

THIS IS AN UNOFFICIAL TRANSLATION OF THE CONSOLIDATION ACT ON A DEPOSITOR AND INVESTOR GUARANTEE SCHEME PREPARED BY THE GUARANTEE FUND. ONLY THE OFFICIAL VERSION IN DANISH PUBLISHED IN THE DANISH LAW GAZETTE ("Lovtidende") IS VALID. THE GUARANTEE FUND DOES NOT ASSUME ANY LIABILITY FOR ANY FAULTS IN THE UNAUTHORIZED CONSOLIDATED VERSION OR INCONSISTENCIES BETWEEN THIS VERSION AND A FUTURE OFFICIAL CONSOLIDATED VERSION.

Consolidation Act on a Depositor and Investor Guarantee Scheme¹⁾

This is to consolidate the Act on a Depositor and Investor Guarantee Scheme, cf. Consolidation Act No. 1271 of 4 November 2013, as amended by section 14 of Act No. 403 of 28 April 2014, section 3(i)-(xv) and (xvii)-(xlviii) of Act No. 334 of 31 March 2015 and section 14 of Act No. 532 of 29 April 2015.

The amendment following from section 3(xvi) of Act No. 334 of 31 March 2015 to amend the Financial Business Act, the Financial Stability Act, the Act on a Guarantee Fund for Depositors and Investors, the Securities Trading, etc. Act and the Tax Assessment Act (Implementation of directive on the recovery and resolution of credit institutions and investment firms (BRRD) and directive on deposit guarantee schemes (DGSD)) has not been incorporated in this Consolidation Act, as this amendment enters into force on 1 January 2016, see section 7(2) of Act No. 334 of 31 March 2015.

Part 1

Status and scope of the Guarantee Fund

1.-(1) The Depositor and Investor Guarantee Scheme is structured as a depositor and investor guarantee fund (the Guarantee Fund) consisting of four departments. See section 5. The Guarantee Fund is managed by Finansiell Stabilitet in accordance with this Act.

(2) The Guarantee Fund will provide coverage to depositors and investors of the institutions mentioned in section 3(1) and section 4 of this Act for any losses pursuant to sections 9-11 of this Act in the event of reconstruction or bankruptcy proceedings.

(3) Finansiell Stabilitet is not liable for the obligations of the Guarantee Fund, and the Guarantee Fund is only liable for its own obligations.

(4) The assets and liabilities of the Guarantee Fund are to be kept separate from Finansiell Stabilitet's other activities.

(5) From the Guarantee Fund for Depositors and Investors, the Guarantee Fund takes over all assets and liabilities and assumes all rights and obligations in that connection to the effect that assets and liabilities belonging to departments of the Guarantee Fund for Depositors and Investors will belong to the corresponding departments of the Guarantee Fund.

(6) The Guarantee Fund is not an independent legal entity. Finansiell Stabilitet acts on behalf of the Guarantee Fund in all legal respects.

(7) In the event of a dissolution of the Guarantee Fund, the Minister for Business and Growth will make a decision on the application of the assets of the Guarantee Fund subject to approval by the Minister of Finance. The decision about the application of the assets of the Guarantee Fund will be made after having consulted the institutions with an obligation to contribute.

(8) The Minister for Business and Growth may lay down detailed rules on Finansiell Stabilitet's management of the Guarantee Fund.

2.-(1) When a bank is distressed or is expected to become distressed as provided in section 224 a of the Financial Business Act, Finansiell Stabilitet may on behalf of the Guarantee Fund decide to contribute to a resolution of the bank by injecting funds or providing a guarantee for the coverage of all of the bank's unsubordinated creditors (dowry). Finansiell Stabilitet makes the decision under the first sentence with due consideration to the interests of the Guarantee Fund when it is deemed that such resolution will cause the Guarantee Fund to incur fewer costs than if ordinary bankruptcy proceedings were instituted for the bank.

(2) Finansiell Stabilitet cannot on behalf of the Guarantee Fund make a decision to contribute to a resolution of the bank by injecting funds or providing a guarantee for the coverage of the bank's share capital, guarantee capital, cooperative capital or other subordinated capital.

(3) The Guarantee Fund will, through the banking department, pay any costs incurred in connection with the actual dowry and any costs assumed by Finansiell Stabilitet as executor of the scheme.

(4) A decision to contribute as described in subsection (1) hereof is made by the Board of Directors of Finansiell Stabilitet.

(5) The Guarantee Fund's participation under subsection (1) hereof can take place jointly with others.

