Act on financial institutions and financial groups 2015
(Financial Institutions Act 2015)

Chapter 1 Purpose and scope, definitions etc.

Section 1-1 Purpose
The purpose of this Act is to contribute to financial stability, and to ensure that financial institutions operate in an appropriate and satisfactory manner. Financial stability entails that the financial system is sufficiently robust to receive and repay deposits and other repayable funds from the public, channel funding, execute payments and redistribute risk in a satisfactory manner.

Section 1-2 Scope
(1) This Act covers business that is or will be carried on in Norway, and Norwegian financial institutions' business abroad.

(2) This Act covers foreign financial institutions that are or will be carrying on business through a branch in Norway, or through cross-border operations to the extent provided by chapter 5.

(3) The King decides whether this Act shall be made applicable to Norway's economic zone and to Svalbard, Jan Mayen and dependencies.

Section 1-3 Financial institutions
(1) A 'financial institution' is an entity carrying on business as a

   (a) bank,
   (b) mortgage credit institution,
   (c) finance company,
   (d) insurance undertaking,
   (e) pension undertaking,
   (f) holding company of a financial group.

(2) Except as otherwise provided by or pursuant to this Act, an entity licensed to operate as a payment institution or electronic money institution is also considered to be a financial institution.
Section 1-4 Financial groups
(1) A financial group is deemed to be a group in which at least one entity that is not the parent company is a financial institution.

(2) A financial group is also considered to be a group established by collaborative agreement between mutual insurance undertakings or between a savings bank and a mutual insurance undertaking to the effect that the entities shall have a joint board of directors and in the event other joint bodies.

Section 1-5 Definitions
(1) 'EEA' means the European Economic Area.

(2) In this Act 'home state' is the state in which a financial institution has its headquarters and is authorised to carry on business as a financial institution.

(3) 'Host state' is a state other than the home state, in which a financial institution provides services through a branch or through cross-border operations.

(4) 'Credit institutions' are banks and mortgage credit institutions.

(5) 'Pension undertakings' are pension funds and defined contribution pension undertakings.

(6) A 'branch' is a place of business that is established by a financial institution and that is able to conduct business for that institution.

(7) A 'representative office' is a marketing office in Norway that is established by a foreign financial institution, and that is not a branch.

(8) A 'supervisory college' is a college of supervisors as referred to in EEA rules corresponding to Directive 2013/36/EU, that is established within the EEA.

(9) A 'resolution college' is a 'resolution college' as referred to in section 20-46 and corresponding colleges established in other EEA member states.

Section 1-6 Exclusions from the Act
(1) Except as otherwise provided by or pursuant to law, this Act does not apply to Norges Bank, the Norwegian Public Service Pension Fund or state-owned entities funded over the fiscal budget that are subject to special rules set under other legislation.

(2) The Ministry of Finance decides in cases of doubt whether an entity or the business carried on by an entity requires a licence under this Act.

(3) The Ministry of Finance may in special cases exempt financial institutions and groups of financial institutions, and certain types of operations carried on by financial institutions, from one or more provisions of this Act and may attach conditions to such exemptions. The Ministry of Finance
may decide that an entity which under the provision of this section is exempt from some provisions of this Act shall be subject to supervision by Finanstilsynet.

Section 1-7 Regulations
The Ministry of Finance may make regulations to implement, supplement or delimit this Act, and regulations concerning further requirements on financial institutions in the interest of promoting financial stability.

Chapter 2 Requirement of licence to establish and carry on business as a financial institution

I Right and exclusive right to carry on business in Norway

Section 2-1 Financing activity
(1) Except as otherwise provided by the legislation on investment firms, insurance intermediaries, securities fund management companies and real estate agencies, financing activities may only be carried on by banks, mortgage credit institutions and finance companies that are licensed under this Act to carry on such business in Norway. Financing activity may also be carried on by foreign credit institutions entitled under this Act to carry on such business in Norway.

(2) Financing activity is considered to include:
   (a) the granting of credit and furnishing of guarantees for own account, including financial leasing,
   (b) the intermediation of credit and guarantees, or other participation in the financing of business other than one's own.

(3) Financing activity is not considered to include:
   (a) the activity of a public institution or fund established for specific credit purposes,
   (b) the activity of a foundation the purpose of which is not to carry on business activity, or the county governor's management of financial assets under the Guardianship Act,
   (c) the granting or credit, or furnishing of guarantees, to employees of the entity or of an entity in the same group as the lender or guarantor,
   (d) the granting of credit as vendor of a good or service. The same applies to credit to the buyer which by agreement is to be granted by an entity in the same group as the vendor, if the entity finances its credit business by loans from a financial institution or loans from an entity forming part of the group, unless the entity granting the vendor credit also carries on other financing activity,
   (e) the activity of a financial agent or financial adviser,
   (f) isolated instances of financing.

(4) The exemptions in subsection (3)(d) and (f) do not apply where a vendor who is not a consumer grants credit in connection with the sale of a dwelling that is, or will be, attached to a share in a housing cooperative. Finanstilsynet may make exceptions from the first sentence by administrative decision.
(5) The Ministry of Finance may make further provision to exempt from, delimit or supplement the provisions of this section, and may impose obligations on, and adopt provisions for the supervision of, entities exempted from the prohibition in subsection (1).

**Section 2-2 Deposit-taking activity etc.**

(1) Deposits from an unrestricted range of depositors may only be accepted by banks that are licensed to accept deposits under this Act and by foreign credit institutions that are entitled to accept deposits in Norway under this Act. The Ministry of Finance may make further provision concerning what are to be considered as deposits from an unrestricted range of depositors.

(2) Means of payment that are accepted in order to issue electronic money are not deemed to be deposits from an unrestricted range of depositors. The same applies to means of payment accepted by payment institutions or electronic money institutions in connection with payment service assignments. The Ministry of Finance may make provision regarding the right of payment institutions and electronic money institutions to accept means of payment in connection with customer assignments.

(3) Notwithstanding subsection (1), a cooperative society may accept deposits from its members in accordance with notification to Finanstilsynet of the scope of the arrangement and of the use to be made of the deposits. Finanstilsynet shall require the establishment of satisfactory protection of the deposits where deposits are accepted from an unrestricted range of depositors, and may make provision for such protection. The Ministry of Finance may make regulations concerning the supervision of cooperative societies that accept deposits, and concerning deposit guarantee schemes. The Ministry of Finance may also decide that the provisions of this subsection shall apply *mutatis mutandis* to other associations or entities that accept deposits from their members.

(4) The Ministry of Finance may decide that deposit-taking activity covered by subsection (3) shall be organised and operated as a bank in its own right and may set a deadline for applications for a licence for such bank under the provisions of section 2-7.

**Section 2-3 Payment services etc.**

(1) Payment services may only be provided by banks, payment institutions and electronic money institutions, and by finance companies that are authorised under this Act to carry on such business in Norway. Money transfers may also be made by entities licensed under section 2-10 subsection (3).

(2) Payment services may also be provided by foreign credit institutions, payment institutions and electronic money institutions entitled under this Act to carry on such business in Norway.

(3) Services listed in the Financial Contracts Act section 11 are deemed to be payment services under this Act. By money transfer is meant a payment service as defined in the Final Contracts Act section 12(k).

(4) Except as otherwise provided, a licence to provide payment services also covers foreign exchange services connected with money transfers to/from other countries and the granting of credit within stipulated credit limits in the execution of payment transfers provided such credit is not
granted from funds received to execute payment transfers, and is short-term and is repayable within 12 months at the latest.

(5) The Ministry of Finance may make further rules concerning payment services and concerning what are to be deemed payment services.

Section 2-4 Issuance of electronic money
(1) Electronic money may only be issued by banks and electronic money institutions and by finance companies licensed under this Act to carry on such business in Norway. Electronic money may also be issued by foreign credit institutions and electronic money institutions entitled under this Act to carry on such business in Norway.

(2) By electronic money is meant an electronically stored monetary value represented by a claim on the issuer that is issued on receipt of funds for the purpose of making payment transactions and that is recognised as a means of payment by entities other than the issuer. By payment transactions is meant payment transactions as defined in the Financial Contracts Act section 12(a).

(3) An electronically stored monetary value used to make payment transactions as referred to in the Financial Contracts Act section 11 subsection (2)(m), or stored in an instrument as referred to in the Final Contracts Act subsection (2)(n), is not deemed to be electronic money.

(4) The Ministry of Finance may make further provision concerning the issuance of electronic money, which may include exempting in whole or in part certain electronic money institutions from provisions on electronic money institutions laid down in or pursuant to this Act.

Section 2-5 Foreign exchange business
(1) Foreign exchange business may only be carried on by banks and by payment institutions, electronic money institutions and finance companies that are licensed to carry on such business. Foreign exchange business may also be carried on by foreign credit institutions, payment institutions and electronic money institutions that are entitled under this Act to carry on such business in Norway.

(2) Business consisting in foreign exchange transactions is deemed to be foreign exchange business.

(3) The Ministry of Finance may by regulations make further rules concerning foreign exchange business. Where there are special reasons for doing so, the Ministry of Finance may also make exceptions from subsections (1) and (2).

Section 2-6 Insurance business etc.
(1) Insurance business may only be carried on by insurance undertakings and pension funds that are licensed under this Act to carry on such business, and by foreign insurance undertakings and pension undertakings that are entitled under this Act to carry on insurance business in Norway.

(2) The following are deemed to be insurance business: life insurance business, non-life insurance business, credit insurance business and reinsurance business. The following are deemed to be life insurance: insurance against death or disability risk and insurance in the form of provision of a guaranteed return. The following are deemed to be non-life insurance: insurance against damage to
or loss of property, rights or other claims and insurance against liability for damages or costs, along with accident insurance, sickness insurance and other personal insurance that is not life insurance. The following are deemed to be credit insurance: insurance against risk of incorrect settlement of claims, customer credit insurance and suretyship insurance.

(3) Insurance undertakings are not entitled to market or offer insurance against criminal liability if such insurance would be against the legal order.

(4) Finanstilsynet may decide whether a business shall be deemed to be insurance business and whether an insurance can or shall be deemed to be life insurance, non-life insurance or credit insurance, and whether a pension scheme can or must be provided by a pension fund or a defined contribution pension undertaking.

II Types of licence

Section 2-7 Banking licence
A licence to operate as a bank confers the right to receive deposits and other repayable funds from the public, to provide credit and furnish guarantees for own account and to provide payment services. A licence can also cover the following types of business:
   (a) other financing activity,
   (b) issuance of electronic money,
   (c) transactions for the bank's or customers' account in the money, currency and securities markets,
   (d) other banking services.

Section 2-8 Mortgage credit institution licence
A licence to operate as a mortgage credit institution confers the right to receive repayable funds other than deposits from the public and to provide credit and furnish guarantees for own account. A licence can also cover the following types of business:
   (a) other financing activity,
   (b) transactions for the institution's account in the money, currency and securities market,
   (c) issuance of electronic money
   (d) performance of payment services
   (e) other special services.

Section 2-9 Finance company licence
(1) A licence to operate as a finance company may cover one or more of the following activities:
   (a) leasing, factoring and other financing activity,
   (b) business for the company's or customers' account in the money or currency market,
   (c) foreign exchange transactions or other special services.

(2) A finance company may also be issued with a licence to operate as an electronic money institution or as a payment institution, unless consideration for the institution's risk management and solvency or other supervisory considerations call for such business to be carried on in a separate entity.
(3) Finance companies may not receive repayable funds from the public.

**Section 2-10 Payment institution licence**

(1) A licence to operate as a payment institution confers the right to receive means of payment from customers for use in the execution of such services. A licence may be confined to one or more of the services mentioned in the Financial Contracts Act section 11 subsection (1).

(2) A payment institution may also be granted a licence to operate as a finance company unless consideration for the institution's risk management and solvency or other supervisory considerations call for such business to be carried on in a separate entity.

(3) A licence that is confined to carrying out money transfers in Norway may be issued to an institution having its headquarters and registered office in Norway or to the branch of an institution domiciled in another EEA member state with limited authorisation from its home country's authorities to carry out money transfers. The provisions of section 3-1, section 3-2 apart from subsection (2)(b), and sections 3-5 to 3-7, apply *mutatis mutandis*. The following applies to business engaged in under the licence:

(a) The institution or branch shall have in place systems and procedures for the control and identification of risk to ensure that the obligations in all significant areas of business will be fulfilled, including protection of funds received in connection with money transfers.

(b) The institution shall have start-up capital, and own funds in accordance with requirements established in the licence.

(c) The aggregate amount of payment transactions carried out by the business, including any agent acting on behalf of the institution, shall not, as an average over the 12 preceding months, exceed an amount of NOK 5 million per month. The Ministry of Finance may by administrative decision set another maximum amount, but not an amount in Norwegian kroner that exceeds the equivalent of EUR 3 million per month.

(d) The business shall be subject to statutory audit.

(4) The Ministry of Finance may make further provision concerning payment institutions and institutions with limited authorisation under subsection (3), including making exceptions from the rules governing financial institutions, and making rules concerning organisation, business, capital requirements, ownership, protection of funds, use of agents and contractors, licensing terms and conditions, licence revocation, committee treatment of disputes and supervision. The Ministry of Finance may by regulations or administrative decision make exceptions with respect to business covered by subsection (3).

**Section 2-10 a. Account information service provider**

0 Tilføyes ved lov 23 nov 2018 nr. 87 (ikr. fra den tid Kongen bestemmer)

[Not entered into force.]

**Section 2-11 Electronic money institution licence**

(1) A licence to operate as an electronic money institution confers the right to issue electronic money and carry out payment services, and to receive means of payment from customers for use in
the execution of such services. A licence may be confined to one or more services mentioned in the Financial Contracts Act section 11 subsection (1).

(2) An electronic money institution may also be granted a licence to operate as a finance company unless consideration for the institution's risk management and solvency or other supervisory considerations call for such business to be carried on in a separate entity.

(3) The Ministry of Finance may make regulations concerning electronic money institutions, which may include making exceptions from the rules governing financial institutions, and make rules concerning organisation, business, capital requirements, ownership, protection of funds, use of agents and contractors, licensing terms and conditions, licence revocation, committee treatment of disputes and supervision.

Section 2-12 Insurance undertaking licence
(1) An insurance undertaking may be granted a licence to operate as a life insurance undertaking, non-life insurance undertaking, credit insurance undertaking or reinsurance undertaking. Except as otherwise prescribed, an insurance undertaking may also carry on financing activity in connection with its insurance business.

(2) A licence is granted for one or more insurance classes, or for part of an insurance class. The Ministry of Finance may make further provision concerning division into insurance classes.

(3) A licence may be limited to a particular geographical area, to particular customer groups or in other ways.

(4) Reinsurance undertakings may only write reinsurance. The Ministry of Finance may make regulations concerning special purpose vehicles whose purpose is to assume insurance risk from an insurance undertaking, and may decide to what extent the provisions of this Act shall govern such vehicles.

Section 2-13 Life insurance undertaking licence
(1) A licence to operate as a life insurance undertaking confers the right to write insurance considered to be life insurance, as well as other personal insurance specified in the licence.

(2) A life insurance undertaking which provides a defined benefit pension scheme for an institution or a group institution that forms part of a group pension scheme may also provide a defined contribution pension scheme with no insurance element for the same institution or for an institution that is part of the same group.

(3) A life insurance undertaking may as a limited part of its business write reinsurance in the classes covered by its licence.

Section 2-14 Non-life insurance undertaking licence
(1) A licence to operate as a life insurance undertaking confers the right to write insurance considered to be non-life reinsurance.
(2) A non-life insurance undertaking licensed to write personal insurance which is not life insurance may, except where otherwise prescribed in its licence, also write life insurance in the form of pure risk insurance which by agreement is of a maximum duration of one year and confers the right to disbursement of compensation as a lump sum, or which meets other product requirements established by the Ministry of Finance. The Ministry may by regulations make further provision concerning collective insurance (group insurance) related to mortality risk or disability risk covered by the first sentence.

(3) A non-life insurance undertaking may as a limited part of its business write reinsurance in the classes covered by its licence.

(4) An insurance undertaking licensed to write non-life insurance may not write credit insurance unless it is entitled to do so under section 5-1 or 5-5.

Section 2-15 Credit insurance undertaking licence
(1) A licence to operate as a credit insurance undertaking confers the right to write credit insurance and reinsurance in the credit insurance area.

(2) Finanstilsynet may make further provision concerning what insurances shall be considered to be credit insurance.

(3) For the purposes of this Act, credit insurance undertakings are considered to be non-life insurance undertakings except as otherwise provided.

Section 2-16 Pension fund licence
(1) A licence to operate as a pension fund confers the right to provide collective pension schemes for entities and municipalities that have established and participate in the pension fund. A licence may also confer on a pension fund the right to operate as a group pension fund, intermunicipal pension fund or joint pension fund under the provisions of the Insurance Act section 2-2.

(2) Municipal pension schemes and pension schemes established in accordance with the Defined Benefit Pensions Act, the Defined Contributions Pensions Act and the Occupational Pensions Act, and other collective pension schemes, are considered to be collective pension schemes. Pension schemes established by members of an association of independent business operators and in the event their employees (association pension schemes) are also considered to be collective pension schemes.

(3) A licence may confer on a pension fund the right to either provide pension schemes deemed to be life insurance, or to provide pension schemes with no insurance element. A licence also confers the right to provide pension schemes under Act of 27 June 2008 No. 62 on individual pension schemes for members of a collective pension scheme in the pension fund.

(4) A pension fund licensed to provide pension schemes considered to be life insurance may not provide pension schemes with no insurance element. Where the pension fund provides a defined benefit pension scheme for an institution or a group institution that has a joint pension scheme in the pension fund, the pension fund may provide a defined contribution pension scheme with no insurance element for the same institution or for an institution that is part of the same group.
(5) Except as otherwise provided, a pension fund may also carry on financing activity in connection with its business.

(6) Pension funds may, except as otherwise provided in their licence, also issue paid-up policies, pension rights certificates or statements of accumulated pensions rights to employees that have left their position and ceased to be members of a collective pension scheme in such pension fund, as well as supplementary agreements to such pension rights. Pension funds that provide collective pension schemes that are deemed to be life insurance may, except as otherwise provided in their licence, also write insurance against risk of disability or death for members of such a pension scheme.

(7) The Ministry of Finance may by regulations make further provision concerning pension funds and pension schemes covered by this section, including pension funds' right to provide a pension scheme for two or more municipalities (intermunicipal pension fund) or for two or more institutions (joint pension fund).

Section 2-17 Defined contribution pension undertaking licence
(1) A licence to operate as a defined contribution pension undertaking confers the right to provide collective pension schemes with no insurance element and individual pension agreements with no insurance element.

(2) Except as otherwise provided, a defined contribution pension undertaking may also carry on financing activity in connection with its business.

(3) The Ministry of Finance may by regulations make further provision concerning defined contribution pension undertakings.

Section 2-18 Loan intermediaries
(1) An institution may carry on business consisting of commercial intermediation of loans or loan guarantees (loan intermediaries) after notification has been sent to Finanstilsynet.

(2) A loan intermediary shall protect borrowers' and lenders' interests in a satisfactory manner. The institution shall provide inform the parties to a loan relationship of the effective interest rate and other matters of significance, including the repayment conditions and the right, if any, to adjust the interest rate. In the calculation of the effective interest rate account shall be taken of any performance by the borrower, including agent's commission, guarantee commission, other commission and costs of administrating the loan and any discount upon disbursement of the loan. The effective interest rate shall be stated clearly and in writing with a precision of at least a quarter of a per cent per annum.

III Corporate name

Section 2-19 Corporate name in the case of banks
(1) A bank shall use the term "bank", with or without an addition, in its corporate name
(2) A bank founded as a savings bank shall use the term "savings bank" or similar combination including the term "savings" in its corporate name. After conversion of a savings bank the bank may continue to use "savings bank" or "savings" in its corporate name provided the savings bank foundation established by the conversion owns at least 10 per cent of the shares of the bank or the bank's parent company.

(3) Institutions other than banks may not, except with a basis in law or in pursuance of law or with the consent of the Ministry of Finance, use the term "bank" in their corporate name or when referring to or marketing their business. Institutions other than banks as referred to in subsection (2) may not, except with a basis in law or in pursuance of law or the consent of the Ministry of Finance, use the term "savings bank" or similar combination including the term "savings" in their corporate name or when referring to or marketing their business.

Section 2-20 Corporate name in the case of insurance undertakings
(1) An insurance undertaking shall use the term "insurance" or other designation with the same meaning, with or without an addition, in its corporate name.

(2) Institutions other than insurance undertakings may not, except with a basis in or in pursuance of law or with the consent of the Ministry of Finance, use such designations in their corporate name or when referring to or marketing their business unless the institution concerned carries on business activity connected to its insurance business.

Section 2-21 General requirements for name use
(1) A financial institution shall use a corporate name and other characteristics that make it clear to customers and others which institution they are dealing with, and the type of business the institution is engaged in.

(2) A financial institution shall not use a corporate name or designation which:

   (a) renders the institution liable to be easily confused with another financial institution, or gives a misleading impression of the type of business engaged in by the institution,
   (b) gives the impression that a part of the financial institution is a financial institution in its own right,
   (c) gives the impression that a financial institution forming part of a Norwegian financial group is independent.

(3) The Ministry of Finance may make regulations concerning financial institutions' name use, and may by regulations or administrative decision make exceptions from subsections (1) and (2).

Section 2-22 Branch of a foreign financial institution
A foreign financial institution entitled to operate in Norway may use the same corporate name as it uses in its home state.
Chapter 3 Licensing process

Section 3-1 Application for a licence etc.

(1) Applications for a licence, approval or consent under this Act shall be sent to Finanstilsynet.

(2) An application shall contain the information that is deemed to be of significance for processing the application, including documentation showing that the institution was founded in keeping with the requirements of chapter 7. Finanstilsynet may require the applicant to provide further information.

(3) An application for a licence to establish and carry on business as a financial institution shall contain the institution's articles of association and an organisation plan and plan of operations for the first three years of operation. The plan shall give an account of the organisation of the central aspects of the licensable business, and shall as a general rule also give an account of:

(a) the institution's ownership and management structure after the establishment,
(b) the institution's governance and control systems,
(c) how the institution will procure capital to meet capital requirements for the business covered by the operations plan,
(d) the institution's capital structure and capital adequacy and a forecast of the financial position for each of the first three years,
(e) budgets for establishment costs and administration costs,
(f) budgets including the profit and loss account, balance sheet and funds flow statement for each of the first three years of operation,
(g) the institution's group affiliation,
(h) financial services that the institution will offer with appurtenant operating set-up,
(i) the institution's measures to fulfil requirements made in or pursuant to the Money Laundering Act,
(j) how payment institutions and electronic money institutions will safeguard customer assets.

Insurance undertakings shall in addition provide information about the insurances they intend to offer, and explain their principles for premium calculation and reinsurance. If the undertaking intends to cover risk in the insurance class 'liability insurance for land motor vehicles', where such insurance is not confined to carrier liability, the name and address of the damage appraisers to be designated in each of the other EEA member states shall be stated.

(4) Applications under subsection (3) shall contain information on qualifications, occupational experience and matters mentioned in sections 9-1 to 9-3, an ordinary police certificate pursuant to the Police Records Act section 40, for each board member, deputy member, the general manager and others who are to participate in the actual management of the business or parts of the business, and other persons with key functions in the undertaking.

Section 3-2 Granting of licence, conditions etc.

(1) A licence, approval or consent under this Act is granted by the Ministry of Finance. Conditions may be attached to the licence, approval or consent, including that the business shall be operated in a particular manner or within certain limits, or other conditions in accordance with the purposes that the legislation on financial institutions is intended to serve.
(2) A licence to establish and operate as a financial institution shall be refused where:

(a) the financial institution does not have its headquarters and registered office in Norway, unless the institution is applying for a licence under chapter 5,
(b) the conditions of sections 3-3 to 3-5 are not met,
(c) evidence has not been provided that the financial institution will be in a position to fulfil requirements for prudent operation as set out in sections 8-16 to 8-20, sections 13-4 to 13-7, section 13-13, chapter 14 and section 16-1,
(d) there is reason to presume that the institution will not meet the requirements set in law or pursuant to law, or that the business will be against the legal order.

(3) In the assessment of whether or not a licence shall be granted, substantial importance shall be given to the institution's capital structure and solvency, including whether its start-up capital is in reasonable proportion to the planned business, and whether the organisation plan and operations plan are adequate to the business to be engaged in.

(4) The decision on an application shall be communicated to the applicant within six months of receipt of the application. For applications for a payment institution licence the time limit is three months. If the application does not contain the information necessary to decide whether a licence shall be granted, the time limit shall be reckoned from the date such information was received. However, the application shall in all cases be decided within twelve months of its receipt.

Section 3-3  Ownership structure
(1) The Ministry of Finance shall know the identity of the owners of the institution and be convinced that owners of qualifying holdings are suited to own such holdings and to exercise such influence over the company as is enabled by the holdings. ‘Qualifying holding’ means a holding as referred to in section 6-1 subsection (1), cf. section 6-1 subsections (4) and (5).

(2) Three-quarters of the share capital of a bank or insurance undertaking shall be subscribed by increase of capital with no preferential right for shareholders or others. Where it is stated in the memorandum of association that the founders or other parties have acquired or will acquire a number of shares, such shares may not be disposed of until the entity concerned has published the annual accounts for its first full year of operation.

(3) The Ministry of Finance may make exceptions from the requirement of public subscription of the share capital by increase of capital as referred to in subsection (2). The Ministry of Finance may also consent to the entire share capital being subscribed by entities in a financial group of which the bank or insurance undertaking is to form part, or by three of more banks that have jointly founded the bank.

Section 3-4  Minimum requirement for start-up capital
(1) Banks, mortgage credit institutions and finance companies shall have share capital, ownerless capital and other equity capital (overall start-up capital) in an amount in Norwegian kroner at least equivalent to EUR 5 million.
(2) Electronic money institutions shall have an overall start-up capital in an amount in Norwegian kroner at least equivalent to EUR 350,000. Payment institutions shall have an overall start-up capital in an amount in Norwegian kroner at least equivalent to:

(a) EUR 20,000 if the payment institution only offers a payment service mentioned in the Financial Contracts Act section 11 subsection (1)(d),
(b) EUR 50,000 where the payment institution offers the payment service mentioned in the Financial Contracts Act subsection (1)(e),
(c) EUR 125,000 where the payment institution offers one or more of the payment services mentioned in the Financial Contracts Act subsection (1)(a) to (c).

(3) Insurance undertakings shall have an overall start-up capital in an amount in Norwegian kroner at least equivalent to:

(a) for life insurance undertakings EUR 3.7 million,
(b) for other insurance undertakings EUR 2.5 million, but EUR 3.7 million if the undertaking writes liability insurance connected to motor vehicles, aircraft or vessels or other liability insurances, or credit or guarantee insurance,
(c) for reinsurance undertakings EUR 3.6 million, but EUR 1.2 million for reinsurance undertakings which according to their articles of association may only write reinsurance for a particular range of insurance policy holders.

