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# Financial Supervision Authority Act<sup>1</sup>

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RT I 2001, 48, 267  
Entry into force 01.01.2002

Amended by the following acts

Passed	Published	Entry into force
20.02.2002	RT I 2002, 23, 131	01.07.2002
04.12.2002	RT I 2002, 105, 612	02.01.2003
03.12.2003	RT I 2003, 81, 544	01.01.2004
14.04.2004	RT I 2004, 36, 251	01.05.2004
08.12.2004	RT I 2004, 90, 616	01.01.2005
09.02.2005	RT I 2005, 13, 64	18.03.2005
19.10.2005	RT I 2005, 59, 463	15.11.2005, in the part of e-money institutions upon entry into force of the E-money Institutions Act
22.11.2006	RT I 2006, 56, 417	01.01.2007
14.12.2006	RT I 2006, 63, 467	01.01.2007
14.06.2007	RT I 2007, 44, 316	14.07.2007
24.10.2007	RT I 2007, 58, 380	19.11.2007
06.12.2007	RT I 2007, 68, 421	01.01.2008
17.12.2008	RT I 2009, 5, 35	01.07.2009
17.12.2009	RT I 2010, 2, 3	22.01.2010
28.01.2010	RT I 2010, 7, 30	26.02.2010
27.01.2010	RT I 2010, 9, 41	08.03.2010
22.04.2010	RT I 2010, 22, 108	01.01.2011, enters into force on the date which has been determined in the Decision of the Council of the European Union regarding the abrogation of the derogation established in respect of the Republic of Estonia on the basis provided for in Article 140 (2) of the Treaty on the Functioning of the European Union, Council Decision 2010/416/EU of 13 July 2010 (OJ L 196, 28.07.2010, p. 24 - 26).
09.06.2010	RT I 2010, 34, 182	02.07.2010
09.12.2010	RT I, 21.12.2010, 6	31.12.2010
08.12.2010	RT I, 21.12.2010, 3	01.01.2011
23.02.2011	RT I, 24.03.2011, 1	03.04.2011
16.06.2011	RT I, 08.07.2011, 6	18.07.2011
07.03.2012	RT I, 29.03.2012, 1	30.03.2012
20.06.2013	RT I, 12.07.2013, 2	22.07.2013
20.06.2013	RT I, 12.07.2013, 1	01.08.2013
16.04.2014	RT I, 09.05.2014, 2	19.05.2014
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, the titles of ministers replaced on the basis of subsection 107 <sup>3</sup> (4) of the Government of the

		Republic Act in the wording in force as of 1 July 2014.
18.02.2015	RT I, 19.03.2015, 2	29.03.2015
18.02.2015	RT I, 19.03.2015, 3	29.03.2015
18.02.2015	RT I, 19.03.2015, 4	29.03.2015
10.06.2015	RT I, 07.07.2015, 1	01.01.2016
16.12.2015	RT I, 31.12.2015, 38	10.01.2016, partially 01.01.2016
15.06.2016	RT I, 05.07.2016, 1	01.01.2017
12.10.2016	RT I, 25.10.2016, 1	26.10.2016
14.12.2016	RT I, 31.12.2016, 1	10.01.2017
14.12.2016	RT I, 31.12.2016, 3	10.01.2017
22.03.2017	RT I, 07.04.2017, 2	17.04.2017
07.06.2017	RT I, 26.06.2017, 1	06.07.2017

## Chapter 1 GENERAL PROVISIONS

### § 1. Scope of application of Act

This Act determines the objective of state financial supervision and the legal status, the bases for the activities, including the organisation of international cooperation, and the bases and procedure for the financing of the Financial Supervision Authority.

[RT I, 21.12.2010, 6 - entry into force 31.12.2010]

### § 2. State financial supervision and resolution

[RT I, 19.03.2015, 3 - entry into force 29.03.2015]

(1) For the purposes of this Act, state financial supervision (hereinafter *financial supervision*) means supervision over the subjects of state financial supervision (hereinafter *subjects of financial supervision*) and the activities provided for in this Act, the Credit Institutions Act, the Creditors and Credit Intermediaries Act, the Insurance Activities Act, the Investment Funds Act, the Funded Pensions Act, the Securities Market Act, the Motor Third Party Liability Insurance Act, the Payment Institutions and E-money Institutions Act, the Securities Register Maintenance Act, and legislation established on the basis thereof.

[RT I, 26.06.2017, 1 - entry into force 06.07.2017]

(1) For the purposes of this Act, state financial supervision (hereinafter *financial supervision*) means supervision over the subjects of state financial supervision (hereinafter *subjects of financial supervision*) and the activities provided for in this Act, the Credit Institutions Act, the Creditors and Credit Intermediaries Act, the Insurance Activities Act, the Investment Funds Act, the Funded Pensions Act, the Securities Market Act, the Motor Third Party Liability Insurance Act, the Payment Institutions and E-money Institutions Act, the Estonian Central Register of Securities Act, and legislation established on the basis thereof.

[RT I, 19.03.2015, 4 - entry into force 29.03.2015]

(2) For the purposes of this Act, a subject of financial supervision is a person to whom the right to operate in the corresponding field of activity has been granted by a competent authority on the basis of an Act specified in subsection (1) of this section.

(3) The financial crisis resolution for the purposes of this Act shall mean the conducting of the resolution proceedings and the implementation of the resolution tools or powers prescribed by the Financial Crisis Prevention and Resolution Act.

[RT I, 19.03.2015, 3 - entry into force 29.03.2015]

### § 3. Objectives of financial supervision and financial crisis resolution

[RT I, 19.03.2015, 3 - entry into force 29.03.2015]

(1) Financial supervision is conducted in order to enhance the stability, reliability, transparency and efficiency of the financial sector, to reduce systemic risks and to promote prevention of the abuse of the financial sector for criminal purposes, with a view to protecting the interests of clients and investors by safeguarding their financial resources, and thereby supporting the stability of the Estonian monetary system.

(2) The objective of the financial crisis resolution is to avoid adverse effects on financial stability arising from the insolvency of credit institutions, to protect public funds and depositors, investors and other client assets, and to ensure the continuity of the critical functions of credit institutions.

[RT I, 19.03.2015, 3 - entry into force 29.03.2015]

(3) Financial supervision is conducted and financial crisis is resolved only in the public interest.

[RT I, 31.12.2016, 1 - entry into force 10.01.2017]

#### **§ 4. Financial Supervision Authority**

(1) The Financial Supervision Authority (hereinafter *Supervision Authority*) is an agency with autonomous competence and a separate budget, which operates at *Eesti Pank* and the directing bodies of which act and submit reports pursuant to the procedure provided for in this Act.

(2) The Supervision Authority conducts financial supervision and resolution functions in the name of the state.  
[RT I, 19.03.2015, 3 - entry into force 29.03.2015]

(3) The Supervision Authority is independent in the conduct of financial supervision.

#### **§ 5. Principles of activities of Supervision Authority**

(1) The Supervision Authority shall operate pursuant to legislation and the internationally recognised principles relating to financial supervision and shall act openly and transparently and apply the principles of sound administration. The Supervision Authority shall use the assets at its disposal prudently.  
[RT I 2006, 63, 467 - entry into force 01.01.2007]

(2) The frequency of supervisory activities of the Supervision Authority and the methodology applied shall take account of the size of the subject of financial supervision, the effect of its activity to the financial system as well as the type, extent and complexity of the activity, based on the principle of proportionality. The Supervision Authority shall take into account in the application of administrative coercion the nature, duration and repetition of risks and potential violation, the economic potential of a supervision subject, the amount of damage that has been incurred or may have been incurred and the potential effect on the stability of the financial system.  
[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

(3) The Supervision Authority in performing the supervision and implementation of the resolution tools and powers shall consider the potential effect of its decisions and acts on the stability of the financial system of other states which are contracting parties to the EEA agreement (hereinafter *Contracting State*), primarily in connection with systemic risks.  
[RT I, 19.03.2015, 3 - entry into force 29.03.2015]

#### **§ 5<sup>1</sup>. Financial crisis resolution unit and its functions**

(1) The duties of the financial crisis resolution unit formed in the Supervision Authority shall include the resolution preparation and planning for credit institutions, investment firms and persons belonging to the same consolidation group therewith (hereinafter in this section *credit institution*) and the implementation of the resolution tools and powers pursuant to the provisions of the Financial Crisis Prevention and Resolution Act and the Credit Institutions Act.

(2) The employees of the Supervision Authority who perform the duties arising from subsection (1) of this section shall form a separate structural unit. The Supervision Authority shall ensure that there is operational independence between the resolution function and the supervisory function. The Supervision Authority shall prevent a possibility of conflicts of interest between the financial crisis resolution function and other functions.

(3) The persons performing the financial crisis resolution functions and the supervisory functions of the Supervision Authority shall closely cooperate in the preparation, planning and implementation of recovery and resolution.

(4) The structural separation and operational independence of the financial crisis resolution unit, and the management of conflicts of interests which may arise and the exchange of information shall be specified in more detail in the relevant internal rules of the Supervision Authority.  
[RT I, 19.03.2015, 3 - entry into force 29.03.2015]

#### **§ 6. Functions and rights of Supervision Authority**

(1) The functions of the Supervision Authority in fulfilling the objectives of financial supervision are to:

1) analyse and monitor constantly the compliance of subjects of financial supervision with the requirements for financial soundness and own funds, and other obligations prescribed by the *Eesti Pank* Act, the Acts specified in subsection 2 (1) of this Act, and legislation established on the basis thereof;

2) guide and direct subjects of financial supervision in order to ensure sound and prudent management;

3) apply measures prescribed by legislation to protect the interests of clients and investors;

4) apply administrative coercion on the bases, to the extent and pursuant to the procedure prescribed by Acts;

4<sup>1</sup>) be the extra-judicial body of the misdemeanours in the cases and pursuant to the procedure prescribed by laws;

[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

5) make proposals for the establishment and amendment of Acts and other legislation concerning the financial sector and related supervision, and participate in the drafting of such Acts and legislation;

6) cooperate with international organisations for financial supervision, foreign financial supervision authorities and the institutions, committees or other competent foreign bodies or persons of the European Union and participate in the activities of the colleges of supervisors;

[RT I, 21.12.2010, 6 - entry into force 31.12.2010]

6<sup>1</sup>) participate together with the financial supervision authorities of other Contracting States in the proceedings of application for authorisations and other financial supervision proceedings in the cases specified in this Act and other legislation;

[RT I, 21.12.2010, 6 - entry into force 31.12.2010]

7) perform the functions arising from the Guarantee Fund Act, the Money Laundering and Terrorist Financing Prevention Act, the International Sanctions Act and legislation issued on the basis thereof;

7<sup>1</sup>) promote the population's awareness of the financial services and financial products;

[RT I, 12.07.2013, 2 - entry into force 22.07.2013]

7<sup>2</sup>) perform the functions arising from Council Regulation (EU) No 1024/2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63–89);

[RT I, 31.12.2015, 38 - entry into force 10.01.2016]

7<sup>3</sup>) manage the data necessary to ensure availability of financial services and comparability of fees related to these services;

[RT I, 31.12.2016, 1 - entry into force 10.01.2017]

8) perform other functions arising from law which are necessary to fulfil the objectives of financial supervision.

(1<sup>1</sup>) The Supervision Authority shall constantly analyse and monitor for the performance of the financial crisis resolution function the adherence to the recovery plan and other obligations provided for in the Financial Crisis Prevention and Resolution Act and the legislation issued on the basis thereof by the subjects.

[RT I, 19.03.2015, 3 - entry into force 29.03.2015]

(1<sup>2</sup>) The functions of the Supervision Authority in fulfilling the objective of financial crisis resolution are to:

1) constantly analyse and monitor the compliance with the minimum requirement for own funds and eligible liabilities provided for in the Financial Crisis Prevention and Resolution Act;

2) implement the measures prescribed by legislation in order to ensure continuity of critical functions and protect the interests of clients and investors;

3) implement the resolution tools and powers on the bases, to the extent and pursuant to the procedure prescribed by the Financial Crisis Prevention and Resolution Act;

4) apply administrative coercion on the bases, to the extent and pursuant to the procedure prescribed by the Financial Crisis Prevention and Resolution Act;

5) cooperate with international and foreign resolution authorities and the institutions, committees or other competent foreign bodies or persons of the European Union and participate in the activities of the resolution colleges;

6) perform other functions arising from law which are necessary to fulfil the resolution objectives.

[RT I, 19.03.2015, 3 - entry into force 29.03.2015]

7) perform the functions arising from Regulation (EU) No 806/2014 of the European Parliament and of the Council establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ L 225, 30.07.2014, p. 1–90).

[RT I, 31.12.2015, 38 - entry into force 10.01.2016]

(2) In the performance of its functions, the Supervision Authority has all the rights provided for in this Act, the Acts specified in § 2 of this Act and legislation established on the basis thereof.

[RT I, 19.03.2015, 3 - entry into force 29.03.2015]

(3) In financial supervision and resolution proceedings, the Financial Supervision Authority shall apply the provisions of the Administrative Procedure Act, taking account of the specifications arising from this Act, and the Acts specified in § 2 of this Act and clause (1) 7) of this section.

[RT I, 19.03.2015, 3 - entry into force 29.03.2015]

(4) The provisions of the Law Enforcement Act with the specifications provided for in this Act, the Acts specified in this Act, the legislation established on the basis of these Acts and the European Union legislation apply to the activities of the Financial Supervision Authority.

[RT I, 31.12.2016, 1 - entry into force 10.01.2017]

## Chapter 2

# MANAGEMENT OF FINANCIAL SUPERVISION AUTHORITY

## Division 1 Supervisory Board

### § 7. Competence of supervisory board

(1) The activities of the Supervision Authority shall be planned and the management thereof shall be monitored by the supervisory board of the Supervision Authority (hereinafter *the supervisory board*).

(2) The supervisory board shall:

1) approve the operating strategy of the Supervision Authority at the proposal of the management board of the Supervision Authority (hereinafter *the management board*);

2) approve, on the proposal of the management board, the budget of the Supervision Authority and, in the case specified in § 37 of this Act, the supplementary budget, and make a proposal to the minister responsible for the area concerning the rate of the share of the supervision fee calculated on the basis of assets for the following budgetary year;

[RT I, 29.06.2014, 109 - entry into force 01.07.2014, as of 1 July 2014 "to the Minister of Finance" replaced by the words "to the minister responsible for the area" on the basis of subsection 107<sup>3</sup> (4) of the Government of the Republic Act.]

2<sup>1</sup>) approve of the use of the budgetary surplus;

3) approve, on the proposal of the management board, the bases for developing the structure of the Supervision Authority and for the payment of remuneration, and the internal rules provided for in subsection 5<sup>1</sup>(4) of this Act;

[RT I, 19.03.2015, 3 - entry into force 29.03.2015]

4) approve of the size of the membership of the management board, appoint the members of the management board and elect the chairman of the management board from among the members;

5) remove members of the management board;

6) decide on entry into, amendment of and termination of contracts of service with the chairman and members of the management board;

7) approve the size of the remuneration and additional sums payable and the social guarantees applicable to the chairman and members of the management board;

8) decide on the filing of claims against the chairman or a member of the management board concerning compensation for damage caused by him or her to the state through violation of a legal act or his or her obligations;

9) approve the annual report of the Supervision Authority submitted by the management board;

10) approve the rules for the activities of the supervisory board;

11) decide on other matters placed in the competence of the supervisory board by law.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

### § 8. Members of supervisory board

(1) The supervisory board shall consist of six members, two of whom are members by virtue of office and four of whom are appointed members.

(2) The minister responsible for the area and the President of *Eesti Pank* are members of the supervisory board by virtue of office.

(3) One-half of the appointed members of the supervisory board shall be appointed and removed by the Government of the Republic on the proposal of the minister responsible for the area and one-half by the Supervisory Board of *Eesti Pank* on the proposal of the President of *Eesti Pank*.

[RT I, 29.06.2014, 109 - entry into force 01.07.2014, as of 1 July 2014 "the Minister of Finance" replaced by the words "the minister responsible for the area" on the basis of subsection 107<sup>3</sup> (4) of the Government of the Republic Act.]

### § 9. Requirements for members of supervisory board

(1) Appointed members of the supervisory board shall be Estonian citizens with active legal capacity, an academic degree recognised by the state or education corresponding to such level, an impeccable professional and business reputation, and the experience necessary to manage an agency in the financial or public sector.

(2) The following shall not be appointed as members of the supervisory board:

- 1) persons under preliminary investigation for or accused of a criminal offence for which the law prescribes imprisonment or persons with a criminal record for criminal official misconduct or any other intentionally committed criminal offence;
- 2) persons whose previous unlawful act or omission has resulted in the bankruptcy, compulsory dissolution or revocation of the activity licence of a company;
- 3) bankrupts or persons who are subject to a prohibition on business or from whom the right to engage in economic activity has been taken away pursuant to law.

(3) The provisions of subsections 32 (1) and (2) of this Act concerning the avoidance of conflicts of interests and the provisions of § 34 of this Act concerning the duty to maintain confidentiality apply to members of the supervisory board.

#### **§ 10. Term of authority of members of supervisory board**

(1) The authority of a member of the supervisory board specified in subsection 8 (2) of this Act shall expire upon the expiry of his or her authority in the office by virtue of which he or she belongs to the supervisory board.

(2) The term of the authority of appointed members of the supervisory board shall be three years as of their appointment.

(3) Upon expiry of the term of the authority of an appointed member, he or she shall perform his or her duties until the appointment of a new member.

(4) Upon expiry of the term of the authority or the removal or death of an appointed member of the supervisory board, the person who initially appointed the member shall appoint a new member of the supervisory board within a reasonable period of time.

#### **§ 11. Removal of member of supervisory board**

(1) An appointed member of the supervisory board is removed before the expiry of his or her term of authority within three months after receipt of a corresponding written application from the member.

(2) An appointed member of the supervisory board shall be immediately removed before the expiry of his or her term of authority if:

- 1) a judgment of conviction made against him or her in a criminal matter enters into force;
- 2) he or she violates the provisions of subsection 32 (1) or (2) or § 34 of this Act;
- 3) a bankruptcy order enters into force or a prohibition on business is applied with regard to him or her or the right to engage in economic activity is taken away from him or her pursuant to law;
- 4) he or she does not comply with the requirements established by this Act for appointed members or submits false information concerning compliance with such requirements.

(3) An appointed member of the supervisory board may be removed before the expiry of his or her term of authority if he or she suffers from an illness lasting for more than four months or if there is any other good reason due to which he or she is unable to perform his or her duties.

#### **§ 12. Chairman of supervisory board**

(1) The minister responsible for the area shall be the chairman of the supervisory board.  
[RT I, 29.06.2014, 109 - entry into force 01.07.2014, as of 1 July 2014 "the Minister of Finance" replaced by the words "the minister responsible for the area" on the basis of subsection 107<sup>3</sup> (4) of the Government of the Republic Act.]

(2) The chairman of the supervisory board shall organise the activities and administration of the supervisory board, call and chair the meetings of the supervisory board, organise the taking of minutes at the meetings and disclosure of the resolutions of the supervisory board and enter into, amend, suspend and terminate contracts of service with the chairman and members of the management board on the basis of a resolution of the supervisory board.

(3) In the absence of the chairman of the supervisory board, the duties of the chairman shall be performed by the eldest member of the supervisory board present at the meeting.

