the injunction as referred to in paragraph 1 shall be interlocutory, in which case the injunction shall remain in force until the matter has been finally resolved.

The Financial Supervision Authority may impose a conditional fine to reinforce the injunction issued. The conditional fine shall be ordered payable by the Market Court. (28.12.2001/1535)

No appeal shall be allowed against a decision of the Financial Supervision Authority as referred to in paragraphs 1 and 2.

Section 87

(28.12.2001/1535)

Referral to the Market Court

A credit institution may refer a decision of the Financial Supervision Authority as referred to in section 86, paragraph 1 to the Market Court within 30 days from being notified of the decision of the Financial Supervision Authority. Otherwise the decision shall be final.

Section 87 a

(31.1.2003/69)

Duty of redemption of electronic money

An issuer of electronic money other than that referred to in section 1, subsection 2 shall be liable to redeem the electronic money it has issued at a full amount corresponding to its monetary value deducted by a reasonable transaction-specific fee possibly collected for the redemption. This duty of redemption may be derogated from by agreement in cases where the monetary value of the electronic money to be redeemed is at most ten euros. The contract terms applicable to the issue of electronic money shall state the conditions of redemption

Chapter 11 repealed by Act of 30.4.1998/310.

Chapter 12

Miscellaneous Provisions

Section 93 repealed by Act of 28.12.2001/1500.

Section 94

Secrecy obligation

Anyone who, in the capacity of a member or deputy member of a body of a credit institution or an undertaking belonging to its consolidation group or of a consortium of credit institutions or of a representative of a credit institution or of another undertaking operating on behalf of the credit institution or as their employee or agent, in performing his duties, has obtained information on the financial position or private personal circumstances of a customer of the credit institution or of an undertaking belonging to its consolidation group or to a conglomerate referred to in the Act on the Supervision of Financial and Insurance Conglomerates or of another person connected with its operation or on a trade or business secret shall be liable to keep it confidential unless the person to whose benefit the secrecy obligation has been provided consents to its disclosure. Confidential information may not be disclosed to a General Meeting of Shareholders, a General Meeting of Trustees, a General Meeting of a Cooperative or a General Meeting of the Delegates or a General Meeting of a Mortgage Society or to a shareholder or member attending the meeting. (25.1.2002/45)

A credit institution and an undertaking belonging to its consolidation group shall be liable to disclose the information as referred to in paragraph 1 to a prosecuting and pretrial investigation authority for the investigation of a crime as

well as to another authority entitled to this information under the law.

(19.12.1997/1340)

A credit institution and an undertaking belonging to its consolidation group may disclose the information referred to in paragraph 1 to an organization of the same group or consolidation group or of a conglomerate referred to in the Act on the Supervision of Financial and Insurance Conglomerates for the purpose of customer service or other customer-relationship management and marketing as well as risk management of the group, consolidation group or conglomerate. The provisions of this paragraph on the disclosure of information shall not apply to the disclosure of sensitive data referred to in section 11 of the Personal Data File Act (523/1999) nor to data based on the registration of payment data between a customer and an undertaking other than one belonging to the conglomerate. (31.1.2003/75)

In addition to the provisions of paragraph 3, a credit institution and an undertaking belonging to its consolidation group may disclose the information in its customer register necessary for marketing as well as customer service and other customer-relationship management to an organization of the same financial consortium as the credit institution if the party receiving the information is subject to the secrecy obligation provided for in this Act or to a corresponding secrecy obligation. The provisions of this paragraph on the disclosure of information shall not apply to the disclosure of sensitive data referred to in section 11 of the Personal Data File Act. (25.1.2002/45)

Notwithstanding the provisions of this section, a credit institution shall have the right to disclose information necessary for the operations of the consortium to a consortium of credit institutions that is referred to in paragraph 1 in which the credit institution is a member of. The provisions of paragraph 1 and this paragraph on the consortium of credit institutions shall correspondingly apply to the central banking institutions of savings banks and co-operative banks. (25.1.2002/45)