(4) Pension undertakings shall have an overall start-up capital at least equivalent to ten times the basic amount available under the National Insurance Scheme.

(5) The Ministry of Finance may by regulations adjust the minimum requirements in accordance with the rate of inflation and set a higher minimum required amount than mentioned. For institutions as referred to in subsection (1) the Ministry of Finance may in special cases consent to a lower overall start-up capital. If the minimum requirements of subsections (1) to (5) are not met, a licence may none the less be granted provided it contains conditions to the effect that it shall not become effective until payment of capital equal to the minimum requirement is registered.

**Section 3-5 Requirements on the management of the institution**

(1) The institution may not have board members, a general manager or other persons in the actual management of the business or parts thereof who:

(a) cannot be presumed to hold the necessary qualifications and professional experience to discharge the position or office,
(b) have been convicted of a criminal offence, and the criminal offence gives reason to presume that the person concerned will be unable to discharge the position or post in a satisfactory manner.
(c) in their position or in their performance of other posts have displayed conduct giving reason to presume that they will be unable to discharge the position or post in a satisfactory manner.

(2) A person may be refused approval to serve as a deputy member or observer on the board if circumstances exist as referred to in subsection (1).
(3) Subsection (1) applies *mutatis mutandis* to other persons with key positions in the institution.

**Section 3-6  Start-up of business**

(1) A financial institution may not start up business until the institution is registered in the Register of Business Enterprises.

(2) If the organisation plan and operations plan under section 3-1 subsection (3) are no longer adequate, the institution shall submit an updated plan to Finanstilsynet before the business starts up.

(3) In the event of changes to the organisation and operations plan, Finanstilsynet may set such conditions as are deemed necessary to ensure that the business is operated in a proper manner.

**Section 3-7  Change and revocation**

(1) The Ministry of Finance may entirely or in part revoke, change or attach new conditions to a licence under this Act where:

(a) a financial institution has not commenced business within one year of the date the licence was granted, or no longer carries on active business,

(b) the board of directors or other bodies of an institution are guilty of gross or repeated contraventions of their statutory duties, of the conditions of their licence or articles of association,

(c) board members, the general manager or other person participating in the actual management of the institution or parts thereof have acted in such a manner that the requirements on the management under section 3-5 are no longer met, including that members of the board or management have quit their position in the course of the first whole year of operation after the business started up,

(d) the institution's ownership structure has changed through an acquisition counter to the provisions of chapter 6,

(e) the institution does not fulfil capital requirements established in or pursuant to this Act, or omits to comply with an order issued by Finanstilsynet.

(2) Where a licence is revoked, the institution and its business shall be wound up pursuant to the provisions of chapter 12 part II. The Ministry of Finance may make exceptions from the obligation to wind up the institution so that parts of business may continue to operate.

(3) Where the licence of a financial institution headquartered in Norway which also carries on business in a foreign state is revoked, Finanstilsynet shall inform the supervisory authorities of the host state accordingly.

**Section 3-8  Change of licence terms and conditions**

(1) A financial institution may apply for permission to change the terms and conditions of its licence. The application shall contain the information deemed to be of importance for processing the application. The provisions of section 3-1 subsections (1) and (2) and section 3-2 apply *mutatis mutandis*.
Where acquisition under chapter 6 of assets of a financial institution licensed under section 3-2, cf. section 3-3, entails the establishment of a group relationship between the institution and the acquirer, new or changed terms and conditions may be set for the licence.

Chapter 4 Norwegian financial institutions' business abroad

Section 4-1 Establishment of a subsidiary in another EEA member state etc.
(1) A Norwegian financial institution may not establish or acquire a financial institution as a subsidiary in another EEA member state unless it is licensed under section 17-1. The procedural rules of section 17-5 and chapter 3, with the exception of section 3-2 subsection (2), section 3-3 and section 3-4, apply mutatis mutandis. Sections 17-7 to 17-9 and chapter 18 apply mutatis mutandis to the group relationship between the subsidiary and the financial institution and the financial group of which the financial institution forms part.

(2) A Norwegian financial institution shall notify Finanstilsynet if the institution acquires a holding of 10 per cent or more in a financial institution in another EEA member state. The provisions of section 6-1 subsections (4) and (5) apply mutatis mutandis in the calculation of holdings. The provisions of section 17-9 subsections (2) and (3) apply mutatis mutandis to the acquisition or disposal of such holdings.

Section 4-2 Establishment of a branch in another EEA member state
(1) Before a bank, mortgage credit institution, insurance undertaking, pension undertaking, payment institution or electronic money institution establishes a branch in another EEA member state, the entity concerned shall send Finanstilsynet notification with information on:

(a) the state in which the branch is intended to be established, and the address of the branch,
(b) the persons who will be responsible for the management of the branch,
(c) the size of the entity's own funds and its compliance with requirements on own funds and financial soundness.

The entity shall in addition provide Finanstilsynet with a plan of operations with information on what types of financial services the business is to encompass and on the branch's organisational structure. The Ministry of Finance may make regulations stating what other information shall be contained in notifications from various types of financial institutions.

(2) Finanstilsynet shall notify a branch establishment to the host state's supervisory authorities no later than three months after receipt of notification as referred to in subsection (1). However, this shall not apply if Finanstilsynet has reason to presume that the entity's organisational and administrative structure or financial situation does not provide an adequate basis to establish the branch, or that the branch management is not fit and proper pursuant to section 3-5. In such case Finanstilsynet shall without undue delay inform the entity.

(3) In the notification to the host state's supervisory authorities, Finanstilsynet shall confirm that the planned business is covered by the entity's licence, and that the entity meets the own funds requirements applying to the entity under the provisions of chapter 14. The notification shall state
which guarantee scheme will in the event apply to the business of the branch. Finanstilsynet shall concurrently inform the entity of the said notification.

(4) The entity shall notify Finanstilsynet and the host state's supervisory authorities of any change in matters covered by subsection (1), no later than one month prior to implementation of the change. The same applies to changes in the guarantee scheme applying to the branch.

(5) A finance company may not establish a branch in another EEA member state without a licence issued by the Ministry of Finance. The provisions of chapter 3, except sections 3-3 and 3-4, apply *mutatis mutandis*.

(6) The Ministry of Finance may make regulations to supplement or make exceptions from the provisions of this section for various types of financial institutions.

**Section 4-3 Cross-border business in another EEA member state**

(1) Before a bank, mortgage credit institution, insurance undertaking, pension undertaking, payment institution or electronic money institution offers cross-border services in another EEA member state, the entity shall notify Finanstilsynet of which state is involved, and of what services are to be offered by the entity. The Ministry of Finance may make regulations stating what other information notifications from various types of financial institutions shall contain. The Ministry may decide that the notification obligation shall also apply where a financial institution intends to carry on such business from a branch in another EEA member state.

(2) Finanstilsynet shall no later than one month after receipt of notification forward the notification to the host state's supervisory authorities informing them of what business can be conducted under the entity's licence. Finanstilsynet shall also confirm that the planned business is covered by the entity's licence, and that the entity meets the own funds requirements applying to the entity under the provisions of chapter 14. The guarantee scheme that will in the event apply to the business shall be indicated. Section 4-2 subsection (2) second and third sentences applies insofar as appropriate. The Ministry of Finance may make regulations to supplement or make exceptions from the provisions of this section for various types of financial institutions.

**Section 4-4 Establishments outside the EEA etc.**

(1) A Norwegian financial institution may not establish or acquire a financial institution as a subsidiary in a state which is not comprised by the EEA agreement unless it is licensed under section 17-1. The procedural rules of section 17-5 and chapter 3, with the exception of section 3-2 subsection (2), section 3-3 and section 3-4, apply *mutatis mutandis*. Sections 17-7 to 17-9 and chapter 18 apply *mutatis mutandis* to the group relationship between the subsidiary and the financial institution and the financial group of which the financial institution forms part.

(2) A financial institution may not, unless authorised to do so by the Ministry of Finance, establish a branch in state that is not covered by the EEA Agreement. The provisions of chapter 3, with the exception of sections 3-3 and 3-4, apply *mutatis mutandis*.

(3) A financial institution may not, unless authorised to do so by the Ministry of Finance, acquire a holding of 10 per cent or more in a financial institution in a state that is not covered by the EEA Agreement. The provisions of section 6-1 subsections (4) and (5) and section 6-5 apply *mutatis
mutandis to the calculation of holdings. The provisions of section 17-9 subsections (2) and (3) apply mutatis mutandis to the acquisition or disposal of such holdings.

Section 4-5 Further rules on Norwegian financial institutions' business abroad
The Ministry of Finance may by regulations make further provision concerning business engaged in by Norwegian financial institutions abroad.

Chapter 5 Foreign financial institutions' business in Norway

Section 5-1 Subsidiary of a foreign financial institution
(1) A financial institution domiciled outside Norway may establish a subsidiary in Norway pursuant to the provisions of chapter 7 and carry on business under a licence issued pursuant to the provisions of sections 2-7 to 2-18, section 17-3 and chapter 3. An acquisition entailing that a financial institution established in Norway becomes the subsidiary of a financial institution domiciled outside Norway may only take place under a licence issued under the provisions of section 17-1 subsections (1) and (2) and section 17-5.

(2) The foreign financial institution is regarded as the parent of the Norwegian subsidiary and the provisions of sections 18-3 to 18-5 apply mutatis mutandis to the subsidiary.

(3) The Ministry of Finance may by regulations make further provision concerning business conducted in Norway by subsidiaries of financial institutions domiciled in a foreign state, and may make exceptions from the provisions of this Act.

Section 5-2 Branch of a credit institution, insurance undertaking, pension undertaking, payment institution or electronic money institution headquartered in another EEA member state
(1) A credit institution, insurance undertaking, pension undertaking, payment institution or electronic money institution headquartered in another EEA member state that is authorised by and under the supervision of the authorities of the home state may conduct such business as it is entitled to conduct under its home state licence, through a branch in Norway. Such branch may be established two months after Finanstilsynet's receipt of the following information from the supervisory authorities of the entity's home state:

(a) a plan of operations stating what types of financial services the branch is to provide and the branch's organisational structure,
(b) a statement to the effect that the planned business is covered by the entity's licence in the home state,
(c) the address of the branch,
(d) the identity of the person who will be in charge of the management of the branch and be authorised to act on behalf of the entity, and confirmation that this person meets the fitness and propriety requirements,
(e) the identity of the persons who are to make up the management of the business of the branch, and confirmation that these persons meet the fitness and propriety requirements,
(f) a statement to the effect that the financial institution meets the own funds requirement applying to that institution,
(g) the guarantee scheme that will in the event apply to the branch's business.
(h) further information as stipulated in regulations made pursuant to subsection (5).

(2) Finanstilsynet shall within two months of receipt of the information from the supervisory authorities of the entity's home state notify the entity that the branch may be established, and supply the branch with an overview of the rules that will apply to the business in Norway. The entity shall register the branch with the Register of Business Enterprises before the branch starts its business.

(3) The person in charge of the management of the branch shall be authorised to act on behalf of the entity and to receive any lawsuit related to the branch's business in Norway.

(4) If changes are made in any information provided under subsection (1), the entity shall notify such changes in writing to Finanstilsynet no later than one month before the changes become effective.

(5) The Ministry of Finance may make regulations to supplement or to make exceptions from the provisions of this section for various types of financial institutions. This may include making rules governing what type of business is covered by the right to carry on business through a branch and what information Finanstilsynet shall receive from the supervisory authorities of the entity's home state.

**Section 5-3  Branch of a finance company headquartered in another EEA member state**

(1) A finance company established in another EEA member state may carry on business through a branch in Norway provided that:

(a) the finance company is authorised to carry on, and is carrying on, identical business in its home state,
(b) one or more credit institutions established in the same state as the finance company, that are entitled to carry on business in Norway under section 5-2, own shares which together represent at least 90 per cent of the votes of the finance company,
(c) the credit institution, or credit institutions, with the consent of the supervisory authority of the home state, has/have assumed joint and several liability for the finance company's obligations in Norway, and
(d) the finance company and the credit institution, or credit institutions, are subject to consolidated supervision under provisions corresponding to the provisions of chapter 15.

(2) The supervisory authority of the home state shall confirm that the conditions of subsection (1) are met. The provisions of section 5-2 apply *mutatis mutandis*.

**Section 5-4  Business of the branch of a financial institution headquartered in another EEA member state**

(1) The following apply to branches that carry on business in Norway under the provisions of sections 5-2 and 5-3: chapter 1 and the provisions of sections 2-19 to 2-22, section 9-1 subsections (2) and (3), section 9-2, sections 9-4 to 9-6, section 12-27, section 13-5 subsection (4), section 13-7 subsection (1), section 13-17, chapter 16, section 17-11 subsection (6), section 17-12, section 17-13 subsections (1) and (3), section 19-2, section 20A-3 subsection (2), section 20-3 subsection (2), section 21-7 subsection (2) and sections 22-1 to 22-3. The Auditors Act section 2-3 subsections (1)
and (2) applies *mutatis mutandis* to meetings between the general manager of the branch and the auditor.

(2) The following provisions of the Insurance Act, in addition to the provisions referred to in subsection (1), apply *mutatis mutandis* to the business of the branch of an insurance undertaking headquartered in another EEA member state: section 2-7, section 3-4, section 3-5 subsection (1), section 3-6 subsection (3), section 3-24, section 3-25, section 4-16, section 7-3 subsection (2), section 7-6 subsections (1) and (3), section 7-7 subsection (1) second sentence, section 7-8 and chapter 6. The Insurance Act section 3-13, section 3-14 subsection (3), sections 3-16 to 3-18 and section 3-22 shall apply except as otherwise provided by the legislation of the home state. The insurance terms and conditions shall in all cases make clear what rules shall apply regarding the right to surplus, including the rules on calculation, undistributed surplus and the timing of disbursement or other disposal of surplus funds.

(3) In the case of the business of a branch of a pension undertaking headquartered in another EEA member state, the provisions listed in subsection (2) shall apply to the extent those provisions apply to Norwegian pension undertakings pursuant to the Insurance Act sections 2-6 and 2-11.

(4) The Ministry of Finance may by regulations make further provision concerning the business of a branch of a financial institution headquartered in another EEA member state. The Ministry of Finance may by regulations or administrative decision make exceptions from this subsection where the business is subject to home state rules regulating the same matters.

**Section 5-5 Cross-border business from another EEA member state**

(1) A credit institution, insurance undertaking, pension undertaking, payment institution or electronic money institution headquartered in another EEA member state may carry on cross-border business in Norway to the extent that the entity is authorised by and under the supervision of the authorities of the home state. The entity may commence business in Norway one month after Finanstilsynet's receipt of notification from the supervisory authorities of the entity's home state stating what financial services the entity intends to offer in Norway. The notification shall also contain information as referred to in section 5-2 subsection (1)(b), (f), (g) and (h). Finanstilsynet shall within one month of receipt of the notification provide the entity with an overview of the rules that will apply to the business. Section 5-2 subsection (4) applies *mutatis mutandis*.

(2) Subsection (1) applies *mutatis mutandis* to finance companies that meet the conditions of section 5-3 in order to carry on business in Norway through a branch.

(3) The following apply *mutatis mutandis* to cross-border business in Norway from another EEA member state: chapter 1 and the provisions of section 9-1 subsections (2) and (3), section 9-2, sections 9-4 to 9-6, section 12-27, sections 16-5 to 16-9, section 22-1 and section 22-2.

(4) In the case of cross-border business conducted by an insurance or pension undertaking, the provisions of section 5-4 subsections (2) and (3) apply *mutatis mutandis*.

(5) The Ministry of Finance may make further provision concerning business covered by subsections (1) and (2), including concerning what type of business is covered by the right to carry on cross-border business. The said Ministry may by regulations or administrative decision make
exceptions from the provisions of subsections (3) and (4) where the business is subject to home state rules that regulate the same matters. The said Ministry may make regulations to supplement or make exceptions from the provisions of this section for various types of financial institutions.

Section 5-6  Branch of a foreign financial institution not covered by sections 5-2 and 5-3

(1) A financial institution that is headquartered in a foreign state and does not meet the conditions for carrying on business in Norway under sections 5-2 and 5-3 may, pursuant to a licence issued by the Ministry of Finance under the provisions of sections 2-7 to 2-18, establish and carry on business through a branch in Norway. The provisions of chapter 3, with the exception of sections 3-3 and 3-4, apply *mutatis mutandis*.

(2) A licence under subsection (1) may only be issued to carry on business equivalent to the business which the institution is entitled to carry on in its home state, and only if the institution is subject to satisfactory supervision in its home state. Before a foreign financial institution commences business in Norway, satisfactory supervisory cooperation must have been established between the supervisory authorities of the institution's home state and Finanstilsynet.

(3) The financial institution shall deposit capital in Norway which shall be managed in a satisfactory manner by a Norwegian bank. The Ministry of Finance may make provision concerning minimum requirements on, and calculation of, capital. In the case of insurance undertakings and pension funds that carry on life insurance, the capital shall at least be equivalent to technical provisions calculated under the provisions of sections 14-7 to 14-11 or section 14-16. The capital may not be released or disbursed by the bank without Finanstilsynet's consent.

(4) If the foreign financial institution becomes subject to insolvency proceedings in its home state, or if Finanstilsynet otherwise has reason to presume that commitments entered into through the branch in Norway will not be honoured, chapter 21 applies *mutatis mutandis*.

(5) The institution shall register the branch with the Register of Business Enterprises before the branch commences its business. The person in charge of the management of the branch shall be authorised to act on behalf of the institution and to file and receive lawsuits related to the branch's business in Norway.

Section 5-7  Business of a branch of a financial institution not covered by sections 5-2 and 5-3

(1) The following apply to branches that carry on business in Norway under section 5-6: chapters 2 and 3 and chapter 17, and the provisions referred to in or made pursuant to section 5-4 subsections (1) and (4).

(2) In addition to the provisions referred to in subsection (1), the following provisions of the Insurance Activity Act with associated regulations apply *mutatis mutandis* to the business of the branch of an insurance undertaking pursuant to a licence issued under section 5-6 subsection (1): section 2-7, section 3-1 subsection (4), sections 3-3 to 3-7, section 3-11 subsections (1), (6) and (7), sections 3-12 to 3-14, sections 3-16 to 3-18, section 3-22, section 3-24, section 3-25, section 4-6 and section 4-16, and chapters 5, 6 and 7. Except as otherwise provided by or pursuant to law, the foreign financial institution shall in any legal controversy arising out of the branch's business be subject to Norwegian law.
(3) In the case of a branch of a foreign pension undertaking the provisions referred to in subsection (2) shall apply to the extent those provisions apply to Norwegian pension undertakings under the Insurance Act sections 2-6 and 2-11.

(4) The Ministry of Finance may by regulations make further provision concerning the business of branches of foreign financial institutions. The Ministry may by regulations or administrative decision make exceptions from this section where equivalent rules apply to the business under the legislation of the home state.

Section 5-8  Representative office of a foreign financial institution
A foreign financial institution must register its representative office in Norway with Finanstilsynet before the representative office can commence business. The Ministry of Finance may make further provision concerning foreign representative offices.

Section 5-9  Mediation to a foreign insurance undertaking
The provisions of the Insurance Mediation Act section 5-3 on mediation of insurance to foreign insurance undertakings apply mutatis mutandis to insurance undertakings.

Chapter 6  Supervision of owners of qualifying holdings in financial institutions

Section 6-1  Acquisition of holdings in financial institutions etc.
(1) Any person intending to carry out an acquisition whereby that person will become the owner of a qualifying holding in a financial institution must have notified Finanstilsynet thereof in advance. The same applies to acquisitions whereby a qualifying holding will reach or exceed 20 per cent, 30 per cent or 50 per cent, respectively, of the capital or voting rights of a financial institution, or whereby a holding confers controlling influence as referred to in section 1-3 of the Public Limited Companies Act. A qualifying holding is deemed to be a holding that represents 10 per cent or more of the capital or voting rights of a financial institution, or which otherwise makes it possible to exercise significant influence over the management of an institution and its business. In the calculation of a qualifying holding in an institution that has issued equity certificates, such holding is calculated as a proportion of the sum of ownerless capital and owners’ capital or of the voting rights at the general meeting. Acquisitions carried out by two or more acquirers in concert are deemed to be single acquisition.

(2) Acquisitions covered by subsection (1) may only be carried out under a licence issued by the Ministry of Finance.

(3) Any person proposing to dispose of a qualifying holding or to reduce such a holding so that it falls below one of the percentage thresholds mentioned in subsection (1) shall notify Finanstilsynet accordingly.

(4) An owner's overall holding is calculated based on the holdings the owner directly or indirectly owns and will become the owner of through the acquisition, and in addition:

(a) holdings which the owner is entitled by agreement to acquire on his own initiative,
(b) holdings for which the owner is entitled by agreement to exercise voting rights, except 
voting rights exercisable by proxy as referred to in section 5-2 of the Private Limited 
Companies Act and section 5-2 of the Public Limited Companies Act where no 
compensation is given for such proxy, and 
(c) holdings which a person covered by section 6-5 owns or is entitled to acquire or to 
exercise voting rights for.

(5) Holdings or voting rights taken over by a credit institution or an investment firm as a 
result of an underwriting guarantee shall not be included when calculating holdings provided 
that such holdings or voting rights are not used to exercise influence in the institution and are 
disposed of within one year of their acquisition. Nor shall holdings or voting rights acquired 
through an agreement requiring a licence under financial legislation be included, unless 
the agreement entails that:

(a) the owners are entitled to compensation of more than 5 per cent of the market value of 
the shares at the time of the offering,
(b) the owners are entitled to a loan from the offeror, or 
(c) the owners' right to exercise voting rights attached to the shares is restricted.

(6) The Ministry of Finance may lay down regulations to supplement, implement and delimit the 
provisions of chapter 6, including rules for assessment of fitness and propriety under section 3-3. 
The Ministry may also by regulations require financial institutions to give notification of owners 
with qualifying holdings in the institution and require legal persons with qualifying holdings in a 
financial institution to give notification of the names of the members of the board of directors and 
the management team.

Section 6-2 Rules of procedure
(1) Notification pursuant to section 6-1 subsection (1) shall state the size of the holding it is 
proposed to acquire, and the size of the overall holding in the financial institution after the 
acquisition. The notification shall disclose information on factors that will be of significance 
for the calculation of the owner’s overall holding pursuant to the rules of section 6-1.

(2) The notification shall also contain information that will be of significance for assessing 
whether or not a licence shall be issued.

(3) The question of whether a licence shall be issued under section 6-1 subsection (2) 
shall be decided within a period of 60 working days reckoned from the date Finanstilsynet 
confirmed receipt of the notification. If the Ministry of Finance or Finanstilsynet has made a request 
in writing for further information before 50 working days have elapsed, the deadline shall be 
suspended until the requested information is received, but not for than 20 working days, or for more 
than 30 days if the acquirer is subject to supervision in or is domiciled in an EEA member state.

(4) Where two or more acquirers have given notification pursuant to section 6-1 subsection 
(1) of the acquisition of holdings in the same financial institution, they shall be treated equally 
unless there are grounds for not doing so.
Section 6-3  Assessment of fitness and propriety

(1) In the decision of whether or not a licence shall be issued under section 6-1 subsection (2), the Ministry of Finance shall, with due regard for the need to assure proper and adequate management of the financial institution and its activities and in consideration of the level of influence the acquirer will as owner be able to exercise in the institution after the acquisition, assess the acquirer’s fitness and propriety as owner of his overall holding after the acquisition, and whether the acquisition of the holding is financially sound.

(2) In any assessment made under subsection (1) the Ministry of Finance shall in particular take into consideration:

(a) the acquirer’s general reputation, professional competence, experience and previous conduct in business relationships,
(b) the general reputation, professional competence, experience and previous conduct in business relationships of persons who after the acquisition will form part of the board of directors or management of the institution’s business,
(c) whether the acquirer will be able to use the influence conferred by the holding to obtain advantages for his own or associated activity, or indirectly exert influence on other business activity, and whether the acquisition could result in impairment of the institution’s independence.
(d) whether the acquirer’s financial situation and available financial resources are adequate to the types of activity in which the institution is engaged or in which it must be assumed that the institution will become engaged after the acquisition, and whether the acquirer and its business are subject to financial supervision,
(e) whether the financial institution is and will continue to be in a position to meet capital adequacy and prudential requirements and other supervisory requirements that follow from the financial legislation,
(f) whether the ownership structure of the institution after the acquisition or special ties between the acquirer and a third party will impede effective supervision of the institution, in particular whether the group of which the institution will form part after the acquisition is organised in a manner that does not impede effective supervision, including effective exchange of information and allocation of supervisory tasks between the supervisory authorities involved,
(g) whether there are grounds for assuming that money laundering or financing of terrorism, or any attempt to commit such an act, is taking place in connection with the acquisition, or that the acquisition will increase the risk of such an act.

Section 6-4  Authorisation to acquire a qualifying holding

(1) The Ministry of Finance will grant authorisation pursuant to section 6-1 subsection (2) to the extent the ministry finds that the acquirer fulfils the criteria mentioned in section 6-3. The authorisation shall state the size of the holding that may be acquired under the authorisation.

(2) The Ministry of Finance shall not authorise the acquisition if it finds that there are reasonable grounds to doubt the acquirer's fitness and propriety to be the owner of the overall holding after the acquisition, or that there are grounds to doubt that the financial situation will be adequate after the acquisition. Nor shall the Ministry authorise the acquisition if the obligation to give notification is not met, or if information disclosed by the acquirer is incomplete or proves to be incorrect.
(3) Conditions may be attached to the authorisation, including a deadline for carrying out the acquisition. It may not be stipulated as a condition that a holding of a stipulated minimum size must be acquired before the expiry of the deadline.

(4) If the question of authorisation is not decided by the expiry of the deadline pursuant to section 6-2 subsection (3), authorisation to acquire the holding referred to in the notification to Finanstilsynet pursuant to section 6-1 subsection (1) shall be deemed to have been granted.

(5) The Ministry of Finance may withdraw authorisation where there are grounds for assuming that the holder has displayed such conduct that the conditions for authorisation are no longer met.

Section 6-5 Consolidation of holdings
(1) Holdings directly or indirectly owned or taken over by any of the following are regarded as equivalent to the owner's own holdings:

(a) the owner's spouse or person with whom the owner shares a household,
(b) the owner's under-age children, and under-age children of a person covered by (a) with whom the owner lives,
(c) an institution within the same group as the owner,
(d) an institution in which the owner, alone or together with persons as referred to in (a), (b) and (e) exercises influence as referred to in the Private Limited Companies Act section 1-3 and the Public Limited Companies Act section 1-3, and
(e) someone with whom the owner must be assumed to be acting in concert in the exercise of shareholder rights.