#### **§ 13. Calling meetings of supervisory board**

(1) Regular meetings of the supervisory board shall be held at least once every three months.

(2) Extraordinary meetings of the supervisory board shall be called on the initiative of the chairman of the supervisory board, at the request of at least two members of the supervisory board or the chairman of the management board. The request shall set out the matters to be decided and a proposal concerning the time of the meeting.

(3) A notice concerning an ordinary meeting of the supervisory board shall be sent to the members of the supervisory board at least ten days before the date of the meeting. Members of the supervisory board shall be notified of an extraordinary meeting of the supervisory board at least one working day in advance.

(4) A notice calling a meeting of the supervisory board shall set out the time and place of the meeting and the agenda together with the names of the persons presenting reports.

#### **§ 14. Organisation of activities of supervisory board**

(1) Members of the supervisory board shall personally participate in the activities of the supervisory board.

(2) Meetings of the supervisory board shall be closed unless the supervisory board decides otherwise.

(3) Members of the management board have the right to participate in the meetings of the supervisory board unless the chairman of the supervisory board decides otherwise.

(4) Issues relating to meetings of the supervisory board shall be provided for in the rules for the activities of the supervisory board, including:

- 1) the procedure for the election of the chairman of the management board;
- 2) the procedure for giving notice of meetings of the supervisory board;
- 3) the procedure for communicating documents concerning the agenda of a meeting to the members of the supervisory board;
- 4) the information to be recorded in the minutes of a meeting, including the content of the resolutions of the supervisory board and issues relating to the recording of voting results;
- 5) the procedure for adoption of resolutions of the supervisory board without calling a meeting, the information to be entered in records of votes and the procedure for preservation of draft resolutions and the positions and dissenting opinions of the members of the supervisory board.

(5) Members of the supervisory board shall receive monthly remuneration in the amount of twice the minimum monthly wage. The minister responsible for the area shall not receive remuneration.

[RT I, 29.06.2014, 109 - entry into force 01.07.2014, as of 1 July 2014 "the Minister of Finance" replaced by the words "the minister responsible for the area" on the basis of subsection 107<sup>3</sup> (4) of the Government of the Republic Act.]

(6) The technical administration of the activities of the supervisory board shall be ensured by the management board.

[RT I 2004, 90, 616 - entry into force 01.01.2005]

#### **§ 15. Resolutions of supervisory board**

(1) Each member of the supervisory board shall have one vote. Unless otherwise provided by this Act, members of the supervisory board do not have the right to abstain from voting or to remain undecided.

(2) A resolution of the supervisory board is adopted if at least four members of the supervisory board vote in favour. In matters specified in clauses 7 (2) 3) and 10) of this Act, a resolution of the supervisory board is adopted if all members of the supervisory board vote in favour.

[RT I, 19.03.2015, 3 - entry into force 29.03.2015]

(3) A member of the supervisory board shall give notice to the supervisory board if he or she is directly or indirectly personally interested in a resolution to be debated. A member of the supervisory board is required to give notice if his or her child, parent, sister, brother, spouse or cohabitee, or a parent, child, brother or sister of his or her spouse or cohabitee is:

- 1) a member of the management board or a person to be appointed as a member of the management board, before voting on issues provided for in clauses 7 (2) 4)–8) of this Act;
- 2) a person required to pay the supervision fee specified in subsections 38 (2) and (3) of this Act or a shareholder with a qualifying holding in such person or a person who exercises dominant influence on the management thereof in any other manner or is a member of its management body, before voting on issues provided for in clause 7 (2) 2) of this Act.

(4) If circumstances specified in subsection (3) of this section become evident, the member of the supervisory board shall abstain from voting unless all other members of the supervisory board who participate in the vote agree to his or her voting.

(5) A member of the supervisory board who votes against a resolution of the supervisory board has the right to submit his or her dissenting opinion.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

## **§ 16. Minutes of meetings of supervisory board**

- (1) Minutes shall be taken of a meeting of the supervisory board.
- (2) The chairman of the supervisory board and the secretary shall sign the minutes.
- (3) Written dissenting opinions submitted by members of the supervisory board shall be annexed to the minutes. A notation shall be made in the minutes concerning the annexing of a dissenting opinion, and the member of the supervisory board who submitted the opinion shall confirm the notation with his or her signature.
- (4) Minutes of meetings of the supervisory board shall be preserved in the Supervision Authority indefinitely. The management board shall organise storage of the minutes and annexes thereto and shall be responsible for their preservation.

## **§ 17. Adoption of resolution without calling meeting**

- (1) The supervisory board has the right to adopt resolutions without calling a meeting of the supervisory board if all members of the supervisory board consent thereto and hold a certificate for giving digital signatures issued pursuant to the requirements of the Electronic Identification and Trust Services for Electronic Transactions Act. [RT I, 25.10.2016, 1 - entry into force 26.10.2016]
- (2) The supervisory board does not have the right to adopt resolutions on issues specified in clauses 7 (2) 1), 4) or 10) of this Act without calling a meeting of the supervisory board.
- (3) Upon adoption of a resolution of the supervisory board in the manner provided for in subsection (1) of this section, all proposals, positions and decisions shall be certified by digital signatures.
- (4) The chairman of the supervisory board shall send a draft resolution to all members of the supervisory board and specify the term by which the members of the supervisory board must present their positions. If a member of the supervisory board fails to present his or her position within the specified term, he or she is deemed to have voted against the resolution.
- (5) The provisions of § 15 of this Act apply to the adoption of resolutions.
- (6) Minutes shall be taken of voting results and shall be sent immediately to all members of the supervisory board and to the management board.

# **Division 2 Management Board**

## **§ 18. Competence of management board**

- (1) The management board shall manage and organise the activities of the Supervision Authority. The management board is competent to adopt all resolutions relating to the performance of the obligations of the Supervision Authority and to perform all obligations and exercise all rights which pursuant to this Act are not in the competence of the supervisory board, the chairman of the supervisory board or the chairman of the management board. The management board shall execute the resolutions made by the supervisory board pursuant to subsection 7 (2) of this Act.
- (2) In issues relating to the conduct of financial supervision and resolution proceedings on the bases provided for in the Acts specified in § 2 of this Act, the management board shall decide on:  
[RT I, 19.03.2015, 3 - entry into force 29.03.2015]
  - 1) the issue and revocation of activity licences and other issues relating to activity licences;
  - 2) the grant of consent, permission or concordance;
  - 3) the issues relating to performance of the registration obligation and entering items in lists;
  - 4) the issue of precepts;
  - 4<sup>1</sup>) the giving of a general order for the implementation of the choices which, according to the legislation of the European Union, are to be decided by the Member State or competent authority on the national level;  
[RT I, 09.05.2014, 2 - entry into force 19.05.2014]
  - 5) the application of administrative coercive measures;
  - 6) the making of a decision by a body conducting extra-judicial proceedings in a misdemeanour proceeding, and deciding on the application of coercive measures;
  - 7) the ordering of special audits or expert assessments;
  - 8) an early intervention measure, establishment of a moratorium or a special regime and the performance of related acts;  
[RT I, 19.03.2015, 3 - entry into force 29.03.2015]
  - 9) the filing of a bankruptcy petition, statement of claim or other such petition with a court and making other decisions in the bankruptcy or liquidation proceeding of a subject of financial supervision;
  - 10) the issue of other administrative acts in financial supervision or resolution proceedings on the bases provided for in the Act specified in § 2 or clause 6 (1) 7) of this Act unless otherwise provided by this Act.



[RT I, 19.03.2015, 3 - entry into force 29.03.2015]

- (3) In issues relating to the management and organisation of activities, the management board shall:
- 1) submit the strategy of the Supervision Authority to the supervisory board for approval;
  - 2) submit the draft budget of the Supervision Authority to the supervisory board for approval together with a proposal concerning the rate of the share of the supervision fee calculated on the basis of assets, payable on the basis of this Act for the following budgetary year;
  - 2<sup>1</sup>) submit to the supervisory board a proposal for the use of the budgetary surplus provided in § 37<sup>1</sup> of this Act;
  - 3) submit the draft supplementary budget to the supervisory board for approval in the case provided for in § 37 of this Act;
  - 4) decide, pursuant to and to the extent of the budget approved by the supervisory board, on the acquisition and transfer of immovables and movables required to be entered in a register;
  - 5) submit proposals to the supervisory board concerning development of the structure of the Supervision Authority and the bases for payment of remuneration;
  - 6) approve the structure and staff of the Supervision Authority pursuant to the bases approved by the supervisory board;
  - 7) approve the accounting policies and procedures of the Supervision Authority or other internal rules of the Supervision Authority that are relevant or prescribed by law, which approval is not in the competence of the supervisory board;

[RT I, 19.03.2015, 3 - entry into force 29.03.2015]

- 8) submit the proposals and reviews provided for in subsection 49 (2) of this Act to the supervisory board for their information;
- 9) approve the procedure for conducting internal audits of the Supervision Authority;
- 10) if necessary, involve experts in the conduct of financial supervision;
- 11) form work groups and committees for the performance of the functions of the Supervision Authority;
- 12) decide on entry into cooperation agreements specified in § 50 of this Act;
- 13) decide on entry into cooperation agreements with foreign financial supervision authorities and other competent foreign bodies or persons;
- 13<sup>1</sup>) appoint from among the members of the management board the member of the management board participating in the activities of the European Banking Authority, the European Securities and Markets Authority, the European Insurance and Occupational Pensions Authority the Board of Supervisors formed under the European Banking Authority and the Single Resolution Board and his or her alternate member and decide on the member's term of authority and the position presented in the specified institutions through the member, the voting and the performance of other duty;

[RT I, 19.03.2015, 3 - entry into force 29.03.2015]

- 14) submit an overview of the activities of the Supervision Authority and an income and expense statement to the supervisory board once per quarter;
- 15) submit the annual report of the Supervision Authority to the supervisory board for approval;
- 16) approve the rules for the activities of the management board;
- 17) decide on other issues relating to the organisation of the regular activities of the Supervision Authority if such decision is requested by at least two members of the management board.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

## **§ 19. Members of management board**

- (1) The management board shall consist of three to five members.
  - (2) The members of the management board shall be appointed and removed by the supervisory board.
- [RT I 2004, 90, 616 - entry into force 01.01.2005]

## **§ 20. Requirements for members of management board**

(1) Members of the management board must be Estonian citizens with active legal capacity and an academic degree recognised by the state or education corresponding to such level, the expertise necessary to manage the Supervision Authority, professional suitability, an impeccable professional and business reputation and a total of at least five years' work experience in the fields of finance, law, auditing or information technology or in public service in a position relating to such fields.

- (2) The following shall not be appointed as members of the management board:
  - 1) members of the supervisory board;
  - 2) members of the Supervisory Board of *Eesti Pank* or the Executive Management of *Eesti Pank*;
  - 3) auditors of *Eesti Pank*;
  - 4) persons under preliminary investigation for or accused of a criminal offence for which the law prescribes imprisonment or persons with a criminal record for criminal official misconduct or any other intentionally committed criminal offence;
  - 5) persons whose previous unlawful act or omission has resulted in the bankruptcy, compulsory dissolution or revocation of the activity licence of a company;

6) bankrupts or persons who are subject to a prohibition on business or from whom the right to engage in economic activity has been taken away pursuant to law.

(3) Members of the management board shall not be public servants nor work for any other employer or in a structural unit or independent division of *Eesti Pank*.

(4) The provisions of § 31, subsections 32 (1) and (2) and § 34 of this Act apply to members of the management board.

(5) Before a person is appointed as a member of the management board, he or she shall submit to the supervisory board in writing the information specified in subsection 32 (3) of this Act and confirmation that no circumstances exist which according to this Act would preclude his or her appointment as a member of the management board. The member of the management board shall notify the supervisory board immediately of any changes in the information submitted.

#### **§ 21. Term of authority of members of management board**

(1) The term of the authority of members of the management board shall be three years.

(2) The term of the authority of the member of the management board who is the chairman of the management board shall be four years.

(3) The authority of a member of the management board shall commence as of the date specified in the resolution concerning his or her appointment.

(4) The chairman of the supervisory board shall enter into contracts of service with the chairman and the members of the management board for the term of their authority and the contracts shall specify the rights and duties of the members of the management board and the remuneration for the performance of the duties of chairman or members of the management board.

(5) The terms specified in subsections (1) and (2) of this section may be extended by the decision of the supervisory board by up to one year in total if the corresponding management board member agrees to it.  
[RT I 2004, 90, 616 - entry into force 01.01.2005]

#### **§ 22. Removal of member of management board**

(1) A member of the management board is removed before the expiry of his or her term of authority not later than within three months after receipt of a corresponding written application from the member.

(2) A member of the management board shall be immediately removed before the expiry of his or her term of authority if:

- 1) a judgment of conviction made against him or her in a criminal matter enters into force;
- 2) he or she violates the provisions of subsection 32 (1) or (2) or § 34 of this Act;
- 3) a bankruptcy order enters into force or a prohibition on business is applied with regard to him or her or the right to engage in economic activity is taken away from him or her pursuant to law;
- 4) he or she does not comply with the requirements established by this Act for members of the management board or submits false information concerning compliance with such requirements.

(3) A member of the management board may be removed before the expiry of his or her term of authority if he or she suffers from an illness lasting for more than four months or if there is any other good reason due to which he or she is unable to perform his or her duties.

(4) Upon expiry of the term of the authority or the removal or death of a member of the management board, the supervisory board shall appoint a new member of the management board within a reasonable period of time.

#### **§ 22<sup>1</sup>. Competence of management board members**

(1) A member of the management board shall give orders on behalf of the Supervision Authority for:

- 1) requesting information relevant to financial supervision procedure from subjects of financial supervision and third persons;
  - 2) requesting the appearance of subjects of financial supervision and third persons at the offices of the Supervision Authority in connection with provision of information relevant to financial supervision procedure;
  - 3) conducting on-site inspection of financial supervision subjects.
  - 4) suspension or cessation of trading in securities pursuant to the provisions of the Securities Market Act.
- [RT I 2007, 58, 380 – 19.11.2007]

(2) If a person specified in clauses (1) 1)-3) of this section fails to perform a task assigned thereto with an order, by the date specified in the order, a penalty payment in the amount specified in the order may be imposed on the person.

[RT I 2005, 13, 64 - entry into force 18.03.2005]

### **§ 23. Chairman of management board**

(1) The supervisory board shall elect the chairman of the management board from among the members of the management board pursuant to the procedure provided for in the rules for the activities of the supervisory board. In the absence of the chairman of the management board, the duties of the chairman shall be performed by the eldest member of the management board unless otherwise ordered by a directive of the chairman of the management board.

(2) The chairman of the management board shall:

- 1) organise the activities of the management board;
  - 2) call and chair the meetings of the management board and organise the taking of minutes at the meetings;
  - 3) organise the administration of the Supervision Authority and the disclosure of the activities of the Supervision Authority;
  - 4) organise the accounting of the Supervision Authority;
  - 5) decide on the making of expenditure necessary for the activities of the Supervision Authority according to and to the extent of the budget approved by the supervisory board;
  - 6) enter into, amend and cancel employment contracts with employees.
- [RT I 2009, 5, 35 - entry into force 01.07.2009]

(3) The chairman of the management board shall represent the Supervision Authority in court and in relations with other state agencies, *Eesti Pank*, other persons, international organisations for financial supervision, foreign financial supervision authorities and other competent authorities, organisations and persons, unless stipulated otherwise in this Act.

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

(4) On the basis of a resolution of the management board, the chairman of the management board shall issue authorisation documents to other members of the management board, employees and third parties for representing the Supervision Authority.

### **§ 24. Calling meetings of management board**

(1) Meetings of the management board shall be held when necessary but not less frequently than once a month.

(2) Meetings of the management board shall be called by the chairman of the management board on his or her own initiative or on the proposal of a member of the management board.

### **§ 25. Organisation of meetings of management board**

(1) Meetings of the management board shall be closed unless the chairman of the management board decides otherwise.

(2) Issues relating to meetings of the management board shall be provided for in the rules for the activities of the management board, including:

- 1) the procedure for giving notice of meetings of the management board;
- 2) the procedure for communicating documents concerning the agenda of a meeting to the members of the management board;
- 3) the information to be recorded in the minutes of a meeting, including the content of the resolutions of the management board and issues relating to the recording of voting results;
- 4) the procedure for the adoption of resolutions of the management board without calling a meeting, the information to be recorded in records of votes and the procedure for preservation of draft resolutions and the positions and dissenting opinions of the members of the management board.

### **§ 26. Resolutions of management board**

(1) Each member of the management board has one vote. Members of the management board do not have the right to abstain from voting or to remain undecided.

(2) A resolution of the management board is adopted if at least half of the members of the management board vote in favour. Upon an equal division of votes, the vote of the chairman of the management board governs.

(3) A member of the management board who votes against a resolution of the management board has the right to submit his or her dissenting opinion.

(4) A member of the management board shall give notice to the management board if his or her child, parent, sister, brother, spouse or cohabitee, or a child, parent, sister or brother of his or her spouse or cohabitee is a member of the management body, procurator, other representative, head of the internal audit unit, chairman of the audit committee or auditor, or shareholder with a qualifying holding in a relevant subject of financial

supervision, or a person exercising dominant influence over the management of such company in any other manner or a director or representative of an Estonian branch of a foreign company.

(5) Members of the management board specified in subsection (4) of this section may participate in voting if all other members of the management board participating in the vote are in favour thereof.  
[RT I 2005, 13, 64 - entry into force 18.03.2005]

#### **§ 27. Minutes of meetings of management board**

(1) Minutes shall be taken of meetings of the management board.

(2) Written dissenting opinions submitted by members of the management board shall be annexed to the minutes. A notation shall be made in the minutes concerning the annexing of a dissenting opinion, and the member of the management board who submitted the opinion shall confirm the notation with his or her signature.

(3) The chairman of the management board and the secretary shall sign the minutes.

(4) Minutes of meetings of the management board shall be preserved in the Supervision Authority indefinitely.

#### **§ 28. Adoption of resolution without calling meeting**

(1) The management board has the right to adopt resolutions without calling a meeting of the supervisory board if all members of the management board consent thereto and hold a certificate for giving digital signatures issued pursuant to the requirements of the Electronic Identification and Trust Services for Electronic Transactions Act.  
[RT I, 25.10.2016, 1 - entry into force 26.10.2016]

(2) Upon adoption of a resolution of the management board in the manner provided for in subsection (1) of this section, all proposals, positions and decisions shall be certified by digital signatures.

(3) The chairman of the management board shall send a draft resolution to all members of the management board and specify the term by which the members of the management board must present their positions. If a member of the management board fails to present his or her position within the specified term, he or she is deemed to have voted against the resolution.

(4) The provisions of § 26 of this Act apply to the adoption of resolutions.

(5) Minutes shall be taken of voting results and shall be sent immediately to all members of the management board.

#### **§ 29. Liability of members of management board**

(1) Members of the management board shall be solidarily liable for any damage wrongfully caused by their unlawful behaviour.

(2) A member of the management board is required to compensate the state for any damage caused by violation of his or her duties intentionally or through gross negligence. Compensation claimed for damage caused through gross negligence shall not exceed six times the monthly remuneration paid to the member of the management board.

(3) A member of the management board shall be released from liability if, upon adoption of a resolution which is in conflict with the law, he or she holds a position which is in accordance with the law and submits a corresponding dissenting opinion which is annexed to the minutes.