2 a.-(1) If Finansiell Stabilitet has made a decision to use one or more resolution tools in accordance with the Act on Restructuring and Resolution of Certain Financial Enterprises or rules issued in pursuance thereof vis-à-vis a bank or a mortgage credit institution, the Guarantee Fund must in accordance with subsections (2) and (3) hereof contribute financially to the resolution of the bank or mortgage credit institution.

(2) If bail-in is used, see section 24 of the Act on Restructuring and Resolution of Certain Financial Enterprises, the Guarantee Fund will pay an amount corresponding to the amount by which the depositors' covered deposits or the investors' covered cash funds would have been written down in accordance with section 24 of the Act on Restructuring and Resolution of Certain Financial Enterprises had the covered deposits and covered cash funds been comprised by bail-in.

(3) If one or more resolution tools are used, see sections 19, 21 and 23 of the Act on Restructuring and Resolution of Certain Financial Enterprises, which are not comprised by subsection (2) hereof, the Guarantee Fund will pay an amount up to the amount which the covered depositors and investors would have lost in the event of bankruptcy proceedings.

(4) With due consideration to the interests of the Guarantee Fund, Finansiell Stabilitet determines the amount which the Guarantee Fund is to pay towards the resolution of the bank or mortgage credit institution. See subsection (1) hereof. The amount will be determined in accordance with sections 6 or 7 of the Act on Restructuring and Resolution of Certain Financial Enterprises.

(5) The Guarantee Fund cannot pay an amount towards the resolution of a bank or a mortgage credit institution, see subsection (1) hereof, in excess of the loss which the Guarantee Fund would have incurred in case of bankruptcy proceedings for the institution. The Guarantee Fund can never pay more than 100% of the target level determined in accordance with section 7(2) or section 7 a(1) towards the resolution of the bank or mortgage credit institution.

(6) The Guarantee Fund is entitled to payment from the Resolution Fund, see section 56 of the Act on Restructuring and Resolution of Certain Financial Enterprises, if a valuation, see section 8 of the Act on Restructuring and Resolution of Certain Financial Enterprises, determines that the Guarantee Fund's payment towards the resolution of the bank or the mortgage credit institution, see subsections (2) and (3), exceed the loss which the Guarantee Fund would have incurred in the event of bankruptcy proceedings, see subsection (5), first sentence, hereof.

(7) The Guarantee Fund will pay for the resolution of a bank through the banking department and of a mortgage credit institution through the mortgage credit department. See subsection (1) hereof. The payment of the Guarantee Fund must be made in cash.

(8) If bail-in is used, see section 24 of the Act on Restructuring and Resolution of Certain Financial Enterprises, Finansiell Stabilitet may on behalf of the Guarantee Fund and with due consideration to the interests of the Guarantee Fund decide not to contribute to the costs associated with a recapitalisation in accordance with section 24(2) of the Act on Restructuring and Resolution of Certain Financial Enterprises.

(9) If a depositor's deposit or an investor's cash funds are injected in full or in part into another institution as a result of section 19 or section 21 of the Act on Restructuring and Resolution of Certain Financial Enterprises, the depositor or the investor cannot raise a claim against the Guarantee Fund for the part of the deposit or the part of the cash funds which is not transferred if the amount of the transferred deposit or the transferred cash funds equals or exceeds the amount which the Guarantee Fund should have covered. See sections 9 and 10.

(10) The Minister for Business and Growth may determine detailed rules on the use of the Guarantee Fund in the event of restructuring and resolution of a bank or a mortgage credit institution in accordance with the Act on Restructuring and Resolution of Certain Financial Enterprises.

Part 2

Institutions with an obligation to contribute

3.-(1) The following institutions must be affiliated with and contribute to the Fund:

- (i) banks,
- (ii) mortgage credit institutions,
- (iii) investment companies and investment management companies for such part of the activities of the companies as is covered by a licence under section 10(2) of the Financial Business Act,
- (iv) managers of alternative investment funds authorised under section 11 of the Act on Managers of Alternative Investment Funds, etc. with respect to the part of the managers' activity comprised by Annex 1, (iii), to the Act on Managers of Alternative Investment Funds, etc.,
- (v) branches located in Denmark of credit institutions, investment companies, investment management companies and managers of alternative investment funds whose registered office is situated in a country outside the European Union, except for countries with which the European Union has concluded an agreement in the financial area, if the coverage of depositors and investors in the country in which the branch has its registered office does not correspond to the coverage of depositors and investors under this Act.

(2) The Minister for Business and Growth may lay down provisions to the effect that branches of credit institutions, investment companies, investment management companies and managers of alternative investment funds the registered office of which is situated in Denmark but which are located in countries outside the European Union, except for countries with which the European Union has concluded an agreement, may be exempt from being covered by the Guarantee Fund.