(2) In cases of doubt the Ministry of Finance decides whether holdings not held by the owner shall be considered equivalent to the owner's holdings under subsection (1).

Chapter 7 Establishment of financial institutions

I Form of organisation

Section 7-1 Form of organisation for banks
(1) Banks shall be founded and organised as public limited companies or as savings banks.

(2) A bank that is to be a subsidiary of a financial group may be founded and organised as a private limited company.

Section 7-2 Form of organisation for insurance undertakings and pension institutions
(1) Insurance undertakings shall be founded and organised as public limited companies or mutual insurance undertakings, except as otherwise provided by law.

(2) An insurance undertaking that is to be a subsidiary of a financial group may be founded and organised as a private limited company. The same applies to insurance undertakings which according to their articles of association can only write direct insurance for entities in the group of
which the insurance undertaking is to form a part, or reinsurance of insurance risks for entities in
the same group.

(3) A pension fund shall be founded and organised as a self-owning ('selveiende') institution to
manage one or more collective pension schemes established by an entity or municipality
participating in the pension fund, except as otherwise provided by the Insurance Activity Act
section 2-2.

(4) A defined contribution pension undertaking shall be founded and organised as a public limited
company or private limited company.

Section 7-3  Form of organisation for other financial institutions
(1) Bond issuing credit institutions and finance companies may not, without the consent of the
Ministry of Finance, be founded and organised other than as public limited companies, private
limited companies or cooperative societies. The Ministry of Finance may set conditions including
requirements on the organisation of the entity.

(2) The Ministry of Finance may by regulations provide that payment institutions and electronic
money institutions shall be founded and organised as public limited companies or private limited
companies.

(3) The holding company of a financial group shall be organised in accordance with section 17-3
subsection (2) or (3). Except as otherwise provided by or pursuant to this Act, a holding company
that is organised as a savings bank, mutual insurance undertaking or bond issuing credit institution
that is not organised as a limited company or public limited company shall be subject to the rules
governing respectively savings banks, insurance undertakings or bond issuing credit institutions that
are cooperative societies of borrowers.

Section 7-4  Relationship to the companies legislation and the Cooperative Societies Act
(1) Except as otherwise provided by or pursuant to this Act, the provisions of the Public Limited
Companies Act apply to financial institutions organised as public limited companies, and the
provisions of the Private Limited Companies Act apply to financial institutions organised as private
limited companies.

(2) When established by a provision set out in or laid down pursuant to this Act, provisions of the
companies legislation apply mutatis mutandis to financial institutions that are not organised as
private limited companies or public limited companies.

(3) Except as otherwise provided by or pursuant to this Act, the provisions of the Cooperative
Societies Act apply to financial institutions that are cooperative societies of borrowers.

II  Foundation

Section 7-5  Requirements on founders
(1) A financial institution may be founded by one or more founders. The founders shall establish,
date and sign a memorandum of association that contains the institution's articles of association and
fulfils the requirements of sections 7-6 to 7-8.
As regards the founding of a financial institution that is not organised as a private limited company or public limited company, at least half of the founders shall be resident in Norway and have lived here for the last two years, unless the Ministry of Finance makes an exception in the particular case. The following are considered equal to persons who are resident in Norway: the central government and Norwegian municipalities along with limited liability companies, associations and foundations whose head office (registered office) according to their articles of association is in Norway.

Subsection (2) first sentence does not apply to citizens of states that are party to the EEA Agreement when such citizens are resident in such a state, nor does it apply to legal persons as referred to in the EEA Agreement Article 34 second paragraph that are established under the legislation of another EEA member state and whose head office according to their articles of association, their main administration or their head office is in such a state.

Section 7-6 Foundation of a financial institution as a private limited company or public limited company

(1) A financial institution that is to be organised as a private limited company shall be founded under the provisions of the Private Limited Companies Act. A financial institution that is to be organised as a public limited company shall be founded under the provisions of the Public Limited Companies Act. It may be stipulated in the articles of association that elections of board members shall be prepared by an election committee.

(2) If it is not clear from the memorandum of association that the founders have undertaken to subscribe shares and pay up share capital which in total is sufficient to fulfil the minimum requirement for start-up capital, the said document shall explain how the necessary capital is to be procured.

Section 7-7 Foundation of a financial institution not to be organised as a private limited company or public limited company

(1) Upon the founding of a financial institution that is not to be organised as a private limited company or public limited company, the memorandum of association shall at least contain:
   (a) the founders' names or corporate name, address and personal identification number or business enterprise organisation number,
   (b) the amount or amounts each of the founders undertakes to pay in to the financial institution's ownerless capital or other equity capital, and the date for payment,
   (c) details of expenses incurred in founding the institution which are to be met by the institution,
   (d) the identity of the members of the financial institution's board of directors, and the identity of the institution's auditor,
   (e) the institution's articles of association.

(2) The memorandum of association shall be accompanied by an opening balance sheet. The Public Limited Companies Act section 2-8 on opening balance sheets applies mutatis mutandis.
(3) If it is not clear from the memorandum of association that the founders have assumed obligations which in total are sufficient to fulfil the minimum requirement for start-up capital, the document shall explain how the necessary capital is to be procured.

Section 7-8  Articles of association of a financial institution that is not organised as a private limited company or public limited company

(1) The articles of association of a financial institution that is not organised as a private limited company or public limited company shall at least state:

(a) the institution's corporate name,
(b) the municipality in which the institution is to have its registered office,
(c) the institution's purpose and the business the institution is to engage in,
(d) the size of the institution's ownerless capital, and in the event the rules on repayment of, and return on contributions to, the ownerless capital that shall apply,
(e) the composition of the general meeting, election of the chairperson and members, what matters are to be considered by the general meeting, and the rules on voting rights and the majority required for the adoption of resolutions,
(f) the number, or the lowest and highest number, of board members, and rules governing elections of board members,
(g) whether the institution shall have the right to issue transferable equity certificates,
(h) how profit is to be employed and deficits covered, and rules for determining dividend if the institution is to be able to pay dividend on the ownerless capital,
(i) how the institution shall be wound up and the institution's capital distributed in the event of winding up.

(2) The articles of association of a mutual insurance undertaking shall also state:

(a) the number of insurances and the overall insurance sum that must be written in order for the undertaking to commence business,
(b) the rules on membership and the members' mutual responsibility for the undertaking's liabilities,
(c) the members' obligations to pay in member's contributions and make future payments to the ownerless capital.

(3) The articles of association of a loan association shall also contain the rules for membership and in the event the rules on members' contributions, the members' responsibility for the loan association's liabilities and their mutual responsibility.

Section 7-9  Payments, registration etc. for an institution that is not organised as a private limited company or public limited company

(1) Upon the founding of a financial institution that is not organised as a private limited company or public limited company, the Public Limited Companies Act sections 2-4 to 2-7 and sections 2-10 to 2-17 applies mutatis mutandis to the founding of the institution and payment of contributions to the institution's ownerless capital. Contributions to the ownerless capital shall be paid in money except as otherwise provided by section 10-3.
(2) Once all the founders have signed the memorandum of association, the contributions to the institution's capital are deemed to have been duly subscribed and the financial institution duly founded.

(3) Before notification is sent to Finanstilsynet, the contributions to the institution's ownerless capital shall have been paid up. The Register of Business Enterprises may require confirmation from an auditor that the contributions to the institution's ownerless capital have been paid. The Public Limited Companies Act sections 2-18 to 2-20 applies mutatis mutandis.

III Other provisions

Section 7-10 Approval of articles of association
(1) A financial institution's articles of association shall have been approved by the Ministry of Finance. The same applies to amendments to the articles of association.

(2) The Ministry of Finance may by regulations make further provision concerning the content and the approval of articles of association, and make exceptions from the requirement for approval in the case of specified types of such amendments.

Section 7-11 Registration of licence
(1) A financial institution shall be notified to Finanstilsynet once a licence is issued and the articles of association are approved. The time limit for notification to the Register of Business Enterprises under other statutes runs from the date the licence was issued. Financial institutions that are not notified to Finanstilsynet by the expiry of the deadline must be founded anew.

(2) The Register of Business Enterprises shall check that the licence exists, and that the institution's articles of association have been approved.

Section 7-12 Increase of ownerless capital
(1) Where a financial institution that is not organised as a private limited company or public limited company has adopted an amendment to its articles of association, section 7-9 applies mutatis mutandis to subscription, payment and registration of new contributions to the ownerless capital.

(2) Where the institution has owners' capital, the provisions of section 10-22 apply mutatis mutandis to any increase of the ownerless capital. Any premium shall be distributed under the rules of section 10-14.

Chapter 8 General meeting, governing and control bodies etc.

I General meeting

Section 8-1 Highest authority
(1) A financial institution shall have a general meeting. The general meeting is a financial institution's highest authority. Under the Co-operative Societies Act, however, the highest authority in cooperative societies of borrowers is the annual general meeting. A pension fund may omit to have a general meeting except as otherwise provided by its articles of association or licence terms.
In the case of pension funds that do not have a general meeting, the articles of association shall state who shall exercise the competence that otherwise resides in the general meeting.

(2) In the case of the general meeting of a financial institution that is organised as a private limited company or public limited company, the rules of, respectively, the Private Limited Companies Act or the Public Limited Companies Act shall apply. Finanstilsynet takes the place of the court of first instance in the exercise of authority as referred to in the Private Limited Companies Act section 5-9 subsection (2), section 5-12 subsection (1) third sentence, section 5-25 subsection (2) and section 5-28 subsection (2) and the Public Limited Companies Act section 5-9 subsection (2), section 5-12 subsection (2), section 5-25 subsection (2) and section 5-28 subsection (2).

(3) For financial institutions that are not organised as private limited companies or public limited companies, the articles of association may prescribe a term other than 'general meeting'.

Section 8-2 General meeting of a financial institution that is not organised as a private limited company or public limited company

(1) At a financial institution that is not organised as a private limited company or public limited company, the general meeting shall be composed and its members elected pursuant to further provisions of the articles of association. At least three quarters of the members shall be persons who are not employed by the institution. Emphasis shall be given to ensuring that the elected members in aggregate reflect the financial institution's customer structure and other stakeholder groups as well as its societal role, unless such interests are attended to by another overarching corporate body.

(2) The articles of association may contain provisions to the effect that the election of employees as members of the general meeting shall be undertaken by and from among the employees of the financial institution.

(3) The Ministry of Finance may by regulations make further provision concerning the election of members and deputy members to the general meeting, including with regard to voting rights, eligibility for election, term of office and lapse of office, electoral system and disputes concerning elections. The Ministry of Finance may by regulations also make further provision regarding election to, and composition of, the annual meeting of cooperative societies of borrowers, and may make exceptions from subsection (1) first sentence and the rules of the Cooperative Societies Act.

Section 8-3 Meetings and resolutions of the general meeting of financial institutions that are not organised as private limited companies or public limited companies

(1) The general meeting of an institution that is not organised as a private limited company or public limited company shall be convened by the board of directors. The Public Limited Companies Act sections 5-5 to 5-16 on notice of meetings, and on meetings, of the general meeting applies mutatis mutandis.

(2) Each member of the general meeting has one vote except as other provided by law or articles of association. A resolution requires a majority of the votes cast. The provisions of the Public Limited Companies Act section 5-2, section 5-3, section 5-4 subsection (1) first and second sentence, subsections (3) and (4) and section 5-17 apply insofar as appropriate.
A resolution to amend the articles of association of a financial institution requires the support of at least two-thirds of the votes cast. A more stringent majority requirement may be set in the articles of association.

The Public Limited Companies Act sections 5-21 to 5-28 on invalid resolutions and investigation applies mutatis mutandis. A member of the general meeting may exercise the right accruing to shareholders under the Public Limited Companies Act sections 5-22 and 5-25.

Finanstilsynet shall take the place of the court of first instance in the exercise of authority as referred to in the Public Limited Companies Act sections 5-9 subsection (2), section 5-12 subsection (2), section 5-25 subsection (2) and section 5-28 subsection (2).

II Board of directors

Section 8-4 Composition etc. of the board of directors

(1) A financial institution shall have a broadly composed board of directors of at least five members. The general manager may not be a member of the board of directors. The board chair and altogether at least two-thirds of the board of directors shall not be employed by the institution or by an institution in the same group. The board of directors of a pension fund shall have at least one member with no other connection to any employer, institution or association with a pension scheme in the pension fund, and at least one member who represents members, including retirees, in the pension fund's pension scheme.

(2) Except as other provided by subsections (3) or (4) or by section 8-15, the board chair and the other members shall be elected by the general meeting. The Ministry of Finance may by regulations establish a requirement that the general meeting of specified institutions shall appoint an election committee to prepare the elections, determine who shall be eligible for election, and make further rules for the work of the election committee. The articles of association shall contain rules concerning the election procedure.

(3) At institutions with at least 15 employees, a majority of the employees may require that one board member and one observer with deputy members shall be elected by and from among the employees.

(4) At institutions with more than 50 employees that do not have an enterprise assembly, a majority of the employees may demand that up to one-third and at least two of the board members shall be elected by and from among the employees. Where an institution belongs to a group or another grouping of institutions that are interconnected through owner interests or joint management, employees of the group may for the purposes of this Act be regarded as employees of that institution.

(5) The Public Limited Companies Act sections 6-6 to 6-11(a) applies mutatis mutandis to institutions that are not organised as private limited companies or public limited companies.
(6) The Ministry of Finance may by administrative decision make exceptions from the minimum requirement on the number of board members.

Section 8-5  **Board of directors of a financial institution which is a subsidiary of a financial group**

(1) At a financial institution which is a subsidiary of a financial group, the board of directors shall comprise at least three members. The provision of section 8-4 subsection (4) shall not apply to a subsidiary of a financial group at which the employees are represented on the parent company's board of directors.

(2) At a financial institution which is a subsidiary of a financial group, up to three-quarters of the board members may be employees of institutions in the group or be members of the board of another institution in the group. The board chair of a subsidiary of a financial group may be an employee of the parent company.

(3) The board chair of the parent company of a financial institution may not without Finanstilsynet's consent be a member of the board of directors of that financial institution.

Section 8-6  **The board of directors' tasks and supervisory responsibility**

(1) Responsibility for the management of the institution rests with the board of directors. The board of directors shall ensure that the institution is properly organised, and shall to that end ensure that the requirements on the organisation of the institution and on the establishment of adequate governance and control systems are complied with.

(2) The board of directors shall establish plans and budgets for the institution's operations. The board of directors shall also establish guidelines for the operations, including rules on confidentiality of information concerning the institution and its operations.

(3) The board of directors shall keep itself informed of the institution's financial position and obligations, and ensure that its operations, accounts and asset management are subject to satisfactory control. The board of directors shall at least once each quarter hold a meeting with the auditor without the general manager or others from the day-to-day management team being present, except as otherwise prescribed in instructions to the board of directors. The Auditors Act section 2-3 subsection (2), subsection (3) nos. 1 to 3 and subsection (4) applies *mutatis mutandis*.

(4) The board of directors shall maintain supervision of the day-to-day management and the institution's operations in general. The board of directors shall establish instructions for the day-to-day management, and ensure that the general manager regularly provides the board of directors with information on the institution's operations, position and financial results.

(5) The board of directors shall institute such enquiries as it deems necessary in order to discharge its tasks. The board of directors shall institute such enquiries if one or more board members so requests.
Section 8-7  Relationship to the rules governing the board of directors' tasks under the companies legislation
(1) The board of directors of a financial institution that is organised as a private limited company or public limited company also has tasks under the companies legislation. The provisions of the Public Limited Companies Act section 3-5 and the Private Limited Companies Act section 3-5 do not apply to financial institutions.

(2) The Public Limited Companies Act section 6-13 subsection (3), section 6-16, sections 6-18 to 6-26 and sections 6-28 to 6-34 applies mutatis mutandis to financial institutions that are not organised as private limited companies or public limited companies.

Section 8-8  Agreements with holders of equity certificates and with members of the institution's management team
(1) The board of directors of a financial institution that is not organised as a private limited company or public limited company shall ensure that any agreement between the institution and a board member, general manager, a holder of equity certificates or the latter's parent company is submitted to the general meeting for approval in cases where the institution's performance has a market value that constitutes more than one-twentieth of the ownerless capital and owners' capital of the institution. This shall not apply to any agreement

(a) in connection with the issuance of equity certificates covered by the provisions of section 10-13 subsection (1),
(b) which according to section 8-4 subsection (5) or section 15-6 is covered by the Public Limited Companies Act section 6-10 or section 6-16(a),
(c) concerning the transfer of securities at a publicly quoted price,
(d) which is entered into as part of the institution's ordinary operations and contains prices and other terms and conditions that are customary for such agreements.

(2) Any agreement covered by subsection (1) that has not been approved by the general meeting shall not be binding on the institution. The Public Limited Companies Act section 3-8 subsections (2) to (4) applies mutatis mutandis.

Section 8-9  Changes in the composition of the board of directors
(1) A financial institution shall notify changes in the composition of its board of directors to Finanstilsynet.

(2) The notification shall contain information as referred to in section 3-1 subsection (4).

(3) Finanstilsynet may order changes to be made if circumstances exist as referred to in section 3-5, or impose conditions pursuant to section 3-2 subsection (1) to ensure that the requirements of section 3-5 are met.

III   General manager

Section 8-10  Day-to-day management
(1) A financial institution shall have a general manager. The general manager shall be appointed by the board of directors.
The general manager has the right and obligation to participate in the board of directors' consideration of matters and to state his opinion, except as otherwise provided by the rules on incompetence in section 9-5 or decided by the board of directors in the case in hand. The general manager may request that the board of directors shall consider a particular matter.

The Public Limited Companies Act section 6-28 and sections 6-30 to 6-34 applies *mutatis mutandis* to the general manager at financial institutions that are not organised as private limited companies or public limited companies.

The general manager of the parent company of a financial group may not at the same time be the general manager of a subsidiary of that group without Finanstilsynets consent.

**Section 8-11  Tasks of the general manager**

1. The general manager is responsible for the day-to-day management of the institution's business and shall abide by the policies and orders issued by the board of directors.

2. The day-to-day management does not cover matters which, based on the institution's circumstances, are of an unusual nature or major significance. The general manager may otherwise decide a matter with the board of directors' authorisation in the particular case or when the board's decision cannot be awaited without causing significant inconvenience for the institution. The board of directors shall be informed of the decision at the earliest opportunity.

3. The general manager shall ensure that the institution has employees who in aggregate have the qualifications and experience needed for the business of the institution to be conducted in a satisfactory manner, and that adequate management and control systems are established; see chapter 13. The general manager shall ensure that instructions are adopted setting out the employees' work tasks and responsibilities, and rules for reporting and administrative procedures.

4. The general manager shall ensure that the institution's accounts are compliant with law and regulations, and that asset management and risk management are organised in a satisfactory manner.

5. The general manager also has tasks under the companies legislation. The same applies to the general manager of financial institutions that are not organised as private limited companies or public limited companies.

**Section 8-12  The general manager's obligations towards the board of directors**

1. The general manager shall at least once each month, at a meeting or in writing, inform the board of directors of the institution's business, position and financial results.

2. The board of directors may at any time request the general manager to provide the board of directors with a detailed account of particular matters. Such account may also be requested of the individual board member.
Section 8-13  Board of management
(1) The articles of association of a financial institution may state that the day-to-day management shall be a collective body. The board of management shall consist of three members appointed by the board of directors. The board of management shall be chaired by the general manager. Section 8-10 subsection (2) and section 8-14, as well as the Public Limited Companies Act sections 6-27 and 6-28 apply mutatis mutandis to the other members of the board of management.

(2) The board of management shall have the obligations set out in sections 8-11 and 8-12. The board of management shall draw up rules for the distribution of tasks among the members of the board of management, which shall be submitted to the board of directors for approval. The board of management may empower a member to make decisions in particular matters or types of matter within that member's area of responsibility.

(3) The board of management's resolution shall be the resolution for which the majority has voted. In the event of a tied vote, the board of management's resolution shall be the one for which the chair of the board of management has voted. At least half of members of the board of management must cast their vote.

(4) Meetings and the consideration of matters are headed by the chair of the board of management. The board of management shall keep a written and paged record of its resolutions. Unless a unanimous resolution is passed, the vote cast by each member shall be clear from the record. The Public Limited Companies Act section 6-19 subsection (1) first sentence and subsection (2) apply mutatis mutandis to the board of management’ consideration of matters.

Section 8-14  Changes in the day-to-day management
(1) A financial institution shall, as far as possible beforehand, notify Finanstilsynet when the day-to-day management or actual management of the business or parts thereof are changed. Section 8-9 subsections (2) and (3) apply mutatis mutandis.

(2) The Ministry of Finance may by regulations make further provision concerning such notification.

IV  Enterprise assembly

Section 8-15  Enterprise assembly
(1) At financial institutions with more than 200 employees it may be agreed between the institution and a majority of the employees or trade unions accounting for at least two-thirds of the employees that the institution shall have an enterprise assembly pursuant to further rules established in the articles of association.

(2) Two-thirds of the members with deputies shall be elected by the general meeting. The elected members shall in aggregate reflect the financial institution's customer structure and other stakeholder groups, and its social function.

(3) One-third of the members with deputies shall be elected by and from among the employees.
(4) The enterprise assembly shall have the tasks incumbent on a corporate assembly under the companies legislation, unless the institution's articles of association assign broader competence to the enterprise assembly.

(5) The Public Limited Companies Act section 6-35 subsection (6) second and third sentence and sections 6-36 to 6-39 applies mutatis mutandis. Finanstilsynet shall take the place of the court of first instance in the exercise of authority as referred to in the Public Limited Companies Act section 6-39.

(6) If an institution belongs to a group or to another grouping of institutions that are interconnected through owner interests or joint management, the employees of the group may for the purposes of this section be considered to be employees of that institution. The parent company and institutions in the group may have one and the same enterprise assembly. The Public Limited Companies Act section 6-40 applies mutatis mutandis.

V Control bodies

Section 8-16 Internal audit
(1) A financial institution shall have an internal audit function. The internal audit function shall oversee that the institution is organised and run in a satisfactory manner and in accordance with applicable requirements on the business. Matters considered to be unsatisfactory shall be reported to the board of directors and the general manager.

(2) The board of directors shall organise and adopt policies for the internal audit function. The board of directors is responsible for appointing and dismissing the head of the internal audit function and for establishing the latter's terms of employment. The internal audit function shall at least once a year submit to the board of directors a report on risk management and the internal audit and on its activity.

(3) Finanstilsynet may make further rules on the organisation and implementation of the internal audit at financial institutions, and may make exceptions from subsection (1) for certain groups of financial institutions.

Section 8-17 Auditor
(1) A financial institution shall have a registered or state authorised auditor. The general meeting shall elect one or more auditors and approve their remuneration. If the institution is under a statutory obligation to have an audit committee, the audit committee's statement shall be obtained before the election of the auditor. The Public Limited Companies Act sections 7-2 to 7-5 applies mutatis mutandis to financial institutions that are not organised as private limited companies or public limited companies. Finanstilsynet shall take the place of the court of first instance in the exercise of authority under the Public Limited Companies Act section 7-3 and the Private Limited Companies Act section 7-3.

(2) Finanstilsynet may establish special rules concerning the auditor's tasks at a financial institution. A financial institution shall not assign to the auditor tasks which may give rise to doubt as to the auditor's independence and objectivity. Finanstilsynet may order an institution to terminate an
auditor's engagement where Finanstilsynet finds that the engagement is liable to impair the auditor's independence or objectivity.

(3) Except as otherwise provided by or pursuant to law, a financial institution that forms part of a financial group shall have the same auditor as the parent company. Finanstilsynet may consent to a subsidiary having another auditor.

Section 8-18  Obligation to have an audit committee
(1) Banks, mortgage credit institutions and insurance institutions, as well as finance companies that have issued securities quoted on a regulated market, shall have an audit committee. The same applies to holding companies of groups of which such financial institutions form part.

(2) Except as otherwise provided by Finanstilsynet, subsection (1) does not apply to:

(a) a financial institution that is a wholly-owned subsidiary of a financial group whose parent company has an audit committee,
(b) a mortgage credit institution that issues covered bonds,
(c) a finance company that has not issued shares or equity certificates quoted on a regulated market, does not have outstanding bonds or short-term money market paper in an overall nominal amount of EUR 100 million or more, and has not published a prospectus.

(3) Finanstilsynet may by regulations or administrative decision make exceptions from financial institutions' obligation to have an audit committee and may make further provision concerning the audit committee's composition and tasks.

Section 8-19  Audit committee's tasks
(1) The audit committee is a preparatory and advisory committee to the board of directors.

(2) The audit committee shall:
(a) prepare the board of directors' follow up on the financial reporting process,
(b) monitor the internal control and risk management systems and the institution's internal audit function,
(c) issue a statement regarding the election of auditor,
(d) maintain ongoing contact with the institution's elected auditor on the audit of the annual accounts,
(e) assess and monitor the auditor's independence and objectivity, including in particular the extent to which non-audit services that have been delivered by the auditor may have a bearing on the auditor's independence and objectivity.

Section 8-20  Election of audit committee and its composition
(1) The Audit Committee's members shall be elected by and from among the members of the board of directors. A board member who is employed by the institution and is part of the de facto management team may not be a member of the audit committee.

(2) The audit committee shall in aggregate have the competence that is necessary based on the institution's organisation and business. At least one of the members shall not be employed by the
institution or by an institution in the same group, and shall have qualifications in the accounting and auditing fields.

(3) Except as otherwise provided by Finanstilsynet by administrative decision, it may be determined in the articles of association that the assembled board of directors shall function as the institution's audit committee.

Section 8-21 Special investigations
(1) If there is reason to believe that the institution is not properly organised or properly run, and that the institution lacks satisfactory procedures for risk management or internal control, or for financial reporting to the stock exchange, authorised marketplace or general public, Finanstilsynet may require the institution to engage one or more auditors or other experts to investigate the circumstances. The Financial Supervision Act section 2 subsection (6) applies *mutatis mutandis*.

(2) A report from the investigation shall be forwarded to Finanstilsynet. The report shall be considered by the institution's board of directors and general meeting. The institution shall inform Finanstilsynet of the board of directors' and general meeting's consideration of the report.

Chapter 9 Officers and employees

I General provisions

Section 9-1 Office or position in another financial institution
(1) A member of the board of directors of a financial institution may not simultaneously be a member of the board of directors of another financial institution unless this is to be considered unproblematic in relation to the objects of this Act.

(2) The general manager and other persons making up the de facto management team of a financial institution may not at the same time be a member of the board of directors of another financial institution or be part of the de facto management team of another financial institution unless this is to be considered unproblematic in relation to the objects of this Act.

(3) The prohibitions of subsections (1) and (2) shall not prevent an officer or employee of a financial institution from being employed in an institution in the same group or being a member of the board of directors of another institution in the group.