(4) The limitation period for a claim against a member of the management board shall be three years as of the commission of the violation.

## **Chapter 3 REQUIREMENTS FOR EMPLOYEES**

#### **§ 30. Employees of Supervision Authority**

(1) Employees of the Supervision Authority (hereinafter *employees*) and members of the management board of the Supervision Authority shall be subject to labour laws unless otherwise provided by this Act.  
[RT I 2009, 5, 35 - entry into force 01.07.2009]

(2) Persons may be employed by the Supervision Authority if they have the necessary education, sufficient experience and professional qualifications to perform their duties and an impeccable professional and business reputation.

(3) The following shall not be employed:

- 1) persons under preliminary investigation for or accused of a criminal offence or persons with a criminal record for criminal official misconduct;
- 2) persons whose previous unlawful act or omission has resulted in the bankruptcy, compulsory dissolution or revocation of the activity licence of a company;
- 3) bankrupts or persons who are subject to a prohibition on business or from whom the right to work in a particular position or operate in a particular area of activity has been taken away pursuant to law.

(4) Before an employment contract is entered into with a person applying for employment, he or she is required to submit to the management board a written overview of his or her education, qualifications, in-service training, professional experience and business activities, the information specified in subsection 32 (3) of this Act, and confirmation that no circumstances exist which according to this Act would preclude his or her right to be an employee.

(5) Upon entry into an employment contract, a probationary period of up to six months may be applied.

(6) [Repealed - RT I 2009, 5, 35 - entry into force 01.07.2009]

### **§ 31. Duties of employees**

(1) An employee is required to perform his or her duties in good faith, adhere to good practice and act with the conscientiousness necessary for the exercise of public authority, with the prudence and competence expected of him or her and according to the requirements for his or her position.

(2) An employee shall refrain from acts which are or may be detrimental to the objectives, functions or reputation of the Supervision Authority.

### **§ 32. Avoiding conflicts of interest**

(1) An employee shall not be a shareholder with a qualifying holding in a subject of financial supervision, a person who exercises dominant influence over the management of such subject in any other manner or a member of the management body or a procurator thereof, a person who holds the right of representation on any other basis, or the auditor, head of the internal audit unit or chairman of the audit committee thereof, or a director or representative of an Estonian branch of a foreign company.

(2) An employee shall not enter into agreements with a subject of financial supervision or persons specified in subsection (1) of this section according to which the employee is required to provide investment or consulting services.

(3) Before an employment contract is entered into with a person applying for employment with the Supervision Authority, he or she shall, in the format established by the minister responsible for the area, submit information to the management board concerning his or her proprietary obligations and those of his or her spouse or cohabitee, children and parents to subjects of financial supervision, and information concerning the securities owned by the above-mentioned persons. The employee shall immediately notify the management board of any relevant changes in the information submitted.

[RT I 2005, 13, 64 - entry into force 18.03.2005]

[RT I, 29.06.2014, 109 - entry into force 01.07.2014, as of 1 July 2014 "the Minister of Finance" replaced by the words "the minister responsible for the area" on the basis of subsection 107<sup>3</sup> (4) of the Government of the Republic Act.]

### **§ 33. Removal**

(1) An employee shall not participate in supervision procedure or in the preparation of a resolution of the management board if he or she is directly or indirectly personally interested in the matter.

(2) An employee is required to notify the chairman of the management board immediately if the circumstances specified in subsection (1) of this section exist or if his or her child, parent, sister, brother, spouse or cohabitee, or a child, parent, sister or brother of his or her spouse or cohabitee is a member of the management body, procurator, other representative, head of the internal audit unit, chairman of the audit committee or auditor, or shareholder with a qualifying holding in a relevant subject of financial supervision, or a person exercising dominant influence over the management of such company in any other manner or a director or representative of an Estonian branch of a foreign company.

(3) If the chairman of the management board has reasonable doubt about the impartiality of an employee, the chairman has the right to remove the employee from supervision procedure or the preparation of a resolution of the management board.

[RT I 2005, 13, 64 - entry into force 18.03.2005]

#### **§ 34. Duty to maintain confidentiality**

(1) Unless otherwise provided by this Act, employees of the Supervision Authority and the auditors, experts and other persons brought in by the Supervision Authority to participate in the conduct of financial supervision are required to maintain indefinitely the confidentiality of any confidential information which they may receive while performing their duties in the Supervision Authority.

(2) Persons specified in subsection (1) of this section shall not use for their private interests any confidential information which they may receive while performing their duties.

## **Chapter 4 FINANCING**

[RT I 2005, 59, 463 - entry into force 15.11.2005]

### **Division 1 General Provisions**

[RT I 2005, 59, 463 - entry into force 15.11.2005]

#### **§ 35. Sources of financing**

The expenses of the Supervision Authority shall be covered from the compulsory payments made by the subjects of financial supervision pursuant to the provisions of this Act (hereinafter *the supervision fee*), administrative fees and other sources.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

#### **§ 36. Budgetary year of Supervision Authority**

The budgetary year of the Supervision Authority begins on 1 January and ends on 31 December.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

#### **§ 37. Supplementary budget of Supervision Authority**

(1) A supplementary budget is prepared if the income of a financial year is not sufficient to cover the costs or investments of the Supervision Authority during the financial year.

(2) The management board shall prepare a supplementary budget together with proposals concerning the rates of the share of the supervision fee calculated on the basis of assets and shall submit it to the supervisory board for approval.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

#### **§ 37<sup>1</sup>. Budget surplus**

(1) If the income of the financial year of the Supervision Authority exceeds the costs, reserves may be formed, expenses incurred or investments made out of such budgetary surplus, or the surplus may be returned to the supervision subjects on uniform and proportional basis. The exceptions applied on the basis of the second sentence of subsection 40 (2) and (3) of this Act shall be taken into consideration into the implementation of the return of the surplus on uniform and proportional basis.

[RT I, 19.03.2015, 3 - entry into force 29.03.2015]

(2) The management board shall prepare a proposal for using the budget surplus and shall submit it to the supervisory board for approval.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

## **Division 2 Supervision Fee**

[RT I 2005, 59, 463 - entry into force 15.11.2005]

#### **§ 38. Supervision Fee**

(1) The supervision fee consists of the capital share and the share calculated on the basis of assets.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

(2) Investment firms, the registrar of the central securities depository and the pension register, operators of securities settlement systems, operators of regulated securities markets, insurance undertakings, credit institutions, payment institutions, e-money institutions, creditors, management companies and defined-benefit

occupational pension funds shall pay the capital share of the supervision fee and its share calculated on the basis of assets, except in the cases specified in subsections 43 (5)–(8) of this Act. A company using the right stipulated in § 13 of the Paying Authorities and E-money Institutions Act shall pay a supervision fee only in the amount of the share calculated on the basis of assets.

[RT I, 26.06.2017, 1 - entry into force 06.07.2017]

(3) Insurance brokers, credit intermediaries and Estonian branches of foreign companies who operate in the area of activity of investment firms, insurance undertakings, insurance brokers, credit institutions, creditors, credit intermediaries, payment institutions, e-money institutions or management companies, management companies of other EEA countries which manage a UCITS founded in Estonia cross-border, and persons who have applied for an authorisation to submit direct bids at an auction on the basis of subsection 162 (1) of the Atmospheric Air Protection Act shall pay a supervision fee only in the amount of the share calculated on the basis of assets, except in the cases specified in subsections 43 (5)–(8) of this Act.

[RT I, 05.07.2016, 1 - entry into force 01.01.2017]

(4) The obligation to pay a supervision fee provided for in subsections (2) and (3) of this section (hereinafter *the financing obligation*) arises for the persons specified in those subsections or Estonian branches of foreign companies as of the date of entry into force of the decision of the Supervision Authority or date of performance of the act which grants the right to operate in the corresponding area of activity.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

(5) The financing obligation of a person specified in subsections (2) and (3) of this section or an Estonian branch of a foreign company expires upon the expiry of the corresponding right to operate.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

(6) Upon the expiry of a financing obligation, the supervision fee shall not be refunded.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

(7) A supervision subject who operates in several areas of activity shall pay the supervision fee only as one supervision subject.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

(8) In application of the provisions of subsection (7) of this section, the following principles are applied:

[RT I 2005, 59, 463 - entry into force 15.11.2005]

1) a company operating in the area of activity of credit institutions shall pay a supervision fee as a credit institution;

1<sup>1</sup>) a creditor who is not a credit institution shall pay a supervision fee as a creditor;

[RT I, 19.03.2015, 4 - entry into force 29.03.2015]

1<sup>2</sup>) a credit intermediary who is neither a credit institution nor a creditor shall pay a supervision fee as a credit intermediary;

[RT I, 19.03.2015, 4 - entry into force 29.03.2015]

2) a company operating in the area of activity of management companies and not being a credit institution shall pay a supervision fee as a management company;

3) a company operating in the area of activity of investment firms and not being either a credit institution or a management company shall pay a supervision fee as an investment firm;

4) a company operating as the registrar of the central securities depository and the pension register and not being a credit institution, management company or investment firm shall pay a supervision fee as the registrar of the central securities depository and the pension register;

[RT I, 26.06.2017, 1 - entry into force 06.07.2017]

5) a company operating as an e-money institution and not being a credit institution shall pay a supervision fee as an e-money institution;

[RT I 2005, 59, 463 - entry into force 15.11.2005]

6) a company operating as a payment institution and not being a payment institution shall pay a supervision fee as a payment institution.

[RT I 2010, 2, 3 - entry into force 22.01.2010]

(9) A company specified in clause (8) 2) of this section shall pay the supervision fee on its capital and the assets of the investment funds managed by such person.

[RT I, 31.12.2015, 38 - entry into force 10.01.2016]

(10) The Financial Supervision Authority shall be entitled to require from a person subject to a financing obligation additional information, documents and written explanations for the calculation of the supervision fee.

[RT I, 31.12.2015, 38 - entry into force 10.01.2016]

### **§ 39. Rate of supervision fee**

(1) The capital share of the supervision fee is an amount equal to one per cent of:

1) the minimum amount of the net own funds required pursuant to legislation in the case of a credit institution;  
2) the floor of the Minimum Capital Requirement required pursuant to legislation in order to engage in the class of insurance specified in the authorisation in the case of an insurance undertaking;

[RT I, 07.07.2015, 1 - entry into force 01.01.2016]

3) the highest amount of minimum own funds required pursuant to legislation in the case of the registrar of the central securities depository and the pension register or an operator of a clearing and settlement system;

[RT I, 26.06.2017, 1 - entry into force 06.07.2017]

4) the highest amount of minimum share capital required pursuant to legislation in order to operate in the area of activity specified in the activity licence in the case of an investment firm, payment institution, operator of a regulated securities market, e-money institution, creditor, management company and defined-benefit occupational pension fund;

[RT I, 31.12.2016, 3 - entry into force 10.01.2017]

5) in case of a fund manager of a pension fund, the minimum amount of the initial capital required pursuant to legislation.

[RT I, 26.06.2017, 1 - entry into force 06.07.2017]

(2) The share of the supervision fee calculated on the basis of assets is an amount equal to:

1) in the case of a credit institution or an Estonian branch of a foreign credit institution, 0.005 to 0.05 per cent of the assets of the credit institution or the corresponding Estonian branch;

1<sup>1</sup>) in the case of a creditor or a branch of a foreign creditor, 0.01–1 per cent of the balance of the consumer credit granted to consumers by the creditor or corresponding Estonian branch;

[RT I, 19.03.2015, 4 - entry into force 29.03.2015]

1<sup>2</sup>) in the case of a credit intermediary or an Estonian branch of a foreign credit intermediary, 0.01–1 per cent of the amount of the consumer credit arranged to consumers by the credit intermediary or corresponding Estonian branch;

[RT I, 19.03.2015, 4 - entry into force 29.03.2015]

2) in the case of an investment firm or an Estonian branch of a foreign investment firm, 0.15 to 0.75 per cent of the assets of the investment firm or the corresponding Estonian branch;

3) [repealed - RT I, 31.12.2016, 3 - entry into force 10.01.2017]

4) in the case of a management company managing a pensions fund provided by § 3 of the Funded Pensions Act or an Estonian branch of a foreign management company managing a pensions fund, 0.005 to 0.2 per cent of the assets of the pensions funds managed by the management company or the corresponding Estonian branch;

4<sup>1</sup>) [repealed - RT I, 31.12.2016, 3 - entry into force 10.01.2017]

5) [repealed - RT I, 31.12.2016, 3 - entry into force 10.01.2017]

5<sup>1</sup>) in the case of a management company or the Estonian branch of a foreign management company, 0.01 to 0.1 per cent of the assets of the UCITS or alternative funds respectively managed thereby, unless otherwise provided for in clause 5<sup>2</sup>) of this subsection, or of the assets of the UCITS or alternative funds formed or founded in Estonia that are managed by the foreign management company, if these funds are managed cross-border, whereas the assets shall not include alternative funds the total volume of which assets does not exceed the threshold provided for in subsection 3 (6) of the Investment Funds Act;

[RT I, 31.12.2016, 3 - entry into force 10.01.2017]

5<sup>2</sup>) in the case of a management company, 0.001 to 0.01 per cent of the assets of the UCITS or alternative funds formed or founded in a foreign state that are managed thereby, unless the units or shares of the specified funds are publicly offered in Estonia, whereas the assets shall not include alternative funds the total volume of which assets does not exceed the threshold provided for in subsection 3 (6) of the Investment Funds Act;

[RT I, 31.12.2016, 3 - entry into force 10.01.2017]

5<sup>3</sup>) in the case of a defined-benefit occupational pension fund, 0.02 to 0.25 per cent of the total amount of the assets of the fund and the contributions made to the fund;

[RT I, 31.12.2016, 3 - entry into force 10.01.2017]

6) in case of an insurance undertaking engaged in non-life insurance and the Estonian branch of a corresponding foreign insurance undertaking, 0.05 to 0.5 per cent of the gross insurance premiums of the insurance undertaking or corresponding Estonian branch; in this respect, the gross insurance premiums shall not include the reinsurance premiums of the insurance undertaking or the Estonian branch of the corresponding foreign insurance undertaking in case the reinsurance undertaking under the reinsurance contract is an insurance undertaking registered in Estonia;

[RT I, 07.07.2015, 1 - entry into force 01.01.2016]

7) in case of an insurance undertaking engaged in life insurance and the Estonian branch of a corresponding foreign insurance undertaking, 0.02 to 0.25 per cent of the total amount of the assets and gross insurance premiums of the insurance undertaking or corresponding Estonian branch; in this respect, the gross insurance premiums shall not include the reinsurance premiums of the insurance undertaking or the Estonian branch of the corresponding foreign insurance undertaking in case the reinsurance undertaking under the reinsurance contract is an insurance undertaking registered in Estonia;

[RT I, 07.07.2015, 1 - entry into force 01.01.2016]

7<sup>1</sup>) in case of an insurance undertaking engaged in reinsurance and the Estonian branch of a corresponding foreign insurance undertaking, 0.05 to 0.5 per cent of the gross reinsurance premiums of the insurance undertaking or corresponding Estonian branch; in this respect, the gross reinsurance premiums shall not include the reinsurance premiums of the reinsurance undertaking in case the reinsurance undertaking under the reinsurance contract is an insurance undertaking registered in Estonia;

[RT I, 07.07.2015, 1 - entry into force 01.01.2016]



8) in the case of an insurance broker or a corresponding Estonian branch of a foreign insurance broker, 0.5 to 5 per cent of the total commissions received by the insurance broker or the corresponding Estonian branch;

9) in the case of the registrar of the central securities depository and the pension register, 0.1 to 0.7 per cent of the business income;

[RT I, 26.06.2017, 1 - entry into force 06.07.2017]

10) in the case of an operator of a securities settlement system or an operator of a regulated securities market, 0.1 to 0.5 per cent of the business income;

11) in the case of an e-money institution or an Estonian branch of a foreign e-money institution, 0.05 to 0.5 per cent of the assets of the institution or Estonian branch;

12) in the case of a payment institution or an Estonian branch of a foreign payment institution, 0.05 to 0.5 per cent of the assets of the payment institution or the corresponding Estonian branch.

[RT I 2010, 2, 3 - entry into force 22.01.2010]

13) in case of a person who applied for an authorisation to submit direct bids at an auction on the basis of subsection 162 (1) of the Atmospheric Air Protection Act, 0.01 to 0.5 per cent of the volume of direct bids made by the person.

[RT I, 05.07.2016, 1 - entry into force 01.01.2017]

(3) For the purposes of this Act, assets are taken to be total assets indicated on the unconsolidated balance sheet as provided by legislation.

#### **§ 40. Establishment of rate of share of supervision fee calculated on basis of assets**

(1) The rate of the share of the supervision fee calculated on the basis of assets shall be established for a calendar year as a percentage within the limits provided for in subsection 39 (2) of this Act. The rate shall be established by a regulation of the minister responsible for the area within fifteen days after approval of the budget of the Supervision Authority by the supervisory board.

[RT I, 29.06.2014, 109 - entry into force 01.07.2014, as of 1 July 2014 "the Minister of Finance" replaced by the words "the minister responsible for the area" on the basis of subsection 107<sup>3</sup> (4) of the Government of the Republic Act.]

(2) In the case of the investment funds specified in clauses 39 (2) 4) and 5<sup>1</sup>) of this Act, the supervisory board may prescribe different rates of share of supervision fee calculated on basis of assets, based on types of investment funds managed or the investment policy prescribed in the terms or statutes of the investment funds.

[RT I, 31.12.2016, 3 - entry into force 10.01.2017]

(3) The rate of the share of the supervision fee calculated on the basis of assets shall be the same for all persons and Estonian branches of foreign companies operating in the same area of activity. In the case of a credit institution or an Estonian branch of a foreign credit institution specified in clause 39 (2) 1) of this Act, which on the basis of Council Regulation (EU) No 1024/2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63–89) is recognised a significant institution, the supervisory board may prescribe different rates of share of supervision fee.

[RT I, 19.03.2015, 3 - entry into force 29.03.2015]

(4) The rate of the share of the supervision fee calculated on the basis of assets shall be applied to calculation of the advance payment and final payment of the supervision fee.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

#### **§ 41. Calculation of advance payment of supervision fee**

(1) In the case of a defined-benefit occupational pension fund, the advance payment of the share of the supervision fee calculated on the basis of assets shall be calculated on the basis of the arithmetic mean of the assets of the person, calculated according to the data in the balance sheet thereof as at 31 December of the preceding year and 31 March and 30 June of the current year submitted to the Supervision Authority, and twice the total amount of the contributions made to the fund during the first six months of the current year according to the data submitted to the Supervision Authority.

[RT I, 31.12.2016, 3 - entry into force 10.01.2017]

(2) In the case of an insurance undertaking engaged in life insurance, the advance payment of the share of the supervision fee calculated on the basis of assets shall be calculated on the basis of the arithmetic mean of the assets of the person or the Estonian branch of a corresponding foreign insurance undertaking, calculated according to the data in the balance sheet thereof as at 31 December of the preceding year and 31 March and 30 June of the current year submitted to the Supervision Authority, and twice the total amount of the gross insurance premiums earned during the first six months of the current year according to the data submitted to the Supervision Authority.