Notwithstanding the provisions of paragraph 1, a credit institution may carry on credit reference services as part of its normal business operations. (25.1.2002/45)

The provisions of chapter 9, section 12, paragraph 4 of the Limited Companies Act shall not apply to a credit institution or an undertaking belonging to its consolidation group. (31.1.2003/75)

A credit institution may disclose the information referred to in subsection 1 to the party in charge of public trade referred to in the Securities Markets Act (495/1989) and an option organisation referred to in the Act on Trading in Standardised Options and Futures (772/1988) if the information is necessary in order to safeguard the supervisory duty provided for them. A credit institution shall have the same right to disclose information to an organisation in charge of trading corresponding to public trade and operating in a State belonging to the European Economic Area and to an organisation comparable to an option organisation situated in a State belonging to the European Economic Area. (13.5.2005/303)

Section 94 a

(26.7.1996/570)

Disclosure of information to a register keeper engaged in credit reference services

Notwithstanding the provisions of section 94, a credit institution and a financial institution belonging to its consolidation group shall have the right to disclose to a register keeper engaged in credit reference services information necessary for the identification of the valid credit contracts and guarantee obligations of the customer as well as information on the amount of outstanding credits to be entered in the credit reference register.

Section 94 b

(19.12.1997/1340)

Disclosure of information for research purposes

A document containing information referred to in section 94 may be submitted for scientific research purposes if at least 60 years have passed since the document was drawn up and the recipient of the document gives a written commitment not to use the document to the detriment of the person whom the document concerns or anyone close to him or to defame them or to violate any other interests for the benefit of which the secrecy obligation has been provided for.

Section 95

(30.1.1998/69)

Identification of customers

A credit institution or a financial institution belonging to its consolidation group shall ascertain the identity of its regular customer and know the quality of the business operations of its customer as well as the grounds for the using of a service. If it is probable that the customer is acting on behalf of another party, the identification shall also be extended to that person as far as this is possible with the means available.

The identification of customers shall also be governed by the provisions of the Act on the Prevention and Investigation of Money Laundering (68/1998).

The Financial Supervision Authority may issue further orders on the procedure to be complied with in the identification of customers referred to in paragraph 1.

Sections 96 – 97 a repealed by Act of 30.1.1998/69.

Section 97 b

(28.12.2001/1500)

Application of the provisions of the Limited Companies Act and of the Act on Cooperatives on the granting of a monetary loan

Chapter 12, section 7 of the Limited Companies Act and chapter 8, section 7 of the Act on Cooperatives shall not be applied to a credit institution or to a financial institution belonging to its consolidation group. The granting of a monetary loan to finance the acquisition of own shares or participations or of shares or participations of the parent company shall be governed by section 24 a.

Section 97 c

(19.12.1997/1340)

Liability for damages

The establisher of a credit institution, a member of its Supervisory Board or Board of Directors and its Managing Director shall be liable to compensate any damage he has caused to the credit institution either willfully or through negligence in his duties. The same shall apply to damage caused to a shareholder, member, holder of an investment participation or basic fund certificate or other person through a violation of the Act on Commercial Banks in the Form of a Limited Company, the Act on Savings Banks, the Act on Cooperative Banks and Other Credit Institutions in the Form of a Cooperative, the Act on Mortgage Credit Banks (1240/1999), the Act on Mortgage Societies (936/1978), the Act on Temporary Interruption of the Operations of a Commercial Bank (1509/2001) or this Act or a Decree of the Ministry or a regulation of the Financial Supervision Authority issued thereunder or the Articles of Association or the Bylaws of the credit institution. The liability of an auditor for damages shall be governed by the Audit Act. (28.12.2001/1500)

Paragraph 2 repealed by Act of 28.12.2001/1500.