(4) The prohibitions of subsections (1) and (2) shall not prevent an officer or employee of a financial institution who participates in a collaborative grouping from constituting up to three-quarters of the members of the board of directors of a financial institution engaged in business covered by the collaboration, or of the board of directors of the parent company of such institution.

(5) Finanstilsynet may issue an order for an office or position in contravention of subsections (1) or (2) to be brought to an end. The Ministry of Finance may by regulations make further rules concerning the implementation and delimitation of the provisions of this section, including rules on dispensation.
Section 9-2  Office or position in an institution with a business connection to the financial institution
(1) The general manager and other persons making up the de facto management of the business of a financial institution may not be employed by or be a member of the board of directors of an institution that is engaged in other business activity and that has a customer relationship with or other business connection to the financial institution.

(2) The prohibition of subsection (1) shall not prevent employees from holding:

(a) a position or office connected to business which the institution may participate in or operate under section 13-2,
(b) an office or position as referred to in subsection (1) if the business connection is of limited scope and the board of directors of the financial institution has approved the employee's occupancy of the position or post.

(3) The Ministry of Finance may by regulations or by administrative decision make exceptions from subsection (1).

Section 9-3  Participation in business activity
(1) The general manager and other persons making up the de facto management of a financial institution may not operate or be a partner in business activity or be an agent or commission agent for anyone engaged in such business.

(2) The prohibition of subsection (1) shall not prevent an employee from operating, participating in or being an agent or commission agent for business of limited scope if the board of directors of the financial institution has given its approval.

(3) The Ministry of Finance may by regulations or by administrative decision make exceptions from subsection (1) in special cases.

Section 9-4  Remuneration from parties other than the financial institution
(1) Board members, the general manager and other employees of a financial institution may not in the course of their work for the institution receive remuneration from parties other than the institution. Nor may a person as referred to receive remuneration to which a co-contracting party or that party's representative is entitled from the institution.

(2) Remuneration that cannot be received by a board member, general manager or other employee of a financial institution may equally not be received by someone who will be a related party of the person concerned under the Public Limited Companies Act section 1-5.

(3) Remuneration that has been agreed or received in contravention of the prohibition of subsections (1) or (2) shall accrue to the institution. The same applies to any return on, and assets taking the place of, the remuneration.

(4) Board members may nonetheless receive ordinary intermediary remuneration provided the board of directors of the financial institution permits such remuneration and has established rules governing such business.
Section 9-5  Incompetence
(1) The rules of the Public Limited Companies Act section 6-27 on incompetence apply *mutatis mutandis* to board members, general manager and other persons making up the de facto management of the business of a financial institution. Grounds for incompetence include in particular any connection to a public or private institution with a prominent special interest in the matter under consideration.

(2) Any person not entitled to participate in the consideration of or decision on a matter shall make this clear prior to consideration of the matter, and shall abstain from the further consideration of the matter.

(3) Subsections (1) and (2) apply *mutatis mutandis* to persons making up a financial institution's internal audit function and/or remuneration committee.

Section 9-6  Confidentiality regarding customer matters etc.
(1) Employees and officers of a financial institution are under an obligation to prevent unauthorised persons from gaining access to or knowledge of information about the personal or business circumstances of others to which they may become privy in the course of their work, unless they by law or by regulations made pursuant to law either are obliged to disclose information or are permitted to disclose information that is otherwise deemed confidential. The same applies to any person who performs assignments for a financial institution, even if the person concerned is not in the institution's employment. When called for by special considerations, Finanstilsynet may waive the confidentiality obligation in whole or in part.

(2) Confidentiality under subsection (1) shall not prevent the surrender of information after those entitled to confidentiality have given their consent.

Section 9-7  Confidentiality regarding a financial institution
(1) Employees, officers and any others who perform assignments for a financial institution are required to abide by the board of directors' policies regarding the confidentiality of information concerning the institution and its business. Finanstilsynet may by administrative decision waive the confidentiality obligation in whole or in part in individual cases.

(2) Confidentiality entails no restriction on the disclosure obligation prescribed by provisions set forth in or pursuant to law

Section 9-8  Treatment of personal data in connection with employee authorisation schemes
(1) A trade organisation or affiliated legal entity that provides training for and authorises employees of financial institutions, entities acting as agent or other intermediary for financial institutions, and foreign financial institutions that intend to conduct or are conducting business through a branch in Norway, may review information as referred to in the Personal Data Act section 2(8)(b) as part of their assessment of whether an employee should be granted authorisation, lose authorisation or be given a warning.

(2) The Ministry of Finance may make regulations to the effect that subsection (1) shall also apply to the authorisation of employees in other types of institutions.
II  Loan and guarantees

Section 9-9  Credit to employees and officers etc.
(1) A financial institution may only grant a loan or provide a guarantee in favour of a board member when this is done on ordinary customer terms and conditions. An institution may only grant a loan or provide a guarantee in favour of the general manager and other employees on ordinary customer terms and conditions or in accordance with the institution's rules governing financial assistance to its employees. Loans and guarantees to officers and employees may otherwise be granted in accordance with a resolution by the financial institution's board of directors provided the internal audit or the auditor has confirmed that the engagement will be adequately secured by collateral or other security.

(2) The restrictions of subsection (1) do not apply to loans and guarantees granted before the officer or employee took up duties; nor do they prevent the institution from continuing or routinely renewing such loans or guarantees.

(3) The provisions of subsections (1) and (2) apply mutatis mutandis to loans and guarantees that are secured by surety or other guarantee from a person covered by subsection (1).

(4) Subsections (1) to (3) apply mutatis mutandis to an institution's right to grant loans or furnish guarantees in favour of a closely related party of an officer or employee and to an institution's right to grant a loan or provide a guarantee in favour of an officer or employee in another financial institution in the same group or any of their closely related parties. A closely related party or company is deemed to be any person or company mentioned in the Public Limited Companies Act section 1-5 subsection (2).

(5) A financial institution may not grant a loan or provide a guarantee in favour of its auditor. Subsections (3) and (4) apply mutatis mutandis.

Section 9-10  Credit to an entity in which an officer or employee is a partner or board member
(1) A financial institution may not grant a loan or provide a guarantee in favour of an entity in which a person as referred to in section 9-9 subsection (1) is a partner or board member unless the internal audit function or auditor has confirmed to the board of directors or general manager that the loan or guarantee will be adequately secured. Finanstilsynet may in special cases consent to a loan or guarantee being granted to an entity in which a board member participates as a board member.

(2) The prohibition of subsection (1) does not apply to loans or guarantees where:

(a) the loan or guarantee is granted in accordance with ordinary terms and conditions applying to credit arrangements which the financial institution offers to similar corporate customers,

(b) the person represents the financial institution's interests in the entity, and the entity either has a direct connection to the financial institution's operations or operates a business which the financial institution itself is in a position to operate,

(c) the loan or guarantee was granted in order to secure the payment of a claim held by the financial institution against the entity,
(d) the loan or guarantee was given before the officer or employee took up duties as partner or board member and has subsequently been continued or routinely renewed,
(e) the loan or guarantee was granted as part of a syndicated loan or syndicated guarantee.

(3) The board of directors shall see to it that at the end of each quarter statements are issued showing the balance and any security for loans and guarantees granted pursuant to subsection (2). The statements shall be submitted to the internal audit function.

(4) This section does not apply to a financial institution's right to grant loans or provide guarantees in favour of another entity in the same financial group.

Section 9-11  Relationship to the companies legislation
The Private Limited Companies Act sections 8-8 and 8-9 and the Public Limited Companies Act sections 8-8 and 8-9 do not apply to financial institutions.

Chapter 10  Equity capital

I  Equity capital

Section 10-1  Equity capital

(1) Equity capital in a financial institution organised as a private limited company or public limited company comprises capital which in accordance with the articles of association has been paid in as share capital and premium along with retained earnings.

(2) Equity capital in a financial institution not organised as a private limited company or public limited company comprises capital which in accordance with the articles of association has been paid in as ownerless capital and in the event owners' capital, along with retained earnings. The Ministry of Finance may by regulations stipulate whether and on what conditions members' contributions can count as equity capital.

(3) The Ministry of Finance may be regulations make provision regarding financial institutions' right to establish two or more classes of share capital or owners' capital, and may stipulate whether and to what extent various proprietary rights and financial rights and obligations can be attached to the various classes, including rules on the right to return and on priority in connection with write-downs to cover deficits shown in the annual accounts and in connection with redemption and winding up of the institution.

Section 10-2  Ownerless capital and owners' capital at financial institutions that have issued equity certificates

(1) Ownerless capital at financial institutions which are not organised as private limited companies or public limited companies comprises paid-up capital that is not owners' capital, to which is subsequently added return or profit, and other capital assigned to the ownerless capital, including any donations fund and compensation fund.
Owners' capital at financial institutions which are not organised as private limited companies or public limited companies comprises paid-up capital which according to the articles of association refers to equity certificates conferring proprietary rights at the entity to which is subsequently added return or profit, and any dividend equalisation fund and equity premium reserve.

Section 10-3  Payment of equity capital
(1) Share capital, capital assigned to ownerless capital, owners' capital and members' contributions that will make up equity capital at financial institutions shall be paid in money except as otherwise provided by subsections (2) or (3). The Ministry of Finance may by regulations or administrative decision make exceptions from the requirement regarding payment in money in connection with an increase of capital.

(2) Shares or equity certificates that are issued by merger or demerger of financial institutions or of the business of financial institutions may nonetheless be paid in whole or in part in a medium other than money. The same applies to shares or equity certificates which are issued as compensation for full or partial acquisition of a financial institution or other entity that may form part of a financial group, or of the business of such entity.

(3) Owners' capital may also be paid by conversion of ownerless capital and paid-up members' contributions at mortgage credit institutions or mutual insurance undertakings.

Section 10-4  Change of financial institution's equity capital prescribed in its articles of association
(1) Any resolution to reduce, redeem or increase the ownerless capital prescribed in a financial institution's articles of association shall be passed by the general meeting by the same majority as that required to amend the articles of association.

(2) The equity capital prescribed in an institution's articles of association may not be reduced below the statutory minimum requirement for equity capital unless the reduction is carried out without disbursement to the shareholders, owners of equity certificates or others.

(3) No resolution to reduce, redeem or increase the equity capital prescribed in a financial institution's articles of association may be adopted without Finanstilsynet's consent. Such conditions may be attached to the consent as are suited to safeguard the interests to be protected by the financial legislation.

(4) Such resolution is not valid and cannot be registered without Finanstilsynet's consent. Any time limit under other legislation for reporting a change to the Register of Business Enterprises runs from the date that Finanstilsynet gave its consent. A resolution that is not reported by the expiry of the time limit becomes void.

Section 10-5  Acquisition of treasury shares or equity certificates. Credit to shareholders etc.
(1) A financial institution that is organised as a private limited company or public limited company may acquire treasury shares if the acquisition is in accordance with the provisions of the Public Limited Companies Act sections 9-2 to 9-8.
(2) A financial institution that is not organised as a private limited company or public limited company may acquire treasury equity certificates provided the overall nominal value of the institution's treasury equity certificates after the acquisition does not exceed 10 per cent of the owners’ capital prescribed in the articles of association. The Public Limited Companies Act section 9-2 subsections (2) and (3), section 9-3 second sentence and sections 9-4 to 9-8 applies mutatis mutandis.

(3) Authorisation for the board of directors to decide on the acquisition of treasury shares or equity certificates may not be utilised until it is approved by Finanstilsynet. Such approval is valid for six months except as otherwise provided, or until Finanstilsynet revokes the approval out of consideration for the institution's financial position.

(4) In the calculation of a financial institution’s equity capital a deduction shall at all times be made for the book value of treasury shares or equity certificates.

(5) The Private Limited Companies Act sections 8-7 and 8-10 and the Public Limited Companies Act sections 8-7 and 8-10 do not apply to loans, collateral and other credit that a financial institution provides as part of its ordinary activity. A financial institution that is not organised as a private limited company or public limited company has a corresponding right to grant loans or other credit upon acquisition of equity certificates issued by the institution.

Section 10-6 Distribution of dividend etc.

(1) Dividend on share capital, dividend on owners' capital and ownerless capital under section 10-17, or dividend under section 10-7 subsection (2), shall not be higher than is appropriate and commensurate with prudent, sound business practices, due consideration being given to losses that may have arisen after the end of the financial year, or which must be expected to arise, and based on the need to build up equity capital at the financial institution. The Private Limited Companies Act section 8-1 subsection (2) and the Public Limited Companies Act section 8-1 subsection (2) do not apply to financial institutions.

(2) The general meeting shall determine, after the board of directors has presented its proposal for application of the net profit for the year, how large a portion of the overall net profit for the year shall be distributed as dividend for the year. No resolution may be passed to pay dividend higher than that proposed or accepted by the board of directors.

(3) If the board of directors decides to present a proposal for a payout that entails that the overall dividend in a single year will exceed one half of the profit pursuant to the approved accounts for the latest financial year, the board of directors shall notify the proposal to Finanstilsynet.

(4) Finanstilsynet may, when necessitated by a financial institution's financial position, order the institution not to pay out dividend or to pay less dividend than that proposed by the board of directors or adopted by the general meeting.

Section 10-7 Application of the net profit of a financial institution that has not issued shares or equity certificates

(1) The net profit for the year of a financial institution that is not organised as a private limited company or public limited company, and that has not issued equity certificates, shall be assigned to
the institution's ownerless capital, unless the articles of association provide that net profit shall be
distributed as dividend. The articles of association may provide that dividend funds can be utilised
as dividend on contributed ownerless capital, as gifts to non-profit causes or to a fund for such gifts,
as gifts to a foundation for non-profit causes, or be distributed to insurance policyholders or other
customers.

(2) In the calculation of the net profit for the year, section 10-17 subsection (1) applies *mutatis
mutandis*.

(3) The Ministry of Finance may make regulations concerning distribution of gifts under subsection
(1).

**Section 10-8  Repayment and write-down of equity capital**
The equity capital of a financial institution may not without Finanstilsynet's consent be reduced by
other means than a write-down to cover a deficit shown by the annual accounts which cannot be
covered by other means.

**II  Equity certificates etc.**

**Section 10-9  Issuance of equity certificates**

(1) Savings banks and other financial institutions that are not organised as private limited
companies or public limited companies may not issue equity certificates without the consent of the
Ministry of Finance. All equity certificates confer an equal right in the institution. It may
nonetheless be determined in the articles of association that there shall be equity certificates of
different types (two or more classes of equity certificates).

(2) Equity certificates may be issued by new subscription or by conversion of ownerless capital to
owners' capital provided the ownerless capital remains compliant with the statutory minimum
requirement under section 3-4.

(3) Equity certificates issued by conversion of booked ownerless capital to owners' capital shall be
transferred free of charge to a financial foundation, unless equity certificates are subscribed or
disposed of against compensation as referred to in section 10-3 subsection (2). The rules of chapter
6 on the ownership structure of financial institutions do not apply to the transfer of equity
certificates taken over by a financial foundation.

(4) Repayment of owners' capital may not be requested by the holders of the equity certificates that
have been issued, except as otherwise provided by sections 10-20 or 10-21.

(5) The Ministry of Finance may by regulations make further provision concerning owners' capital
and equity certificates. The Ministry of Finance may in special cases make regulations concerning
preference equity certificates that include rules that make exceptions from the provisions of sections
10-9 to 10-24.
Section 10-10 Resolution to issue equity certificates and to increase owners' capital
(1) Issuance of equity certificates shall be decided by the general meeting by the same majority as for an amendment to the articles of association. The Public Limited Companies Act sections 10-1 to 10-3 and sections 10-6 to 10-13 applies mutatis mutandis.

(2) The general meeting may by the same majority as for an amendment to the articles of association authorise the board of directors to issue equity certificates. The resolution shall specify the size of the owners' capital under the authorisation and shall set a period of up to two years' duration for the authorisation. The Public Limited Companies Act section 10-14 subsections (2) and (3) and sections 10-15 to 10-17 applies mutatis mutandis.

(3) In connection with an increase of owners' capital, the holders of equity certificates have a preferential right to subscribe the new equity certificates in the same proportion as they already own equity certificates issued by the institution. The Public Limited Companies Act section 10-5 applies mutatis mutandis. The preferential right does not apply where equity certificates are issued by conversion of booked ownerless capital to owners' capital or are subscribed or disposed of in connection with a merger or demerger of a financial institution or acquisition of another institution.

Section 10-11 Provisions of articles of association on voting rights and right to representation
(1) The articles of association of financial institutions that issue equity certificates shall contain provisions conferring upon the holders of equity certificates the right to exercise at least one fifth and not more than two fifths of the votes of the general meeting. Each equity capital certificate confers one vote.

(2) If the owners of equity certificates constitute more than the percentage share prescribed in the articles of association of the number of votes that are present at the general meeting, the voting weight of the individual equity capital certificate shall be proportionally reduced.

(3) At financial institutions where the owners of equity certificates elect members to the general meeting, further rules on such election, including with regard to voting rights, eligibility for election, term of office and lapse of office, deputy members, electoral system and settlement of disputes concerning elections, shall be established in the articles of association.

(4) The Ministry of Finance may by regulations make further provision regarding equity capital certificate holders' voting rights and right to representation in the institution.

Section 10-12 Subscription, registration etc., of equity certificates
(1) The Public Limited Companies Act sections 10-7 to 10-13 and sections 10-18 to 10-19 concerning subscription, allotment, payment and notification to the Register of Business Enterprises applies mutatis mutandis to the issuance of equity certificates. The time limit for notifying the Register of Business Enterprises pursuant to the Public Limited Companies Act section 10-9 is reckoned from the date the Ministry of Finance gave its consent under this Act section 10-9. Resolutions not notified by the expiry of the time limit become void.

(2) A financial institution shall ensure that a register of equity capital certificate holders is established in a securities register without delay. The Public Limited Companies Act sections 4-1 to 4-11 applies mutatis mutandis.
Section 10-13 Payment of equity capital in a medium other than money upon issuance of equity certificates

(1) In connection with the issuance of equity certificates where payment is in a medium other than money, the Public Limited Companies Act sections 2-4, 2-6 and 2-7 applies mutatis mutandis.

(2) Where equity certificates are issued by a financial institution which already has owners' capital, premium on the equity certificates shall be distributed in accordance with section 10-14. The same applies to any increase of ownerless capital at financial institutions with owners' capital.

Section 10-14 Premium and application of equity premium reserve and compensation fund

(1) Premium on subscription of equity certificates shall after deduction of the costs of the subscription process be distributed between the premium reserve and the compensation fund.

(2) Except as otherwise provided in the resolution concerning the issuance of new equity certificates, the portion of the premium on such instruments that is to be added to the premium reserve shall be computed based on the ratio of booked owners' capital after new subscriptions to the sum of the booked ownerless capital and owners' capital after new subscriptions. The remainder of the premium shall be added to the compensation fund. The Ministry of Finance may by regulations make further provision with regard to the distribution of such premium at institutions that already have owners' capital.

(3) The premium reserve and the compensation fund may only be used:

(a) to cover, pro rata, the costs of increasing the owners' capital,
(b) to cover, pro rata, deficits that cannot be covered by other means under section 10-19,
(c) to cover, pro rata, payments to the holders of equity certificates upon reduction of the owners' capital, including reductions through deletion of the institution's treasury equity certificates,
(d) as an addition to the owners' capital and ownerless capital respectively in the event of winding up.

(4) The premium reserve may also be used for bonus issues, provided that the institution does not have an uncovered deficit.

Section 10-15 Transfer. Pledging

(1) Except as otherwise provided by or pursuant to law or as established in the articles of association, equity certificates may change owner by transfer or by other means. The same applies to subscription rights to equity certificates. Sections 4-12 to 4-14 of the Public Limited Companies Act apply mutatis mutandis.

(2) In the articles of association the right to transfer or acquire equity certificates or subscription rights may only be restricted by provisions as referred to in section 4-15 subsection (2) of the Public Limited Companies Act. The rules of section 4-15 subsection (3) and sections 4-16 to 4-18 of the Public Limited Companies Act apply mutatis mutandis.
(3) Equity certificates may be pledged except as otherwise provided in the articles of association. Section 4-15a of the Public Limited Companies Act applies *mutatis mutandis*.

**Section 10-16 Subscription and acquisition of treasury equity certificates**
(1) The prohibition of section 9-1 of the Public Limited Companies Act against subscribing treasury shares applies *mutatis mutandis* to equity certificates. This shall not prevent an institution from taking over equity certificates issued upon the conversion of ownerless capital to owners' capital under the provisions of section 10-9 subsection (2) or acquiring treasury equity certificates under the rules of section 10-5.

(2) The articles of association may provide that the general meeting's resolution regarding acquisition of treasury equity certificates must be supported by at least two thirds of the votes cast by, or by members elected by, the holders of equity certificates.

**Section 10-17 Profits, dividends etc.**
(1) The profit for the year shall be assigned to the holders of equity certificates and the financial institution based on the ratio of the owners' capital plus the premium reserve to the ownerless capital plus the compensation fund. The dividend for the year shall be distributed between the owners' capital and the financial institution based on the same ratio.

(2) 'Profit for the year' means the profit for the year pursuant to the latest approved financial statements after adjustments have been made for transfers to or from the fund for valuation differences, for allocations to the fund for unrealised gains and for transfers from the fund for unrealised gains that were previously recognised in the income statement. Section 3-2 of the Public Limited Companies Act applies *mutatis mutandis*.

(3) Dividend assigned to owners' capital shall be paid as dividend to the holders of equity certificates. The remainder of the profit for the year assigned to owners' capital shall be added to the dividend equalisation fund or constitute other owners' capital.

(4) That part of the profit for the year which is assigned to the ownerless capital shall be added to the ownerless capital. The articles of association may nonetheless provide that dividends may be used as dividends on contributed ownerless capital, as gifts to non-profit causes or transferred to a fund for such gifts (donations fund), transferred to a foundation for non-profit causes, or used as dividends for insurance policyholders or other customers. When disposing of dividends the institution should consider it important to avoid any significant change in the balance between the ownerless capital and the owners' capital. Finanstilsynet may give its approval for the institution to take special measures to counteract or rectify such a change.

(5) The Ministry of Finance may make regulations concerning distribution of gifts under subsection (4).

**Section 10-18 Dividend equalisation fund**
(1) The dividend equalisation fund may be used to maintain dividends on the owners' capital.

(2) Transfers from the fund for unrealised gains that have previously been recognised in the
income statement may be set aside to the dividend equalisation fund.

(3) Distribution of dividends from the dividend equalisation fund may only be undertaken when justified by the institution’s equity capital situation.

(4) The Ministry of Finance may by regulations set limits to the right to transfer assets from the dividend equalisation fund by means of a bonus issue.

**Section 10-19 Deficits**

(1) A deficit pursuant to the income statement for the last financial year shall in the first instance be covered by a pro rata transfer from the ownerless capital, including the donations fund, and owners' capital in excess of the owners' capital stipulated in the articles of association, including the dividend equalisation fund. In a loan association or mutual insurance undertaking a deficit may instead be levied on the members, except as otherwise provided in the articles of association.

(2) A deficit not covered by transfer pursuant to subsection (1) shall be covered by pro rata transfer from the premium reserve and the compensation fund.

(3) A deficit not covered by write-down pursuant to subsections (1) and (2) shall be covered by reducing the owners' capital prescribed in the articles of association, and in the event by reducing other capital when this is provided for by articles of association or terms of agreement.

(4) The Ministry of Finance may make regulations governing priority in connection with a write-down to cover a deficit.

**Section 10-20 Distribution of capital upon winding up**

When a financial institution is wound up, that part of the owners' capital and premium reserve that remains after all creditors have been paid in full shall be distributed on a pro rata basis to the holders of equity certificates.

**Section 10-21 Reduction of owners' capital**

(1) The general meeting may, by the same majority as for an amendment to the articles of association, pass a resolution to reduce in whole or in part the owners' capital prescribed in the articles of association. Section 12-1 subsections (2) to (4) and sections 12-2 to 12-7 of the Public Limited Companies Act apply *mutatis mutandis*, nonetheless such that the amount concerned may only be used for the purpose of:

- (a) covering a deficit that cannot be covered by other means under the rules of or pursuant to section 10-19,
- (b) distribution to the holders of equity certificates,
- (c) deleting equity certificates owned by the financial institution,
- (d) allocation to the premium reserve and the compensation fund.

(2) The articles of association may prescribe that any resolution to reduce in whole or in part the owners' capital followed by a payout to the holders of equity certificates shall require support from at least two thirds of the votes cast by, or by members elected by, the holders of equity certificates.
Section 10-22 Increase of owners' capital
(1) The owners' capital may be increased by new subscription, by conversion of ownerless capital to owners' capital or by means of a bonus issue by the transfer of funds eligible for distribution as dividend to the owners' capital or transfer of funds in the equity premium reserve. Sections 10-1 to 10-3 and sections 10-6 to 10-13 of the Public Limited Companies Act apply mutatis mutandis to new subscription and conversion. Section 10-20 subsection (3) and sections 10-21 to 10-23 apply mutatis mutandis to bonus issues.

(2) The articles of association may prescribe that the general meeting's resolution to increase owners' capital through the issue of new equity certificates or to authorise the board of directors to issue new equity certificates, including any decision concerning price or concerning waiving of or exception from preferential rights as referred to in section 10-10 subsection (3), shall require the support of at least two thirds of the votes cast by, or by members elected by, the holders of equity certificates.

Section 10-23 Subscription rights
(1) The general meeting may resolve by the same majority as for an amendment to the articles of association that the institution shall issue subscription rights conferring on the owners a right to subsequently request the issue of equity certificates. Such resolution shall be approved by Finanstilsynet. Section 10-10 subsections (2) and (3) apply mutatis mutandis. If such subscriptions rights are exercised, the owners' capital shall be increased without the general meeting adopting a new resolution.

(2) Section 10-12 concerning subscription and registration of subscription rights applies mutatis mutandis. The amount paid for the subscription rights shall be distributed in accordance with section 10-14 on the distribution of premium in connection with subscription of equity certificates. Sections 11-12 and 11-13 of the Public Limited Companies Act apply mutatis mutandis.

Section 10-24 Loans conferring a right to request the issue of equity capital certificates
(1) An institution may when contracting a loan give the lender the right to request the issue of equity certificates against deposit of cash or conversion of loan capital. Sections 11-2 to 11-7 of the Public Limited Companies Act apply mutatis mutandis insofar as appropriate.

(2) A resolution or authorisation to raise a loan pursuant to subsection (1) must be adopted by the general meeting by the same majority as for an amendment to the articles of association. Section 10-10 subsections (2) and (3) apply mutatis mutandis to institutions having owners' capital. Such resolution may not be registered with the Register of Business Enterprises until it has been approved by Finanstilsynet.
Chapter 11 Debt capital etc.

I Debt capital

Section 11-1 Debt capital
In this Act debt capital means capital that is not equity capital. Bank deposits are considered to be debt capital.