4. Branches located in Denmark of credit institutions, investment companies, investment management companies and managers of alternative investment funds the registered office of which is situated in member states of the European Union or countries with which the European Union has concluded an agreement will be entitled to join the Guarantee Fund as a supplement to the guarantee scheme of their home country if the Danish scheme as outlined in sections 9-11 of this Act is more favourable than that of their home country. The Minister for Business and Growth lays down detailed provisions thereon.

Part 3

Departments of the Guarantee Fund

5.-(1) The Guarantee Fund is divided into four departments: the banking department, the mortgage credit department, the investment company department and the restructuring department.

(2) The banking department comprises the institutions and affiliated branches mentioned in section 3(1)(i) of this Act, cf. subsection (6) hereof.

(3) The mortgage credit department comprises the institutions and affiliated branches mentioned in section 3(1)(ii) of this Act, cf. subsection (6) hereof.

(4) The investment company department comprises the institutions and affiliated branches mentioned in section 3(1)(iii) and (iv) of this Act, cf. subsection (6) hereof.

(5) The restructuring department comprises restructuring and resolution of any institutions mentioned in section 3(1)(i) which have become distressed.

(6) Finansiel Stabilitet determines which department the branches mentioned in section 3(1)(v) and section 4 of this Act should be affiliated with.

6.-(1) If reconstruction or bankruptcy proceedings are commenced against an institution which has an obligation to contribute, the contributions, including commitments, from the institutions of the department to which the relevant institution belongs will be used to cover the department's obligations pursuant to this Act.

(2) If the contributions mentioned in subsection (1) hereof are not sufficient to cover a department's obligations pursuant to the Act, the banking, mortgage credit and investment company departments may raise loans with each other in proportion to the total contributions of the departments.

(3) The restructuring department may raise loans, but not with the other departments. The other departments cannot raise loans with the restructuring department.

(4) A department can borrow an amount equivalent to 50% of the required cash funds of the other departments, but not more than DKK 100 million per department, to cover obligations which have arisen within a single financial year.

(5) The Minister for Economic and Business Affairs may, with the approval of the Finance Committee, provide a guarantee for a loan raised by the Guarantee Fund in order to meet its obligations.

(6) Any dividend distributed from the estate in bankruptcy will first accrue to the departments which have provided loans in accordance with subsection (2) hereof. Any residual amounts will accrue to the department to which the bankrupt institution belongs.

Part 4

Determination of contributions

7.-(1) The banking department is financed by way of annual contributions from the institutions and affiliated branches mentioned in section 3(1)(i) of this Act, cf. section 5(6). This does not prevent additional financing from other sources.

(2) The target level of the banking department is 0.8% of the covered deposits comprised by section 9(1). If the assets of the banking department exceed the determined target level, the obligation to contribute under subsection (1) hereof will cease. However, the obligation to contribute will resume if the assets no longer exceed the determined target level.

(3) Finansiel Stabilitet may on behalf of the Guarantee Fund determine that up to 30% of the assets of the banking department may consist of payment obligations.

(4) If a bank ceases to have covered deposits during such calendar year, a proportionate share of the annual contribution already paid by the bank will be repaid. The proportionate repayment will be calculated from the quarter after the withdrawal of the bank and until the end of the calendar year. Repayment of contributions under subsection (1) hereof cannot be effected if the covered deposits from the institution which ceases to have covered deposits are assigned to another institution under the Guarantee Fund or if, during the 12 months prior to the date of cessation of the membership, the banking department has made disbursements or transfers as a result of the withdrawing bank becoming distressed. Repayment of contributions cannot be effected in cases other than the ones mentioned in the first sentence hereof.

(5) If a bank withdraws from the banking department in whole or in part and instead joins another recognised deposit guarantee scheme in the European Union or in countries with which the European Union has made an agreement in the financial area, the contributions made by the relevant institution will be transferred to such other deposit guarantee scheme. The transfer will comprise only contributions paid during the 12 months prior to the date of cessation of the membership and will not comprise contributions made in accordance with subsection (6) hereof or contributions paid by the affiliated branches mentioned in section 4. A bank which contemplates joining another recognised deposit guarantee scheme in the European Union or in countries with which the European Union has made an agreement in the financial area must notify Finansiel Stabilitet to such effect six months in advance at the latest.