[RT I, 07.07.2015, 1 - entry into force 01.01.2016]

(3) In the case of an insurance undertaking engaged in non-life insurance, the advance payment of the share of the supervision fee calculated on the basis of assets shall be calculated on the basis of twice the total amount of the gross insurance premiums earned by the person or the Estonian branch of a corresponding foreign insurance undertaking during the first six months of the current year according to the data submitted to the Supervision Authority.  
[RT I, 07.07.2015, 1 - entry into force 01.01.2016]

(3<sup>1</sup>) In the case of an insurance undertaking engaged in reinsurance, the advance payment of the share of the supervision fee calculated on the basis of assets shall be calculated on the basis of twice the total amount of the gross reinsurance premiums earned by the person or the Estonian branch of a corresponding foreign insurance undertaking during the first six months of the current year according to the data submitted to the Supervision Authority.  
[RT I, 07.07.2015, 1 - entry into force 01.01.2016]

(4) In the case of an insurance broker, the advance payment of the share of the supervision fee calculated on the basis of assets shall be calculated on the basis of the total amount of brokerage fees earned by the insurance broker or an Estonian branch of a foreign insurance broker for the previous year submitted to the Supervision Authority.  
[RT I, 07.07.2015, 1 - entry into force 01.01.2016]

(5) In the case of the registrar of the central securities depository and the pension register, an operator of a securities settlement system or an operator of a regulated securities market, the advance payment of the share of the supervision fee calculated on the basis of assets shall be calculated on the basis of the business income earned by such persons according to the income statement of the previous year.  
[RT I, 26.06.2017, 1 - entry into force 06.07.2017]

(5<sup>1</sup>) In the case of a credit intermediary, the advance payment of the share of the supervision fee calculated on the basis of assets shall be calculated on the basis of the total amount of consumer credit arranged to consumers by the credit intermediary or an Estonian branch of a corresponding credit intermediary according to the annual accounts of the previous year submitted to the Supervision Authority.  
[RT I, 19.03.2015, 4 - entry into force 29.03.2015]

(6) In the event of dissolution, calculation shall be based on the balance sheet prepared upon liquidation.  
[RT I 2005, 59, 463 - entry into force 15.11.2005]

(7) The calculation of the advance payment of the supervision fee on the grounds provided for in subsections (1) and (2) of this section shall be based exclusively on the data as at the end of such quarter when a person subject to a financing obligation held a valid activity licence issued by the Financial Supervision Authority for the corresponding activities.  
[RT I, 31.12.2015, 38 - entry into force 10.01.2016]

#### **§ 42. Calculation of final amount of supervision fee**

(1) In the case of a defined-benefit occupational pension fund, the final payment of the share of the supervision fee calculated on the basis of assets shall be calculated on the basis of the arithmetic mean of the assets of the person, calculated according to the data in the balance sheet thereof as at 31 March, 30 June, 30 September and 31 December of the preceding year submitted to the Supervision Authority, and the total amount of the contributions made to the fund during the previous year according to the data submitted to the Supervision Authority.  
[RT I, 31.12.2016, 3 - entry into force 10.01.2017]

(2) In the case of an insurance undertaking engaged in life insurance, the final payment of the share of the supervision fee calculated on the basis of assets shall be calculated on the basis of the arithmetic mean of the calculated assets of the person or the Estonian branch of a corresponding foreign insurance undertaking, calculated according to the data in the balance sheet thereof as at 31 March, 30 June, 30 September and 31 December of the preceding year submitted to the Supervision Authority, and the total amount of the gross insurance premiums earned during the previous year according to the data submitted to the Supervision Authority.  
[RT I, 07.07.2015, 1 - entry into force 01.01.2016]

(3) In the case of an insurance undertaking engaged in non-life insurance, the final amount of the share of the supervision fee calculated on the basis of assets shall be calculated on the basis of the total amount of the gross insurance premiums earned during the previous year by the person or the Estonian branch of a corresponding foreign insurance undertaking according to the data submitted to the Supervision Authority.  
[RT I, 07.07.2015, 1 - entry into force 01.01.2016]

(3<sup>1</sup>) In the case of an insurance undertaking engaged in reinsurance, the final amount of the share of the supervision fee calculated on the basis of assets shall be calculated on the basis of the total amount of the gross reinsurance premiums earned during the previous year by the person or the Estonian branch of a corresponding foreign insurance undertaking according to the data submitted to the Supervision Authority.  
[RT I, 07.07.2015, 1 - entry into force 01.01.2016]

(4) In the case of an insurance broker, the final amount of the share of the supervision fee calculated on the basis of assets shall be calculated on the basis of the total amount of brokerage fees earned by the insurance broker or an Estonian branch of a foreign insurance broker for the previous year submitted to the Supervision Authority.

[RT I, 07.07.2015, 1 - entry into force 01.01.2016]

(5) In the case of the registrar of the central securities depository and the pension register, an operator of a securities settlement system or an operator of a regulated securities market, the final amount of the share of the supervision fee calculated on the basis of assets shall be calculated on the basis of the business income earned by such persons according to the income statement of the previous year.

[RT I, 26.06.2017, 1 - entry into force 06.07.2017]

(5<sup>1</sup>) In the case of a credit intermediary, the final payment of the share of the supervision fee calculated on the basis of assets shall be calculated on the basis of the total amount of consumer credit arranged to consumers by the credit intermediary or an Estonian branch of a corresponding credit intermediary according to the annual accounts of the previous year submitted to the Supervision Authority.

[RT I, 19.03.2015, 4 - entry into force 29.03.2015]

(6) If a financing obligation arises during a calendar year, the final payment of the share of the supervision fee calculated on the basis of assets payable for the forthcoming budgetary year shall be calculated on the basis of the assets, balance of the consumer credit as at 31 December or total amount of gross insurance premiums or contributions made to a defined-benefit occupational pension fund as provided for in subsections (1)–(3) of this section, taking into consideration the provisions of § 44<sup>1</sup> of this Act.

[RT I, 31.12.2016, 3 - entry into force 10.01.2017]

(7) In the event of dissolution, calculation shall be based on the balance sheet prepared upon liquidation.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

#### **§ 43. Payment of supervision fee**

(1) To pay the amount of the supervision fee, the Supervision Authority shall send, without hearing a person, the corresponding order, specifying the applicable rate of the supervision fee, the amount of the payable supervision fee and the due date.

[RT I, 31.12.2015, 38 - entry into force 10.01.2016]

(2) The supervision fee shall be paid as an advance payment and final payment. The size of the final payment of the supervision fee shall be the final amount of the supervision fee to be paid during a particular budgetary year of the Supervision Authority (hereinafter *budgetary year*) for that year.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

(3) If an advance payment of the supervision fee exceeds the final payment, the Supervision Authority shall refund the overpaid amount of the supervision fee by the due date provided for in subsection 44 (2) of this Act.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

(4) If an advance payment of the supervision fee is less than the final payment, a final payment in the amount of the difference between the final payment and the advance payment shall be made by the due date provided for in subsection 44 (2) of this Act.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

(5) If a financing obligation arises during the first half of a calendar year, the final payment of the supervision fee shall be made only in the amount of the capital share.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

(6) If a financing obligation arises for a branch of foreign investment firm, insurance undertaking, insurance broker, credit institution, creditor, credit intermediary, payment institution, e-money institution or management company and a foreign management company which manages a UCITS or alternative fund formed or founded in Estonia cross-border during the first half of a calendar year, the final payment of the supervision fee shall be made in an amount equal to a half of the capital share of the supervision fee payable by the investment firm, insurance undertaking, insurance broker, credit institution, creditor, credit intermediary, payment institution, e-money institution or management company.

[RT I, 31.12.2016, 3 - entry into force 10.01.2017]

(7) If a financing obligation arises during the second half of a calendar year, the final payment of the supervision fee shall be made only in the amount of half the capital share.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

(8) If a financing obligation arises for a branch of foreign investment firm, insurance undertaking, insurance broker, credit institution, creditor, credit intermediary, payment institution, e-money institution or management company and a management company of another EEA country which manages a UCITS founded in Estonia cross-border during the second half of a calendar year, the final payment of the supervision fee shall be made in an amount equal to a quarter of the capital share of the supervision fee payable by the investment firm, insurance undertaking, insurance broker, credit institution, creditor, credit intermediary, payment institution, e-money institution or management company.

[RT I, 31.12.2016, 3 - entry into force 10.01.2017]

(9) In the case provided for in subsections (5)–(8) of this section, the amount of the capital share of the supervision fee payable by an insurance broker and credit intermediary equals 1000 euros.

[RT I, 19.03.2015, 4 - entry into force 29.03.2015]

(10) Supervision fees are paid to the account of the Supervision Authority.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

#### **§ 44. Term for payment of supervision fee**

(1) Any advance payment of the share of the supervision fee calculated on the basis of assets and the capital share of the supervision fee which is payable for a budgetary year shall be made by 31 December of the preceding year.

(2) The final payment of the share of the supervision fee calculated on the basis of assets shall be made by 1 September of the budgetary year.

(3) If a financing obligation arises during the current year, the capital share of the supervision fee shall be paid within 30 days after the obligation has arisen.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

#### **§ 44<sup>1</sup>. Specifications of calculation and payment of supervision fee**

(1) If a person subject to a financing obligation during the year of imposing the advance payment of the supervision fee has acquired an enterprise or installation, taken over an insurance portfolio or otherwise acquired or taken over the assets or liabilities of another subject of supervision (hereinafter in this section *transferee subject of supervision*), the advance payment of the supervision fee of the transferee subject of supervision shall be calculated on the basis of the data used for the calculation of the supervision fee and provided for in this Act as at 30 June of the current year and in the calculation of the final payment as at 31 December of the preceding year.

(2) If the transferee subject of supervision specified in subsection (1) of this section has taken over an insurance portfolio or assets and liabilities of a defined-benefit occupational pension fund, the corresponding insurance portfolio or assets and liabilities shall be deemed to be owned by the transferee subject of supervision in the calculation of the total amount of gross insurance premiums or contributions made to the fund as of 31 December of the year preceding the calculation of the advance payment.

[RT I, 31.12.2016, 3 - entry into force 10.01.2017]

(3) In the case specified in subsections (1) and (2) of this section, the final payment of the share of the supervision fee calculated on the basis of assets shall be paid by 28 March of the budgetary year.

[RT I, 31.12.2015, 38 - entry into force 10.01.2016]

#### **§ 45. Consequences of failure to pay supervision fee**

If a person required to pay the supervision fee fails to pay the supervision fee within the term prescribed in the order, the Supervision Authority shall have the right to implement compulsory execution pursuant to the procedure provided for in the Code of Enforcement Procedure.

[RT I, 31.12.2015, 38 - entry into force 10.01.2016]

### **Division 3 Processing fee**

[RT I 2005, 59, 463 - entry into force 15.11.2005]

#### **§ 45<sup>1</sup>. Processing fee**

Processing fee is a mandatory payment in the amount established by this Act to be made by an applicant or person applying for performance of an act for the review of an application or performance of an act prescribed by this Act by the Supervision Authority.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

#### **§ 45<sup>2</sup>. Payer of processing fee**

For the purposes of this Act, the payer of the processing fee is a natural person, legal person or branch of a foreign company who applies for the review of an application or performance of an act from the Supervision Authority.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

#### **§ 45<sup>3</sup>. Application for initial authorisation**

(1) A processing fee of 1500 euros shall be paid upon application for an authorisation for a credit institution or an authorisation for establishing a branch of a credit institution registered in a country which is not a contracting party to the EEA agreement (hereinafter *third country*) in Estonia.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

(2) A processing fee of 1000 euros shall be paid upon application for an authorisation for an insurance undertaking, investment firm, operator of a regulated securities market, operator of a securities settlement system, payment institution, e-money institution, management company, defined-benefit occupational pension fund, creditor or credit intermediary.

[RT I, 31.12.2016, 3 - entry into force 10.01.2017]

(3) A processing fee of 1000 euros shall be paid for an authorisation for foundation in Estonia of a branch of an insurance undertaking, investment firm, payment institution, e-money institution, management company, creditor or credit intermediary registered in a third country or for the provision of cross-border services in Estonia by an insurance undertaking, investment firm, payment institution, e-money institution, management company, creditor or credit intermediary registered in a third country.

[RT I, 19.03.2015, 4 - entry into force 29.03.2015]

(4) A processing fee of 150 euros shall be paid upon application for the entry of an insurance broker, or a branch of an insurance broker registered in a third country in the register of insurance intermediaries.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

(5) A processing fee of 300 euros shall be paid upon application for authorisation stipulated in § 13 of the Payment Institutions and E-money Institutions Act.

[RT I 2010, 34, 182 - entry into force 02.07.2010]

(6) A processing fee of 300 euros shall be paid upon application for an authorisation provided for in subsection 162 (1) of the Atmospheric Air Protection Act.

[RT I, 05.07.2016, 1 - entry into force 01.01.2017]

#### **§ 45<sup>4</sup>. Application for additional authorisation or amendment of existing authorisation**

[RT I, 31.12.2016, 3 - entry into force 10.01.2017]

A processing fee of 500 euros shall be paid upon application for an additional authorisation or extension of the range of services permitted in an existing authorisation by a credit institution, insurance undertaking, investment firm, operator of a regulated securities market, management company, payment institution, e-money institution, creditor or credit intermediary.

[RT I, 31.12.2016, 3 - entry into force 10.01.2017]

#### **§ 45<sup>5</sup>. Application for registration of public offer of securities**

A processing fee of 600 euros shall be paid upon application for registration of a prospectus for the public offer, trading or listing of securities, except for units or stocks of investment firms.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

#### **§ 45<sup>6</sup>. Application for approval of takeover bid**

A processing fee of 600 euros shall be paid upon application for approval of a takeover bid.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

#### **§ 45<sup>7</sup>. Application for registration or amendment of fund rules, registration of offering of units or shares of foreign fund and of management company**

[RT I, 31.12.2016, 3 - entry into force 10.01.2017]

(1) A processing fee of 600 euros shall be paid upon application for approval for registration of the fund rules of a contractual fund or foundation of a fund to be founded as a public limited company.

(2) A processing fee of 200 euros shall be paid upon application for registration of the amendment of the fund rules of a contractual fund or the statutes of a fund founded as a public limited company.

(3) A processing fee of 600 euros shall be paid upon application for the registration of the public offering of the units or shares of a foreign fund.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

(4) A processing fee of 200 euros shall be paid upon registration of a small fund manager provided for in § 453 of the Investment Funds Act.

[RT I, 31.12.2016, 3 - entry into force 10.01.2017]

#### **§ 45<sup>8</sup>. Application for approval of amendment of rules**

A processing fee of 250 euros shall be paid upon application for approval of the amendment of the rules and regulations of the regulated securities market and the amendment of the rules and regulations of a multilateral trading facility.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

#### **§ 45<sup>9</sup>. Application for approval of amendment of rules of securities settlement systems**

A processing fee of 250 euros shall be paid upon application for approval of the amendment of the rules of a securities settlement system.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

#### **§ 45<sup>10</sup>. Payment of processing fee**

(1) Processing fees are paid before submission of applications and performance of acts.

(2) Processing fees are paid to the account of the Supervision Authority.

(3) Upon payment of a processing fee, the document certifying payment of the processing fee shall set out the name of the act for the performance of which the processing fee is paid or refer to the provision of this Act on the basis of which the fee for the act is paid. The name of the person for whom the processing fee is paid shall also be indicated on the document certifying payment of the fee for the act.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

#### **§ 45<sup>11</sup>. Exemption from payment of processing fee**

The processing fee provided by subsection 45<sup>7</sup>(2) and §§ 45<sup>8</sup> and 45<sup>9</sup> of this Act is not paid if amendments in the fund rules, statutes, regulations or rules arise from amendments to legislation.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

#### **§ 45<sup>12</sup>. Refund of processing fee**

(1) A person who pays a processing fee has the right to apply for the refund of the processing fee on the basis provided by subsection 6 of this section within two years as of the date on which the fee is paid.

(2) The Supervision Authority shall make a decision concerning an application within twenty calendar days as of receipt of the application.

(3) For application of refund of a processing fee, a written application together with the document in proof of payment of the processing fee shall be submitted to the Supervision Authority.

(4) The Supervision Authority shall refund the processing fee within ten calendar days as of the entry into force of the decision specified in subsection (2) of this section

(5) The Supervision Authority refuses to review an application for refund of a processing fee if the Supervision Authority has made a decision on the application for refund of the processing fee.

(6) A processing fee which has already been paid shall be refunded in part or in whole if:

1) the fee paid exceeds the prescribed amount;

2) the submitted application is not reviewed;

3) the processing fee was paid by a person who pursuant to this Act is exempt from payment of the processing fee;

4) the person who paid the processing fee foregoes the act or submission of the application prior to addressing the Supervision Authority.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

## **Chapter 5**

# COOPERATION

## § 46. Cooperation with international organisations

(1) The Supervision Authority shall participate in and cooperate with international organisations within the limits of its competence.

(2) The Supervision Authority shall participate in the work of the following institutions, bodies and committees (hereinafter in this section *institutions*):

- 1) the European Banking Authority;
- 2) the European Securities and Markets Authority;
- 3) the European Insurance and Occupational Pensions Authority;
- 4) the Joint Committee of the European Supervisory Authorities;
- 5) the European Systemic Risk Board.

(3) The Supervision Authority shall inform the European Commission and the relevant European supervisory authority specified in subsection (2) of this section (hereinafter *European supervisory authority*) of:

- 1) grant of authorisation to a subsidiary investment firm, credit institution, management company, payment institution, e-money institution or insurance undertaking (hereinafter *financial institution*) who is directly or indirectly controlled by a parent undertaking operating on the basis of the legislation of a third country not specified in subsection (7) of this section or located in a third country (hereinafter *third country parent undertaking*); the Supervision Authority shall also submit, at that time, the structure of the consolidation group to the Commission;
- 2) acquisition of a holding in a financial institution by a third country parent undertaking as a result of which the financial institution becomes a subsidiary of the third country parent undertaking;
- 3) all circumstances which prevent the foundation of a financial institution or provision of services in third countries;
- 4) the relevant third countries where the requirements equivalent to the requirements provided for in the Money Laundering and Terrorist Financing Prevention Act are effective, and the countries where the legislation of the country does not provide an opportunity for the implementation of the measures that are equivalent to the requirements provided for in the abovementioned Act;
- 5) all its decisions pertaining to the grant of authorisation to financial institutions and decisions to revoke such authorisation, including the reasons for the revocation.

(4) The Supervision Authority shall inform the European Commission of:

- 1) as at 31 December of each calendar year of the number of companies which pursuant to subsection 12 (1) of the Payment Institutions and E-money Institutions Act issue e-money, and the total amount of e-money issued and used by the companies.
- 2) the grant of authorisation to a branch of a third country e-money institution to be founded in Estonia.

(5) At the request of the European Commission, the Supervision Authority shall inform the European Commission of:

- 1) every application for authorisation submitted by a direct or indirect subsidiary of a third country parent undertaking;
- 2) every application for acquisition by a third country parent undertaking of a holding in a financial institution as a result of which the financial institution will become a subsidiary of the third country parent undertaking.