Section 11-2 Raising, write-down and conversion of debt capital
(1) The procedure for a financial institution to raise subordinated loan capital and other debt capital shall be set forth in the articles of association. Any resolution or authorisation to raise subordinated loans shall be adopted by the general meeting by the same majority as for an amendment to the articles of association. The Ministry of Finance may make regulations concerning financial institutions' right to raise various forms of debt capital and what financial rights and obligations may be attached to the various forms.

(2) A financial institution shall ensure that the terms of any loan agreement state the loan's priority in the event of the institution being wound up, and to what extent the loan can be written down during ongoing operations in order to cover a deficit recognised in the income statement.

(3) The Ministry of Finance may make regulations concerning the write-down of debt capital and priority in connection with write-downs. The Ministry of Finance may adopt an administrative decision or make regulations concerning the conversion of the debt capital of financial institutions to equity capital.

Section 11-3 The liability of members of loan associations and mutual insurance undertakings
(1) Members' liability in relation to a loan association's or a mutual insurance undertaking's obligations may only be invoked by the financial institution concerned.

(2) Any deficit of a loan association or a mutual insurance undertaking shall be apportioned among the members in the accounting period concerned, except as otherwise provided by regulations or the articles of association. An entity's claim for contributions from members to settle a deficit cannot be transferred, pledged or distrained for debt.

(3) The articles of association of mutual life insurance undertakings may provide that deficits shall instead be settled by pro rata reduction of the insurance claims.

Section 11-4 Repayment and write-down of own funds
Own funds other than equity capital may not without Finanstilsyn's consent be reduced by other means than repayment on the agreed due date or by write-down to cover a deficit pursuant to the annual accounts that cannot be covered by other means.
II Covered bonds

Section 11-5 Scope
Sections 11-5 to 11-15 regulate mortgage credit institutions’ right to raise loans by issuing covered bonds. The term 'covered bonds' denotes standardised bearer bonds conferring a preferential claim over a mortgage credit institution’s cover pool.

Section 11-6 Protected term
The term “covered bonds” may only be applied to bonds coming under the rules of sections 11-5 to 11-15.

Section 11-7 Business restrictions and obligation to notify upon start-up
(1) A mortgage credit institution may raise loans by issuing covered bonds where the mortgage credit institution's mission as laid down in its articles of association is:

   (a) to grant or acquire residential mortgages, commercial mortgages, loans secured by other registered assets or public sector loans, and
   (b) to finance its lending business primarily by issuing covered bonds.

(2) A mortgage credit institution shall notify Finanstilsynet not later than 30 days prior to the first time it issues covered bonds.

(3) Where consideration for a mortgage credit institution's financial strength so indicates, Finanstilsynet may instruct the mortgage credit institution not to issue covered bonds.

(4) Finanstilsynet may consent to mortgage credit institutions engaging – in a transitional period and in parallel with other activity – in activity that consists in raising loans through the issue of covered bonds. The said activities shall in such case be kept separate from one another. Finanstilsynet may impose conditions to ensure such separation. Finanstilsynet’s consent may be given for a period of up to one year with the possibility of extension for one further year.

Section 11-8 Requirements on the composition of the cover pool
(1) The cover pool may only consist of the following assets:

   (a) loans secured by residential property, by a document of proprietary lease of a housing unit or by a certificate showing that the lessee owns a share in the housing cooperative that owns the housing structure of which the unit forms part (residential mortgage),
   (b) loans secured by other real estate (commercial mortgages),
   (c) loans secured by other registered assets,
   (d) loans to, or loans guaranteed by, the State, a municipality or corresponding public body in other states (public sector loans),
   (e) assets in the form of derivative contracts which meet further requirements set in regulations,
   (f) assets which constitute substitute assets under the provisions of subsection (4) below.

(2) Upon inclusion in the cover pool, loans as referred to in the first subsection (a) to (c) shall not exceed a specified percentage of the value of the mortgaged property (loan-to-value ratio). The Ministry of Finance may issue regulations on loan-to-value ratios for different types of assets.
(3) Loans as referred to in subsection (1)(a) to (c) must be secured on a capital asset situated within the EEA or the OECD area. Public sector loans must have been granted to or guaranteed by a public body as referred to in subsection (1)(d) within the EEA or the OECD area.

(4) Only particularly liquid and secure assets may be employed as substitute assets. Substitute assets may at all times constitute up to 20 per cent of the cover pool. Where special conditions exist, Finanstilsynet may authorise this proportion to constitute up to 30 per cent for a limited period. The Ministry of Finance may by regulations make supplementary provision for requirements on assets eligible for inclusion in the cover pool, including restrictions on the composition of the cover pool.

Section 11-9 Calculation of the value of underlying assets
(1) Upon inclusion of loans as referred to in section 11-8 subsection (1)(a) to (c) in the cover pool, a prudent value shall be established for the asset furnished as security for each loan. Prudent market value may not exceed the market value resulting from a cautious assessment.

(2) Prudent value shall be determined by individual assessment of the registered asset concerned. Valuations shall be conducted by a competent and independent person in accordance with recognised principles. A valuation shall be documented and shall indicate who has conducted it, when it was conducted and the premises on which it was based. Valuation of residential properties may never the less be based on general price levels provided this is deemed prudent in terms of market conditions.

(3) Mortgage credit institutions shall establish systems for subsequent monitoring of asset values. Mortgage credit institutions shall also monitor market trends and factors bearing on the value of the individual registered assets. Should market conditions or factors pertaining to the individual asset indicate that significant value impairment has taken place, the mortgage credit institution concerned shall ensure that a new prudent value is established in accordance with subsections (1) and (2).

(4) The Ministry of Finance may by regulations establish further rules on valuation and on requirements with regard to mortgage credit institutions' systems. The said Ministry may by regulations also establish rules governing changes to loan-to-value ratios resulting from a subsequent fall in the value of assets as referred to in section 11-8 subsection (1)(a) to (c).

Section 11-10 Pledging and execution
Assets included in a cover pool may not be pledged or be subject to execution, attachment or other enforcement proceedings in favour of particular creditors of the mortgage credit institution. Nor may a right of set-off, right of retention or the like be declared or agreed in assets included in the cover pool. The Ministry of Finance may by regulations make special rules and make exceptions from the provision of this section in the case of assets as referred to in section 11-8 subsection (1)(e).

Section 11-11 Asset coverage requirement
(1) The value of the cover pool shall at all times exceed the value of bonds with a preferential claim over the cover pool. Account shall be taken of the mortgage credit institution’s derivatives contracts as referred to in section 11-8 subsection (1)(e) when values are calculated. The Ministry of Finance may by regulations make further requirements in regard to how such values shall be calculated and
impose requirements on by what margin the value of the cover pool shall exceed the value of the bonds. The Ministry of Finance may by regulations make provision regarding mortgage credit institutions which fail to meet the asset coverage requirement set out in the first sentence.

(2) In an assessment of whether the requirement of subsection (1) is met, loans to the same borrower and loans secured on the same collateral cannot be included at more than 5 per cent of the total cover pool. The Ministry of Finance may make regulations providing for the inclusion of loans over and above the limit of 5 per cent where additional collateral exists, and rules governing such additional collateral.

Section 11-12 Liquidity requirements
(1) Mortgage credit institutions shall ensure that the payment flows from the cover pool enable them to honour their payment obligations towards holders of covered bonds and counterparties to derivatives contracts as referred to in section 11-8 subsection (1)(e) at all times. Mortgage credit institutions may enter into interest rate and foreign exchange contracts in order to meet this requirement.

(2) Mortgage credit institutions shall establish a liquidity reserve to be included in the cover pool as substitute assets. The Ministry of Finance may by regulations make further provision regarding liquidity reserves, including rules on permitted divergence between future receipts and payments and permitted divergence between the redemption conditions for covered bonds and for assets included in the cover pool assigned to such bonds. The Ministry of Finance may by regulations make provision regarding permitted interest rate risk and foreign currency risk and regarding the right to enter into interest rate contracts and foreign currency contracts.

Section 11-13 Register requirement
(1) Mortgage credit institutions shall keep a register of the covered bonds they issue, and of the cover assets assigned thereto, including derivatives contracts as referred to in section 11-8 subsection (1)(e). The register shall at all times contain information on the value of the bonds and the cover pool.

(2) The Ministry of Finance may issue regulations setting further requirements as to the register’s contents, design and accessibility, as well as rules on maintaining the register.

Section 11-14 Independent inspector
(1) Before a mortgage credit institution issues covered bonds, an independent inspector shall be appointed for the company. The inspector shall be appointed by Finanstilsynet. Finanstilsynet may at any time revoke the appointment and appoint a new inspector.

(2) The inspector shall oversee that the register is correctly maintained and shall regularly review compliance with the requirements of sections 11-11 and 11-13. The inspector shall regularly inform Finanstilsynet of his/her observations and assessments.

(3) A mortgage credit institution is obliged to provide the inspector with all relevant information about its business. The inspector shall have full access to the mortgage credit institution's register and may request further information from the company. The inspector shall also be entitled to conduct investigations on the premises of the company.
(4) The inspector shall be entitled to reasonable remuneration from the mortgage credit institution for his work. The Ministry of Finance may by regulations make further provision on the appointment and remuneration of inspectors, and on inspectors’ tasks, rights and obligations.

Section 11-15 Preferential claim over the cover pool, joint debt recovery etc.
(1) In the event of public administration or winding up of a mortgage credit institution, holders of covered bonds and counterparties to derivative contracts as referred to in section 11-8 subsection (1)(e) shall have an exclusive, equal and proportional preferential claim over the cover pool assigned to them. Such preferential claim over the cover pool shall rank ahead of priority as referred to in the Debt Recovery Act of 8 June 1984 No. 59 sections 9-2 to 9-4. In regard to bankruptcy, the provisions of the Mortgages and Pledges Act section 6-4 on a statutory security interest for the bankruptcy estate shall apply mutatis mutandis to the estate’s claim over the cover pool. The estate’s statutory security interest in each individual cover pool shall in such cases comprise a maximum of 700 times the court fee.

(2) The preferential claim shall also apply to funds which are subsequently remitted in accordance with terms of contract applying to assets included in the cover pool. Such funds shall be registered on a continuous basis under the rules of section 11-13.

(3) In the event of public administration or winding up of a mortgage credit institution, holders of covered bonds and counterparties to derivatives contracts as referred to in section 11-8 subsection (1)(e) shall be entitled to timely payment from assets encompassed by their preferential claim for the duration of the insolvency or administration proceedings, provided the cover pool is essentially in compliance with the statutory requirements. Should it not be possible to make contractual payments using funds from the cover pool, and an imminent change in the liquidity situation is unlikely, the bankruptcy estate shall set a date on which payments shall be halted. The bankruptcy estate shall inform holders of preferential claims of the halt to payments at the earliest opportunity.

(4) Should the cover pool deliver more than is needed to meet the claims of the bondholders or derivatives counterparties, the surplus shall be added to the gross estate.

(5) The Ministry of Finance may by regulations make further provision regarding the administration board's or liquidation board's opportunity to dispose over loans and other assets included in the cover pool when this can be done without impairing other creditors’ ability to enforce a claim. Such regulations may depart from the rules of chapter 21 and the rules of the Debt Settlement Proceedings and Bankruptcy Act and the Enforcement Act.
Chapter 12 Corporate changes, winding up and conversion

I Merger and demerger of financial institutions

Section 12-1 Authorisation
(1) The merger or demerger of a financial institution and the establishment of a financial foundation in connection with such merger or demerger may only be carried out under authorisation of the Ministry of Finance.

(2) The acquisition and disposal of an entire business or parts thereof with appurtenant assets and obligations is regarded as equivalent to a merger or demerger. The Ministry of Finance shall decide in cases of doubt whether the disposal or acquisition involves a large part of the business.

(3) Amendments to articles of association in connection with a merger or demerger shall be approved by the Ministry of Finance. The same applies to the articles of association of a financial institution that is established as a result of the merger or demerger.

(4) The provisions of chapter 3 apply mutatis mutandis insofar as appropriate.

(5) The Ministry of Finance may by regulations make further provision regarding the merger and demerger of financial institutions.

Section 12-2 Forms of business organisation
(1) The provisions on merger and demerger of financial institutions that are not organised as private limited companies or public limited companies apply mutatis mutandis to the merger of a financial institution not organised as a private limited company or public limited company with a financial institution organised under the companies legislation.

(2) In the assessment of whether permission shall be given for a merger or demerger whereby the business of a savings bank will be transferred to a bank organised as a private limited company or public limited company, section 12-13 subsection (3) applies mutatis mutandis.

Section 12-3 Resolution on merger or demerger
(1) Any resolution regarding a merger or demerger of a financial institution that is not organised as a private limited company or public limited company shall be adopted by the general meeting by the same majority as that required to amend the articles of association. The articles of association may provide that a resolution on merger or demerger of the financial institution shall require that the majority of the general meeting includes at least two-thirds of the votes cast by, or by members elected by, the holders of equity certificates.

(2) Financial institutions that are to be merged shall draw up a joint plan for the merger which shall be notified to the Register of Business of Enterprises. At each of the institutions the general meeting's approval of the plan shall constitute the decision to merge. The Public Limited Companies Act sections 13-3, 13-4, 13-6 to 13-11 and 13-13 apply mutatis mutandis insofar as appropriate to any institution that is not organised as a private limited company or public limited company.
(3) Where a financial institution not organised as a private limited company or public limited company is to be demerged, a demerger plan shall be drawn up and notified to the Register of Business Enterprises. The Public Limited Companies Act sections 14-3 to 14-5 applies mutatis mutandis insofar as appropriate. The general meeting's approval of the plan constitutes a decision to demerge.

(4) A draft memorandum of association and articles of association for the financial institution and financial foundation to be established in connection with the merger or demerger shall be presented to the general meeting during consideration of the plan mentioned in subsection (2) or (3). The draft memorandum of association to be presented to the general meeting shall state who are to be, or the procedure for the election of, board members and state who shall be the auditor pending the general meeting's election of an auditor. The memorandum of association shall state who are to be board members and who is to be the auditor pending the general meeting's election of an auditor. The opening balance sheet drawn up under rules mentioned in the Public Limited Companies Act section 2-8 shall be enclosed with the memorandum of association.

(5) A financial institution that is to be merged or demerged shall without undue delay inform its customers of the decision and what it means for the customers' rights and security. If the decision entails changes of significance for the customers, the latter shall be entitled to terminate the customer relationship. The institution shall inform the customers of their right to terminate the customer relationship.

(6) In the event of the merger or demerger of a deposit-taking financial institution, the institution shall provide information as referred to in subsection (5) at least one month before the transaction is carried out. Depositors may request that eligible deposits that are not covered under section 19-4 be disbursed or transferred to another member institution.

Section 12-4 Establishment of a financial foundation. Allocation of dividends etc.
(1) Where a merger or demerger plan provides that an institution shall issue equity certificates by converting ownerless capital to owners' capital, equity certificates that are not disposed of as compensation pursuant to section 10-3 subsection (2) shall be transferred to a financial foundation established by the institution. Equity certificates that an institution is to receive after subscription or as compensation for the full or partial transfer of its activities shall be transferred to a financial foundation established by the institution. The rules of chapter 6 regarding financial institutions' ownership structure do not apply in the event of transfer of equity certificates to the financial foundation.

(2) If one or more of the financial institutions participating in the merger or demerger have owners' capital, the merger or demerger plan shall state the exchange ratio between issued equity certificates and the equity certificates to be issued by the acquiring institution.

(3) Where two or more savings banks are merged into a single savings bank without the issue of equity certificates, the merger plan may instead provide that the articles of association of the merged bank shall contain provisions stating how large a portion of the dividends for a year shall be devoted to the public good within the individual areas in which each of the banks involved in the merger has conducted the bulk of its business. The merger plan may also stipulate that the same
distribution formula shall underlie the allocation of the equity capital of the merged bank if it is subsequently decided to wind it up.

(4) In the case of a merger whereby the activities of one financial institution that is not organised as a limited company are transferred to another financial institution that is organised as a limited company, the compensation and other remaining capital shall be distributed pursuant to the rules of sections 12-11 or 12-12.

Section 12-5 Notification of merger or demerger. Notice to creditors
(1) The Register of Business Enterprises shall be notified of any merger or demerger no later than one month after the merger or demerger plan has been approved pursuant to section 12-3.

(2) The provisions concerning notification, consequences of overstepping a deadline, public announcements and notice to creditors in sections 13-14 to 13-16 and 14-7 of the Public Limited Companies Act apply mutatis mutandis.

Section 12-6 Notification of coming into effect. Implementation
(1) Once the deadline referred to in the notice to creditors has expired and the relationship to creditors who have raised objections has been clarified, notification shall be given to the Register of Business Enterprises that the merger or demerger is to come into effect, including notification of registration of any financial institution or financial foundation to be established as a result of the merger or demerger. The Register of Business Enterprises shall check that authorisation has been given and that the articles of association have been approved.

(2) Once the merger or demerger is registered with the Register of Business Enterprises, the merger or demerger comes into effect and can be implemented. Sections 13-17 to 13-19, 14-8 and 14-9 of the Public Limited Companies Act apply mutatis mutandis.

Section 12-7 Legal action concerning invalid merger or demerger
The provisions of sections 13-20 to 13-23 and 14-10 of the Public Limited Companies apply mutatis mutandis in regard to the period of time allowed for initiating legal action and in regard to the effects of invalidity etc.

II Winding up of financial institutions

Section 12-8 Winding up resolution
(1) Except as otherwise provided by law, a resolution to wind up a financial institution that is not organised as a limited company shall be adopted by the general meeting by the same majority as for an amendment to the articles of association. The board of directors shall present a winding up plan to the general meeting. If the plan provides for the establishment of a foundation, section 12-3 subsection (4) applies mutatis mutandis.

(2) The winding up of a financial institution and establishment of a financial foundation in connection with the winding up may only be implemented under authorisation of the Ministry of Finance. The provisions of chapter 3 apply mutatis mutandis insofar as appropriate.
(3) Where an order is made to revoke a financial institution's licence, the institution's board of directors shall immediately take necessary steps to initiate a winding up process. The same applies where an institution is to be dissolved and wound up under a provision set out in or issued pursuant to law.

(4) Where the insurance portfolio of a mutual insurance undertaking falls below the number of insurances and aggregate sums insured which under the articles of association must be in place in order for the entity to commence business, the board of directors must within no more than 14 days' notice convene the general meeting to consider whether the entity shall be wound up. If winding up is not adopted, and the portfolio is still too low three months after the meeting of the general meeting, the entity's board of directors shall immediately take necessary steps to initiate winding up. Section 12-18 subsection (1) applies mutatis mutandis.

(5) The Ministry of Finance may by regulations make further provision regarding the winding up of financial institutions.

Section 12-9 Notification of winding up. Notice to creditors
(1) A resolution to wind up a financial institution shall be notified to the Register of Business Enterprises.

(2) The Register of Business Enterprises shall announce the resolution by notice to the creditors. Section 16-4 of the Public Limited Companies Act applies mutatis mutandis to institutions that are not organised as private limited companies or as public limited companies.

(3) Section 12-3 subsection (5) on information to customers applies mutatis mutandis.

Section 12-10 Liquidation board etc.
(1) Where a financial institution intends to wind up its business, Finanstilsynet will appoint a liquidation board to take the place of the institution's board of directors and general manager. The provisions of sections 6-12 to 6-34 of the Public Limited Companies Act apply mutatis mutandis to the liquidation board. The Ministry of Finance may make exceptions from the first sentence by administrative decision.

(2) Sections 16-5 to 16-14 of the Public Limited Companies Act apply mutatis mutandis insofar as appropriate. Finanstilsynet shall take the place of the court of first instance for the purposes of section 16-14 of the Private Limited Companies Act.

(3) Where an insurance undertaking is to be wound up, claims resulting from a direct insurance agreement, including interest, shall be met before all other claims except preferential claims. Finanstilsynet may authorise the transfer of the insurance portfolio or parts thereof to another insurance undertaking. Where the transfer of a life insurance portfolio is concerned, the provisions of section 21-20 apply mutatis mutandis.

(4) Finanstilsynet supervises entities undergoing liquidation under the rules of this Act.
Section 12-11 Allocation of assets after winding up
Where a financial institution that is not organised as a private limited company or public limited company is to be wound up, that part of the ownerless capital that remains after all creditors have received full settlement and after the owners' capital has been distributed pursuant to section 10-20 shall be distributed as provided in the articles of association, except as otherwise provided by section 12-12 or by the Ministry of Finance out of consideration for the public good or for the institution's customers.

Section 12-12 Winding up of savings bank, savings bank foundation
Where a savings bank is wound up, funds remaining after all obligations have been met shall be transferred to one or more savings bank foundations.

III Conversion of a financial institution not organised as a private limited company or public limited company

Section 12-13 Authorisation etc.
(1) Conversion of a financial institution that is not organised as a private limited company or public limited company to a private limited company or public limited company, and the establishment of a financial foundation in connection with such conversion, may only be carried out under authorisation of the Ministry of Finance.

(2) The provisions of chapter 3 apply mutatis mutandis insofar as appropriate.

(3) In the assessment of whether to grant authorisation for the conversion of a savings bank, importance shall inter alia be attached to the general rule requiring savings banks to be organised as ordinary savings banks or as savings banks with owners' capital. Importance shall also be attached to the activities the savings bank has pursued in the municipality concerned and in the event to whether, or how, those activities will be continued.

(4) The Ministry of Finance may by regulations make further provision concerning conversion as referred to in subsection (1), including concerning the business of the private limited company or public limited company that is founded by the conversion, and concerning the organisational set-up and business of the financial foundation that is established by the conversion.

Section 12-14 Conversion resolution
(1) A resolution to convert a financial institution shall be adopted by the general meeting by the same majority as for an amendment to the articles of association. The articles of association may set a more stringent majority requirement or provide that conversion resolutions require a majority of the general meeting that includes at least two thirds of the votes that are cast by, or by members elected by, the holders of equity certificates. The provisions of section 8-3 apply mutatis mutandis.

(2) The board of directors shall present to the general meeting a conversion plan which inter alia explains the purpose of the conversion and provides guidelines for the activities of the converted financial institution. A draft memorandum of association and articles of association for the financial foundation to be established in connection with the conversion shall be presented to the general meeting at which the question of conversion is considered. The draft memorandum of
association shall state who are to be, or the procedure for election of, board members and who is to be the auditor pending the general meeting's election of an auditor. The opening balance prepared pursuant to rules as referred to in section 2-8 of the Public Limited Companies Act shall be enclosed with the memorandum of association.

(3) The general meeting's resolution shall determine the exchange ratio between equity certificates and the shares to be issued in connection with the conversion, and other factors bearing on the distribution of shares under the rules of section 12-17. The same applies in the case of guidelines for the distribution of shares among the financial institution's customers under section 12-15 subsection (4).

Section 12-15 Implementation of conversion

(1) Conversion of a financial institution to a private limited company or public limited company shall be registered with the Register of Business Enterprises by change of name. The financial institution's business shall be continued. Conversion has the following effects:

(a) the financial institution becomes a private limited company or public limited company, with the same licence, assets and liabilities,
(b) holders of equity certificates of the financial institution and financial foundation established by the reregistration become shareholders of the private limited company or public limited company,
(c) other effects as set forth in the conversion plan.

(2) Creditors of the transferred obligations and holders of equity certificates may not request redemption on grounds of the conversion or oppose the conversion.

(3) Upon the conversion of a savings bank, mutual insurance undertaking or loan association a financial foundation shall be established which shall be the owner of all the shares of the new company, with the exception of shares assigned to holders of equity certificates pursuant to section 12-17 subsection(1). If the financial institution undergoing conversion has previously established a financial foundation, the Ministry of Finance may consent to all of the shares of the new company that are assigned to holders of equity certificates pursuant to section 12-17 subsection (1) instead being transferred to that financial foundation. The rules of chapter 6 on financial institutions' ownership structure do not apply to the transfer of those shares which pursuant to the resolution are to be taken over by the financial foundation and holders of equity certificates.

(4) Upon the conversion of a mutual insurance undertaking or loan association, the Ministry of Finance may in special cases consent to shares that would otherwise be transferred to the financial foundation instead being distributed among the undertaking's customers with a basis in the nature, scope and duration of the customer relationships. The conversion resolution may provide that customers with rights to shares below a set threshold shall instead receive settlement in cash. The Ministry of Finance may make further provision with regard to the distribution of shares between the customers. The rules concerning prospectus requirements in connection with public offerings in chapter 7 of the Securities Trading Act apply mutatis mutandis.

(5) Members' liability for loss arising from the activities of an insurance undertaking or loan association may also be invoked after conversion. New additional liabilities may not be
imposed after conversion.

(6) The rules of the Cooperative Societies Act chapter 11 on the distribution of shares apply in the case of conversion of a cooperative of borrowers to a private limited company or public limited company.

Section 12-16 Conversion to subsidiary owned by a new holding company
(1) Conversion may also be implemented by establishing a private limited company or public limited company in the form of a holding company that will be the parent company of a new financial group. The financial institution is converted to a private limited company or public limited company, and the business is continued as a subsidiary of the group.

(2) In the case of conversion pursuant to subsection (1) the shares of the holding company are distributed under the rules of section 12-15 subsections (3), (4) and (6) and section 12-17.

(3) Where a savings bank has been converted under subsection (1), the holding company may not sell shares of the bank that continues the business without the consent of the savings bank foundation established in connection with the conversion. Such consent requires the passage of a resolution by the general meeting by the same majority as for an amendment to the articles of association.

Section 12-17 Distribution of share capital and shares
(1) Upon conversion of a financial institution that has owners' capital, the share capital of the new company or parent company shall be distributed between the financial foundation and the holders of equity certificates based on the ratio of the ownerless capital to the owners' capital.

(2) The conversion resolution may provide that customers with rights to shares below a set threshold shall instead receive settlement in cash. In such case, in the distribution of shares under subsection (1) a deduction shall be made in the owners' capital equivalent to the amount to be disbursed to such owners of equity certificates.

Section 12-18 Articles of association. Registration
(1) Articles of association for the converted institution and for the private limited company or public limited company established by the conversion shall be approved by the Ministry of Finance.

(2) The institution shall send notification of the conversion resolution to the Register of Business Enterprises within three months of the granting of authorisation for conversion. The same applies to notifications of the founding of financial institutions and financial foundations established through such conversion. The Register of Business Enterprises shall check that authorisation has been given and that the articles of association have been approved. Resolutions not notified by the deadline become void.
IV General rules for financial foundations

Section 12-19 Establishment. Supervision etc.
(1) A financial foundation shall be deemed to have been established once the general meeting of a financial institution has approved the memorandum of association with articles of association and adopted a resolution to transfer equity certificates to the financial foundation after conversion of ownerless capital to owners' capital or a resolution to establish a foundation in connection with the merger, demerger, winding up or conversion of the financial institution. The board members of the financial institutions shall be regarded as founders.