The shareholder of a credit institution, the trustee of a savings bank as well as a member or a delegate of a cooperative bank shall be liable to compensate any damage that he has caused to the credit institution, a shareholder or member or to the holder of an investment participation or basic fund certificate or other person either willfully or through gross negligence by contributing to a violation of the provisions referred to in paragraph 1 or of the Articles of Association or the Bylaws of the credit institution.

The adjustment of damages as well as the division of liability among two or more persons liable for the damages shall be governed by the provisions of chapters 2 and 6 of the Damages Act (412/1974).

The bringing of an action for damages on behalf of a credit institution in the form of a limited company, a savings bank or a credit institution in the form of a cooperative shall be governed by the Act on Commercial Banks and Other Credit Institutions in the Form of a Limited Company, the Act on Savings Banks and the Act on Cooperative Banks and Other Credit Institutions in the Form of a Cooperative. (28.12.2001/1500)

The above provisions of this section shall also be applied to an undertaking belonging to the consolidation group of a credit institution if the damage has been

caused by a violation of this Act or a decision of the Ministry or an order of the Financial Supervision Authority issued thereunder.

Chapter 13

Provisions on punishments and the conditional imposition of a fine

Section 98

(31.1.2003/69)

Credit institution crime

Anyone who

1) accepts from the public funds repayable on demand in violation of the provisions of sections 2 a, 2 d or 2 e,

2) carries on an activity referred to in section 1, subsection 1 without an authorization or in violation of a decision referred to in section 1 a, subsection 3,

3) uses, in its business activity, the term "deposit" in violation of the provisions of section 2 c, subsection 2 or the term "bank" in violation of section 8, subsection 2,

4) in a case referred to in chapter 2, section 9, chapter 4, section 9 or 12 c, chapter 13, section 15, chapter 14, section 16 or chapter 14 a, section 4 of the Limited Companies Act, chapter 12, sections 4, 5, 10 and 12 of the Act on Co-operatives as well as sections 12 and 26 of the Act on Savings Banks submits to the registration authority or a court of law a false notification, confirmation or statement on the payment of the share capital, basic fund, co-operative investment capital or a debt; or

5) violates the provisions referred to in the Limited Companies Act, the Act on Co-operatives or the Act on Savings Banks on the preparation of the report of an auditor acting as an independent expert,

shall, unless the act is minor or subject to a more severe punishment elsewhere in the law, be sentenced for *a credit institution crime* to a fine or to imprisonment not exceeding six months.

Anyone who wilfully or through gross negligence breaches the provisions of section 2 a, subsection 4 shall, unless the act is minor or subject to a more severe punishment elsewhere in the law, be sentenced for *breach of the provisions on the offering of debt commitments to the public* to a fine.

Punishment for giving false evidence to an authority shall be imposed in accordance with chapter 16, section 8 of the Penal Code.

Section 99 repealed by Act of 31.1.2003/69.

Section 100

(19.12.1997/1340)

Breach of secrecy obligation

Punishment for a breach of the secrecy obligation laid down in section 94 and for a breach of the commitment laid down in section 94 b shall be sentenced in accordance with chapter 38, sections 1 and 2 of the Penal Code unless the act is subject to a more severe punishment elsewhere in the law.

Section 100 a

(25.1.2002/45)

Breach of provisions on the acquisition of shares or participations of a credit institution

Anyone who wilfully acquires shares or participations in violation of the objection provided for in section 19, paragraph 1 or without the consent of the Financial Supervision Authority referred to in paragraph 19 a shall be sentenced for *breach of the provisions on the acquisition of shares or participation of a credit institution* to a fine unless the act is minor or subject to a more severe punishment elsewhere in the law.

Section 100 b
(28.12.2001/1500)

Breach of the provisions on the liquidation of a credit institution

Anyone who as a member of the Board of Directors or as a liquidator of a credit institution seriously neglects to comply with the provisions of chapter 13 of the Limited Companies Act, chapter 6 of the Act on Commercial Banks and Other Credit Institutions in the Form of a Limited Company, chapter 8 of the Act on Savings Banks, chapter 19 of the Act on Cooperatives or chapter 9 of the Act on Cooperative Banks and other Credit Institutions in the Form of a Limited Company on the duties of the Board of Directors or the liquidators shall be sentenced for a *breach of the provisions on the liquidation of a credit institution* to a fine unless the act is minor or subject to a more severe punishment elsewhere in the law.