(6) Finansiel Stabilitet may on behalf of the Guarantee Fund charge extraordinary contributions if the assets of the banking department are insufficient for disbursement or transfer in accordance with section 16. A bank's extraordinary contributions cannot per calendar year exceed 0.5% of the institution's covered deposits comprised by section 9(1). In extraordinary circumstances, Finansiel Stabilitet may on behalf of the Guarantee Fund and subject to the consent of the Danish FSA demand a higher extraordinary contribution than that mentioned in the second sentence hereof. The Danish FSA may decide to defer an institution's payment of contributions comprised by the first sentence hereof in whole or in part if the contribution could jeopardise the liquidity or solvency of the institution.

(7) If the assets of the banking department are used in accordance with sections 2, 2 a or 16 and as a result thereof are reduced to less than two thirds of the determined target level, see subsection (2) hereof, the annual contributions of the banks must be determined so as to ensure that the target level is achieved within a period of six years.

(8) Finansielt Stabilitet may at any time on behalf of the Guarantee Fund request the institutions affiliated with the banking department to submit necessary information about the eligible deposits of each depositor.

(9) The Minister for Business and Growth may determine detailed rules regarding contributions, including the timing of contribution collection, and the use of payment obligations.

7 a.-(1) As far as the mortgage credit department is concerned, the assets of the Guarantee Fund must consist of cash contributions and commitments and must be at least DKK 10 million. The department's target level for cash contributions must be 0.8% of the covered cash funds of the mortgage credit institutions. See section 10. Finansielt Stabilitet may on behalf of the Guarantee Fund determine that up to 30% of the cash funds of the department may consist of payment obligations.

(2) As far as the investment company department is concerned, the assets of the Guarantee Fund must consist of contributions and commitments and must be at least DKK 10 million. The individual contributions of the institutions mentioned in section 3(1)(iii) and (iv) of this Act will be calculated on the basis of covered funds and covered securities.

(3) As far as the restructuring department is concerned, the assets of the Guarantee Fund must be DKK 3.2 billion in commitments from the institutions mentioned in section 3(1)(i) to be used for resolution purposes.

(4) For use in the restructuring, including coverage of costs related to the withdrawal from data centres in connection with a merger in which one of the banks is distressed, the Guarantee Fund's assets must, as far as the restructuring department is concerned, be DKK 1 billion consisting of commitments or cash payments provided by the institutions mentioned in section 3(1)(i) of this Act.

(5) The banks' total contributions to the restructuring department may not within any one financial year exceed an amount corresponding to 0.2% of the banks' total deposits.

(6) The Minister for Business and Growth may determine detailed rules regarding cash contributions and commitments, including the timing of contribution collection, and the use of payment obligations.

7 b.-(1) Finansielt Stabilitet is responsible on behalf of the Guarantee Fund for ensuring that the available financial assets in the banking department are from time to time proportionate with the department's potential obligations. If the department fails to comply with the requirement of the first sentence hereof, Finansielt Stabilitet must notify the Minister for Business and Growth as soon as possible.

(2) Finansielt Stabilitet is required on behalf of the Guarantee Fund to invest in low-risk assets.

8.-(1) Finansielt Stabilitet is required on behalf of the Guarantee Fund to notify the Danish FSA if an institution fails to meet the obligations resting on it as a result of its membership of the Guarantee Fund. If a branch has joined the Guarantee Fund, see section 4 of this Act, the Danish FSA will notify the competent authorities in the home country of the branch.

(2) The Danish FSA may withdraw an institution's licence to carry on business if the institution fails to comply with rules of this Act or rules issued in pursuance of this Act.

Part 5

Scope of coverage of the Guarantee Fund

9.-(1) The Guarantee Fund covers registered deposits with institutions mentioned in section 3(1)(i) of this Act and the credit institution branches mentioned in section 3(1)(v) of this Act which are affiliated with the banking department up to an amount equivalent to EUR 100,000 per depositor.

(2) For the institutions mentioned in section 3(1)(i) of this Act and the credit institution branches mentioned in section 3(1)(v) and section 4 of this Act which are affiliated with the banking department, the Guarantee Fund will cover the deposits specified in subsections (3)-(6).

(3) The Guarantee Fund covers deposits which pursuant to legislation have social objects, and which are associated with special life events up to an amount equivalent to EUR 150,000 per depositor. The deposit is covered for a period of up to six months from the date on which the amount is deposited.

(4) The Guarantee Fund covers deposits as a result of damages or compensation pursuant to the Act on Damage or Injury caused by Criminal Acts or Miscarriage of Justice up to an amount of EUR 150,000 per depositor. The deposit is covered for a period of up to six months from the date on which the amount is deposited.

(5) The Guarantee Fund covers deposits as a result of transactions relating to real property up to the equivalent of EUR 10 million. The deposit is covered for a period of up to 12 months from the date on which the amount is deposited. It is a prerequisite that the real property has been used primarily for non-commercial purposes or is intended primarily for non-commercial use.