(2) Except as otherwise provided by or pursuant to this Act, the provisions of the Foundations Act concerning business foundations shall apply to financial foundations. Finanstilsynet shall oversee financial foundations and their activities pursuant to the rules of the Financial Supervision Act. The costs of supervision shall be apportioned pursuant to the same Act.

(3) Where a financial foundation's holding is below one tenth of the sum of the ownerless capital and owners' capital or of the shares of the financial institution or the parent company of the financial group of which the institution is part, the Ministry of Finance may decide that the financial foundation shall not be subject to the rules on financial foundations, and not subject to supervision by Finanstilsynet. In the calculation of a financial foundation's overall holding, account shall also be taken of shares or equity certificates owned by other financial foundations with which the foundation collaborates pursuant to its articles of association.

(4) The Ministry of Finance may give consent for a foundation which was established before 1 July 2009, and which upon its establishment received free of charge equity certificates issued after the conversion of ownerless capital, to be converted to a financial foundation.

(5) In the event of a change as referred to in subsections (3) and (4) the foundation shall notify the change to Finanstilsynet, the Register of Business Enterprises and the Foundations Authority.

Section 12-20 Articles of association
(1) The articles of association of a financial foundation must at minimum state:

(a) the foundation's corporate name,
(b) the municipality in which the foundation's registered office will be situated,
(c) the purpose of the foundation and the activities it will engage in,
(d) the foundation's ownerless capital and how the foundation's funds will be invested,
(e) the composition of the general meeting and election of members, as well as the rules regulating voting rights, incompetence, and, if relevant, the highest number of votes that can be cast by one member,
(f) when general meetings shall be held, what matters shall be considered, and the majority required to pass a resolution,
(g) the number or the lowest or highest number of board members and the rules regulating the election of board members,
(h) what other bodies the foundation shall have, and what tasks and authority shall be assigned to them,
(i) how the profit for the year shall be applied and any deficit covered,
whether the foundation shall be entitled to issue equity certificates,
rules governing amendments to the articles of association,
the procedure for winding up the foundation and disposing of its assets upon winding up.

(2) The articles of association shall be approved by the Ministry of Finance. Amendments to the articles of association shall be approved by Finanstilsynet.

Section 12-21 Bodies
(1) A financial foundation shall have a general meeting whose composition and election shall be as further provided by the articles of association. Importance shall be attached to ensuring that the members of the general meeting collectively reflect the customer structure of the financial institution that was established upon the conversion, other interest groups, and social interests associated with the foundation's activities.

(2) The general meeting shall be called by the board of directors. A member is entitled to have a matter considered that has been notified to the board of directors in writing no later than one week before the general meeting is held. The provisions of section 8-3 concerning general meetings apply mutatis mutandis. The general meeting shall elect the auditor and approve the auditor's remuneration.

(3) A foundation shall have a board of directors that has been elected by the general meeting in accordance with the groups represented at the general meeting. A foundation may have a general manager, appointed by the board of directors. Sections 6-27 to 6-34 of the Public Limited Companies Act apply mutatis mutandis.

(4) Employees and officers of a foundation may not simultaneously be employees or officers of the financial institution that established the foundation or of another company in the same group. A foundation may nonetheless, in accordance with the scale of its owner interests in the financial institution, propose, and have elected, persons who shall represent the foundation at the general meeting, on the board of directors and in other bodies of the financial institution. Employees or officers of a financial foundation may not make up more than one third of the members of the general meeting or of the board of directors of the financial institution. Finanstilsynet may in special circumstances make exceptions from this provision.

Section 12-22 The activities of a financial foundation
(1) A financial foundation shall manage equity certificates or shares that were supplied to the foundation upon its establishment and funds that are received as dividend on equity certificates or shares, including holdings acquired through the exchange of such holdings. A foundation may exercise subscription rights and subscribe, purchase or sell equity certificates or shares issued by the institution that has established the foundation. The foundation shall manage its capital in a prudent manner.

(2) The provisions of sections 10-6 and 10-7 concerning the distribution of profit and dividends apply mutatis mutandis to financial foundations. Where a foundation has issued its own equity certificates, the first sentence only applies to profit allocated to the ownerless capital pursuant to section 10-17.
(3) The general meeting may vote, by the same majority as for an amendment to the articles of association, and with the consent of Finanstilsynet, to reduce the ownerless capital. The provisions of sections 12-1 subsection (2) to (4) and sections 12-2 to 12-7 of the Public Limited Companies Act apply \textit{mutatis mutandis}, nonetheless such that the amount by which the ownerless capital is reduced may only be used:

(a) to cover a deficit that cannot be covered by other means, or
(b) for the pay-out of dividend pursuant to the articles of association.

(4) A foundation may vote, by the same majority as for an amendment to the articles of association, and with the consent of Finanstilsynet, to issue equity certificates pursuant to the rules of sections 10-3 and 10-9 in order to subscribe or purchase equity certificates or shares as referred to in subsection (1). The provisions of sections 10-4 and 10-5 and sections 10-10 to 10-24 apply \textit{mutatis mutandis}.

(5) The Ministry of Finance may make further provision with regard to financial foundations and their activities.

\textbf{Section 12-23 Merger, winding up, etc.}

(1) The general meeting may vote, by the same majority as for an amendment to the articles of association, to wind up the financial foundation or to merge the foundation with another financial foundation. Such resolution requires the approval of the Ministry of Finance. The Ministry may decide that the foundation shall be wound up if the premises for its activities have materially changed.

(2) Upon winding up, the assets shall be distributed as prescribed in the articles of association, except as otherwise provided by the Ministry of Finance in the public interest or in the interest of the converted financial institution or its customers.

(3) The Ministry of Finance may by regulations make further provision with regard to mergers and winding up of financial foundations.

\textbf{V Special rules for savings bank foundations}

\textbf{Section 12-24 Savings bank foundations}

(1) A financial foundation established by a savings bank is deemed to be a savings bank foundation.

(2) Savings bank foundations shall use the term "savings bank foundation" ('\textit{sparebankstiftelse}') in their corporate name. The rules on foundations apply to savings bank foundations, except as otherwise provided by sections 12-25 and 12-26.

(3) The Ministry of Finance may make further provision with regard to savings bank foundations and their activities.
Section 12-25 Continuation of the savings bank traditions
The articles of association of a savings bank foundation shall require the foundation to continue the savings bank traditions and to have as its purpose a long-term, stable ownership of the savings bank or the converted bank, or of the holding company that is the parent company of the financial group of which the bank is part.

Section 12-26 Special rules on the activity of savings bank foundations
(1) A savings bank foundation may raise loans equivalent to up to 10 per cent of the foundation's equity capital. A resolution to take up a loan must be reached by the general meeting by the same majority as for an amendment to the articles of association.

(2) Equity certificates or shares that were supplied to a savings bank foundation upon its establishment may only be sold pursuant to a resolution of the general meeting passed by the same majority as for an amendment to the articles of association. A more stringent majority requirement may be set in the articles of association. The same applies to equity certificates or shares acquired through the exchange of such shares and equity certificates in the event of a merger of financial institutions. Funds released by such sale may, after an amendment to the articles of association to permit a reduction of the ownerless capital, be distributed as surplus funds pursuant to subsection (3).

(3) A savings bank foundation that devotes the profit for the year to gifts for the public good shall attach importance to promoting development in areas where the capital that was supplied to the foundation upon its establishment was raised, or transfer it to a good works fund with the same purpose.

VI Portfolio transfer

Section 12-27 Transfer of insurance or loan portfolios etc.
(1) An agreement concerning the transfer of an insurance portfolio, loan portfolio or other body of claims of substantial size relative to the undertakings' activities requires approval from the Ministry of Finance.

(2) The Ministry of Finance may by regulations make further rules concerning transfers, including rules on:
   
   (a) the vendor's and the acquirer's information obligations towards their customers,
   (b) customers' right to terminate the agreement,
   (c) publication of the transfer,
   (d) necessary confirmations and consent etc. from the supervisory authorities of other EEA member states.

(3) The Ministry of Finance may make regulations concerning the transfer of insurance portfolios written pursuant to the rules on the right of establishment or the right to provide services ensuing from the EEA Agreement. The Ministry of Finance may also make regulations on the transfer of insurance portfolios from a branch in Norway of an insurance undertaking headquartered in a non-EEA state to an insurance undertaking established in Norway or another EEA state. Regulations
made in pursuance of the first and second sentence may also contain rules concerning matters as referred to in subsection (2).

Chapter 13 Requirements on the business of financial institutions

I Business restrictions and related business

Section 13-1 Prohibition against engaging in other business
(1) A financial institution may not engage in business other than that which ensues from the rules of, or rules issued pursuant to, law regulating the particular type of institution, the institution's licence and its articles of association.

(2) Nor may a financial institution engage in business other than that permitted under subsection (1) through a subsidiary, except as otherwise provided by its licence.

(3) The Ministry of Finance may by regulations make further provision concerning what business the various types of financial institutions may engage in, and may set rules for their business, including rules providing that certain types of business shall be conducted in a separate entity.

Section 13-2 Related business etc.
(1) A financial institution may carry on business that has a natural connection to the business encompassed by its licence. The Ministry of Finance shall in case of doubt decide whether such connection exists.

(2) A financial institution may on a temporary basis conduct or participate in business other than that mentioned in subsection (1) to the extent that this is necessary as part of a financial consolidation or rescue operation, to achieve satisfaction of claims, to facilitate an insurance settlement or as part of an ordinary underwriting guarantee. Finanstilsynet may issue an order to cease such activity.

Section 13-3 Intermediation of financial services for other financial institutions
(1) A financial institution may under a collaboration agreement with another financial institution undertake to conduct marketing and intermediation of financial services other than services encompassed by the financial institution's own business.

(2) When intermediating financial services covered by a collaboration agreement, a financial institution shall ensure that contracts with customers are entered into on behalf of the financial institution that is to deliver the financial service concerned, nonetheless such that the first-mentioned financial institution can also assume an independent responsibility towards customers provided that the institution is itself entitled to provide services of the type covered by the agreement. A claim by a customer against the provider of the service shall be deemed to be submitted on the date that the institution that intermediated the agreement received notification of the claim.
Section 13-4  Outsourcing etc.
(1) A financial institution may delegate to another institution the operation of parts of its business that are not core tasks, unless such outsourcing is on a scale or in a manner that cannot be deemed prudent or makes the supervision of the outsourced business or of the institution's overall business difficult. Core tasks may not be outsourced except as otherwise provided in provisions made in or pursuant to law.

(2) The provisions of subsection (1) apply mutatis mutandis to tasks that a financial institution outsources to another financial institution or provider of particular goods or services and that concern marketing, intermediation or sale of the institution's financial services. The provisions of section 13-3 subsection (2) apply mutatis mutandis.

(3) The use of a commissioned party has no implications for financial institutions' obligations and responsibilities towards customers, public authorities or others.

(4) The Ministry of Finance may make regulations on outsourcing, including prohibiting outsourcing to specified jurisdictions outside the EEA area or providing that such outsourcing may only take place with Finanstilsynet's permission.

II  Requirement for prudent operation, asset management etc.

Section 13-5  Prudent operation. Good business practice

(1) A financial institution shall be organised and run in a prudent manner. The institution shall have a clear organisation structure and distribution of responsibilities as well as clear and appropriate governance and control arrangements. The institution shall have appropriate policies and procedures for identifying, managing, monitoring and reporting risk to which the institution is, or may become, exposed. The institution shall also have appropriate policies and procedures for implementing, monitoring and regularly reviewing remuneration schemes.

(2) A financial institution shall have in place independent control functions with responsibility for internal audit, risk management and compliance with requirements set in or pursuant to law or regulations. An insurance undertaking shall in addition have in place independent control functions with responsibility for actuarial tasks. The Ministry of Finance may by regulations make exceptions from the requirement for independent control functions for pension undertakings and institutions covered by section 14-15.

(3) A financial institution’s governance and control arrangements and its policies and procedures shall be in proportion to the risk attending, and the scale of, the business of the institution.

(4) A financial institution shall conduct its business with integrity and in accordance with good business practices.

(5) A financial institution shall make arrangements enabling employees of the institution to report, internally or to the authorities, any violation of provisions laid down in or pursuant to law.
(6) The Ministry of Finance may make regulations to supplement the provisions of subsections (1) to (3) and make further provision with regard to whistleblowing.

Section 13-6  Assessment of risk and overall need for capital
(1) A financial institution shall at all times maintain an overview of, and at regular intervals assess, the individual risks and the overall risk, including systemic risk, that are associated with its activities. A financial institution shall at all times have own funds appropriate to the risk inherent in and the volume of the activities carried on by the institution.

(2) In the assessment of risk associated with the activities of the financial institution and its overall risk exposure, account shall be taken of credit risk, liquidity risk, funding risk, market risk and currency risk, operational risk, systemic risk, and other risk associated with its individual business lines. The assessment shall include risk exposure resulting from the transfer of the firm's assets to, or the posting of such assets as collateral in favour of, other financial institutions.

(3) A financial institution shall assess its capital needs in the short and longer term and how these capital needs can be met. Such assessment shall include the size, and the composition and distribution, of the capital in relation to the type and scale of the risk attending the business at all times and in relation to such risk as could arise.

(4) The board of directors shall monitor and manage the financial institution's overall risk and regularly assess whether the institution's management and control arrangements are tailored to the risk level and scale of its activities. The institution shall have in place a risk committee appointed by the board of directors which shall prepare matters for consideration by the board of directors. Only board members who do not form part of the institution's de facto management team may be members of the risk committee. The Ministry of Finance may by regulations or administrative decision make exceptions from the requirement to have in place a risk committee.

(5) Banks, mortgage credit institutions and finance companies as well as holding companies of financial groups of which any such entity forms part shall on a regular basis calculate their tier 1 capital as a share of the value of their assets and off-balance sheet liabilities calculated without risk weights.

(6) An insurance undertaking shall on a regular basis assess the undertaking's risk profile and own funds, including overall need for capital, with a basis in the risk to which the undertaking is or may become exposed in the shorter or longer term, the undertaking's ongoing compliance with the capital requirements and requirements on technical provisions, and any variance between the undertaking's risk profile and the assumptions underlying the calculation of the solvency capital requirement.

(7) The Ministry of Finance may by regulations make provision for monitoring, assessment, management and control of risk and capital needs. The Ministry of Finance may set higher capital requirements or business restrictions to ensure that an institution's own funds are in accordance with its risk exposure. The Ministry of Finance may by regulations make exceptions from the rules of this section for pension undertakings and undertakings covered by section 14-15.
Section 13-7  *Liquidity management, liquidity reserve and stable funding*

(1) A financial institution shall ensure that it at all times has sufficient liquid assets to meet its liabilities as they fall due.

(2) A financial institution shall ensure prudent liquidity management in accordance with policies established by the board of directors. Finanstilsynet may lay down reporting requirements.

(3) Banks, mortgage credit institutions and finance companies shall report residual maturity for balance sheet items and off-balance sheet financial instruments to Finanstilsynet. Finanstilsynet may set further requirements for such reporting.

(4) If Finanstilsynet finds the liquidity risk associated with an institution's business to be inappropriate, Finanstilsynet may issue the institution with an order restricting its scope to provide new loans or credits, or order other measures to be taken to rectify the situation.

(5) The Ministry of Finance may by regulations set minimum requirements for financial institutions' holdings of liquid assets (liquidity reserve). The Ministry of Finance may by regulations set minimum requirements for the composition of financial institutions' funding sources in order to ensure stable funding of their business and mitigate risk related to meeting their future borrowing needs (stable funding). The Ministry of Finance may by regulations make further provision for the implementation of the provisions of this section.

Section 13-8  *Reporting to Finanstilsynet*

Financial institutions shall report to Finanstilsynet their own funds position, capital charges and other factors necessary in order to assess the risk inherent in their business. The Ministry of Finance may by regulations set further rules concerning such reporting.

Section 13-9  *Holdings in institutions engaged in other business activity*

(1) Banks and mortgage credit institutions may notwithstanding section 13-1 have qualifying holdings in institutions that cannot form part of a financial group provided the book value of any such holding does not exceed 15 per cent of the institution's own funds according to the past year's annual or interim accounts. The overall volume of such holdings shall in no case exceed 60 per cent of the institution's own funds. By 'qualifying holding' is meant a holding that represents more than 10 per cent of the capital or votes, or which enables exercise of substantial influence over the institution's management team and its business activity.

(2) The Ministry of Finance may make supplementary rules in regulations on holdings in institutions engaged in other business activity. In special cases the Ministry of Finance may by administrative decision make exceptions from the provisions of this section and set conditions for such exceptions.

Section 13-10  *Asset management*

(1) A financial institution shall manage its assets in a prudent manner in accordance with the institution's objects. The institution shall attach importance to adequate liquidity, security, risk diversification and earnings, and adapt its asset management to changes in the institution's risk exposure and changes in risk posed by the various areas of business.
(2) The institution shall establish and regularly review its policies for asset management and its limits and authorisations for the respective units and employees' right to act on behalf of the institution.

(3) The Ministry of Finance may make regulations concerning asset management.

Section 13-11 Overall holding of assets etc.
(1) Banks, mortgage credit institutions and finance companies as well as holding companies of financial groups of which any such entity forms part shall ensure that the relationship between market risk and other risk posed by the institution's holding of shares, equity certificates and other assets, including real property, and the institution's tier 1 capital is prudent at all times.

(2) The institution shall notify Finanstilsynet if the overall value of its holding of assets exceeds the entity's tier 1 capital according to the latest annual or interim accounts. Holdings in subsidiaries subject to consolidation under section 18-2 subsection (1)(a) shall not be included.

Section 13-12 Maximum exposure to a single counterparty
(1) A financial institution's overall exposure to a single counterparty may at no time exceed a prudent level.

(2) The Ministry of Finance may make regulations on the maximum total exposure to a single counterparty, including on the method of calculation of on- and off-balance sheet items and other factors bearing on the implementation of this requirement. The Ministry of Finance may make provide for the application of a limit on total exposure to a single counterparty, also in the case of exposures to two or more counterparties where the balance of influence or financial relations between them are such that financial problems of one of the counterparties may entail payment difficulties for the other counterparty.

Section 13-13 Credit exposures. Risk classification
(1) A financial institution shall at least once per year risk classify its credit exposures and other exposures in accordance with guidelines established by the board of directors.

(2) A financial institution shall organise its processing of credit exposures such that the individual who makes the credit decision has a sufficient basis on which to judge the credit risk, and such that the loan process and the basis for the decision can be documented.

(3) The Ministry of Finance may make regulations on credit analysis and risk classification of exposures.

Section 13-14 Provision against loss
(1) A financial institution shall have in place policies established by the board of directors for assessing the need for provisions against loss on exposures that are non-performing or are otherwise regarded as problem exposures, and other loss resulting from risk that portfolios of exposures must at any time be assumed to pose.

(2) The institution's provision against loss shall in the short and longer term be prudent relative to the overall risk of loss deemed to be posed by the institution's exposures.
(3) The Ministry of Finance may make regulations concerning provision against loss.

Section 13-15 Own assets as collateral
(1) A financial institution may not without Finanstilsynset's consent furnish its own assets as collateral for liabilities which in aggregate exceed 10 per cent of the institution's tier 1 capital. A financial institution may nonetheless post collateral in the form of real property used by the institution in its business.

(2) Subsection (1) shall not prevent a financial institution from making collateral available to a counterparty in the form of interest rate swaps, loan of financial instruments and other ordinary market dispositions in accordance with market practices. Any transfer of securities with an agreement requiring or enabling the seller to buy back the securities at a later date on the terms set in the agreement is also regarded as collateral.

(3) A financial institution may not without Finanstilsynset's consent furnish its own assets as collateral for liabilities to the state, the Central Bank of Norway, the Norwegian Banks' Guarantee Fund, a clearing house or participant in an interbank system or securities settlement system.

(4) Finanstilsynset may make regulations on financial institutions' obligation to notify Finanstilsynset of their provision of collateral, on the calculation of the limit under subsection (1) for insurance undertakings, and on exceptions from the requirement of consent under subsection (1).

Section 13-16 Borrowing by insurance undertakings and pension undertakings
Insurance undertakings and pension undertakings may only raise loans for the purpose of protecting the undertaking's liquidity and loans secured on real property that is used by the undertaking in its business activity. Finanstilsynset may consent to the undertaking incurring subordinated debt and may in special cases also consent to the undertaking raising other loans.

Section 13-17 Commission and other compensation for insurance mediation
(1) An insurance undertaking is not entitled to pay commission or other compensation to an insurance intermediary for mediation of an insurance contract to the undertaking if the insurance intermediary, by receiving such commission, would be acting in contravention of section 5-2(a) of Act of 10 June 2005 No. 41 on Insurance Mediation.

(2) The Ministry of Finance may make further rules to implement and/or delimit the provisions of subsection (1), including rules on insurance undertakings' right to maintain special price tariffs for administrative services for insurances passed to an insurance undertaking by an insurance intermediary.

III Payment services and electronic money services

Section 13-18 Protection of funds
(1) Funds that a payment institution or electronic money institution has received from customers shall be segregated and be identified in such a way that they cannot be subject to execution of
claims from other creditors of the payment institution or be guaranteed by an insurance undertaking or a bank not belonging to the same group as the payment institution.

(2) Funds that an electronic money institution has received in the form of a payment via a payment instrument need not be protected until they are credited to the electronic money institution’s payment account or are made available to the electronic money institution by other means. Such funds shall never the less be protected no later than five banking days after receipt of the electronic money to which the payment pertained.

(3) The Ministry of Finance may make regulations concerning protection of funds that a payment institution or electronic money institution has received from customers.

Section 13-19 Exchange of funds for electronic money. Prohibition of interest
(1) Funds that an electronic money institution has received from customers as payment for electronic money shall be exchanged for electronic money without undue delay.

(2) Electronic money institutions are not entitled to pay interest on electronic money.

Section 13-20 Redemption of electronic money
(1) An institution that has issued electronic money shall, upon request by the electronic money holder, redeem the monetary value of the electronic money at par value. Claims for redemption of issued electronic money are not time-barred. The contract between the electronic money issuer and the electronic money holder shall clearly state the conditions of redemption.

(2) An institution that has issued electronic money may only charge a fee for redemption where the contract provides for a termination date, and redemption is requested before, or more than one year after, that date.

(3) Payment of a fee for redemption pursuant to subsection (2) must be agreed upon issuance, and the cost of redemption may not exceed the actual costs incurred by the issuer.

(4) The issuer of electronic money shall disclose the terms of the contract before the contract is entered into.

(5) Contractual terms diverging from the provisions of this section may be agreed in non-consumer relationships.

Section 13-21 Right to process and exchange payment data
(1) Institutions that provide payment services may compile, process and exchange between themselves transaction data and other payment data where this is necessary to ensure the prevention, investigation or exposure of payment fraud.

(2) The Ministry of Finance may make regulations concerning the processing of payment data.
Chapter 14 Capital and solvency requirements

I Capital requirements for banks, mortgage credit institutions and finance companies

Section 14-1 Minimum requirements on own funds
(1) Banks, mortgage credit institutions and finance companies as well as holding companies of financial groups of which any such entity forms part shall at all times maintain common equity tier 1 capital corresponding to at least 4.5 per cent of risk weighted assets as defined in section 14-2. The tier 1 capital of such entities shall at all times constitute at least 6 per cent of the same risk weighted assets. Such entities' own funds shall at all times constitute at least 8 per cent of the same risk weighted assets.

(2) Own funds consist of tier 1 capital and supplementary capital. Tier 1 capital consists of equity capital and other approved tier 1 capital. The Ministry of Finance may in regulations make provisions on what is to be deemed common equity tier 1 capital, tier 1 capital and tier 2 capital, and on the composition of own funds.

Section 14-2 Risk weighted assets
(1) Risk weighted assets for the minimum own funds requirement shall equal the sum of risk weighted assets for credit risk, market risk and operational risk.

(2) Risk weighted assets for credit risk shall be determined with a basis in risk weights under the standardised approach established by regulations, or with a basis in risk parameters established in whole or in part by the institution itself using an internal ratings based (IRB) approach for classifying and quantifying credit risk.

(3) Risk weighted assets for market risk shall be determined with a basis in rules under the standardised approach set out in regulations, or using an IRB approach for market risk.

(4) Risk weighted assets for operational risk shall be determined as: a share of average income (basic indicator approach), a share of the income in the various business lines multiplied by an indicator of loss experience set out in regulations (standardised approach) or using an IRB approach for operational risk (advanced approach).

(5) Unless it is authorised to do so by Finanstilsynet, an institution may not use internal ratings based approaches for credit risk, market risk and operational risk to calculate the own funds requirement.

(6) The Ministry of Finance may make regulations concerning:

(a) risk weighted assets for credit risk, market risk and operational risk, including rules to ensure that risk weighted assets to a sufficient degree reflect the risk inherent in the financial institution's assets,
(b) use of the IRB approach for credit risk, market risk and operational risk,
(c) what collaterals can be taken into account in the calculation of the minimum capital requirement.
Section 14-3 Buffer requirements
(1) A financial institution shall have a capital conservation buffer consisting of common equity tier 1 capital which shall amount to 2.5 percentage points in addition to the minimum capital requirement.

(2) A financial institution shall have a systemic risk buffer consisting of common equity tier 1 capital which shall amount to 3 percentage points in addition to the minimum capital requirement and the capital conservation buffer. The Ministry of Finance may by regulations provide that the requirement shall be higher or lower than 3 percentage points.

(3) A financial institution that is systemically important shall have a buffer consisting of common equity tier 1 capital (O-SII buffer) which shall amount to 2 percentage points in addition to the minimum requirement on common equity tier 1 capital, the capital conservation buffer and the systemic risk buffer. The Ministry of Finance may by regulations lay down criteria for, and decide, which institutions are to be deemed systemically important and establish special business rules and prudential requirements for such institutions and determine that the requirement shall be higher or lower than 2 percentage points.

(4) A financial institution shall have a countercyclical buffer consisting of common equity tier 1 capital which shall amount to between 0 and 2.5 percentage points in addition to the minimum requirement on common equity tier 1 capital, the capital conservation buffer, the systemic risk buffer and the buffer for systemically important institutions. The Ministry of Finance shall set the requirement for the countercyclical capital buffer. The requirement may in special cases be set higher than 2.5 percentage points.

(5) If a financial institution does not fulfil the buffer requirements, it shall draw up a plan for increasing its common equity tier 1 capital adequacy, and it may not pay dividend to shareholders or holders of equity certificates, bonuses to employees or interest on additional tier 1 capital without Finanstilsynset's consent.

(6) The Ministry of Finance may make regulations concerning the capital conservation buffer, the systemic risk buffer, the buffer for systemically important institutions and the countercyclical buffer, concerning the calculation of the buffer requirements and concerning the consequences of non-fulfilment of the requirements.