Section 100 c
(19.12.1997/1340)

Accounting offense of a credit institution

Anyone who willfully or through gross negligence

1) draws up annual accounts or consolidated annual accounts in violation of the provisions of chapter 4 or a decision of the Ministry of Finance or an order of the Financial Supervision Authority issued thereunder;

2) breaches the provision of section 40 on the notification of annual accounts for registration or on the availability of annual accounts;

3) breaches the provision of section 41 on the drawing up of an interim report; or

4) breaches the provisions on the merger or division of a credit institution or the issuing of final accounts concerning the liquidation of a credit institution

shall, unless the act is punishable as an accounting crime referred to in chapter 30, section 9 or 10 of the Penal Code or subject to a more severe punishment elsewhere in the law, be sentenced for *an accounting offense of a credit institution* to a fine.

Section 100 d
(19.12.1997/1340)

Breach of the provisions on the distribution of the assets of a credit institution

Anyone who willfully

1) breaches the provisions of the re-payment of a capital loan or the payment of interest on or other compensation for or the granting of collateral for a capital loan;

2) distributes the funds of a credit institution or an undertaking belonging to its consolidation group in violation of this Act, the Limited Companies Act, the Cooperatives Act, the Commercial Banks Act, the Cooperative Banks Act, the Savings Banks Act or the Act on Mortgage Societies; or who

3) breaches the provisions of section 24 a on the granting of a loan or collateral or the acceptance as a pledge of shares, participations, capital loans, subordinated debts or corresponding commitments of the credit institution itself or of its parent company

shall, unless the act is minor or subject to a more severe punishment elsewhere in the law, be sentenced for *breach of the provisions on the distribution of the assets of a credit institution* to a fine or to imprisonment not exceeding one year.

Section 101

A conditional imposition of a fine

If a consortium of credit institutions has not complied with this Act or with provisions or orders issued thereunder in its activity or if a limited company referred to in section 1 a, subsection 2 neglects to comply with the duty to notify referred to in subsection 5 of the said section or fails to submit the information referred to in the subsection requested by the Financial Supervision Authority, the Financial Supervision Authority may obligate it to fulfil its obligations under the threat of a conditional fine. (31.1.2003/69)

The conditional fine shall be ordered payable by the Financial Supervision Authority.

Section 102

Further provisions

Further provisions on the implementation of this Act shall be issued by Decree, where necessary.

Chapter 14

Provisions on Entry into Force and Transitional Provisions

Section 103

Entry into force

This Act shall enter into force on a date to be laid down by Decree. The provisions of this Act on annual accounts shall, however, be applied for the first time to a financial period beginning on or after 1 January, 1994.

This Act shall repeal:

- 1) the Deposit Banks Act of 28 December, 1990 (1268/1990) with later amendments; as well as
- 2) the Finance Act of 20 December, 1991 (1544/1991).

Where a provision issued prior to the entry into force of this Act contains reference to a provision repealed by this Act, the reference shall apply to the provisions of this Act replacing the provisions repealed.