(6) The Supervision Authority shall regularly inform the European Commission and the relevant European supervisory authority of the following decisions and agreements:

- 1) decisions concerning refusal to forward data and documents submitted for foundation of a branch of a financial institution and amendments to aforementioned data to financial supervision authorities of Contracting States;  
[RT I, 09.05.2014, 2 - entry into force 19.05.2014]
- 2) decisions on measures and punishments imposed for prevention of further violations on Estonian branches of Contracting State credit institutions;
- 3) decisions concerning refusal to forward data and documents submitted for provision of cross-border services by insurance undertakings to financial supervision authorities of Contracting States;
- 4) agreement on the transfer to the financial supervision authority of the Contracting State of the duties of supervision over the Estonia-based subsidiary credit institution of the credit institution of the Contracting State, and the content of such agreement.
- 5) a resolution adopted with regard to the Estonian branch of an insurance undertaking of a Contracting State for issue of a precept provided for in subsection 237 (6) of the Insurance Activities Act.  
[RT I, 07.07.2015, 1 - entry into force 01.01.2016]

(7) Upon the circumstances specified in clause (3) 5) of this section becoming evident, the Supervision Authority shall, at the request of the European Commission, suspend for up to three months the making of a

decision in a proceeding related to application for an activity licence for a financial institution or acquisition of a qualifying holding in a financial institution pursuant to the provisions of subsection (3) of this section.

(8) The Supervision Authority shall regularly inform the European Commission and the relevant European supervisory authority and the financial supervision authority of the other Contracting State of all agreements that have been entered into for the transfer of the duties of supervision, including the specific terms and conditions of such transfer.

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

#### **§ 46<sup>1</sup>. Cooperation with European Securities and Markets Authority and associated organisations**

(1) The Supervision Authority shall inform the European Securities and Markets Authority and the financial supervision authorities of other Contracting States of:

1) every regulated securities market conforming to the requirements provided by the Securities Market Act and legislation established on the basis thereof, which is regulated by an operator of a regulated securities market registered in Estonia holding a valid activity licence, and shall prepare a list of such markets (hereinafter in this section *market list*);

2) every amendment to the market list;

3) authorities and persons who exercise financial supervision over compliance with the Securities Market Act, of their functions and right to cooperate with the financial supervision authorities of foreign states, of agreements entered into on the basis of Acts and of the terms and conditions of the agreements pursuant to which third persons are permanently authorised to perform the duties of supervision provided by the Securities Market Act.

(2) The Supervision Authority shall inform the European Securities and Markets Authority of the extrajudicial proceeding conducted in Estonia of the consumers' complaints pertaining to investment services and ancillary services and the corresponding decisions which are accessible to the Supervision Authority.

(3) The Supervision Authority shall submit to the European Securities and Markets Authority and the European Commission the list of covered bonds and the issuers thereof specified in subsection 115 (9) of the Investment Funds Act.

[RT I, 31.12.2016, 3 - entry into force 10.01.2017]

(4) The Supervision Authority shall inform the European Securities and Markets Authority of the securities settlement system and the operator thereof, also notifying of itself as the institution which is informed of the commencement of the bankruptcy proceedings against a member of the securities settlement system or linked system or the operator of such system or linked system for the purposes of subsection 228 (8) of the Securities Market Act or the establishment of a moratorium on a credit institution.

(5) The Supervision Authority shall inform the European Securities and Markets Authority of the payment system and its administrator.

(6) The Supervision Authority shall promptly inform the European Systemic Risk Board, the financial supervision authorities of other Contracting States and the European Securities and Markets Authority of the commencement of the bankruptcy proceedings against a member of the securities settlement system or linked system or the operator of such system or linked system for the purposes of subsection 228 (8) of the Securities Market Act or the establishment of a moratorium on a credit institution.

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

(7) The Supervision Authority shall notify of a decision made in a disclosed misdemeanour matter or the administrative act or the contract under public law the European Securities and Markets Authority and submit recapitulative information to the latter once a year.

[RT I, 19.03.2015, 4 - entry into force 29.03.2015]

#### **§ 46<sup>2</sup>. Cooperation with European Banking Authority and associated organisations**

(1) The Supervision Authority shall inform the European Commission, the European Banking Authority and the European Banking Committee of the grant of authority to a branch of a third country credit institution to be founded in Estonia.

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

(2) The Supervision Authority shall submit to the European Banking Authority once a year the information concerning the remuneration of the members of the management boards and employees of the credit institutions and investment firms that were granted authorisation in Estonia, to the extent subject to publication pursuant to the provisions of the Credit Institutions Act and the Securities Market Act.

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

(3) If the Supervision Authority establishes during an inspection that a credit institution may have systemic risk for the purposes of Regulation (EU) No 1093/2010 of the European Parliament and of the Council establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12 – 47), the Supervision Authority shall promptly notify the European Banking Authority of the inspection results.



[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

(4) The Supervision Authority shall notify the European Banking Authority if a financial supervision authority of the Contracting State has refused from cooperation, including exchange of information, or has failed to respond to a respective application within a reasonable period of time.

[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

(5) The Supervision Authority may submit an application and request assistance from the European Banking Authority pursuant to Article 19 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council in case:

1) a financial supervision authority of the other Contracting State has failed to perform the obligations arising from the European Union law when exercising supervision over a credit institution which provides cross-border services or has founded a branch in Estonia, and which violates the requirements of the legislation, or if there is an increased risk of non-compliance with the requirements;

2) the Supervision Authority has objections with regard to failure to take into account the relevant information by a financial supervision authority of the other Contracting State concerning the branch of a credit institution upon implementation of preventive or other measures or exercising of supervision.

[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

### **§ 46<sup>3</sup>. Cooperation with European Insurance and Occupational Pensions Authority and associated organisations**

(1) The Supervision Authority shall inform the financial supervision authority of the other Contracting State which exercises financial supervision over an undertaking providing occupational pensions of an undertaking providing cross-border occupational pensions service in Estonia that has received an authorisation from the Supervision Authority for the above activity.

(2) The Supervision Authority shall inform the European Insurance and Occupational Pensions Authority if any prudential ratio requirements are applied to occupational pensions schemes which are not included in the national social and labour legislation specified in Article 20 (1) of Directive 2003/41/EC of the European Parliament and of the Council on the activities and supervision of institutions for occupational retirement provision (OJ L 235, 23.09.2003, p. 10–21).

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

(3) The Supervision Authority shall forward to the European Insurance and Occupational Pensions Authority once a year the following information:

1) the average amount of a capital add-on provided for in § 234 of the Insurance Activities Act per insurance undertaking;

2) the ratio of the capital add-on imposed in the previous period against the Solvency Capital Requirement with regard to all the insurance undertakings as a whole and with regard to the life insurance undertakings, reinsurance undertakings, non-life insurance undertakings and insurance undertakings specified in subsection 16 (6) of the Insurance Activities Act separately;

3) with regard to each disclosure provided for in clause 2) of this subsection, the ratio of the capital add-on imposed pursuant to clauses 234 (1) 1)–3) of the Insurance Activities Act;

4) the number of insurance undertakings subject to specifications for submission of regular supervisory reports provided for in subsections 124 (1) and (2) of the Insurance Activities Act together with the ratio of the capital requirements, technical provisions, insurance premiums and volume of assets of such insurance undertakings against the capital requirements, technical provisions, insurance premiums and volume of assets of all the insurance undertakings respectively.

[RT I, 07.07.2015, 1 - entry into force 01.01.2016]

(4) In case the Supervision Authority is the insurance group supervisor, it shall forward to the European Insurance and Occupational Pensions Authority once a year the number of insurance groups subject to specifications for insurance group supervisory reporting provided for in subsection 124 (7) of the Insurance Activities Act together with the ratio of the capital requirements, insurance premiums, technical provisions and volume of assets of such insurance groups against the capital requirements, insurance premiums, technical provisions and volume of assets of all the insurance groups respectively.

[RT I, 07.07.2015, 1 - entry into force 01.01.2016]

### **§ 47. Cooperation with competent foreign authorities**

(1) For the performance of its duties and exchange of information, the Supervision Authority shall cooperate with the authorities specified in subsection 46 (2) of this Act and foreign financial supervision authorities and other competent foreign bodies and persons, including:

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

1) persons who carry out liquidation, bankruptcy or other such proceedings in a foreign state;

2) persons who operate schemes for guaranteeing deposits, investor protection or other similar guarantee schemes of foreign countries;

3) persons who supervise the accuracy of the accounting and reporting of foreign issuers and financial institutions;

4) persons who supervise the auditors auditing foreign issuers and financial institutions.

[RT I, 21.12.2010, 6 - entry into force 31.12.2010]

(1<sup>1</sup>) The Supervision Authority shall promptly submit, based on the corresponding request or reporting form, to the European Securities and Markets Authority the information which is necessary for the performance of its duties pursuant to Article 15 of Regulation (EU) No 1092/2010 of the European Parliament and of the Council on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board (OJ L 331, 15.12.2010, p. 1–11), Article 35 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12–47), Article 35 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48–83), and Article 35 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84–119).

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

(1<sup>2</sup>) The Supervision Authority shall promptly submit, based on the corresponding request or reporting form, to European Banking Authority the information which is necessary for the performance of the duties of this European supervisory authority pursuant to Article 35 of Regulation (EU) No 1093/2010.

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

(1<sup>3</sup>) The Supervision Authority shall promptly submit, based on the corresponding request or reporting form, to European Insurance and Occupational Pensions Authority the information which is necessary for the performance of the duties of this European supervisory authority pursuant to Article 35 of Regulation (EU) No 1095/2010.

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

(1<sup>4</sup>) If necessary, the Supervision Authority shall promptly submit to the Joint Committee of the European Supervisory Authorities the information which is necessary for the performance of the duties of this European supervisory authority.

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

(1<sup>5</sup>) If necessary, the Supervision Authority shall promptly submit to the European Systemic Risk Board the information which is necessary for the performance of the duties of this European supervisory authority.

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

(1<sup>6</sup>) The Supervision Authority shall submit to the Joint Committee of the European Supervisory Authorities:

1) an opinion on the compliance of the consolidation group with the conditions set for financial conglomerates, in case the Supervision Authority determines that a consolidation group to which an Estonian regulated entity belongs is a financial conglomerate;

2) the information specified in clauses 47<sup>8</sup>(4) 1), 4) and 6) of this Act and the financial conglomerate stress test results in case the Supervision Authority is a financial conglomerate coordinator.

[RT I, 07.07.2015, 1 - entry into force 01.01.2016]

(2) The Supervision Authority has the right to send confidential information necessary for the performance of its functions to the subjects of cooperation specified in subsection (1) of this section and to obtain such information therefrom and exchange such information therewith pursuant to the procedure provided for in this Act. The provisions of § 18 of the Personal Data Protection Act do not apply to transmission of personal data to foreign states if the terms and conditions specified in subsections 54 (4<sup>1</sup>) and (4<sup>2</sup>) of this Act are followed in the transmission of personal data.

(2<sup>1</sup>) If a request of the Supervision Authority for the receipt of information, commencement of supervision proceedings or performance of any other such action, as well as for the presence of the employees of the Supervision Authority in proceedings organised by the financial supervision authority of the other Contracting State is not performed within a reasonable period of time or if the request is rejected, the Supervision Authority may notify of such rejection or non-performance within a reasonable period of time the relevant European supervisory authority.

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

(3) The Supervision Authority shall be entitled to use the rights and powers granted to it by this Act and other legislation in order to fulfil the request of the European supervisory authority, Contracting State and other foreign financial supervision authority for the receipt of information, restriction of a right or performance of another act or activity.

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

(3<sup>1</sup>) The Supervision Authority shall fulfil the request of other foreign financial supervision authority provided for in subsection (3) of this section if:

- 1) it has been agreed upon in a corresponding cooperation agreement;
- 2) it is inevitably necessary, based on the assessment of the other foreign financial supervision authority, for the supervision activities conducted by the authority and it does not damage the Estonian public order, financial stability or other essential benefits protected by law.

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

(4) The request of a third country financial supervision authority specified in subsection (3) of this section shall be justified or based on a cooperation agreement.

(5) The Supervision Authority has the right to refuse to fulfil the request of an Contracting State financial supervision authority only in the following cases:

- 1) fulfilling of the request may damage the sovereignty, security or public order of Estonia;
- 2) a proceeding has been initiated due to the same circumstances or against the same person in an Estonian court;
- 3) an Estonian court has made a court decision regarding the same person under the same circumstances and the decision has entered into force.

(6) The Supervision Authority shall inform the foreign financial supervision authority who submitted the request and the corresponding European supervisory authority of its refusal to fulfil the request and shall set out the grounds and reasons for such refusal.

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

(7) The Supervision Authority shall plan and coordinate in cooperation with the financial supervision authorities of other Contracting States and, if necessary, with the central banks and other competent authorities the activities for the prevention of the circumstances that directly endanger financial stability and the activities in case of manifestation of such circumstances, using the previously agreed communication channels for the facilitation of cooperation, if possible. The planning and coordination shall include inter alia the participation in common decision-making procedures, implementation of crisis plans, application of administrative coercion and general notification of the public.

(8) The Supervision Authority shall immediately inform the financial supervision authority of the other Contracting State, which performs financial supervision over the parent undertaking or subsidiary credit institution of a credit institution that was granted authorisation in Estonia or if a credit institution branch of the credit institution founded in the other Contracting State is acknowledged as a branch of significant importance pursuant to § 47<sup>4</sup> of this Act, in case the Supervision Authority has reasonable doubt that the credit institution has difficulties and it may directly endanger the stability of the financial system or the functioning of the payment and settlement systems or the liquidity of the financial sector of any Contracting State.

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

(9) If the Supervision Authority exercises supervision on a consolidated basis, it shall immediately inform the appropriate financial supervision authority of the other Contracting State, the relevant European supervisory authority, the European Systemic Risk Board, the central banks of the European System of Central Banks and other bodies exercising the duties of such type if the information is pertinent and if the Supervision Authority has reasonable doubt that an undertaking or entity belonging to the consolidation group of a credit institution has difficulties and it may directly endanger the stability of the financial system or the functioning of the payment and settlement systems or the liquidity of the financial sector of any Contracting State.

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

(10) Prior to the notification specified in subsection (8) of this section, the Supervision Authority may, as an exception, apply any measures to protect the interests of the depositors, investors and other such persons. The European Commission, the European Banking Authority and the competent administrative agencies of other relevant Contracting States shall be notified of such measures immediately.

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

(11) If the Supervision Authority exercises supervision on a consolidated basis, it shall, in addition to the provisions of subsection (9) of this section and taking into consideration the impact of the supervision activities on the financial stability of the other Contracting State:

- 1) coordinate, based on the principles of continuity, the regular collection and intermediation of important or relevant information for preventing the circumstances that directly endanger the financial stability or in case of the occurrence of such circumstances;
- 2) plan and coordinate, based on the principles of continuity, the supervision activities in cooperation with the competent authorities of other states based on written cooperation agreements;
- 3) plan and coordinate the supervision activities and cooperation, including preparatory activities, with the competent authorities of other states and, if necessary, coordinate these with the central banks that constitute

part of the European System of Central Banks if exceptional events become evident, if these events concern individual undertakings or the financial market as a whole.  
[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

(12) The important information specified in clause (11) 1) of this section is deemed to be the information regarding:

- 1) the legal, management and organisational structure of the consolidation group, including all persons, parent undertakings, subsidiaries and branches of significant importance holding an activity licence, as well as subsidiaries operating in areas of activity not requiring an activity licence and the competent authorities exercising supervision over the aforementioned persons;
  - 2) the procedure for collection of information from persons belonging to the consolidation group and approval thereof;
  - 3) the unfavourable developments in undertakings belonging to the consolidation group, which may affect the activities of a credit institution or investment firm or the entire consolidation group;
  - 4) the extraordinary supervisory measures and significant penalties, which are implemented in connection with the violation of the requirements for available solvency margin provided for in Regulation (EU) No 575/2013 of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.06.2013, p. 1–337).
- [RT I, 09.05.2014, 2 - entry into force 19.05.2014]

(13) The Supervision Authority is not required to consult with the relevant competent authorities for the implementation of the measures provided for in clause (12) 4) of this section in cases of urgency or in case consultation would reduce the efficiency of the implemented measures. In such case, the Supervision Authority shall notify the competent authorities involved of the implementation of the measures at the earliest opportunity.  
[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

(14) The Supervision Authority shall notify the financial supervision authorities of the Member States of the grant of authorisation provided for in clause 46 (3) 1) of this Act to a subsidiary insurance undertaking and submit the structure of the consolidation group together with the notification.  
[RT I, 07.07.2015, 1 - entry into force 01.01.2016]

#### **§ 47<sup>1</sup>. Cooperation in conducting financial supervision**

(1) A financial supervision authority of Contracting State and, in the case of a corresponding agreement with the Supervision Authority, a third country financial supervision authority which exercises supervisory control over a foreign financial institution who acts through its Estonian branch has the right, after notifying the Supervision Authority, to perform an on-site inspection of the branch in order to verify the information necessary for financial supervision, unless the Supervision Authority refuses to grant permission therefor on the grounds provided in subsection 47 (5) of this Act. The Supervision Authority has the right to participate in the on-site inspection of the branch. The Supervision Authority shall direct and monitor supervision proceedings in matters of market abuse within the meaning of the Securities Market Act, committed in Estonia.  
[RT I, 21.12.2010, 6 - entry into force 31.12.2010]

(2) In order to verify information necessary to conduct financial supervision, the Supervision Authority has the right to carry out an on-site inspection of a subsidiary of a financial institution located in an Contracting State or, if a corresponding agreement exists, also in a third country, after notifying the corresponding foreign financial supervision authority thereof. The EEA financial supervision authority has the right to participate in the on-site inspection of the subsidiary.

(2<sup>1</sup>) In the case of justified need, the Supervision Authority may verify the information, documents or explanations concerning a subject of financial supervision of another Contracting State. For this purpose, the Supervision Authority shall submit an application to the financial supervision authority of the corresponding Contracting State. The Supervision Authority is entitled to participate in the proceedings conducted to verify the information, documents or explanations if the participation in such proceedings is permitted pursuant to the legislation of the Contracting State.  
[RT I, 12.07.2013, 2 - entry into force 22.07.2013]

(2<sup>2</sup>) In case the financial supervision authority of another Contracting State addresses the Supervision Authority in connection with the verification of the information, documents or explanations concerning a subject of financial supervision, the Supervision Authority shall perform the verification, within the limits of its competence, it shall permit the financial supervision authority which has submitted the application to perform the above or shall permit an auditor or expert to perform the above. The financial supervision authority of the Contracting State which has submitted the application is entitled to participate in the verification, if it does not personally perform the verification.  
[RT I, 12.07.2013, 2 - entry into force 22.07.2013]

(2<sup>3</sup>) If the Supervision Authority has submitted to the financial supervision authority of another Contracting State an application for the verification of the information concerning the subject of financial supervision of this Contracting State belonging to the insurance group and the specified financial supervision authority has failed to respond to the application within two weeks or if the Supervision Authority is not provided with an opportunity to participate in the verification of information, the Supervision Authority may address the European Insurance

and Occupational Pensions Authority pursuant to Article 19 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council.

[RT I, 07.07.2015, 1 - entry into force 01.01.2016]

(2<sup>4</sup>) The Supervision Authority shall provide the European Insurance and Occupational Pensions Authority with an opportunity to participate in the verification of information related to the exercise of the insurance group supervision, if this is exercised by the Supervision Authority in cooperation with the other relevant financial supervision authorities.