Section 14-4 Leverage ratio requirement
The Ministry of Finance may by regulations prescribe that banks, mortgage credit institutions and finance companies as well as holding companies of financial groups of which any such institution forms part shall have common equity tier 1 capital or tier 1 capital which at minimum constitutes a particular percentage of the value of the institution's assets and off-balance sheet liabilities without risk weighting, and rules governing such calculations.

Section 14-5 Information requirements
(1) Banks, mortgage credit institutions and finance companies as well as holding companies of which any such entity forms part shall publish information on their business, the risk attending the institution and own funds in conformity with provisions set out in regulations. Such institutions
shall also publish information on the size of their tier 1 capital as a share of the value of the institution's assets and off-balance sheet liabilities without risk weighting (leverage ratio). Parent companies of financial groups shall in addition publish information on the leverage ratio on a consolidated basis.

(2) The Ministry of Finance may make regulations concerning the institution’s publication of information and requirements as to documentation, including provisions that make exceptions from the Personal Data Act.

Section 14-6 Supervisory follow up, rectification and orders
(1) Finanstilsynet shall ensure that banks, mortgage credit institutions and finance companies as well as holding companies of financial groups of which any such institution forms part have in place appropriate and clear-cut policies and procedures, in conformity with law and provisions made pursuant to law, for the monitoring, assessment, management and control of risk and capital needs.

(2) Finanstilsynet shall assess all risks to which institutions as referred to in subsection (1) are or may become exposed, and the risk that those institutions pose to the financial system.

(3) Banks, mortgage credit institutions and finance companies as well as holding companies of financial groups of which any such institution forms part that do not meet requirements or buffer requirements of this Act or regulations made pursuant thereto shall immediately take the steps necessary to rectify the matter. Where an institution falls short of requirements or buffer requirements or is likely to do so in the near future, Finanstilsynet may order the institution to:

(a) change the organisation, management and control of the business and the strategies, processes, policies and procedures in accordance with which the business is run,
(b) hold common equity tier 1 capital, tier 1 capital, and other own funds in excess of the sum of minimum requirements applying to the institution pursuant to law and regulations,
(c) change or curtail the business,
(d) reduce the risk associated with the business, including products and systems,
(e) reduce the difference in maturity between the institution's liabilities and assets,
(f) curb the scope of performance-related remuneration,
(g) devote the profit for the year to increase tier 1 capital adequacy and not to pay out dividend or interest on tier 1 capital.

Finanstilsynet may issue a common order to a group of institutions that are exposed to the same type of risk or that pose the same the same type of risk to the financial system.

(4) Finanstilsynet may in special cases and for a time-limited period give its consent for banks, mortgage credit institutions and finance companies as well as holding companies of financial groups of which any such entity forms part to hold own funds below the minimum requirements and the buffer requirements.
II Capital requirements for insurance undertakings

Section 14-7 Requirements on provisions for insurance liabilities
(1) An insurance undertaking shall at all times have technical provisions to meet all existing liabilities. The provisions shall equal the value of the insurance liabilities calculated under rules laid down in or pursuant to section 14-8.

(2) An insurance undertaking shall at all times have assets to cover its technical provisions.

Section 14-8 Valuation of assets and liabilities
(1) The value of assets and liabilities over and above technical provisions shall be set at the sale value used in commercial transactions between independent parties.

(2) In the application of the provisions of sections 14-7 to 14-14, the value of the technical provisions shall be set at the amount the insurance undertaking would have to pay if it were to transfer of its insurance obligations immediately to another insurance undertaking. Calculation of technical provisions shall be based on market information and generally available information on insurance risks.

(3) Technical provisions shall be calculated in a prudent, reliable and objective manner.

(4) The value of the technical provisions shall be the sum of:

(a) a best estimate equivalent to the probability weighted average of future cashflows that takes into account the time value of money calculated using the relevant risk-free interest rate curve, and
(b) the risk margin corresponding to the cost of providing eligible own funds equal to the solvency capital requirement necessary to support the insurance and reinsurance obligations over the lifetime of those obligations.

The best estimate shall be calculated on a gross basis without deduction for those amounts that may be called in under reinsurance contracts and from special purpose vehicles whose purpose is to assume insurance risks.

(5) In the calculation of technical provisions the undertaking shall take into account all cash inflows and outflows that are necessary to support the insurance obligations over the lifetime of those obligations. In the calculation the company shall classify insurance obligations into homogeneous risk groups and at minimum into insurances classes.

(6) In the calculation of the amounts that can be called in under reinsurance contracts and from special purpose vehicles whose purpose is to assume insurance risks, subsections (2) and (3), subsection (4)(a) and subsection 5 apply mutatis mutandis. The amounts shall be adjusted for expected loss resulting from counterparty default.

(7) The Ministry of Finance may by regulations make further provision concerning the valuation and calculation of assets, technical provisions and liabilities over and above technical provisions.
Section 14-9  Own funds
(1) An insurance undertaking shall at all times have own funds which are at least sufficient to meet the solvency capital requirements and minimum capital requirements.

(2) Own funds may comprise basic own funds and ancillary own funds. Basic own funds comprise the excess of assets over liabilities with the addition of subordinated liabilities. Own funds other than basic own funds which the undertaking is entitled to call up to absorb losses, and which are approved by Finanstilsynet, are deemed to be ancillary own funds.

(3) The Ministry of Finance may by regulations make further provision regarding own funds, including with regard to the approval of ancillary own funds and the classification of own funds into categories.

Section 14-10 Solvency capital requirement
(1) The solvency capital requirement shall cover the risk of loss of the undertaking's own funds.

(2) The solvency capital requirement shall be calculated to ensure a 99.5 per cent probability that overall losses, including insurance and financial losses, over a period of 12 months will not exceed the calculated capital requirement. The calculation shall take risk-mitigating measures and arrangements into account.

(3) In the calculation of the solvency capital requirement, all quantifiable loss risk attending the insurance undertaking's overall business shall be taken into account, including risk connected to insurances that are expected to be written in the course of the next 12 months. The calculation shall at least cover insurance risk, market risk and credit risk as well as operational risk, including legal risk, but not reputational risk or risk resulting from strategic decisions.

(4) The solvency capital requirement shall be calculated using a standardised approach or internal models. The Ministry of Finance may make regulations on the calculation of solvency capital requirements using the standardised approach and on the approval of internal models and calculation of solvency capital requirements using internal models.

Section 14-11 Minimum capital requirement
(1) The minimum capital requirement shall cover the risk of loss of the undertaking's basic own funds.

(2) The minimum requirement shall be calculated to ensure an 85 per cent probability that overall losses over a period of 12 months will not exceed the calculated capital requirement. The minimum capital requirement shall not be lower than 25 per cent or higher than 45 per cent of the company's solvency capital requirement including any capital requirement add-on determined pursuant to section 14-13 subsection (3).

(3) Regardless of the provisions of subsection (2), the minimum capital requirement shall not be less than the start-up capital requirement for the undertaking under section 3-4 subsection (3).

(4) The amounts mentioned in subsection (3) shall be index regulated with a basis in the European consumer price index.
(5) The Ministry of Finance may make regulations on the calculation of the minimum capital requirement.

**Section 14-12 Information requirement**

(1) An insurance undertaking shall at least once a year publish a report on its solvency and financial position. In the event of changes which materially affect the information that has been published, the company shall publish updated information.

(2) The Ministry of Finance may make regulations concerning the company's publication of information and requirements on documentation, including provisions that make exceptions from the Personal Data Act.

**Section 14-13 Supervisory follow up, rectification and orders**

(1) Finanstilsynet shall make certain that insurance undertakings subject to its oversight have an appropriate system of risk management and internal control, prudent technical provisions to support their insurance liabilities and own funds that are adequate to the risk and scale of the business.

(2) Finanstilsynet may order an insurance undertaking that does not meet requirements set forth in or pursuant to the provisions of chapter 13 and 14 to take necessary steps to rectify the matter. To that end Finanstilsynet may order an insurance undertaking:

   (a) to increase its technical provisions,
   (b) to employ parameters that are specific to the company in the calculation of insurance risk when determining the solvency capital requirement using the standardised approach should the risk profile materially diverge from the assumptions underlying the calculation using the standardised approach,
   (c) to employ an internal model to calculate the solvency capital requirement should the risk profile materially diverge from the assumptions underlying the calculation using the standardised approach,
   (d) to change its system of risk management and internal control.

(3) Finanstilsynet may in cases mentioned in subsection (2) first sentence also order an insurance undertaking to maintain higher own funds where:

   (a) the undertaking's risk profile materially diverges from the assumptions underlying the solvency capital requirement calculated using the standardised approach, and issuing an order to use an internal model is not appropriate or has not been effective, or while an internal model is being developed,
   (b) the undertaking's risk profile significantly diverges from the assumptions underlying the solvency capital requirement calculated using an internal model because certain quantifiable risks are not adequately captured by the model and adjustments to the model to improve capture of the actual risk profile have not improved the situation within an appropriate time frame, or
   (c) the undertaking's system of risk management and internal control materially diverges from the requirements of chapter 13, and these divergences prevent the company from identifying, measuring, monitoring managing and reporting the risks to which it has been or
may become exposed, and other measures are not likely to rectify the weaknesses within an appropriate time frame.

The Ministry of Finance may by regulations make further provision concerning capital requirement add-ons.

**Section 14-14 Insurance undertaking in an impaired financial position**

(1) An insurance undertaking that does not fulfil the solvency capital requirement or the minimum capital requirement or believes there to be a risk of under-fulfilment shall immediately inform Finanstilsynset. The undertaking shall put forward a plan to rectify the situation. Finanstilsynset may issue the insurance undertaking with an order to change, delimit or restrict its business activity, reduce the company's risk profile or take the necessary steps, including setting limits to the company's disposal over its assets, and if necessary to revoke the company's licence.

(2) Finanstilsynset shall revoke a licence where the undertaking fails to meet the minimum capital requirements, and Finanstilsynset considers that the plan devised to fulfil the requirement is not satisfactory or the undertaking fails to comply with the requirement within three months of its non-compliance with the requirement being brought to light.

(3) Where an insurance undertaking fails to comply with the requirement for assets to cover its technical provisions, Finanstilsynset may issue the company with an order to rectify the matter and set limits to the company's disposal over its assets or its right to write new insurances.

(4) The Ministry of Finance may make regulations concerning a plan and deadline for complying with the capital requirements, and concerning Finanstilsynset's right to issue orders and impose other sanctions.

**Section 14-15 Small insurance undertakings**

The Ministry of Finance may by regulations make exceptions in whole or in part from the provisions of sections 14-7 to 14-14 in the case of small insurance undertakings that fulfil further conditions established in the regulations.

III Capital requirements for pension undertakings

**Section 14-16 Capital requirements for pension undertakings**

(1) Pension funds that carry on life insurance business shall at all times have capital that is sufficient to meet the solvency margin requirement for the pension fund's overall business activity. The Ministry of Finance may establish rules for the method of calculating the solvency margin requirement, the capital to meet that requirement, and other matters concerning the implementation of the solvency margin requirement.

(2) The Ministry of Finance may by regulations stipulate that the provisions of sections 14-7 to 14-14 with appurtenant regulations shall underlie the calculation of the requirements on own funds at pension funds engaged in life insurance business.
(3) Pension funds not engaged in life insurance business and defined contribution pension undertakings shall at all times have own funds constituting at least 2 per cent of the pension fund's or defined contribution pension undertaking's total assets. The Ministry of Finance may by regulations make rules concerning what are to be regarded as own funds and what is eligible for inclusion in total assets.

(4) The provisions of section 14-6 subsection (4) apply mutatis mutandis to pension undertakings.

IV Capital requirements for payment institutions and electronic money institutions

Section 14-17 Capital requirements for payment institutions and electronic money institutions
The Ministry of Finance may make regulations setting minimum requirements for own funds for payment institutions and electronic money institutions.

Chapter 15 Financial institutions' remuneration schemes

Section 15-1 Establishment of remuneration scheme
(1) The Ministry of Finance may by regulations make further provision to ensure that financial institutions establish and at all times have in place and practise a remuneration scheme for the entire institution that covers all employees and officers. Such remuneration scheme shall have special rules for senior employees, for other employees and officers with tasks of significance for the institution’s risk exposure and for other employees and officers with the same remuneration, and for other employees and officers with control tasks. The remuneration scheme shall be in conformity with the institution’s overall objectives, risk tolerance and long-term interests. The remuneration scheme shall contribute to promoting sound management and control of the institution’s risk, and not encourage the taking of excessive risk.

(2) The regulations may contain different rules on implementation of the requirements on remuneration schemes depending on the size, organisation and area of business of the particular institution.

Section 15-2 Requirements on remuneration schemes
By regulations made pursuant to section 15-1, further requirements may be set with regard to remuneration schemes for officers, for senior employees, for other employees with tasks of significance for the institution’s risk exposure and for other employees and officers with the same remuneration, and for other employees with control tasks, which inter alia specify:

(a) which groups of employees and officers in the institution shall be covered by the arrangement,
(b) the relationship between fixed remuneration and performance-based remuneration,
(c) criteria for determining performance-based remuneration that build on a combination of results achieved over time by the individual employee, the business area to which he is connected, and the institution’s aggregate results,
(d) proportional accumulation of performance-based remuneration over a set number of years,
(e) what proportion of the performance-based remuneration can comprise shares, equity certificates or right to other remuneration that is not disbursed in cash,
(f) a condition that performance-based remuneration shall only be accumulated or disbursed where this is warranted by the institution’s financial position, and will be reduced or lapse if the institution’s financial position deteriorates significantly.
(g) a condition that any guarantee of performance-based remuneration may only be employed in special cases,
(h) employees’ and officers’ obligation to refrain from transactions designed to secure performance-based remuneration,
(i) a condition that severance pay upon cessation of the employment relationship shall be adjusted to the results achieved over time, and be designed such that unsatisfactory results are not rewarded.

Section 15-3  Orders and sanctions
In regulations made pursuant to section 15-1, rules may be established to enable decisions to be adopted with regard to:

(a) orders to alter remuneration schemes which are not in conformity with the requirements of the regulations,
(b) a limit on the scope of an institution’s performance-based remuneration set as a percentage of the net profit, to ensure that the institution maintains an adequate capital base,
(c) sanctions against contraventions of the provisions of these regulations.

Section 15-4  Board of directors’ role, remuneration committee, internal control
(1) By regulations made pursuant to section 15-1, rules may be established regarding the board of directors’ obligation to establish and regularly review the remuneration scheme and to monitor the practice and the effects of the scheme.

(2) By regulations made pursuant to section 15-1, provision may be made requiring the board of directors, in institutions which based on their size and areas of business are of substantial significance in the financial sphere, to appoint a committee which shall be able to freely appraise the institution’s remuneration scheme and which shall prepare all cases concerning the remuneration scheme that are to be dealt with by the board of directors.

(3) By regulations made pursuant to section 15-1, rules may also be established regarding independent internal control of compliance with the body of rules.

(4) By regulations, special rules may be established regarding remuneration committees for financial groups.

Section 15-5  Information requirement
By regulations made pursuant to section 15-1, rules may be established requiring the institution to publish information on its remuneration scheme, regarding matters on which information shall be published, and regarding how the information shall be published.
Section 15-6  Declaration regarding determination of salary and other remuneration for senior employees
Section 5-6 subsection (3) and section 6-16(a) of the Public Limited Companies Act apply *mutatis mutandis* to institutions which are not organised as private limited companies or public limited companies and which have issued equity certificates that are quoted on a regulated market.

Chapter 16  Relationship to clients, marketing etc.

Section 16-1  Organisation of customer service
(1) A financial institution shall organise its customer service in such a way that clients are dealt with by staff who have the necessary competence and expertise, and who can provide clients with proper advice and guidance on choice of products with a basis in the client's information and in whatever other knowledge the financial institution has of the customer's situation.

(2) A financial institution shall have in place systems and procedures to ensure compliance with rules governing the information obligation and governing the formulation of customer contracts laid down in or pursuant to the Financial Contracts Act and the Insurance Contracts Act.

(3) A financial institution that offers savings and capital products shall ensure that customers are in a satisfactory manner made aware of the degree of risk, cost responsibility and expected net return that are associated with the products, and of the rules governing lock-in period, termination and payment and disbursement arrangements that will apply.

(4) Financial institutions shall organise their business in such a manner that there is little risk of interest conflicts between the institution and its clients or between the institution's clients, or of customer treatment that conflicts with the requirements of good business practice. Financial institutions shall have in place satisfactory arrangements and procedures to identify and in the event mitigate such risk factors in the various areas of the business.

(5) The Ministry of Finance may make regulations concerning the organisation of customer service and requirements on the expertise of customer service representatives.

Section 16-2  Financial institutions' obligation of confidentiality, treatment of customer data etc.
(1) A financial institution is under an obligation to prevent unauthorised parties from gaining access to or knowledge of information about the business or personal circumstances of clients or other parties which the institution receives during the conduct of its business, except where the institution unless the institution by law or by regulations made pursuant to law is obliged to disclose information or is permitted to disclose information that is otherwise deemed confidential. Where called for by special considerations, Finanstilsynet may waive the confidentiality obligation in whole or in part.

(2) Confidentiality under subsection (1) shall not prevent a person subject to such an obligation under section 9-6 from disclosing information about clients' affairs that the employee or officer needs in the conduct of his or her duties for the financial institution. Nor shall confidentiality prevent the surrender of information subject to consent in writing from the party entitled to confidentiality.
The obligation of confidentiality under subsection (1) shall not prevent a financial institution from disclosing in special cases to another financial institution information that the institution has received during the conduct of its business, provided:

(a) the purpose is to expose or combat financial crime or other serious criminality,
(b) the purpose is to execute client assignments and settlement of claims from or against clients, or other warranted safeguarding of the interests of the financial institution or its clients, or
(c) it is necessary to provide information about clients' health and other personal data to another financial institution, except as otherwise provided by provisions of the Personal Data Act.

Surrender information under first sentence may only take place under a resolution of the board of directors.

A financial institution shall have in place control arrangements to ensure that customer data are treated in a satisfactory manner, and that unauthorised parties do not gain access to or knowledge of such information.

The Ministry of Finance may make regulations concerning the surrender of information.

Section 16-3 Appeals board for dealing with disputes
(1) The King may by regulations provide that financial institutions shall be affiliated to an appeals board as referred to in the Financial Contracts Act section 4 or the Insurance Contracts Act section 20-1.

(2) A financial institution shall, where no statement ensues from an appeals board as referred to in subsection (1) in a dispute with a customer who is a consumer, cover its own and the counterparty's necessary costs of a hearing by the court of first instance of the same dispute between the same parties. The first sentence applies mutatis mutandis to proceedings in higher courts if the financial institution is the appellant. The provisions of the Civil Disputes Act section 10-5 on costs in small claims cases do not apply to the calculation of necessary court costs.

(3) The Ministry of Finance may make regulations on hearings by an appeals board pursuant to subsection (2), including on the responsibility for costs of hearings by such board.

Section 16-4 Cash
(1) Banks shall in accordance with customers' expectations and needs receive cash from customers and make deposits available to customers in the form of cash.

(2) The Ministry of Finance may make regulations on banks' obligation to receive cash from and to make cash available to customers.

Section 16-5 Obligation to inform about guarantee schemes et al.
(1) Banks and other financial institutions that receive deposits in Norway shall inform their customers in writing of what deposit guarantee scheme applies to their business, and of what guarantee the scheme provides for deposits. The information shall be given in easily understood
Norwegian. The information may be given by means of electronic communication if the customer makes use of online banking, unless the customer requests information on paper.

(2) The Ministry of Finance may make regulations on financial institutions' obligation to provide information about deposit guarantee arrangements and about their right to use information about guarantee schemes in their marketing.

(3) The Ministry of Finance may make regulations on other financial institutions' obligation to inform about guarantee schemes.

Section 16-6  Pricing et al.
The Ministry of Finance may make regulations on the pricing of and charging for services provided by financial institutions.

Section 16-7  Bundled products etc.
The King may make regulations that restrict a financial institution's right to offer a service on condition that the customer concurrently procures another service from the same or another financial institution, or to accord a customer favourable terms on condition that this is done.

Section 16-8  Obligation to inform about prices and bundled products
(1) A financial institution shall inform its customers about interest, commissions and other prices of its services. The institution shall also state whether services included in a bundled product are offered individually, and shall state the price of each of the services included in the bundled product.

(2) Finanstilsynet may by regulations make further provision concerning the implementation of the information requirement in subsection (1).

Section 16-9  Insurance terms and conditions
(1) Insurance undertakings and pension funds shall employ insurance terms and conditions that are reasonable and adequate.

(2) Finanstilsynet shall conduct checks to ensure that the insurance terms and conditions employed are compliant with subsection (1). Finanstilsynet may prohibit the use of terms and conditions that Finanstilsynet deems to be non-compliant with subsection (1).

Chapter 17  Financial groups and cooperation agreements

I  Establishment of financial groups etc.

Section 17-1  Licensing requirement
(1) A financial group may only be established under authorisation of the Ministry of Finance. The same applies where a financial group is expanded by the establishment of a group relationship to another financial institution or to an investment firm, insurance intermediary, real estate agency or asset management company. The provisions of section 6-1 subsections (4) and (5) apply mutatis mutandis.
Section 17-2  Reorganisation into a financial group with a holding company as parent

(1) The general meeting of a financial institution may by the same majority as that needed for an amendment to the articles of association resolve that the financial institution shall be reorganised into a financial group with a holding company as the parent company. Such reorganisation may not be carried out without authorisation granted by the Ministry of Finance.

(2) Where the financial institution is organised as a private limited company or public limited company, a resolution pursuant to subsection (1) shall be implemented by the shareholders of the financial institution having their shares exchanged for shares of the holding company. The general meeting's resolution has the same effect as the subscribing of shares issued by the holding company in exchange for deposit of shares of the financial institution. Once the holding company has passed such resolutions as the exchange of shares requires, the shareholders of the financial institution shall be registered as shareholders of the holding company or entered in the shareholder register of the holding company.

(3) Where the financial institution is organised as a mutual insurance undertaking, as a mortgage credit institution that is not organised as a private limited company or public limited company, or as a savings bank, a resolution pursuant to subsection (1) shall be implemented such that the institution is reorganised into a holding company by amendment of its articles of association, and such that its business as a financial institution is transferred to an institution forming part of the group.

Section 17-3  Holding company

(1) The holding company of a financial group may only be established in Norway under authorisation of the Ministry of Finance.

(2) The following is deemed to be the holding company of a financial group: an institution established as a private limited company or public limited company in Norway whose sole object is to be the parent company of a financial group and whose business according to its articles of association is confined to that of managing its owner interests in financial institutions, and in the event other institutions, making up the group.

(3) The following are also deemed to be the holding company of a financial group: a mutual insurance undertaking, a mortgage credit institution that is not organised as a private limited company or public limited company, and a savings bank, whose business after amendment of its articles of association is confined to managing its owner interests in institutions in the financial group, and which has transferred its other business as a financial institution to an institution forming part of the group, as well as cooperative societies of borrowers whose business is confined to that of managing its owner interests in institutions in the financial group.
Section 17-4  Financial group established by mutual insurance undertakings and savings banks

(1) Mutual insurance undertakings or a savings bank and a mutual insurance undertaking may under authorisation of the Ministry of Finance enter into a cooperation agreement to establish a financial group with a common board of directors (group executive board). The resolution to enter into the cooperation agreement shall be adopted by the body that elects the board of directors of the institution by the same majority as that needed for an amendment to the articles of association. Any resolution to terminate the agreement shall be taken by the same body by simple majority of the votes cast.

(2) The group executive board shall be responsible for the management of the institutions making up the financial group. The group executive board shall be elected by identically worded resolutions adopted by the bodies which elect the board of directors of the individual institutions. The group executive board shall be composed in conformity with the requirements of section 8-4 of this Act. The group executive board shall have the competence and the responsibility accruing to the board of directors under this Act and other legislation. Separate minutes shall be kept of the board meetings of each of the institutions making up the financial group.

(3) Each of the institutions making up the financial group shall have a management board ("virksomhetsstyre") of at least three members. This board shall ensure that the financial group is not managed in such a way as to conflict with the interests of the institution in question. The management board shall be elected by the body responsible for electing the institution's board of directors. In matters of substantial significance to the individual institution the group executive board shall invite the management board to state its views before the group executive board reaches a decision. The management board may state its views on other matters of significance to the institution. The group executive board shall draw up a proposal for instructions, including delegation of authority, to the management boards. The instructions shall be adopted by the body that elects the board of directors. The instructions are not valid until approved by Finanstilsynet.

(4) The group executive board shall appoint the group management or group chief executive responsible for the management of the business of the financial group.

(5) A savings bank and a mutual insurance undertaking in the group shall be regarded as subsidiaries of the same group for the purposes of provisions laid down in or pursuant to this Act.

(6) The Ministry of Finance may by regulations make further provisions to supplement the rules of this section.

Section 17-5  Application

(1) An application for a licence pursuant to sections 17-1 to 17-4 shall contain such information as must be deemed to be of significance for processing the application. Information shall be provided on what institutions are to make up the financial group, and an organisation plan for the institutions in the financial group shall be presented.

(2) In the event of the establishment of a financial institution that is to form part of a financial group, the licence applicant shall enclose articles of association or draft articles of association and a plan of operations for the first three years of operation of the group. Section 3-1 subsections (2) to (4) applies mutatis mutandis.
(3) In the event of the acquisition of a financial institution that is to form part of a financial group, the provisions of subsection (1) apply only insofar as concerns such information and enclosures as must be deemed to be of significance for processing the application.

(4) The rules of chapter 3 apply mutatis mutandis to the processing of applications.

II Organisation of financial groups

Section 17-6 Parent company of a financial group
(1) An institution whose holding in a financial institution is sufficiently large for a group relationship to have been established between the institution and the financial institution shall be deemed to be the parent company of a financial group.

(2) The parent company of a financial group may be:
   
   (a) a holding company,
   (b) another financial institution, except a pension undertaking, payment institution or electronic money institution,
   (c) another owner institution which is not itself a financial institution and is not organised as the holding company of a financial group.

(3) A credit insurance institution cannot be the parent company of a financial group that includes another insurance undertaking or credit institution.

Section 17-7 Group institutions
(1) Except as otherwise provided by law, regulations or licence terms, a financial group may, in addition to the parent company, include:

   (a) financial institutions,
   (b) investment firms,
   (c) asset management companies,
   (d) property and investment companies,
   (e) debt collection agencies,
   (f) companies which intermediate financial services,
   (g) companies with a natural connection with financing activity or insurance business.

(2) The Ministry of Finance may by regulations or administrative decision authorise entities other than those mentioned in subsection (1) to form part of a financial group.