Section 104

Minimum amount of own funds

The minimum requirement of own funds laid down in section 72, paragraph 2 shall not apply to a credit institution that had a valid authorization to carry on the

activity of a credit institution upon the entry into force of this Act. The level of the own funds of a credit institution as referred to above, the amount of own funds of which upon the entry into force of this Act is below the amount provided for in section 72, paragraph 2 may, however, not fall below the level of 2 May 1992 or, if the credit institution did not have a valid authorization on the said date, below the level it was when it was granted the authorization or the highest amount achieved thereafter. (26.7.1996/570)

If control of a credit institution as referred to in paragraph 1 is transferred to a party other than that controlling it upon the entry into force of this Act, the level of its own funds shall meet at least the minimum requirement laid down in section 72, paragraph 2 within three months from the transfer of control. (26.7.1996/570)

Upon the merger of two or more credit institutions as referred to in paragraph 1, the own funds of the acquiring credit institution or the new credit institution being established shall amount at least to the sum total of the merged credit institutions at the time of the merger until it meets the minimum requirement of the own funds of a credit institution laid down in section 72, paragraph 2. (26.7.1996/570)

The provisions of section 80 shall be applied to the falling of the own funds below the amount provided for in this section. (27.6.2003/588)

Section 105

Solvency

If, upon the entry into force of this Act, the solvency of a credit institution or a consolidation group is below the minimum laid down, the credit institution or holding company shall undertake measures to raise the solvency to the level laid down in sections 78 and 79. Within six months from the entry into force of this Act, the credit institution or holding company shall submit to the Financial Supervision Authority a proposal concerning the attainment of the solvency requirement. The solvency requirement shall be met not later than 1 January 1995.

A credit institution may not set up a subsidiary abroad before the credit institution and its consolidation group meet the minimum solvency requirement.

Section 106

Exposures to customers

If, upon the entry into force of this Act, a credit institution or its consolidation group carries exposures as referred to in section 69 exceeding the limit laid down in section 70 or section 71, the credit institution or holding company shall immediately undertake measures to bring the exposures within the limits laid down in sections 70 and 71. The amount of exposures exceeding the limit laid down in section 70 or section 71 may not exceed the level attained upon the entry into force of this Act.

In the application of paragraph 1, the ratio of large exposures as referred to in section 69, paragraph 3 shall, until 31 December 1998, be 15 per cent, the ratio of exposures as referred to in section 70, paragraph 1, first sentence 40 per cent and the ratio of exposures as referred to in section 70, paragraph 1, second sentence 30 per cent. The requirements of paragraph 1 relating to exposures to customers shall, however, be met no later than on 31 December 2001.

A credit institution and its consolidation group whose own funds under sections 73 and 74, after deduction of the items under section 75, do not exceed an equivalent of seven million ECU in FIM, however, not more than FIM 45 million, shall meet the requirements of paragraph 1 relating to customer exposures no later than on 31 December 2006.

In the application of the limitations on exposures to customers laid down in sections 70 and 71 after the periods laid down in paragraphs 2 and 3, the claims and off-balance-sheet commitments of a credit institution or its consolidation group incurred prior to the entry into force of this Act may be disregarded in so far as their inclusion would result in a limit laid down in sections 70 and 71 being exceeded. Exposures to customers based on claims and off-balance-sheet commitments incurred prior to the entry into force of this Act which are incurred after the entry into force of this Act from the sale of a credit institution belonging to the consolidation group of the credit institution may be disregarded in so far as their inclusion would lead to a limit laid down in section 70 or 71 being exceeded.
(29.12.1994/1435)

Section 107

Use of the term 'pankki'

A credit institution that, under the Financing Act, has been authorized to use the term 'pankki' in its trade name or otherwise to indicate its activity may continue to use the term 'pankki' also after the entry into force of this Act.

Section 108

Authorization

A corporation or savings bank that carries on activity as referred to in this Act under an authorization granted under the Act on Deposit Banks or the Financing Act need not apply for a new authorization.

Within two years of the entry into force of this Act, a credit institution as referred to in paragraph 1 shall amend its Articles of Association or bylaws to comply with the provisions of this Act or an Act as referred to in section 6 and submit the amended Articles of Association or bylaws to the Financial Supervision Authority.

Sections 109 – 111 repealed by Act of 19.12.1997/1340

Entry into force and application of the amendments:

Act 19.12.1997/1340:

This Act shall enter into force 1 January 1998. Repealed sections 109 – 111 shall be applied to debt securities issued prior to the entry into force of this Act or during the next two years after the entry into force of this Act, and to collateral for such debt securities.