[RT I, 07.07.2015, 1 - entry into force 01.01.2016]

(3) If a public offer of securities which grant or allow a holding in the share capital of a company is carried out immediately or after the expiry of a term and the registered office of the company is located outside of Estonia in an Contracting State and an application has been submitted for accepting the shares or other such securities of the company for trading at the regulated securities market of the Contracting State, the Supervision Authority shall cooperate with the financial supervision authority of the location of the registered office of the company in registration of the prospectus of the public offer of the securities.

(4) The Supervision Authority shall consult and exchange relevant information and documents with the financial supervision authority of an Contracting State for assessment of the suitability and conformity of shareholders, stockholders, members or managers, if the applicant for the authorisation of a credit institution or the person acquiring a qualifying holding is a credit institution, management company, investment fund, investment firm, insurance undertaking, payment institution, e-money institution or another person subject to financial supervision, registered in an Contracting State, or is a person belonging to the same consolidation group with such person, and shall do so also in the course of the continuous supervision of the operation over credit institutions.

[RT I 2010, 2, 3 - entry into force 22.01.2010]

(4<sup>1</sup>) The Supervision Authority shall consult and exchange, to enhance financial stability and facilitate prudential supervision, with the financial supervision authorities of Contracting States the information related to branches of credit institutions and documents on liquidity, solvency, concentration of exposures, internal rules and rules of procedure, internal control system and compliance with requirements related to deposit guarantees.

[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

(4<sup>2</sup>) The Supervision Authority shall promptly inform the financial supervision authority of the other Contracting State if an Estonian credit institution which branch operates in the other Contracting State has come or may come into liquidity difficulties, including the provision of information on the implemented business continuity plan and measures for restoring the financial soundness.

[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

(4<sup>3</sup>) The Supervision Authority shall cooperate and coordinate its activities with the financial supervision authorities of other Contracting States if administrative coercion is applied or misdemeanour proceedings are carried out in connection with a cross-border incident.

[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

(4<sup>4</sup>) The Supervision Authority shall provide the financial supervision authority of the other Contracting State who has filed a corresponding application or a sworn auditor or expert appointed by financial supervision authority with an opportunity to verify the information related to a financial institution or its subsidiary, including to provide the representatives of the financial supervision authority who has filed the aforementioned application to be present during the verification of the information.

[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

(5) The Supervision Authority shall inform the financial supervision authority of the other Contracting State of a reasonable doubt that a person who does not fall under its supervision has violated the legislation specified in subsection 2 (1) of this Act within the territory of the other Contracting State.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(6) Upon receiving information from a financial supervision authority of the other Contracting State which indicates that a subject of financial supervision has violated the legislation specified in subsection 2 (1) of this Act, the Supervision Authority shall initiate supervision proceedings. The Supervision Authority shall inform the financial supervision authority of the other Contracting State who submitted such information of the results and, if possible, also of any significant interim results of the supervision proceedings.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(7) The Supervision Authority shall be entitled to transfer the performance of the supervision functions concerning the Estonian-based subsidiary credit institution of an Contracting State credit institution to the competent financial supervision authority of Contracting State that issued the authorisation to the parent

undertaking of the credit institution, on the basis of a written agreement. The European Banking Authority shall be immediately notified of the transfer of the above right.  
[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

#### **§ 47<sup>2</sup>. Common decision-making procedure in processing applications for authorisation**

(1) For the grant, by way of common decision-making procedure, of the authorisation provided by §§ 86<sup>7</sup> and 86<sup>41</sup> of the Credit Institutions Act, the Supervision Authority shall enter into an agreement with the financial supervision authority of the other Contracting State concerning the details of processing the application for authorisation and the time-scheme to be applied. If the Supervision Authority exercises supervision on a consolidated basis, it shall submit the draft of the above agreement to the relevant financial supervision authority of Contracting State, which exercises supervision over the subsidiary credit institution.

(2) The Supervision Authority shall hear, in connection with the common decision-making procedure of the application for authorisation, the opinion of the parent or subsidiary credit institution and shall exchange relevant information with the financial supervision authority specified in subsection (1) of this section.

(3) If the Supervision Authority does not exercise supervision on a consolidated basis, it shall submit in the common decision-making procedure its reasoned opinion on solo and consolidated basis and reservations necessary in the matter to the financial supervision authority that exercises supervision on a consolidated basis.

(4) The Supervision Authority shall do everything in its power to reach common decision with the relevant financial supervision authority of Contracting State regarding the grant of authorisation specified in subsection (1) of this section within six months after the receipt of all the required documents and data. The above common decision shall contain the factual and legal basis for the decision and set out the necessary reservations for the parent and subsidiary credit institution separately.

(4<sup>1</sup>) If, based on the assessment of the Supervision Authority, the financial supervision authority of the Contracting State exercising supervision on a consolidated basis does not perform the provisions of subsection (1) of this section or if the financial supervision authorities of the relevant Contracting States do not cooperate with the Supervision Authority as the authority responsible for supervision on a consolidated basis to the extent which is required for exercising the duties specified in subsection (1) of this section, the Supervision Authority may notify thereof the European Banking Authority.  
[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

(5) If no common decision is reached within the term specified in subsection (4) of this section, the Supervision Authority shall be entitled to independently make the decision specified in subsection (1) of this section regarding the grant of authorisation in case it exercises supervision on a consolidated basis, in this respect taking into account, if possible, the opinions and reservations of the relevant financial supervision authority of Contracting State. If the financial supervision authority of the other Contracting State, within the term specified in subsection (4) of this section, has notified the European Banking Authority of the situation specified in the first sentence of this section, the Supervision Authority shall postpone the making of the decision and wait for the resolution of the European Banking Authority and thereafter make its decision in compliance with the resolution of the European Banking Authority.  
[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

(6) If the Supervision Authority exercises supervision on a consolidated basis, it shall submit the common decision or the decision specified in subsection (5) of this section together with the corresponding reasons to the credit institution which is the parent undertaking of the consolidation group, and to all the relevant financial supervision authorities.

(7) The supervisory authority on a consolidated basis is a person or institution who exercises financial supervision on a consolidated basis over a parent credit institution founded in Contracting State or over a financial holding company founded in Contracting State and acting as the parent undertaking of the consolidation group of the credit institution, which is not a subsidiary itself. The Supervision Authority is the supervisory authority on a consolidated basis if it exercises financial supervision over a credit institution or a financial holding company acting as parent undertaking which is not a subsidiary of either a credit institution or a financial holding company founded or granted authorisation in any the other Contracting State.  
[RT I, 21.12.2010, 6 - entry into force 31.12.2010]

#### **§ 47<sup>3</sup>. Common decision-making procedure in ensuring capital adequacy and liquidity**

[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

(1) The Supervision Authority shall do everything in its power to reach common decision with the relevant financial supervision authority of Contracting State regarding the implementation of requirements specified in §§ 63<sup>1</sup> and 82<sup>1</sup> and subsection 96 (5) of the Credit Institutions Act with the objective to determine the adequate level of own funds and compliance with the liquidity requirements of the consolidation group of the respective credit institution. In the respect, the financial position and risk profile of the consolidation group shall be accounted on the basis of consolidated and unconsolidated data with regard to each subsidiary.

(2) On the basis of the result of the common decision-making procedure specified in subsection (1) of this section, it is also decided about the necessity to issue the precepts specified in subsections 104 (2) and (4) of the Credit Institutions Act in respect of each credit institution that is part of the consolidation group.

(3) If the Supervision Authority exercises supervision on a consolidated basis, it shall submit, after conducting the procedure specified in subsection (1) of this section, to the relevant financial supervision authority of the other Contracting State the overview concerning the consolidation group and each subsidiary and containing the risk assessment and the proposal for the common decision.

(4) Pursuant to the provisions of subsection (1) of this section, the Supervision Authority shall reach the common decision with the relevant financial supervision authority of the other Contracting State regarding the capital adequacy within four months and regarding the compliance with the liquidity requirements within one month after the submission of the proposal specified in subsection (3) of this section or the receipt thereof.

(5) When making the common decision, the following shall also be taken into account: the financial standing and risks of the subsidiary credit institutions that are part of the consolidation group, the reasoned opinions of relevant financial supervision authorities and the reservations necessary in the matter, which were submitted by the term specified in subsection (4) of this section.

(6) In case of any differences related to reaching the common decision, the Supervision Authority shall, in case it exercises supervision on a consolidated basis, consult the European Banking Authority on its own initiative or if requested by the relevant financial supervision authority of the other Contracting State. The Supervision Authority shall consider taking into account the opinions of the European Banking Authority or submit reasons in case of not taking into account the significant part thereof.

(7) If no common decision is reached within the term specified in subsection (4) of this section, the Supervision Authority shall be entitled, in case it exercises supervision on a consolidated basis, based on the consolidated data after the additional analysis by the relevant financial supervision authority of Contracting State of the risk assessments assigned to the subsidiaries to decide on the implementation of a precept provided for in subsection 96 (5) or subsection 104 (2) or (4) of the Credit Institutions Act regarding a credit institution that was granted authorisation in Estonia. The Supervision Authority shall take into account, if possible, the opinions and reservations of the relevant financial supervision authority of the other Contracting State.

(8) If the financial supervision authority of the other Contracting State, within the term specified in subsection (4) of this section, has notified the European Banking Authority of the failure to reach a common decision specified in subsection (7) of this section, the Supervision Authority shall wait for the resolution of the European Banking Authority and thereafter make its decision, which is in compliance with the resolution of the European Banking Authority.

(9) If the Supervision Authority exercises supervision on a consolidated basis, it shall submit the common decision or the decisions specified in subsections (7) and (8) of this section together with the corresponding reasons to the credit institution which is the parent undertaking of the consolidation group, and to all the relevant financial supervision authorities.

(10) The common decision specified in this section or the decisions specified in subsections (7) and (8) of this section shall be updated at least once a year or in exceptional circumstances in case this is demanded on the basis of a reasoned application by a financial supervision authority exercising supervision over a subsidiary credit institution of the consolidation group in connection with the updating of the precepts provided for in subsection 104 (2) or (4) of the Credit Institutions Act.

[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

#### **§ 47<sup>4</sup>. Common decision-making procedure in determining branch of significant importance**

(1) The Supervision Authority shall do everything in its power to reach common decision in cooperation with the financial supervision authority of the other Contracting State in determining the significant importance of a branch of a credit institution in Estonia or the other Contracting State.

(2) If a branch of a credit institution that was granted authorisation in Estonia and being opened in the other Contracting State is acknowledged as a branch of significant importance pursuant to Article 51 of Directive 2013/36/EU of the European Parliament and of the Council on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.06.2013, p. 338–436), the Supervision Authority shall submit to the financial supervision authority of this Contracting State the information necessary for exercising financial supervision over the activities of the branch, including the relevant risk assessments, implemented measures of administrative coercion and measures related to liquidity risks in the currency of this Contracting State.

[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

(3) The Supervision Authority may file an application to the financial supervision authority of the home Contracting State of a credit institution regarding the acknowledgement of a branch of the credit institution founded in Estonia as the branch of significant importance, being primarily governed by one or several of the following conditions:

- 1) the market share of deposits taken by the branch exceeds two percent of the total scope of deposits taken by credit institutions operating in Estonia;
- 2) the suspension or termination of the activities of the branch will probably affect the liquidity of Estonia's financial market and the functioning of the payment and settlement system;
- 3) the number of the clients of the branch constitutes a considerable share of the total number of clients in Estonia using the financial services.

(4) If the Supervision Authority fails to reach within two months a common decision with the financial supervision authority of the other Contracting State on determining the branch of significant importance specified in subsection (3) of this section, the Supervision Authority shall be entitled within the next two months to make an independent decision regarding the significant importance of this branch taking into account the reasoned opinions and reservations of the relevant financial supervision authority of the other Contracting State. The decision of the Supervision Authority on determining the significant importance of a credit institution's branch founded in Estonia shall be communicated, together with reasons, to the relevant financial supervision authority of the other Contracting State.

(5) If a branch founded in Estonia of a credit institution of the other Contracting State was acknowledged as branch of significant importance pursuant to subsection (3) or (4) of this section, the Supervision Authority shall be entitled to request from the financial supervision authority of the other Contracting State the information, which is necessary for exercising financial supervision over the activities of this branch, and its involvement in the planning and coordination of the co-operation in the field of financial supervision specified in Article 112 (1) (c) of Directive 2013/36/EU of the European Parliament and of the Council.

[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

(6) The provisions of this section regarding the determining of the significant importance of the branch of a credit institution of Estonia or the other Contracting State are also applied in respect of the branch of an investment firm of Estonia or the other Contracting State, excluding the investment firms which comply with the terms and conditions specified in Article 95 (2) or (1) or Article 96 (1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council. In determining a branch of significant importance, the provisions of clause (3) 1) of this section are not applied in respect of a branch of investment firm.

[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

(5<sup>2</sup>) If the financial supervision authority of the other Contracting State, within the term specified in subsection (4) of this section, has addressed the European Banking Authority on the issue of determining the branch of significant importance, the Supervision Authority shall postpone the decision-making and wait for the resolution of the European Banking Authority and thereafter make its decision in compliance with the resolution of the European Banking Authority.

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

(6) The provisions of this section regarding the determining of the significant importance of the branch of a credit institution of Estonia or the other Contracting State are also applied in respect of the branch of an investment firm of Estonia or the other Contracting State, excluding the investment firms which comply with the terms and conditions specified in Article 20 (2) or (3) or Article 46 (1) of the Directive 2006/49/EC of the European Parliament and of the Council on the capital adequacy of investment firms and credit institutions (OJ L 177, 30.06.2006, pp. 201–255). In determining a branch of significant importance, the provisions of clause (3) 1) of this section are not applied in respect of a branch of investment firm.

[RT I, 21.12.2010, 6 - entry into force 31.12.2010]

## **§ 47<sup>5</sup>. Cooperation in Colleges of Supervisors**

(1) If the Supervision Authority exercises supervision on a consolidated basis, it shall form the college of financial supervision authorities (hereinafter the College) to enhance the performance of the tasks specified in Articles 107 and 108 and Article 130 (1) of Directive 2013/36/EU of the European Parliament and of the Council and, if necessary, to coordinate the financial supervision activities and co-operation with the financial supervision authorities of the third countries concerned. The College shall be formed on the basis of written agreement between the financial supervision authorities concerned.

[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

(2) If the College has not been formed on the basis of subsection (1) of this section, the Supervision Authority shall form the College also in the case specified in subsection 47<sup>4</sup>(2) of this Act and in case the Supervision Authority has been appointed the financial conglomerate coordinator pursuant to § 110<sup>6</sup> of the Credit Institutions Act.

[RT I, 12.07.2013, 2 - entry into force 22.07.2013]

(3) The duties of the College include:

- 1) exchange of information, including the submission of the information necessary for exercising supervision on a consolidated basis;



- 2) entry into agreements for the performance of the supervision tasks or outsourcing thereof;
- 3) determining of common supervisory inspection programmes pursuant to subsection 96 (4<sup>1</sup>) of the Credit Institutions Act;
- 4) improving the efficiency of exercising of financial supervision, primarily reducing duplication in connection with requesting information from the subjects of financial supervision;
- 5) coordination of uniform application of prudential norms;
- 6) coordination of necessary activities for preventing the circumstances that directly endanger the financial stability or necessary activities upon the occurrence of such circumstances pursuant to subsection 47 (7) of this Act.

(4) If the Supervision Authority does not exercise supervision on a consolidated basis, it shall be entitled to request its involvement in the College in case the Supervision Authority exercises financial supervision over a subsidiary credit institution that is part of a consolidation group or if a branch founded in Estonia and belonging to a credit institution of the other Contracting State is acknowledged as a branch of significant importance.

(5) The Supervision Authority may make a proposal to *Eesti Pank* to participate in the activities of the College.

(6) In the cases specified in subsections (1) and (2) of this section, the Supervision Authority shall:

- 1) convene the meetings of the College, and direct and organise the activities of the College;
- 2) decide on which financial supervision authorities or other competent authorities, including central banks and financial supervision authorities of third countries, participate in the meetings of the College or the activities thereof;
- 3) submit by due time to all the financial supervision authorities concerned the information regarding the activities of the College;
- 4) notify in due time all the financial supervision authorities concerned and the European Banking Authority of the measures implemented by the College.

(7) As regards the communication of information, a person participating in the activities of the College shall be governed by the provisions of subsection 54 (4<sup>1</sup>) of this Act.  
[RT I, 21.12.2010, 6 - entry into force 31.12.2010]

#### **§ 47<sup>6</sup>. Insurance group college of supervisors**

(1) If the Supervision Authority is designated the insurance group supervisor pursuant to § 241 of the Insurance Activities Act, the Supervision Authority shall form the college of financial supervision authorities (hereinafter *insurance group college of supervisors*).

(2) The objective of the insurance group college of supervisors is to enhance the performance of the functions specified in subsection 242 (1) of the Insurance Activities Act, cooperation, making joint decisions and exchange of information with the financial supervision authorities provided for in subsection (3) of this section and, if necessary, to coordinate the financial supervision activities and cooperation with the relevant third country financial supervision authorities.

(3) If the Supervision Authority is designated the insurance group supervisor, it shall involve in the work of the insurance group college of supervisors:

- 1) the financial supervision authority of the Contracting State that has issued an authorisation to an insurance undertaking belonging to the insurance group;
- 2) the European Insurance and Occupational Pensions Authority pursuant to Article 21 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council;
- 3) the financial supervision authority of the registered office of the branch of significant importance pursuant to the provisions of Article 354(1) of Commission Delegated Regulation (EU) No. 2015/35 supplementing Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (text with EEA relevance) (OJ L 12, 17.01.2015, p. 1–797).

(4) In addition to the provisions of subsection (3) of this section, the Supervision Authority may involve in the work of the insurance group college of supervisors an institution that exercises supervision pursuant to the provisions of Article 354(2) of Commission Delegated Regulation (EU) No. 2015/35.

(5) The institutions specified in clause (3) 3) and subsection (4) of this section shall participate exclusively in the exchange of information of the insurance group college of supervisors.

(6) The Supervision Authority shall agree with the other financial supervision authorities on the establishment and the functioning of the coordination arrangements of the insurance group college of supervisors pursuant to Article 355 of Commission Delegated Regulation (EU) No. 2015/35.

(7) To enhance the functioning of the insurance group college of supervisors, certain functions may be performed by the college of supervisors with reduced panel.

(8) If the financial supervision authorities have dissenting opinions with regard to the coordination arrangements specified in subsection (6) of this section, the Supervision Authority may address the European Insurance and Occupational Pensions Authority pursuant to Article 19 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council.

(9) If a financial supervision authority belonging to the insurance group college of supervisors has addressed the European Insurance and Occupational Pensions Authority in the case provided for in subsection (8) of this section and the Supervision Authority is the insurance group supervisor, the Supervision Authority shall adopt a resolution with regard to the coordination arrangements in accordance with the resolution of the European Insurance and Occupational Pensions Authority and deliver it to all the financial supervision authorities belonging to the insurance group college of supervisors.

(10) In addition to the provisions of this section, the Insurance Activities Act and Regulation (EU) No 1094/2010 of the European Parliament and of the Council, the coordination arrangements may envisage additional functions for the insurance group supervisor, other financial supervision authorities belonging to the college and the European Insurance and Occupational Pensions Authority, if these enhance supervision over the insurance group and do not affect the general rights and obligations of the financial supervision authorities belonging to the insurance group college of supervisors related to exercising supervision.