(6) The Guarantee Fund covers the full amount of pension savings accounts pursuant to legislation.

(7) The Minister for Business and Growth determines detailed rules for the deposits and products covered by the Guarantee Fund under subsection (1) and subsections (3)-(6).

10. The Guarantee Fund covers cash deposits with institutions mentioned in section 3(1)(ii)-(iv) of this Act and the credit institution and investment company branches mentioned in section 3(1)(v) and section 4 of this Act which are affiliated with the mortgage credit department or the investment company department up to the equivalent of EUR 100,000 per investor.

11.-(1) The Guarantee Fund covers any losses suffered by an investor as a result of an institution's failure to return securities which belong to the investor, and which are held or managed by the institution, up to the equivalent of EUR 20,000 per investor for the institutions mentioned in section 3(1) of this Act and branches which are affiliated with the Guarantee Fund in pursuance of section 4 of this Act. However, an investor will only receive coverage up to an amount equalling the value of the securities which could not be returned by the institution.

(2) For the purpose of this Act, securities mean the instruments mentioned in section 2 of the Act on Securities Trading, etc.

12. Claims for coverage from depositors and investors, see section 9(1) and sections 10 and 11 of this Act, are calculated less liabilities due to the relevant institution.

13.-(1) The Guarantee Fund does not cover deposits, cash funds or securities belonging to

- (i) the institutions mentioned in section 3(1),
- (ii) financing institutions,
- (iii) insurance companies,
- (iv) undertakings for collective investment,
- (v) pension companies and pension funds,
- (vi) public authorities, or
- (vii) foreign financial enterprises, companies and public authorities equivalent to the companies and authorities mentioned in (i)-(vi) above.

(2) The Guarantee Fund does not cover

- (i) the total capital or other subordinated capital of an institution or a foreign institution,
- (ii) deposits, cash funds or securities originating from transactions in connection with which a judgment concerning money laundering has been delivered, or
- (iii) deposits or cash funds the owner of which has never been identified.

14. If more than one person is listed as the owner of an account or a deposit, each individual person will be considered an independent depositor or investor as regards his share as for purposes of computing the limits set out in sections 9-11 of this Act.

15.-(1) Depositors and investors must be informed of the scope of coverage of the guarantee scheme with which an institution is affiliated. This also applies to information about the home country deposit guarantee schemes of the branches mentioned in section 3(1)(v) and section 4.

(2) From the date of receipt of a notification as set out in section 206 of the Financial Business Act, depositors and investors have a period of three months during which they can free of charge withdraw or transfer the part of their deposits or cash funds which is no longer covered under sections 9 or 10 as a result of an amalgamation comprised by section 204 of the Financial Business Act.

(3) The Minister for Business and Growth determines detailed rules about the information mentioned in subsection (1) hereof and the notifications mentioned in subsection (2) hereof as well as about the detailed conditions for transfer etc. of deposits and cash funds in accordance with subsection (2).

15 a. Finansiel Stabilitet must on behalf of the Guarantee Fund publish decisions made by Finansiel Stabilitet on behalf of the Guarantee Fund which are of public interest. Publication must be effected through the website of the Guarantee Fund.

Part 6

Payments from the Guarantee Fund

16.-(1) Finansiel Stabilitet must on behalf of the Guarantee Fund be able to effect payments and transfer deposits and cash funds to accounts with other institutions as soon as possible and not later than seven business days after commencement of reconstruction or bankruptcy proceedings. But see subsections (2)-(4). It is a condition that the claim has been duly verified.

(2) Finansiel Stabilitet may on behalf of the Guarantee Fund extend the deadline for disbursement or transfer by up to three months after the date of commencement of reconstruction proceedings or bankruptcy in the event of doubt about which depositor or investor the deposits or cash funds belong to.

(3) Finansiel Stabilitet may on behalf of the Guarantee Fund postpone a disbursement or transfer in accordance with subsection (1) if it is unclear whether the person in question is entitled to receive the disbursement or transfer, or if the deposit or the cash funds are the subject of a legal dispute. Finansiel Stabilitet may on behalf of the Guarantee Fund postpone a disbursement or transfer if the deposit or the cash funds are comprised by restrictive measures taken by national governments or international bodies, or if the amount is to be disbursed from a deposit guarantee scheme of a host country. In addition, Finansiel Stabilitet may on behalf of the Guarantee Fund postpone a disbursement or transfer if the depositor or the person entitled to or having an interest in the amount deposited has been charged with an offence due to or in connection with money laundering or in the event of deposits comprised by section 9(3) and (4).