The repealed sections:

Section 109

Collateral on a debt security

If the terms of long-term debt security issued by a credit institution require the credit institution to submit safeguarding collateral approved by the Financial Supervision Authority, the credit institution shall request the Financial Supervision Authority to examine the nature and sufficiency of the collateral in advance.

The credit institution shall pledge to the Financial Supervision Authority collateral approved by the latter amounting to the total nominal value of the debt securities in issue at any time with respect to each loan issued by the credit institution alone and an amount of collateral approved by the Financial Supervision Authority with respect of each loan for which the commitments of the credit institution have been made jointly with another borrower. Collateral custody costs shall be borne by the issuer of the debt securities.

As temporary collateral for a debt security issued by a credit institution, the credit institution may also, instead of the collateral referred to in paragraph 1, pledge a guarantee issued by the Bank of Finland or by a credit institution not belonging to the consolidation group of the credit institution in question or an equivalent amount of deposit certificates of a deposit bank.

As soon as possible and no later than within two years from its pledging, the temporary collateral shall be exchanged for collateral determined by the Financial Supervision Authority. The Financial Supervision Authority may extend the period for the exchange of the collateral by a maximum of two years.

Section 110

Additional collateral for a debt security

If the amount of collateral for a debt security issued by a credit institution falls below the amount required under section 109, the credit institution shall pledge additional collateral approved by the Financial Supervision Authority within a maximum period of two months.

Section 111

Conversion of debt securities

Unless otherwise ordered by the Financial Supervision Authority, a credit institution may, at nominal value, exchange debt securities repurchased by it before their maturity for collateral pledged for the same debt securities. Such debt securities shall be used as additional amortization of the debt securities on the first payment date in accordance with the amortization plan.

Entry into force and application of the amendments:

19.12.1997/1229:

[1. This Act shall enter into force on 1 January 1998.

2. Section 65 j, paragraph 2 of this Act shall be in force until 31 December 1999.]

3. Upon the entry into force of this Act, the Guarantee Fund of the Commercial Banks and Postipankki Ltd, the Guarantee Fund of the Savings Banks and the Guarantee Fund of the Cooperative Banks shall become guarantee funds referred to in section 55 of this Act if the guarantee fund has no commitments. The guarantee funds shall, within one year from the entry into force of Act, amend their bylaws to comply with section 57 of this Act. Until the bylaws have been confirmed, the earlier bylaws of the guarantee fund shall be complied with to the extent they are not in conflict with this Act. A guarantee fund which has commitments upon the entry into force of this Act shall become a guarantee fund referred to in this Act when it no longer has commitments. The guarantee fund shall, within three months, amend its bylaws to comply with section 57 of this Act. Until the bylaws have been confirmed, the earlier bylaws of the guarantee fund shall be complied with to the extent they are not in conflict with this Act. (4.12.1998/887)

4. The Supervisory Boards of the Guarantee Fund of the Commercial Banks and Postipankki Ltd, the Guarantee Fund of the Savings Banks and the Guarantee Fund of the Cooperative Banks may, within one year from the entry into force of this Act, decide on the dissolution of the fund if the guarantee fund has no commitments. The decision on the dissolution of the guarantee fund shall be unanimous. The decision on the dissolution of the guarantee fund referred to in this paragraph shall enter into force when the guarantee fund no longer has assets. The deposit banks belonging to the guarantee fund shall, however, be deemed to have withdrawn from the guarantee fund starting from the decision to dissolve the fund. Sections 61 - 63 of this Act shall not be applied to a guarantee fund to be dissolved. If a decision to dissolve a guarantee fund has been made in accordance with this paragraph, the bylaws of the guarantee fund need not be amended in accordance with paragraph 3.