(11) The functions of the insurance group college of supervisors shall include, *inter alia*, the analysis of the financial condition of the insurance group, if the insurance group supervisor has submitted to the insurance group college of supervisors a notice concerning the non-compliance with the Solvency Capital Requirement of the insurance group or risk thereof.

(12) As regards the communication of information, a person participating in the activities of the insurance group college of supervisors shall be governed by the provisions of subsection 54 (4<sup>1</sup>) of this Act.

(13) The provisions of Article 357 of Commission Delegated Regulation (EU) No. 2015/35 shall also apply to the exchange of information in the insurance group college of supervisors.

(14) If, in the opinion of the Supervision Authority, the insurance group supervisor fails to duly perform its duties or if the cooperation in the insurance group college of supervisors does not function, the Supervision Authority may address the European Insurance and Occupational Pensions Authority pursuant to Article 19 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council.

[RT I, 07.07.2015, 1 - entry into force 01.01.2016]

#### **§ 47<sup>7</sup>. Cooperation in exercising supervision over insurance group and exchange of information**

(1) The Supervision Authority shall cooperate with the other relevant financial supervision authorities, especially in case an insurance undertaking belonging to the insurance group has fallen into financial difficulties.

(2) The Supervision Authority shall promptly transmit to the relevant financial supervision authorities the information which is essential in exercising supervision over an insurance undertaking or the insurance group or is otherwise significant for the financial supervision authority or exchange other information with the relevant financial supervision authorities at their request.

(3) If the other relevant financial supervision authority has failed to transmit to the Supervision Authority the relevant information or request for cooperation, e.g. for exchange of relevant information, the request has been rejected or no response thereto has been given within two weeks, the Supervision Authority may address the European Insurance and Occupational Pensions Authority pursuant to Article 19 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council.

(4) The Supervision Authority shall promptly require the convening of the other relevant financial supervision authorities at least in the following cases:

- 1) material violation of the Solvency Capital Requirement or the Minimum Capital Requirement by an individual insurance undertaking has become known;
- 2) material violation of the Solvency Capital Requirement by the insurance group has become known;
- 3) other extraordinary circumstances take place.

(5) If the Supervision Authority must adopt a resolution concerning an Estonian insurance undertaking belonging to the insurance group and this resolution has an impact on the supervision over an undertaking of another Contracting State belonging to the insurance group, the Supervision Authority shall consult, prior to adoption of the resolution, the insurance group college of supervisors on the following issues concerning the Estonian insurance undertaking:

- 1) changes in the composition of shareholders, management structure and organisation of work, which require the approval or authorisation of the Supervision Authority;
- 2) applicable major sanctions and exceptional measures, including the imposing of a capital add-on and establishment of restrictions on the use of the internal model;

3) extension of the recovery period pursuant to subsection 93 (4) or 94 (1) of the Insurance Activities Act.

(6) In the adoption of the resolutions specified in clauses (5) 2) and 3) of this section, the Supervision Authority must consult the insurance group supervisor. If the resolution of the Supervision Authority is based on the information received from another relevant financial supervision authority, the Supervision Authority must also consult the respective financial supervision authority.

(7) The Supervision Authority may decide not to consult the insurance group college of supervisors on issues specified in subsection (5) of this section in cases of urgency or where such consultation may jeopardise the effectiveness of the resolution of the Supervision Authority. In such case, the Supervision Authority shall inform the relevant financial supervision authority immediately after the entry into force of the resolution.

(8) If the Supervision Authority is the insurance group supervisor, it may, for the performance of the obligations provided for in § 242 of the Insurance Activities Act, submit to the financial supervision authority of the location of the leading undertaking of the insurance group a request for the receipt of relevant information concerning the leading undertaking of the insurance group.

(9) If the Supervision Authority is the insurance group supervisor and it requires for the supervision the information which an undertaking belonging to the insurance group has submitted to its financial supervision authority, the Supervision Authority shall request the specified information primarily from such financial supervision authority.

(10) If the Supervision Authority exercises supervision over the leading undertaking of the insurance group, but the Supervision Authority is not the insurance group supervisor, it is required, at the request of the insurance group supervisor, to submit thereto the information concerning the leading undertaking of the insurance group.

(11) The Supervision Authority is entitled to request the necessary information from a related undertaking of an insurance undertaking specified in subsection 239 (1) of the Insurance Activities Act, an undertaking who is participating in an insurance undertaking and a subsidiary of a participating undertaking directly, unless the insurance undertaking transmits to the Supervision Authority the information within a reasonable period of time. [RT I, 07.07.2015, 1 - entry into force 01.01.2016]

#### **§ 47<sup>8</sup>. Cooperation in exercising supplementary supervision over financial conglomerates and exchange of information**

[RT I, 07.07.2015, 1 - entry into force 01.01.2016 - the section number 47.6 changed to number 47.8]

(1) The Supervision Authority shall, in the identification of a financial conglomerate provided for in subsection 110<sup>1</sup>(1) of the Credit Institutions Act, cooperate with the financial supervision authorities which have granted an authorisation to the relevant regulated entity specified in subsection 110<sup>2</sup>(1) of the Credit Institutions Act (hereinafter *regulated entity*) and provide to them its opinion on the compliance of the consolidation group in question with the conditions established for financial conglomerates.

(2) When exercising supplementary supervision at financial conglomerate level (hereinafter *supplementary supervision*), the Supervision Authority shall cooperate with the relevant financial supervision authorities specified in subsection 110<sup>2</sup>(2) of the Credit Institutions Act.

(3) The Supervision Authority shall provide the other relevant financial supervision authorities with the information which is necessary for exercising supplementary supervision over the activities of a regulated entity in a financial conglomerate or which is otherwise important for the financial supervision authority.

(4) The Supervision Authority shall collect and exchange with the other relevant financial supervision authorities the information concerning at least the following circumstances and persons:

1) legal structure of a financial conglomerate, all of its entities, including subsidiaries and significant branches, and the organisational structure and management scheme of a financial conglomerate;

2) the strategy of the financial conglomerate;

3) the financial situation of the financial conglomerate, including compliance of the available solvency margin with the requirements, the intra-group transactions of the financial conglomerate, risk concentration and profitability;

4) persons who have the total holding of at least 10 per cent in all the entities in a financial conglomerate;

5) the internal control system and risk management principles of the financial conglomerate;

6) the financial supervision authorities exercising supervision over the activities of regulated entities in a financial conglomerate;

7) procedures for the collection of information from the entities in a financial conglomerate, and the verification of the collected information;

8) events related to an Estonian regulated entity or another entity, which may materially affect the regulated entities;

9) major sanctions and other exceptional measures taken by the Supervision Authority regarding an Estonian regulated entity.

(5) In case the Supervision Authority exercises supervision over a regulated entity in a financial conglomerate, but the Supervision Authority is not the financial conglomerate coordinator, it shall, at the request of the coordinator, submit to the latter the information concerning the regulated entity.

(6) In case the Supervision Authority adopts a resolution regarding an Estonian regulated entity in a financial conglomerate, which influences the supervision over an entity of another Contracting State in the financial conglomerate, the Supervision Authority shall, before the adoption of the resolution, consult the financial supervision authority of such Contracting State on the following issues concerning the Estonian regulated entity:

- 1) changes in the shareholder, management or organisational structure, which require the approval or authorisation of the Supervision Authority;
- 2) applicable major sanctions and exceptional measures.

(7) The Supervision Authority may decide not to consult the financial supervision authority of another Contracting State on issues specified in subsection (6) of this section in cases of urgency or where such consultation may jeopardise the effectiveness of the resolution of the Supervision Authority. In such case, the Supervision Authority shall inform the relevant financial supervision authority of another Contracting State immediately after the entry into force of the resolution.

(8) The Financial Supervision Authority shall annually assess, in cooperation with other relevant financial supervision authorities, the waiver of the application of supplementary supervision and review the rates and risk-based assessments provided for in § 110<sup>3</sup> of the Credit Institutions Act.  
[RT I, 12.07.2013, 2 - entry into force 22.07.2013]

#### **§ 48. Provision of information**

(1) The Supervision Authority has the right to obtain, on the basis of a request, from *Eesti Pank*, the Ministry of Finance, the Financial Intelligence Unit of the Police and Border Guard Board and other state agencies information necessary for the performance of its functions.  
[RT I, 31.12.2015, 38 - entry into force 10.01.2016]

(2) The Supervision Authority is required to provide *Eesti Pank*, the Ministry of Finance and the Guarantee Fund with information necessary for the performance of their functions.  
[RT I, 21.12.2010, 3 - entry into force 01.01.2011]

#### **§ 48<sup>1</sup>. Obligation to assist Supervision Authority**

(1) State agencies and local governments are required to provide assistance to the Supervision Authority within the limits of their competence.

(2) The Supervision Authority has the right to examine evidence collected in criminal proceedings and misdemeanour proceedings which indicate a violation of the legislation specified in subsection 2 (1) of this Act.  
[RT I 2005, 13, 64 - entry into force 18.03.2005]

#### **§ 49. Cooperation of Supervision Authority with *Eesti Pank*, Ministry of Finance and other state agencies in field of legislative drafting**

(1) [Repealed - RT I 2005, 59, 463 - entry into force 15.11.2005]

(2) The Supervision Authority has the right to submit proposals for the preparation, amendment or repeal of legislation, reviews concerning the activities of the financial sector, and reviews concerning the effect and application of legislation dealing with financial supervision to *Eesti Pank*, the Government of the Republic, the Ministry of Finance and other state authorities, and to publish such proposals and reviews.

(3) If a legal act to be drafted or amended by *Eesti Pank*, the Ministry of Finance or any other state agency regulates the activities of a subject of financial supervision or the Supervision Authority or has any other impact on the attainment of the objectives of financial supervision, the draft act shall be coordinated with the Supervision Authority.

[RT I 2005, 59, 463 - entry into force 15.11.2005]

#### **§ 50. Cooperation agreements**

(1) The Supervision Authority may enter into a bilateral or multilateral agreement for cooperation with *Eesti Pank*, the Ministry of Finance or any other state agency if such cooperation is necessary to promote attainment of the objectives of financial supervision.

(2) The Supervision Authority, the Ministry of Finance and *Eesti Pank* shall, on the basis of a written agreement, cooperate in the collection and analysis of reports, the drafting of legislation, and the planning and implementation of the resolution tools or powers and the exchange of information in case of events which have a substantial impact on the situation in the financial sector.

[RT I, 19.03.2015, 3 - entry into force 29.03.2015]

### **§ 50<sup>1</sup>. Cooperation with subjects of financial supervision and other persons**

Before issuing advisory guidelines, the Supervision Authority shall send the draft of such guidelines, and before approving legislation submitted to the Supervision Authority for approval pursuant to subsection 49 (3) of this Act, the Supervision Authority shall send the draft of such legislation to the relevant subjects of financial supervision, the issuers of securities accepted for trading on the regulated securities market and where possible, also to the organisations representing the interests of investors or the clients of the subjects of financial supervision for obtaining their opinion.

[RT I 2005, 13, 64 - entry into force 18.03.2005]

### **§ 50<sup>2</sup>. Reporting of violations of law**

(1) The Supervision Authority shall establish internal rules with regard to violation or potential violation of an obligation provided for in a legal instrument regulating the activities of a subject of financial supervision for the receipt and processing of reports submitted to the Supervision Authority (hereinafter in this section report). The provisions of the first sentence of this subsection do not apply to submission of information to the Supervision Authority in the case prescribed by a legal instrument.

(2) The internal rules specified in subsection (1) of this section shall determine:

- 1) the persons responsible for the receipt of the reports and providing feedback and explanations;
- 2) the independent communication channels used for the receipt of the reports and providing feedback and explanations;
- 3) the procedure for the receipt and processing of the reports;
- 4) the procedure for providing feedback regarding the report, including the manner, content and timeframe of the feedback;
- 5) the manner in which the Supervision Authority may require the reporting person to provide explanations or additional information regarding the report;
- 6) the procedure for ensuring confidentiality of the reporting person and the violator in transmission of data in the Supervision Authority and to other persons, including the list of bases for disclosure of the confidential information provided for in a legal instrument, which is sufficient in order to understand when the disclosure of the confidential information is necessary and proportionate for performance of investigative activities, conducting judicial proceedings or protection of the rights and freedoms of other persons.

(3) The Supervision Authority shall provide the reporting person with the information provided in subsection 53 (3<sup>1</sup>) of this Act prior to the receipt of the report, but no later than at the moment of the receipt of the report. The Supervision Authority is entitled to provide the information specified in clause 53 (3<sup>1</sup>) 9) of this Act with a delay, if the disclosure of such information may jeopardise the protection of the confidentiality of the fact of reporting.

(4) The Supervision Authority shall organise the targeted training of the personnel responsible for the receipt and processing of the reports.

(5) The Supervision Authority shall update the internal rules specified in subsection (1) of this section according to the supervision and market practice and the development of technology at least once every two years.

(6) The minister responsible for the area shall establish by a regulation the requirements for the communication channels used for the receipt of the reports and providing feedback and explanations, for the receipt and preservation of the reports and ensuring data confidentiality.

[RT I, 07.04.2017, 2 - entry into force 17.04.2017]

### **§ 50<sup>3</sup>. Protection of reporting person and violator**

(1) The confidentiality of the fact of the reporting specified in subsection 50<sup>2</sup>(1) of this Act shall be ensured. The fact of reporting a violation may be disclosed only with the written consent of the reporting person.

(2) The confidentiality of the fact of reporting a violation shall not be ensured, if the reporting person intentionally provides false information.

(3) If the reporting person is involved as a witness in the proceedings concerning the offence, the provisions of proceedings concerning the offence apply without violating the confidentiality of the fact of reporting a violation.

(4) A court or labour dispute committee shall apply the shared burden of proof for the protection of the reporting person and the violator. A plaintiff or petitioner shall state in his or her application the factual circumstances based on which it may be presumed that he or she has been subject to unequal treatment. Unless a person against whom the petition was filed does not prove otherwise, it is presumed that the unequal treatment of the reporting person or the violator was caused by reporting a violation. An agreement which derogates from the provisions of this subsection is void.

(5) Reporting a violation to the Supervision Authority in good faith and not notifying thereof the persons associated with the violation shall not be considered violation of the confidentiality or other requirement or obligation provided for by a legal instrument or contract, and a person who reported to the Supervision Authority in good faith shall not be subject to the liability prescribed by a legal instrument or contract. Any agreement which derogates from the provisions of the first sentence of this subsection is void.

(6) If necessary, the Supervision Authority shall provide explanations regarding the procedure for the receipt and processing of the reports and the information disclosed pursuant to the procedure provided for in subsection 53 (3<sup>1</sup>) of this Act and issue, at the request of the reporting person or the violator, a confirmation regarding the involvement of the reporting person or the violator in supervision proceedings.

[RT I, 07.04.2017, 2 - entry into force 17.04.2017]

## **Chapter 6**

# **REPORTING AND DISCLOSURE OF ACTIVITIES**

### **§ 51. Annual report**

(1) The annual report of the Supervision Authority consists of the management report, the statement of revenue and expenditure, and the sworn auditor's report.

[RT I 2010, 9, 41 - entry into force 08.03.2010]

(2) The supervisory board shall approve the annual report of the Supervision Authority within three months as of the end of the budgetary year.

(3) The statement of revenue and expenditure of the Supervision Authority shall be audited by an auditor of *Eesti Pank*.

(4) The annual report of the Supervision Authority approved by the supervisory board shall be submitted to the Riigikogu together with the annual report of *Eesti Pank*. The Riigikogu shall hear the report of the chairman of the management board concerning the annual report of the Supervision Authority pursuant to the procedure prescribed by the Riigikogu Internal Rules Act and the Riigikogu Rules of Procedure Act.

[RT I 2007, 44, 316 - entry into force 14.07.2007]

### **§ 52. Yearbook of Supervision Authority**

(1) Every year, the Supervision Authority shall publish a yearbook of the Supervision Authority.

(2) The yearbook of the Supervision Authority shall contain the annual report of the Supervision Authority approved by the supervisory board, a list of the advisory guidelines issued by the Supervision Authority and the relevant explanations, and a summary report of the activities of the subjects of financial supervision during the previous calendar year.

### **§ 53. Disclosure of activities of Supervision Authority**

(1) The Supervision Authority shall publish the resolutions of the supervisory board on its web site. Resolutions containing information specified in clauses 7 (2) 7) or 8) or subsection 54 (2) of this Act, with the exception of information concerning circumstances relating to the termination of the contract of service of the chairman of the management board, are not public information.

(2) Resolutions of the management board are not public information and they shall be disclosed only in the cases and pursuant to the procedure provided in the Acts specified in § 2 of this Act.

(3) The Supervision Authority shall publish on its webpage:

1) the advisory guidelines issued on the basis of § 57 of this Act;

1<sup>1</sup>) the general orders issued on the basis of subsection 55 (1) of this Act;

[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

2) provision by Estonian legislation for the choices which, according to the legislation of the European Union, are to be decided by the Member States on the national level;

3) the methods and general criteria used in supervision activities in compliance with the guidelines of the Banking Supervision Committee.

[RT I 2006, 63, 467 - entry into force 01.01.2007]

(3<sup>1</sup>) The Supervision Authority shall publish on its website in an easily discoverable separate section at least the following information regarding the receipt of the reports specified in subsection 50<sup>2</sup>(1) of this Act:

- 1) the information specified in subsection 50<sup>2</sup>(2) of this Act;
  - 2) an explanation that the report may be submitted in writing and in a format which can continuously be reproduced in writing, by phone and during a meeting with a designated employee of the Supervision Authority;
  - 3) a confirmation that the reporting person has the right to remain anonymous;
  - 4) a reference to a phone with information recording function if this has been determined;
  - 5) a reference to the confidentiality preservation measures provided for in subsections 50<sup>3</sup>(1) – (3) of this Act;
  - 6) a reference to the protection provided for in subsection 50<sup>3</sup>(4) of this Act in connection with the repression, discrimination or other unfair treatment taking place as a result of reporting a violation;
  - 7) references to cooperation between the Supervision Authority and other persons in cases specified in clause 6) of this subsection;
  - 8) a reference to the provisions of subsections 50<sup>3</sup>(5) and (6) of this Act;
  - 9) the statistics of the receipt and processing of the reports in non-personalised format.
- [RT I, 07.04.2017, 2 - entry into force 17.04.2017]

(4) On its website, the Supervision Authority shall publish, pursuant to the procedure and to the extent established by the minister responsible for the area, information on:

[RT I, 29.06.2014, 109 - entry into force 01.07.2014, as of 1 July 2014 "the Minister of Finance" replaced by the words "the minister responsible for the area" on the basis of subsection 107<sup>3</sup> (4) of the Government of the Republic Act.]

- 1) Estonian subjects of financial supervision, their subsidiaries, branches and representations located in foreign countries, and the provision of cross-border services by them;
- 2) the Estonian branches and representations of foreign persons or institutions holding the right to operate in Estonia based on the Acts specified in subsection 2 (1) of this Act, and concerning the provision of cross-border services by them in Estonia;

2<sup>1</sup>) a resolution on commencement of resolution proceedings and information regarding a resolution tool or power.

[RT I, 19.03.2015, 3 - entry into force 29.03.2015]

3) [Repealed - RT I, 09.05.2014, 2 - entry into force 19.05.2014]

#### **§ 54. Confidentiality of information received during supervision**

(1) Proceedings conducted by the Supervision Authority for the conduct of financial supervision shall not be public.