(4) Finansiel Stabilitet does not on behalf of the Guarantee Fund effect disbursements or transfers if transactions involving the deposit or the cash funds have not taken place for the past two years, or if the value of the deposit or the cash funds is lower than the administrative expenses related to a disbursement or transfer. This does not apply to pension savings accounts pursuant to legislation. See section 9(6).

(5) The Guarantee Fund cannot by reference to the deadlines set out in subsections (1) and (2) hereof and the postponements set out in subsection (3) hereof refuse to pay coverage to a depositor or investor who has been unable to assert his right to claim payment of the amount in due time.

(6) The Minister for Business and Growth lays down detailed rules on the obligation of the Guarantee Fund to give notice of the commencement of reconstruction or bankruptcy proceedings involving an institution and on the lodging of claims by depositors and investors with the Guarantee Fund.

16 a.-(1) The banking department covers depositors of branches established by the institutions mentioned in section 3(1)(i). But see section 3(2).

(2) On behalf of the home country deposit guarantee scheme, the banking department covers depositors of branches situated in Denmark which have been established by credit institutions in member states of the European Union or countries with which the European Union has concluded an agreement in the financial area.

(3) The Minister for Business and Growth may determine rules on the collaboration between the Guarantee Fund and other deposit guarantee schemes within the European Union or countries with which the European Union has concluded an agreement in the financial area.

17. The Guarantee Fund will, to the extent it has provided coverage, be subrogated to the claims of a depositor or an investor against the institution which is subject to reconstruction or bankruptcy proceedings or is being resolved in accordance with the Act on Restructuring and Resolution of Certain Financial Enterprises.

Part 7

Management of the Guarantee Fund

18. (Repealed)

19. (Repealed)

20.-(1) On behalf of the Guarantee Fund, Finansiell Stabilitet will publish a report on the activities of the Guarantee Fund within four months of the end of a calendar year.

(2) The Board of Directors of Finansiell Stabilitet will oversee that Finansiell Stabilitet performs stress tests of the Guarantee Fund's systems and processes. These stress tests must be performed at least every three years or more frequently if deemed necessary by the Board of Directors of Finansiell Stabilitet or the Minister for Business and Growth.

(3) The Minister for Business and Growth may lay down detailed rules about the Guarantee Fund's report on its activities during the past year. See subsection (1).

21.-(1) Expenses incurred by Finansiell Stabilitet in connection with the management of the Guarantee Fund in pursuance of this Act are payable by the Guarantee Fund through fees charged from the institutions mentioned in section 3(1) and section 4. The fee is charged annually by Finansiell Stabilitet, unless the management expenses can be covered by the amount by which the Guarantee Fund's assets exceed the target level of the banking department, see section 7(2), and the mortgage credit department, see section 7 a(1), and the minimum assets of the investment company department and the restructuring department, see section 7 a(2)-(4).

(2) The Minister for Business and Growth may lay down detailed rules on the determination and charging of the fee.

Part 7 a

Voluntary schemes

21 a.-(1) Institutions with an obligation to contribute may set up voluntary schemes covering depositors and investors in events other than those set out in section 1(2) of this Act.

(2) Finansiell Stabilitet must be notified of any voluntary scheme set up in pursuance of subsection (1) hereof. The notification must, as a minimum, contain the following:

- (i) the name of the voluntary scheme,
- (ii) the address of the voluntary scheme,
- (iii) names of the persons in charge of managing the voluntary scheme, and
- (iv) information on the scope of coverage of the voluntary scheme.

(3) A voluntary scheme may be recognised by the Minister for Business and Growth as an official deposit guarantee scheme if it satisfies all requirements specified in this Act.

(4) A voluntary scheme comprised by subsection (3) must ensure that institutions which are members of the scheme always comply with the disclosure requirements in section 15(1) and rules issued in pursuance of section 15(3) vis-à-vis depositors and investors.

21 b. Finansiell Stabilitet may enter into collaboration agreements with a voluntary scheme as set out in section 21 a(1) of this Act. Such collaboration agreements may contain a description of the practical collaboration, exchange of information and invitation of takeover offers.

21 c. Members of the management and employees of the voluntary scheme and the auditors of the voluntary scheme may not make any unauthorised disclosure of or use confidential information obtained in the performance of their duties.

Part 8

Supervision

22.-(1) The Minister for Business and Growth and Finansiell Stabilitet may require the institutions comprised and depositors and investors to provide any such information as is deemed necessary to ensure compliance with the rules laid down by this Act or rules issued in pursuance of this Act.