5. The decision on the dissolution of a guarantee fund referred to in paragraph 4 may be made already prior to the entry into force of this Act. In this case, the banks belonging to the guarantee fund shall be deemed to have withdrawn from the guarantee fund upon the entry into force of this Act. If a decision to dissolve a guarantee fund has been made prior to the entry into force of this Act, the annual contribution need not be paid to the guarantee fund for the calendar year preceding the entry into force of this Act.

6. If a guarantee fund has commitments upon the entry into force of this Act, section 55, paragraphs 1 and 2, section 56, paragraphs 1 and 2, section 57, paragraph 1, sentence 1 and paragraph 2, sections 58 and 59 as well as sections 62 - 65 of the Act on Credit Institutions, as they were upon the entry into force of this Act, shall, however, be applied thereto instead of chapter 6 of this Act. A deposit bank belonging to a guarantee fund referred to in this paragraph may, however, withdraw from the fund by notifying the board of directors of the guarantee fund thereof in writing. A bank belonging to the consortium of cooperative banks shall obtain the approval of the central organization for its withdrawal. The withdrawal shall enter into force when the bank withdrawing from the fund has paid to the guarantee fund as a statutory payment its share of the obligations of the guarantee fund. The share to be paid by the bank withdrawing from the fund and the term of payment thereof shall be determined by the board of directors of the fund. The term of payment may be extended to 31 December 2004 at the most. Section 58 of the Act on Credit Institutions referred to above shall not be applied to the bank withdrawing from the fund from the submission of the notification of withdrawal.

[7. The rules of a deposit-guarantee fund referred to in section 65 a of this Act shall be drawn up and submitted to be confirmed by the Ministry within four months from the entry into force of this Act.

8. The contribution of a deposit-guarantee fund referred to in sections 65 d and 65 e of this Act shall be payable for the first time at the latest within six months from the entry into force of this Act. When determining the contribution referred to in this paragraph, the solvency and the aggregate total of deposits referred to in the said sections shall be determined on the basis of the annual accounts of the bank adopted for the financial period preceding the entry into force of the Act.]

9. When a decision has been made to dissolve a guarantee fund of a deposit bank in accordance with paragraphs 4 and 5, it shall annually pay to the deposit banks referred to in the said paragraphs an amount which corresponds to the annual yield of the net assets of the guarantee fund. When the banks have paid to the deposit-guarantee fund contributions in accordance with section 65 d of this Act in an amount which, together with the yield accrued on the contributions, corresponds to two per cent of the aggregate total of deposits subject to compensation pursuant to section 65 j, paragraphs 1 and 2 of this Act, the assets of the guarantee fund shall be paid to the banks referred to in paragraphs 4 and 5.

10. If the banks which belonged to the guarantee fund referred to in paragraph 9 have to grant the deposit-guarantee fund a loan in accordance with section 65 n before the assets of the guarantee fund have been paid to the said banks in accordance with the said paragraph, the guarantee fund may grant the loan on behalf of the banks which belonged to the fund.

11. The claim of a depositor referred to in section 65 j, paragraph 1 which is based on a deposit placed as collateral for a loan or another claim placed at the latest on 14 November 1997, shall, notwithstanding the provisions of section 65 j, paragraph 1, be compensated in full from the assets of the deposit-guarantee fund if the liability of the fund to pay commences within three years from the entry into force of this Act.

12. A claim referred to in section 65 j, paragraph 1 based on a term deposit of a depositor, made at the latest on 14 November 1997, shall, notwithstanding the provisions of section 65 j, paragraph 1, be compensated in full from the assets of the deposit-guarantee fund if the liability to pay of the fund commences prior to the end of the term of the deposit.

13. The deposits referred to in paragraphs 11 and 12 shall be taken into account in full when calculating the contribution referred to in section 65 d of this Act.

Entry into force and application of the amendments of Act of 28 December 2001/1500:

This Act shall enter into force on 1 January 2002.

The Ministry of Finance shall report the authorizations granted prior to the entry into force of this Act for registration within one year from the entry into force of this Act.