(2) Information obtained in the course of financial supervision from the subjects of financial supervision or other persons or agencies, including data, documents and other information, certificates, reports and precepts prepared in the course of financial supervision, and other documents on any type of data media containing information on the results of financial supervision shall be confidential.

(3) Information is not confidential if it has been published pursuant to the procedure prescribed in the Acts specified in subsection 2 (1) of this Act or legislation established on the basis thereof or if the information disclosed does not enable data concerning specific persons to be ascertained.

(4) Confidential information specified in subsection (2) of this section and documents containing information on the results of financial supervision may be disclosed to:

- 1) courts and investigative bodies hearing a criminal matter in connection with acts detected during financial supervision or the acts of a subject of financial supervision or the head or an employee thereof if such acts contain elements of a criminal offence;

[RT I 2005, 13, 64 - entry into force 18.03.2005]

1<sup>1</sup>) to the extent of the existing information, to security authorities for the performance of the functions provided for in § 6 and subsection 7 (1) of the Security Authorities Act in prevention and combating of criminal offences and carrying out the security checks specified in the State Secrets and Classified Information of Foreign States Act;

[RT I, 19.03.2015, 2 - entry into force 29.03.2015]

2) administrative courts in matters relating to the conduct of financial supervision;

3) an employee of the European supervisory authority, the European Systemic Risk Board, the central bank that constitutes part of the European System of Central Banks, the European Central Bank, the agency exercising supervision over payment systems and *Eesti Pank* and an official of the Ministry of Finance if this is necessary for the performance of their employment or service duties, on the condition that they are required to maintain business or professional secrets pursuant to law;

[RT I, 12.07.2013, 2 - entry into force 22.07.2013]

4) a court, liquidator of a subject of financial supervision, interim trustee or trustee in bankruptcy in the liquidation or bankruptcy proceedings of a subject of financial supervision, and to a moratorium administrator of

a credit institution or special regime trustee of an insurance company to the extent necessary for the performance of their duties;

5) the Guarantee Fund to the extent necessary for the performance of its functions;

6) the auditor of a subject of financial supervision to the extent necessary for the activities of the auditor;

7) an international organisation in the case specified in § 46 of this Act, or a competent authority or person in the case specified in § 47 of this Act;

[RT I 2005, 13, 64 - entry into force 18.03.2005]

8) the registrar of the pension register, to the extent provided for in the Funded Pensions Act and the Guarantee Fund Act;

[RT I, 26.06.2017, 1 - entry into force 06.07.2017]

9) a depositary, to the extent provided for in the Investment Funds Act and the Funded Pensions Act;

10) an operator of a securities settlement system for the performance of its regular functions in connection with a possible violation by a member of the settlement system.

[RT I 2005, 13, 64 - entry into force 18.03.2005]

(4<sup>1</sup>) The Supervision Authority has the right to communicate confidential information to a foreign financial supervision authority or other competent foreign body or person only if the receiver of the confidential information is obliged to maintain the confidentiality of the information received and the information is necessary for exercising financial supervision. Confidential information may be communicated to the central bank or other competent body of Contracting State, if it is necessary for performing its functions, including the information which is necessary for exercising the financial policy, resolving liquidity issues, functioning of the payment and settlement systems and other purposes to ensure the stability of the financial system of this Contracting State.

[RT I, 21.12.2010, 6 - entry into force 31.12.2010]

(4<sup>2</sup>) The Supervision Authority has the right to permit a foreign financial supervision authority or other competent foreign body or person to disclose the communicated confidential information on the grounds provided for in subsections (4) and (5) of this section.

[RT I, 21.12.2010, 6 - entry into force 31.12.2010]

(4<sup>3</sup>) Information received as a result of the cooperation specified in subsection 47 (1) of this Act may be disclosed in the cases provided for in subsections (4) and (5) of this section if a respective agreement has been entered into with the foreign financial supervision authority or other competent foreign authority or person.

[RT I, 21.12.2010, 6 - entry into force 31.12.2010]

(5) The Supervision Authority has the right to disclose, in full or in part, a ruling made in a misdemeanour matter, an administrative act or a contract under public law as of the date of its issue or conclusion if this is necessary for the protection of investors, clients of financial supervision subjects or the public or for ensuring the lawful or regular functioning of the financial market.

[RT I, 19.03.2015, 4 - entry into force 29.03.2015]

(6) The Supervision Authority has the right to disclose systematised or statistical data regarding the subjects of financial supervision, which record in a generalised form the financial standing of the subject of supervision, the services offered by the subject or its activities, and the changes occurring therein. The disclosure of the data is permitted only in case it is impossible to establish on the basis thereof the data of an individual client of the subject of financial supervision or an individual client of the subject of financial supervision included in the pool characterised by consolidated data.

[RT I 2007, 68, 421 - entry into force 01.01.2008]

## **§ 54<sup>1</sup>. Classification of resolution proceedings**

The resolution proceedings carried out by the Supervision Authority shall not be public and the provisions of the Financial Crisis Prevention and Resolution Act shall apply thereto.

[RT I, 19.03.2015, 3 - entry into force 29.03.2015]

# **Chapter 7 LEGAL ACTS AND LIABILITY**

## **§ 55. Decisions and precepts of management board, and orders of management board and members of management board**

(1) The management board shall adopt resolutions and issue precepts, and shall issue orders and general orders in the name of the Supervision Authority.

[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

(1<sup>1</sup>) Under the common decision-making procedure, the management board shall make common decisions with the financial supervision authorities of Contracting States in the cases provided by law.

[RT I 2006, 63, 467 - entry into force 01.01.2007]



(2) Members of the management board shall issue orders on behalf of the Supervision Authority in the matters specified in subsection 22<sup>1</sup>(1) of this Act.

(3) An appeal may be filed with an administrative court against a resolution or precept of the management board, an order of the management board or a member of the management board, or a financial supervision operation on the bases and pursuant to the procedure prescribed by law.

(4) As an exception, an administrative act of the Supervision Authority may be in force as of the notification or delivery of only the resolution thereof to the addressee, if prompt action is required for prevention of damage arising from delay or for the protection of the interests of clients or investors in preserving their funds and the objective of issuing the administrative act is to:

- 1) prohibit transactions, operations or payments from profit or restrict these, in full or in part, including to establish a prohibition on the use or disposal of assets or a restriction to ensure the preservation of assets;
- 2) suspend or cease trading with a security on a regulated securities market or in a multilateral trading facility;
- 3) establish special regime, moratorium or specific monitoring or decide on filing of bankruptcy petition;
- 4) revoke the authorisation of the subject of financial supervision due to inability to perform its obligations to clients or other creditors, or to demand the removal of the manager of the subject of financial supervision;
- 5) request information from a subject of financial supervision or other person to verify the performance of prudential requirements, financial standing or continuity of economic activities of the subject of financial supervision, and to verify market abuse or acquisition or transfer of holding in issuer of securities or other subject of financial supervision or circumstances of dominant influence.

[RT I, 21.12.2010, 3 - entry into force 01.01.2011]

(5) An administrative act of the Supervision Authority subject to publication in a daily national newspaper shall be in force as of the publication of the resolution of the act in a daily national newspaper, unless this administrative act has not previously entered into force in respect of the addressee.

[RT I, 21.12.2010, 3 - entry into force 01.01.2011]

(6) In the cases specified in subsection (4) of this section, the addressee is notified, together with the notification or delivery of the resolution of the administrative act, about the time of notification of the administrative act as a whole, which shall not be longer than three working days as of the entry into force of the resolution of the administrative act. The term for contesting an administrative act of the Supervision Authority commences to run as of the notification or delivery to the addressee of the administrative act as a whole.

[RT I, 21.12.2010, 3 - entry into force 01.01.2011]

#### **§ 56. Directives of chairman of management board**

The chairman of the management board shall issue directives to regulate matters relating to the internal organisation of the activities and the management of the Supervision Authority.

#### **§ 57. Guidelines of Supervision Authority**

(1) The Supervision Authority has the right to issue advisory guidelines to explain legislation regulating the activities of the financial sector and to provide guidance to subjects of financial supervision.

(2) The Supervision Authority has the right to involve experts and representatives of the subjects of financial supervision in the drafting of advisory guidelines.

(3) The advisory guidelines of the Supervision Authority shall be approved by a resolution of the management board and the guidelines shall be disclosed as provided for in subsection 53 (3) of this Act.

#### **§ 58. Liability of Supervision Authority**

(1) The liability of the Supervision Authority for rights violated or damage caused in the conduct of financial supervision, and the bases of and procedure for the restoration of violated rights and the payment of compensation for damage caused shall be provided by law.

(2) The Supervision Authority shall be liable for damage not related to the conduct of financial supervision pursuant to the provisions of private law and within the limits of the funds prescribed in its budget. If the funds prescribed in the budget of the Supervision Authority are not sufficient, the damage shall be compensated for by *Eesti Pank*.

## **Chapter 8**

# IMPLEMENTING PROVISIONS

## § 59. Commencement of activities of Supervision Authority

The Supervision Authority shall commence activities on 1 January 2002.

## § 60. Appointment of members of supervisory board and management board

(1) The Government of the Republic and the Supervisory Board of *Eesti Pank* shall appoint the members of the supervisory board within one month after the entry into force of this Act.

(2) The Minister of Finance shall call the first meeting of the supervisory board within twenty days after all members of the supervisory board have been appointed.

(3) The agenda of the first meeting of the supervisory board shall include at least the election of the chairman of the management board from among the persons specified in subsection 61 (1) of this Act.

(4) The supervisory board shall appoint the members of the management board pursuant to the procedure provided by this Act not later than by 30 June 2002.

## § 61. Commencement of activities of Supervision Authority

(1) The Director General of the Securities Inspectorate, the Director General of the Insurance Supervision Authority and the Head of the Banking Supervision of *Eesti Pank*, or the persons performing their duties, shall perform the duties of a member of the management board provided by this Act if, by 10 June 2001, they have granted corresponding written consent to the person or body who appointed them. If one of the aforementioned persons refuses to consent, he or she shall be released from service on the basis of § 116 of the Public Service Act or the employment contract with him or her shall be terminated on the basis of clause 86 3) of the Republic of Estonia Employment Contracts Act.

(2) The term of the authority of the persons specified in subsection (1) of this section commences on the day following the date of the first meeting of the supervisory board and ends upon commencement of the term of the authority of the members of the management board pursuant to the procedure provided for in subsection 21 (3) of this Act.

(3) Until the term of the authority of the members of the management board provided for in subsection 60 (4) of this Act commences, the management board shall consist of three members.

(4) The management board consisting of the persons specified in subsection (1) of this section (hereinafter *the management board*) has a quorum if all members of the management board are present. A resolution of the management board is adopted if at least two members of the management board vote in favour.

(5) The management board shall, pursuant to the procedure established by the supervisory board, report to the supervisory board on the implementation of the action plan for commencement of the activities of the Supervision Authority.

## § 62. Continuation or termination of service or employment relationships

(1) Officials of the Securities Inspectorate and the Insurance Supervision Authority and employees of the Banking Supervision of *Eesti Pank* who meet the requirements for employees provided by this Act and who submit a corresponding application to the management board by 1 November 2001 shall be employed by the Supervision Authority as of 1 January 2002. In such case, the service relationship of the official of the Securities Inspectorate or the Insurance Supervision Authority shall be deemed to terminate as of 31 December 2001 on the basis of § 114 of the Public Service Act.

(2) Officials of the Securities Inspectorate and the Insurance Supervision Authority and employees of the Banking Supervision of *Eesti Pank* who do not meet the requirements for employees provided by this Act or who do not submit the application specified in subsection (1) of this section shall be released from service on the basis of § 116 of the Public Service Act or the employment contracts with such persons shall be terminated on the basis of clause 86 3) of the Republic of Estonia Employment Contracts Act.

(3) The length of service of a person at the Financial Supervision Authority shall be calculated as of the commencement of his or her employment or service at *Eesti Pank*, the Insurance Supervision Authority or the Securities Inspectorate.

## § 63. Transfer of assets and performance of proprietary obligations

(1) State assets in the possession and at the disposal of the Securities Inspectorate or the Insurance Supervision Authority which are necessary for the activities of the Supervision Authority shall be transferred by the administrator of state assets to the Supervision Authority free of charge not later than by 1 January 2002.

(2) The state shall be liable with the budgetary funds thereof for proprietary obligations which arise out of the activities of the Securities Inspectorate or the Insurance Supervision Authority before 1 January 2002, and *Eesti Pank* shall be liable with the budgetary funds thereof for proprietary obligations which arise out of the activities of the Banking Supervision of *Eesti Pank* before 1 January 2002.

#### **§ 64. Application of Act**

(1) Administrative matters and administrative offence matters which are subject to processing by the Securities Inspectorate, the Insurance Supervision Authority or the Banking Supervision of *Eesti Pank* on 1 January 2002 and petitions which have been submitted but not accepted by that date shall be transferred to the Supervision Authority who shall conclude the proceedings pursuant to this Act and the Acts specified in subsection 2 (1) of this Act.

(2) In matters arising from the conduct of supervision over securities markets or insurance activities, which are subject to court proceeding as at 1 January 2002 and in which the state is represented by the Securities Inspectorate or the Insurance Supervision Authority on the basis of law or general or special authorisation or in which one of the participants in the proceedings is *Eesti Pank* in a dispute concerning the exercise of banking supervision, the state shall be thereafter represented by the Supervision Authority or the Supervision Authority shall substitute for *Eesti Pank* as a participant in the proceedings.

(3) Activity licences and authorisations, other permits and administrative legislation of specific application issued by competent bodies on the basis of an Act specified in § 2 of this Act before the commencement of the activities of the Supervision Authority shall be valid until the expiry thereof or until their revocation.

(4) In 2002 and 2003, the expenses of the Supervision Authority may be partially covered from the funds prescribed in the budget of *Eesti Pank* or from the appropriations prescribed in the state budget.

(5) If the expenses of the Supervision Authority are partially covered on the basis of subsection (4) of this section, rates of the supervision fee lower than the rates provided for in § 37 of this Act may be applied.

(6) In the case of management of the assets of mandatory pension funds, the rate of 0.02–0.1 per cent shall be applied to the share of the supervision fee calculated on the basis of assets until the end of the budgetary year 2005.

(6<sup>1</sup>) If the common decision-making procedure specified in § 47<sup>3</sup> of this Act has been commenced before 31 December 2012, the period of time provided for in subsection § 47<sup>3</sup>(4) of this Act amounts to six months.  
[RT I, 21.12.2010, 6 - entry into force 31.12.2010]

(7) [Repealed - RT I 2010, 22, 108 - entry into force 01.01.2011]

(8) The obligation of a creditor and credit intermediary to make the advance payment and final payment based on the rate of the share of the supervision fee calculated on the basis of assets shall apply as of the budgetary year 2017.  
[RT I, 31.12.2015, 38 - entry into force 01.01.2016]

(9) The rates of the share of the supervision fee calculated on the basis of assets established in respect to management companies by the version of this Act passed on 14 December 2016 shall apply with regard to the budgetary year 2018.  
[RT I, 31.12.2016, 3 - entry into force 10.01.2017]

#### **§ 65. Information relating to supervision activities**

(1) Information relating to the supervision activities of the Securities Inspectorate, the Insurance Supervision Authority or the Banking Supervision of *Eesti Pank* which is recorded or documented in any manner on any data media shall be transferred to the Supervision Authority.

(2) Confidential information obtained in the course of the supervision activities of the Securities Inspectorate, the Insurance Supervision Authority or the Banking Supervision may be disclosed by a member of the management board, or an employee of the Supervision Authority, to other members of the management board, or employees of the Supervision Authority, if this is necessary for the performance of their duties.

#### **§ 65<sup>1</sup>. Information to be submitted to European Insurance and Occupational Pensions Authority**

The Supervision Authority shall submit until 2021 to the European Insurance and Occupational Pensions Authority once a year the following information concerning the Estonian insurance market:

1) existence of long-term guarantees in insurance contracts and behaviour of insurance undertakings in long-term investments;

- 2) the number of the insurance undertakings that implement the matching adjustment provided for in § 46, the volatility adjustment provided for in § 47, and the transitional adjustment and the transitional deduction provided for in § 267 of the Insurance Activities Act;
- 3) the number of the insurance undertakings subject to the extension of the recovery period provided for in § 94 of the Insurance Activities Act;
- 4) the effect of the matching adjustment provided for in § 46, the volatility adjustment provided for in § 47, the symmetric adjustment provided for in subsection 67 (4) and the transitional measures provided for in § 267 of the Insurance Activities Act on the financial condition of the insurance undertakings with regard to all the insurance undertakings as a whole and with regard to each insurance undertaking separately without specifying the name of an insurance undertaking;
- 5) the consequences of the implementation of the matching adjustment provided for in § 46, the volatility adjustment provided for in § 47 and the symmetric adjustment provided for in subsection 67 (4) of the Insurance Activities Act for the investment behaviour of an insurance undertaking and an assessment whether this involves an excessive liberation of capital;
- 6) the effect of the extension of the recovery period provided for in § 94 of the Insurance Activities Act on the ability of the insurance undertaking to restore the level of the eligible own funds to cover the Solvency Capital Requirement or change its risk profile;
- 7) the assessment of the ability of the insurance undertakings subject to § 268 of the Insurance Activities Act to implement a plan for the employment of the own funds and reduction of the risk profile and the assessment of the prospects to reduce the necessity of using the transitional measures, including the description of the measures which the insurance undertaking or the Supervision Authority has implemented or intends to implement.

[RT I, 07.07.2015, 1 - entry into force 01.01.2016]

#### **§ 66. Entry into force of Act**

(1) This Act enters into force on 1 June 2001.

(2) Clauses 7 (2) 4)–7), subsection 14 (5), subsection 18 (2), clauses 18 (3) 3), 4), 8), 10) and 13)–15), §§ 20–22, 29, 51 and 52, subsection 53 (3) and §§ 54, 55, 57 and 58 of this Act enter into force on 1 January 2002.

(3) Subsection 53 (4) of this Act enters into force on 1 July 2002.

**Extract** from the Law Enforcement Act Amendment and Implementation Act (RT I, 13.03.2014, 4) with regard to the implementation of the Financial Supervision Authority Act:

#### **§ 169.**

[---]

(3) The financial supervision performed by the Financial Supervision Authority shall be governed by the provisions of the Law Enforcement Act as of 1 January 2017.

[RT I, 31.12.2015, 38 - entry into force 10.01.2016]

<sup>1</sup>Directive 2002/87/EC of the European Parliament and of the Council on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council (OJ L 035, 11.02.2003, p. 1–27), last amended by Directive 2011/89/EU (OJ L 326, 08.12.2011, p. 113–141); Directive 2013/36/EU of the European Parliament and of the Council on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.06.2013, p. 338–436); Directive 2010/78/EU of the European Parliament and of the Council amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) (OJ L 331, 15.12.2010, p. 120–161). [RT I, 09.05.2014, 2 - entry into force 19.05.2014] Commission Implementing Directive (EU) 2015/2392 on Regulation (EU) No 596/2014 of the European Parliament and of the Council as regards reporting to competent authorities of actual or potential infringements of that Regulation (OJ L 332, 18.12.2015, p. 126–132). [RT I, 07.04.2017, 2 - entry into force 17.04.2017]