(2) For employees of the Ministry of Business and Growth, section 66(3) of the Act on Restructuring and Resolution of Certain Financial Enterprises applies *mutatis mutandis* to information received in accordance with this Act.

Part 8 a

(Repealed)

Part 8 b

Communications

22 b.-(1) The Minister for Business and Growth may determine that written communications to and from the Minister for Business and Growth, Finansiel Stabilitet and the Danish FSA regarding matters comprised by this Act or by rules issued in pursuance of this Act must be in digital form.

(2) The Minister for Business and Growth may lay down detailed rules on digital communication, including on the use of specific IT systems, special digital formats and digital signatures or the like.

(3) A digital communication will be deemed to have reached the recipient when it is accessible to the addressee of the communication.

22 c.-(1) The Minister for Business and Growth may determine that the Minister for Business and Growth, the Danish FSA and Finansiel Stabilitet can issue decisions and other documents under this Act or under rules issued in pursuance of this Act without a signature, with a computer-generated signature or a signature generated by similar means or using a technique ensuring unambiguous identification of the person issuing the decision or document. Such decisions and documents have the same status as decisions and documents with a personal signature.

(2) The Minister for Business and Growth may determine that decisions and other documents made or issued exclusively on the basis of electronic data processing may be issued solely stating the Minister for Business and Growth, the Danish FSA or Finansiel Stabilitet as sender.

22 d.-(1) Where this Act or rules issued in pursuance of this Act requires that a document issued by others than the Minister for Business and Growth, the Danish FSA and Finansiel Stabilitet must be signed, this requirement may be met using a technique ensuring unambiguous identification of the person issuing the document. But see subsection (2) hereof. Such documents have the same status as documents with a personal signature.

(2) The Minister for Business and Growth may lay down detailed rules on deviation from signature requirements. In this context it may be determined that requirements for personal signatures cannot be deviated from with respect to certain types of documents.

Part 9

Penalty provisions

23.-(1) Unless the offence carries a more severe penalty under any other legislation, a fine will be imposed on anyone who

- (i) provides incorrect or misleading information or fails to disclose information in connection with the lodging, calculation or payment of covered claims, or
- (ii) fails to provide the information required by the Minister for Business and Growth or Finansiel Stabilitet pursuant to section 22 of this Act or otherwise provides incorrect or misleading information for use in the supervision of the Guarantee Fund.

(2) Any institution which fails to comply with the obligations resting on it as a result of its affiliation with the Guarantee Fund will be subject to a similar penalty.

(3) Companies and other entities etc. (legal persons) may be criminally liable pursuant to the provisions of Part 5 of the Criminal Code.

23 a. Violation of the provisions of section 21 c of this Act is punishable by fine unless the offence carries a more severe penalty under the Criminal Code.

Part 9 a

Right of complaint and right of appeal

23 b. The party addressed by a decision made by Finansiell Stabilitet on behalf of the Guarantee Fund pursuant to this Act or rules issued in pursuance of this Act may bring such decision before the Commercial Complaints Board within four weeks of the decision having been communicated to such party.

23 c. (Repealed)

Part 10

Commencement provisions etc.

24.-(1) The Minister for Economic and Business Affairs determines the date of commencement of this Act. But see subsections (2) and (4) hereof.²⁾ Concurrently, Act no. 367 of 14 June 1995 on a deposit guarantee scheme is repealed.

(2) The Minister for Economic and Business Affairs will determine the date of entry into force of section 25 of this Act upon consultation with the Minister for Taxation.³⁾

(3) Section 7 B of the Tax Assessment Act, as drafted in section 25 of this Act, applies to any amounts paid by the Fund as from the date determined in pursuance of subsection (2) hereof.

(4)-(6) (Omitted)

25.-(1) Section 7 B of the Tax Assessment Act, see Consolidation Act no. 819 of 3 November 1997, as most recently amended by section 1 of Act no. 133 of 25 February 1998, reads as follows:

»**7 B.-(1)** Amounts paid by the Guarantee Fund for Depositors and Investors to an institution as determined in section 3 of the Act on a Guarantee Fund for Depositors and Investors to fully or partly offset a negative balance in connection with the transfer of assets and liabilities from one institution to another institution are not included in taxable income. The part of the negative balance that is covered by a subsidy or a guarantee from the Guarantee Fund for Depositors and Investors cannot be considered as part of the price paid by the acquiring institution for the assets taken over.

(2) If the Guarantee Fund for Depositors and Investors has paid amounts comprised by subsection (1) hereof or granted a guarantee that may result in the payment of amounts comprised by subsection (1) hereof, and a transferring institution comprised by subsection (1) hereof initiates a new activity, a deficit for prior income years cannot be deducted in the taxable income for the relevant income year or subsequent income years, nor can a deficit for the relevant income year be deducted in the taxable income for subsequent income years.«

26. This Act does not apply to the Faroe Islands or Greenland. With the exception of section 25, the Act may be put into force by Royal Decree for those provinces subject to the variations necessitated by the specific conditions prevailing on the Faroe Islands and in Greenland.

Act no. 403 of 28 April 2014 contains the following commencement and transitional provisions:

22

(1) This Act will come into force on 15 May 2014. But see subsections (2)-(4).

(2)-(8) (Omitted)

23

(1) This Act does not apply to the Faroe Islands or Greenland. But see subsections (2) and (3) hereof.

(2) Sections 1, 2, 4, 5, 8, 9, 12, 13, 14, 18, 19 and 21 of this Act may be put into force in whole or in part by Royal Decree for the Faroe Islands and Greenland subject to the variations necessitated by the specific conditions prevailing in the Faroe Islands and in Greenland.

(3) (Omitted)

Act no. 334 of 31 March 2015 contains the following commencement and transitional provisions:

7

(1) This Act will come into force on 1 June 2015. But see subsections (2) and (3) hereof.

(2) Section 1(xxi), (xxiv), (liv) and (lvii) and section 3(xvi) and section 6 will enter into force on 1 January 2016.

(3) (Omitted)

(4) The restructuring department, see section 7 a(3) of the Act on a Depositor and Investor Guarantee Scheme, as drafted in section 3(1)(xv) of this Act, must maintain loss guarantees vis-à-vis Finansiell Stabilitet provided as a result of the takeover by a subsidiary of Finansiell Stabilitet of the activities of a bank or any part thereof until such loss guarantees expire.

(5) Deposits which prior to the commencement of this Act were covered in full or in part by the Guarantee Fund for Depositors or Investors, but which after the commencement of this Act are no longer covered in full or in part by the Guarantee Fund, will remain covered until the deposits can be disbursed to the eligible depositor. With respect to loan proceeds in connection with newbuilds which were previously covered in full for a period of up to two years, the first sentence hereof only applies for a maximum period of two years from the date on which the amount was deposited.

(6) The Guarantee Fund for Depositors and Investors will be dissolved in connection with the establishment of the Guarantee Fund. For accounting purposes, the takeover by the Guarantee Fund of the activities carried on to date will take effect from 1 January 2015.

(7) (Omitted)

(8) Stress tests comprised by section 20(2) of the Act on a Depositor and Investor Guarantee Scheme, as drafted in section 3(1)(xxxiv) must be performed for the first time on or before 3 July 2017.

8

(1) Sections 1 and 3-5 of this Act do not apply to Greenland or the Faroe Islands. But see subsection (2) hereof.

(2) Sections 1, 3 and 4 of this Act may be put into force wholly or in part by Royal Decree for the Faroe Islands and Greenland subject to the variations necessitated by the conditions prevailing in the Faroe Islands and in Greenland.

Act no. 532 of 29 April 2015 contains the following commencement and transitional provisions:

16

(1) This Act will come into force on 3 July 2015. But see subsections (2)-(9).

(2) (Omitted)

(3) Sections 14 and 15 will come into force on 1 June 2015.

(4)-(17) (Omitted)

17

(1) This Act does not apply to the Faroe Islands or Greenland. But see subsections (2) and (3) hereof.

(2) Sections 1, 2, 4, 5, 7, 8, 12, 14 and 15 of this Act may be put into force in whole or in part by Royal Decree for the Faroe Islands and Greenland subject to the variations necessitated by the specific conditions prevailing in the Faroe Islands and in Greenland.

(3) (Omitted)

The Ministry of Business and Growth, 8 July 2015

TROELS LUND POULSEN

/ Hans Høj

- 1) The Act contains provisions implementing Directive 94/19/EC of the European Parliament and of the Council of 30 May 1994 on deposit-guarantee schemes (Official Journal 1994 no. L 135, p. 5), Directive 97/9/EC of the European Parliament and of the Council of 3 March 1997 on investor-compensation schemes (Official Journal 1997 no. L 84, p. 22) and Directive 2009/14/EC of the European Parliament and of the Council of 11 March 2009 amending Directive 94/19/EC on deposit-guarantee schemes as regards the coverage level and the payout delay (Official Journal 2009 no. L 68, p. 3).
- 2) The Act on a Guarantee Fund for Depositors and Investors was put into force on 15 October 1998, cf. Executive Order no. 723 of 9 October 1998.
- 3) Section 25 was put into force on 15 August 1999, cf. Executive Order no. 652 of 12 August 1999.