Section 17-8 Requirements on the organisation of financial groups
(1) A financial group shall be organised in such a way as to ensure that a well-arranged corporate structure is established with clear divides between the various areas of business in the group. Institutions that are intermediaries of financial services shall be organised in such a way that their position of independent intermediary is safeguarded to the best possible extent.
(2) The financial group's organisational set-up shall be approved by the Ministry of Finance. In special cases authorisation may be given for identical activity to be carried on in different institutions. In the authorisation document conditions may be set requiring the business of the group or its constituent entities to be organised in a particular manner or to be carried on within certain confines or prohibiting certain types of business to be engaged in. Conditions may also be set requiring the parent company to hold an owner interest of specified size, and requiring that institutions making up the financial group shall be directly owned by a parent company which is a holding company.

(3) In a financial group that includes both a bank and an insurance undertaking (mixed group) the parent company shall be a holding company. The Ministry of Finance may in special cases make exceptions from the requirement of the first sentence. In such case special requirements shall be imposed with regard to independence between the institutions.

Section 17-9 Organisational changes
(1) Any change in the organisation of a financial group that involves a financial institution in the group may only be carried out under consent given by the Ministry of Finance. The parent company of the financial group shall provide Finanstilsynet with such information as is deemed to be of significance for assessing whether consent shall be granted.

(2) The parent company of a financial group is required to notify Finanstilsynet of any of the following changes in the organisation of the financial group or its business, including:

   (a) disposal of any Norwegian subsidiary that is not a financial institution, or disposal of a significant portion of the business of the institution,
   (b) disposal of a foreign subsidiary, or of holdings in excess of 10 per cent of a foreign financial institution,
   (c) closure of a foreign branch.

(3) Finanstilsynet may order that any change covered by notification given under subsection (2) shall not be implemented or reversed if supervisory considerations so indicate.

(4) The Ministry of Finance may by regulations make exceptions from subsection (1). The Ministry of Finance may also make rules to the effect that changes covered by the notification obligation of subsection (2) shall require consent pursuant to subsection (1).

Section 17-10 Group institutions' name use
(1) The name of the parent company, group entity or the group shall be clear from the name, or from an addition to the name, of any institution that forms part of a financial group.

(2) The Ministry of Finance may by regulations make further provision regarding group institutions' name use, and may make exceptions from sections 2-19 to 2-22.
Cooperation outside group relationships

Section 17-11 Cooperation agreement between financial institutions
(1) A financial institution may only establish an organised cooperative arrangement involving joint decision-making with one or more other financial institutions on product development, marketing of particular financial services or in other delimited areas of business, in accordance with a cooperation agreement approved by the Ministry of Finance. The Ministry of Finance may impose conditions regarding the organisation of the cooperative arrangement and to the effect that the rules of section 17-12 and section 17-13 shall apply mutatis mutandis. Significant changes to the cooperative arrangement require new approval.

(2) A financial institution which enters into a cooperation agreement that is not covered by subsection (1), with one or more other financial institutions, including any agreement and coordinated arrangement in which the financial institution participates as a member of a trade organisation or by other means, shall ensure that Finanstilsynet is notified of the agreement. The notification obligation under the first sentence does not apply to agreements on individual projects or on technical or practical matters with no significant bearing on competitive conditions. The notification to Finanstilsynet shall be accompanied by a copy of the agreement and shall contain such information as is deemed to be of significance for assessing the agreement's implication for competitive conditions. Finanstilsynet may within three months of receipt of the notification inform the parties that the agreement must not be put into effect until it is approved by Finanstilsynet, and indicate the deadline for application for approval and for submission of further information.

(3) Investment firms, asset management companies, insurance intermediaries, financial intermediaries and real estate agencies are also deemed to be financial institutions for the purposes of this section.

(4) The requirement for approval under subsection (1) and the notification obligation under subsection (2) do not apply to cooperation agreements between financial institutions that are part of the same financial group or to a cooperative arrangement within a cooperating group. The Ministry of Finance shall decide whether a cooperation agreement comes under subsection (1) or (2). The Ministry of Finance may by regulations specify which categories of agreements require approval and which categories trigger a notification obligation.

(5) Finanstilsynet may issue the institutions with an order to terminate business under the cooperation agreement or it may set special conditions if it finds that the business is not organised or run in a satisfactory manner in conformity with the objects that the legislation on financial institutions is intended to promote, or that the supervision of the institutions' overall business is made difficult.

(6) This section applies mutatis mutandis to cooperation or coordinated arrangements between Norwegian and foreign financial institutions, and between foreign financial institutions where such cooperation or arrangements may have a significant bearing on competitive conditions in Norway.

Section 17-12 Cooperating group
(1) A cooperative arrangement between financial institutions in one or more delimited areas of business that is organised within one or more financial institutions in which the financial
institutions in aggregate hold directly or indirectly more than 50 per cent of the ownership interests (cooperating group), may only be established under authorisation granted by the Ministry of Finance. The rules of section 17-5 on applications, and the rules of sections 17-7 to 17-10 governing the organisation of financial groups apply mutatis mutandis to cooperating groups insofar as appropriate.

(2) Subsection (1) applies mutatis mutandis upon enlargement of the scope of the cooperation and upon material changes in the cooperation or in the owner interests in financial institutions within which the cooperation is organised. In the event of other changes in cooperation covered by subsection (1), the rules of section 17-11 subsection (2) on the notification obligation and Finanstilsynet's competence apply mutatis mutandis.

Section 17-13 Special rules for cooperating groups

(1) The provisions of section 18-3 subsections (1) to (3) on transactions between group institutions etc., section 18-4 on loans, guarantees etc. between group institutions and section 18-5 subsections (1), (2) and (4) to (6) on exchange of customer information between group institutions apply mutatis mutandis to cooperating groups holding a licence pursuant to section 17-12.

(2) Financial institutions participating in a cooperating groups (the owner institutions) shall when applying rules on capital adequacy requirements and other prudential requirements, undertake proportional consolidation of holdings in the financial institution(s) responsible for the business covered by the cooperative arrangement, independently of the size of the holding. The Ministry of Finance may by regulations or administrative decision make exceptions from the requirement for proportional consolidation of holdings below 10 per cent at institutions other than mortgage credit institutions. The consolidation requirement does not cover the relationship between the individual institution and the other institutions in a cooperating groups, nor does it cover business in the individual institution that is not part of an established cooperative arrangement, except as otherwise specifically provided by law or by regulations made by the Ministry of Finance.

(3) The Ministry of Finance may make further provision regarding collaborating groups, including that the provisions of subsections (1) and (2) shall not apply to the relationship between the individual institution and the other institutions in a grouping.

Chapter 18 Business of financial groups, consolidation etc.

Section 18-1 General requirements on financial groups

(1) The holding company or other parent company of a financial group shall ensure that the overall business of the financial group is organised and run in a prudent manner. The provisions of sections 13-5 to 13-8, section 13-14, section 16-1 and chapter 14 apply mutatis mutandis to the overall business of the financial group.

(2) The board of directors of the parent company shall ensure that clear and appropriate management and control arrangements are established for the overall business of the financial group, and that policies and procedures are established to identify, manage, monitor, assess and report risk to which the financial group or group institution is or may become exposed. The parent company shall at regular intervals assess the capitalisation of the financial group relative to the risk exposure for the financial group's overall business.
(3) The parent company's internal audit function shall ensure that internal audit covering the overall activity of the financial group is organised and carried out in a prudent manner. The board of directors of the parent company shall set further policies for the distribution of tasks between the internal audit of the parent company and the internal audit of the individual group institutions.

(4) The board of directors of the parent company shall ensure the presentation of a joint audit report for the parent company and the financial group. The provisions of section 8-17 apply mutatis mutandis.

(5) The provisions of sections 8-18 to 8-20 on audit committees apply mutatis mutandis to any holding company licensed to operate as the parent company of a financial group that includes a bank, mortgage credit institution, finance company whose securities are quoted on a regulated market, or insurance undertaking.

(6) The parent company shall ensure the implementation of provisions governing the financial group's remuneration committee.

(7) The provisions of subsections (1) to (6) do not entail that the board of directors, day-to-day management or other governing bodies of the parent company of the financial group are entitled to adopt decisions with binding effect for subsidiaries of the financial group.

(8) The provisions of this section do not apply to owner institutions as referred to in section 17-6 subsection (2)(c), except as otherwise provided by the Ministry of Finance by regulations or by administrative decision.

Section 18-2 Consolidation rules etc.

(1) Rules on capital adequacy requirements and other solvency and prudential requirements shall be applied on a consolidated basis under the following rules:

(a) Full consolidation is applied to subsidiaries. If it can be substantiated that the owners of holdings and other own funds are financial institutions or investment firms with sufficient capitalisation, and that the balance of responsibility between the holders of own funds is adequately determined, Finanstilsynet may nonetheless authorise a subsidiary to be consolidated pursuant to the proportional consolidation principle.

(b) Proportional consolidation is applied where the institution owns a participation in another institution that is not a subsidiary, or is under joint management with another institution. By participation is meant rights to the capital of other institutions which by creating a lasting connection to those institutions are intended to contribute to the institution's business, or which represent the ownership direct or indirect of 20 per cent or more of the voting rights or the capital of an institution. Finanstilsynet may also order proportional consolidation in the case of holdings down to 10 per cent.

(2) Finanstilsynet may by regulations or administrative decision make exceptions from the obligation to undertake consolidation. Finanstilsynet may in cases where exceptions are made from the consolidation obligation order the setting aside of a capital adequacy reserve of 100 per cent of balance sheet value.
(3) In the calculation of whether the own funds requirement is met on a consolidated basis, consideration shall be given to how effectively the own funds can be transferred and made available across the institutions in the group. Finanstilsynet may by administrative decision decide that capital adequacy requirements and other prudential requirements shall be calculated in a manner other than that stipulated in this section.

(4) The Ministry of Finance may by regulations make further provision concerning which institutions are to be encompassed by consolidation, and concerning the implementation of consolidation and the setting aside of a capital adequacy reserve, including special rules for participations in insurance undertakings and special rules for financial groups in which the parent company is an insurance undertaking or a holding company, and which otherwise only, or in the main, include insurance undertakings or participations in insurance undertakings.

Section 18-3 Transactions between group institutions etc.

(1) A financial group shall have in place rules for its business that ensure that incomes, costs, losses and gains are distributed in as correct a manner as possible between institutions and areas of business encompassed by the group.

(2) Transactions and exposures between institutions in a financial group shall be in accordance with ordinary business terms and principles between independent parties. The same applies to transactions and exposures between a financial institution and another institution where one of the institutions has a participation in the other institution, or where the institutions are under joint management.

(3) Group contributions may together with dividends not exceed a prudent distribution of dividends based on the particular year's operations, unless the Ministry of Finance, with a view to safeguarding the financial strength of a group institution or the group, authorises a higher contribution. A financial institution that is the subsidiary of a financial group may not make a group contribution to another subsidiary of the group. Nor may a life insurance undertaking make a group contribution to other group institutions except as otherwise provided in the undertaking's articles of association.

(4) A brokerage firm that forms part of a group may carry out assignments for another institution in the group except as otherwise provided by the terms of its licence. In cases where such brokerage is carried out the firm shall ensure that a counterparty broker is utilised unless the licence terms state that this is not necessary.

(5) Finanstilsynet shall oversee the distribution of incomes, costs, losses and gains and may issue an order to change transactions and exposures which are not compliant with the provisions of this section. The Ministry of Finance may make regulations concerning transactions and exposures between group institutions etc..

(6) The provisions of this section do not apply to intra-group financial support that is provided in accordance with the provisions of section 20-8.
Section 18-4 Loans, guarantees etc. between group institutions

(1) A financial institution may not grant a loan to or provide a guarantee in favour of another institution in the same group which is not prudent in terms of the financial institution's capital and risk exposure. A financial institution which grants a loan or provides a guarantee in accordance with the provision of the first sentence, and such loan or guarantee exceeds 5 per cent of the institution's own funds, shall notify Finanstilsynet.

(2) An insurance undertaking may not without consent from the Ministry of Finance provide a loan or guarantee in favour of another institution in the same group. An insurance undertaking may nonetheless grant a loan to a wholly-owned subsidiary whose business is confined to that which the insurance undertaking itself is entitled to pursue.

(3) Subsection (2) shall not prevent an insurance undertaking from holding deposits in the bank in the same group for use in, and on a scale adapted to, payment transactions connected to the insurance business. Finanstilsynet may by regulations make further provision concerning such deposits, including setting a limit to overall deposits, and regarding the use made of deposit accounts.

Section 18-5 Exchange of customer information between group institutions

(1) A financial institution may surrender information about customer relationships to another financial institution in the same financial group where the surrender of such information is required to enable compliance with governance, control or reporting requirements for the business of the financial group that are established in or pursuant to law.

(2) A financial institution may surrender to another financial institution in the same group information about a particular customer that includes the customer's name or signature, the customer's contact details, and what types of financial services or products are encompassed by the institution's customer relationship, along with the date of birth in the case of personal customers.

(3) Information as referred to in subsection (2) may be recorded in a common customer register for the financial group. The customer register may surrender the same information about a particular customer to a financial institution in the group, and information about group institutions with which the customer has a customer relationship.

(4) A financial institution may only surrender a retail customer's personal identification number to a financial group's common customer register where the purpose of registering the date of birth is to enable the institution's administration of the customer relationship.

(5) Surrender of information under subsections (1) to (3) may take place without the customer's consent only where the recipient of the information is subject to the confidentiality obligation under section 9-6 or 16-2.

(6) Customer information may be surrendered to other financial institutions in the same financial group pursuant to the provisions of section 16-2.
Section 18-6  Obligation to notify cooperation agreements within a group
The Ministry of Finance may make regulations concerning the approval and obligation to give notification of cooperation agreements between financial institutions in the same group.

Section 18-7  Regulations
The Ministry of Finance may by regulations set further requirements on the business of financial groups.

Chapter 19  Deposit guarantee scheme for banks

1  Deposit guarantee

Section 19  Deposit guarantee scheme
(1) Banks and other credit institutions may not take deposits in Norway without being members of the deposit guarantee scheme for banks under the provisions of this chapter or members of an equivalent guarantee scheme.

(2) The deposit guarantee scheme shall contribute to financial stability by:
   (a) ensuring that deposits taken by a member institution are paid out to the depositors if the institution itself is not in a position to repay a deposit, and
   (b) applying measures under the rules of section 19-11 in respect of institutions as referred to in section 19-2 subsection (1).

(3) The Banks' Guarantee Fund shall manage the deposit guarantee scheme. The guarantee scheme shall have a deposit guarantee fund and other financial resources that fulfil the requirements of section 19-9.

Section 19-2  Membership
(1) Banks having their head office in Norway shall be members of the deposit guarantee scheme for banks.

(2) A credit institution having its head office in another EEA member state that takes deposits from the general public through a branch in Norway may be a member of the deposit guarantee scheme if the guarantee scheme for bank deposits in the home state does not provide cover equal to that set out in section 19-6. A branch that is a member under the first sentence may terminate membership at 12 months' notice. The Ministry of Finance may by regulations make provision with respect to terms and rules for such membership.

(3) The Ministry of Finance may by regulations make provision with respect to membership of the deposit guarantee scheme for other financial institutions having their head office in Norway and for branches of credit institutions having their head office in a state outside the EEA, and may set conditions and further rules for such membership.

Section 19-3  Deposits
(1) In this chapter "deposit" means any credit balance on a named account in a credit institution whose repayment may be requested under the terms and conditions applying to that account, including time-limited deposits and deposits in savings accounts. "Deposit" also means non-due interest, and receivables arising from payment assignments and other ordinary payment services. Credit balances with respect to financial instruments as referred to in the Securities Trading Act
section 2-2 are not regarded as deposits unless the instrument concerned is a savings product that existed before the Act entered into force and is registered to a named person or evidenced by a bank certificate of deposit. Nor is a credit balance whose principal is not required to be repaid at nominal value, regarded as a deposit.

(2) The deposit guarantee scheme shall cover eligible deposits taken by the member institutions. "Eligible deposits" means all deposits except:
   (a) a deposit made by another credit institution for its own account and risk,
   (b) own funds,
   (c) a deposit of the proceeds of a transaction which pursuant to final and unappealable judgment is in breach of the legislation on money-laundering or financing of terrorist activity,
   (d) a deposit by a financial institution other than a credit institution, including any payment institution, holding company or other parent undertaking in a financial group,
   (e) a deposit by an investment firm, investment fund or other collective investment undertaking,
   (f) a deposit by a depositor of unknown identity,
   (g) a deposit by an insurer or pension undertaking, including pension funds, as well as by holding companies and other parent undertakings in insurance groups,
   (h) a deposit by a public authority, and
   (i) receivables arising out of an institution's debt instruments, promissory notes and own acceptances.

(3) The guarantee scheme does however cover deposits of funds related to personal pension plans or collective occupational pension schemes of small or medium-sized enterprises.

(4) Member institutions shall mark deposits covered by the guarantee scheme in a way that allows immediate identification of such deposits.

(5) The Ministry of Finance may by regulations make provision to exclude deposits taken by a bank through a branch in a state outside the EEA.

Section 19-4 Covered deposits
(1) "Covered deposits" means eligible deposits of up to NOK 2 million per depositor per member institution and any deposit referred to in subsection (2).

(2) The following deposits, including deposits in client accounts, shall in their entirety be regarded as covered deposits for a period of up to 12 months from the date on which the deposit was received and credited at the institution or the date on which the deposit could be lawfully transferred to others, whichever is earlier:
   (a) any deposit arising from a real property contract for the purchase or sale of the right to a private dwelling or recreational property,
   (b) any deposit that serves a social purpose and is related to particular events in a depositor's life course including contracting of marriage, termination of cohabitation; termination of employment relationship, including in connection with retirement or downstaffing; and disablement or death, or
   (c) any deposit arising from disbursement of an insurance benefit, compensation for damage resulting from a criminal act, or compensation for wrongful criminal prosecution.
(3) For deposits received by member institutions having their head office in Norway through a branch established in another EEA state, the amount limit for covered deposits under subsection (1) is an amount in Norwegian kroner corresponding to EUR 100,000 per depositor per member institution. The same applies to any deposit received by a member through cross-border activity in another EEA member state. The Ministry of Finance may make supplementary provision by regulations.

(4) The Ministry of Finance may by regulations make rules concerning what are to be regarded as eligible or covered deposits, including rules on who is to be regarded as a covered depositor, and on the disbursement of covered deposits. The Ministry of Finance may also lay down further rules requiring the guarantee scheme to cover liabilities with regard to products that include not only deposits but also other monies related to pensions and other benefits to persons in connection with, or pursuant to drawdown of, retirement pension.

Section 19-5 Unavailable deposits
(1) Deposits shall be regarded as unavailable where the Ministry of Finance has reached a decision under section 20-29 to liquidate an institution under public administration, Finanstilsynet has decided pursuant to section 20-18 subsection (1)(d) to prevent an institution from making repayments to depositors, or another like decision has been made suspending a depositor's right to repayment. A deposit shall also be regarded as unavailable where Finanstilsynet has determined that a member institution has not repaid deposits that have fallen due for payment, and that, in view of the institution's financial position, it has to be assumed that the institution neither is nor will become in a position to repay the deposits.

(2) Finanstilsynet shall make a decision as referred to in subsection (1) second sentence no later than five working days after being informed that the institution has failed to repay deposits by the due date.

Section 19-6 Calculation of reimbursements
(1) The amount to be repaid to the individual depositors shall be calculated on the date the deposit became unavailable. This also applies to deposits that a branch of a member institution established in another EEA member state has received in the host state's currency, and that has not been converted into Norwegian kroner.

(2) A depositor's deposits shall not be set off against his or her liabilities to the member institution when the amount of the disbursement is calculated. However, this does not apply to liabilities that have fallen due before the calculation date if it has been agreed prior to the date of the deposit that the member institution is entitled upon disbursement to effect settlement by means of set-off, and the depositor's liabilities are stated in the agreement.

(3) Where the Norwegian branch of a foreign credit institution is a member of a guarantee scheme pursuant to section 19-2 subsection (2), a deduction shall when repaying covered deposits be made for that portion of the deposits that is covered by the guarantee scheme for bank deposits in the member institution's home state.
Section 19-7  Deadline for reimbursement

(1) The deposit guarantee scheme shall make covered deposits available to the depositors in Norwegian kroner no later than seven working days after the deposits became unavailable. If the guarantee scheme is prevented from doing so on practical grounds, it shall take measures that will as soon as possible, and in all events no later than five working days after demand for repayment, make available to depositors a reasonable portion of the covered deposits.

(2) Repayment may if necessary be deferred until after deadline in subsection (1) where:
   (a) it is uncertain who is entitled to receive repayment of the deposit,
   (b) the deposit is subject to legal dispute,
   (c) the deposit is subject to restrictive measures imposed by national governments or international bodies,
   (d) there has been no transaction relating to the deposit within the last 24 months,
   (e) the deposit is covered by section 19-4 subsection (2), but not for more than three months, or
   (f) the deposit shall be repaid in accordance with section 19-8 subsection (1).

(3) If a depositor or person with an interest connected a deposit account is under prosecution for violation of the legislation on money laundering or financing of terrorism, the guarantee scheme may suspend disbursement pending a final and unappealable court judgment.

(4) The guarantee scheme may omit repay a covered deposit where there has been no transaction relating to the deposit within the last 24 months provided that the value of the deposit is lower than the costs that would be incurred in making such a repayment.

Section 19-8  Cooperation with a guarantee scheme in another EEA member state

(1) The deposit guarantee scheme shall ensure that covered deposits received by a member institution through its branch in another EEA member state are repaid at the earliest opportunity by the guarantee scheme for bank deposits in the state in which the branch is established in accordance with the instructions of and on behalf of the guarantee scheme of the home member state. A deposit in Norwegian kroner shall be converted to the host state currency at the bid price in effect on the date the deposit became unavailable. The deposit guarantee scheme shall make necessary funds available to the guarantee scheme in the branch's home state and refund amounts disbursed and costs incurred.

(2) The deposit guarantee scheme shall undertake disbursement of covered deposits in accordance with the guarantee scheme in the institution's home state on behalf of and in accordance with instructions from the guarantee scheme in that state. The home state's guarantee scheme shall make the necessary funds available and reimburse disbursed amounts and accrued costs.

(3) The Ministry of Finance may by regulations lay down rules on cooperation with a guarantee scheme in another EEA member state.

II  Deposit guarantee fund

Section 19-9  Available resources

(1) The deposit guarantee scheme shall have in place appropriate systems to calculate its guarantee liability. The scheme shall at all times have available a deposit guarantee fund and other resources
that are in reasonable proportion to its guarantee liability. The deposit guarantee fund shall constitute an amount at least equivalent to 0.8 per cent of aggregate covered deposits.

(2) The assets of the deposit guarantee fund shall be invested in liquid, low risk assets.

(3) If the deposit guarantee fund is smaller than the minimum requirement under subsection (1), the shortfall shall be covered by guarantee from the members. The guarantee amount shall be apportioned among the members in accordance with the rules of section 19-10, subsections (3) and (4). The individual member's guarantee liability shall be subject to the same cap as the additional contribution pursuant to section 19-10, subsection (2).

(4) The deposit guarantee scheme shall have in place alternative funding arrangements to enable it to make short-term funding available to meet payout claims made against it. The deposit guarantee scheme may also raise loans from other sources to guarantee repayment of covered deposits.

(5) The Ministry of Finance may by regulations make rules concerning the guarantee scheme's right to lend to or to borrow from a guarantee scheme in another EEA member state.

Section 19-10 Members' contributions
(1) The member institutions shall each year make an overall contribution to the deposit guarantee fund equivalent to 0.08 per cent of their aggregate covered deposits. Where the fund falls below two-thirds of the minimum requirement under section 19-9 subsection (1), the contribution shall be set at a level allowing the minimum requirement to be met within six years. The Ministry of Finance may decide that the contribution in individual years shall be lower than that following from the first or second sentence.

(2) If the deposit guarantee scheme's assets are insufficient to cover the repayment of covered deposits, the members shall pay an overall extraordinary contribution needed to enable the scheme to cover the repayments. The extraordinary contribution by the individual member per year shall not exceed an amount equivalent to 0.5 per cent of the member's covered deposits unless Finanstilsynet consents to a higher additional contribution being required. Finanstilsynet may allow a member to defer payment of an extraordinary contribution for up to 6 months if the contribution would jeopardise the liquidity or solvency of the member.

(3) The Banks' Guarantee Fund shall base the individual member's contribution under subsections (1) and (2) on the member's share of the deposit guarantee fund's overall guarantee liability. The Bank's Guarantee Fund shall use a well-documented, risk-based method to determine the contributions. The method shall be approved by Finanstilsynet.

(4) For branches coming under section 19-2 subsection (2) or (3), the calculation shall incorporate a deduction for that portion of the deposits that is covered by the guarantee scheme in the branch's home state.

(5) Contributions paid by new members of the deposit guarantee scheme under subsection (3) shall incorporate a deduction for that part of the year that the institution has not been a member. A corresponding deduction applies upon withdrawal from the scheme. If a new member has conducted business prior to enrolling, the Banks' Guarantee Fund may instead set a special enrolment
contribution which shall not exceed the contribution the member would have been required to pay for the full year.

(6) The Ministry of Finance may by regulations make rules with regard to payment of contributions upon winding up, merger and significant changes to the scope of the business, and with regard to the transfer of amounts remitted to a guarantee scheme in another EEA member state upon transfer of membership.

Section 19-11 Use of resources

(1) The deposit guarantee fund and other available resources of the deposit guarantee scheme shall be used exclusively to finance the repayment of covered deposits, contributions to the resolution of institutions in accordance with section 20-54 and measures under the present section.

(2) The Banks' Guarantee Fund may utilise the guarantee scheme's resources for alternative measures, including granting loans, issuing guarantees or acquiring equity certificates, in order to prevent a member institution as referred to in section 19-2 subsection (1) from failing pursuant to section 20-15 subsection (2), provided that:

(a) the Ministry of Finance has not taken any resolution action under section 20-15 subsection (1), and there is no basis for notifying the ministry pursuant to section 20-13 subsection (2),
(b) the measure is selected and implemented in a satisfactory manner based on appropriate systems and procedures, including for monitoring of risk,
(c) it can be assumed that the deposit guarantee fund's costs, should the measure be implemented, will not exceed the deposit guarantee fund's costs of repaying covered deposits to the depositors,
(d) conditions are imposed on the institution, inter alia to ensure sound risk management, greater verification rights for the Banks' Guarantee Fund, and regular reporting to the Banks' Guarantee Fund on the progress made by the institution,
(e) the institution undertakes to ensure covered depositors' access to their deposits,
(f) Finanstilsyset has determined that the deposit guarantee fund can if necessary be supplied with resources in cases as referred to in subsection (4), and
(g) the Banks' Guarantee Fund has consulted Finanstilsyset on the measures and conditions imposed.

(3) The Banks' Guarantee Fund may use the guarantee scheme's financial resources to finance measures to secure covered depositors' continued access to their deposits, including by transfer of assets and liabilities and deposit book transfer, in the context of the winding up of member institutions pursuant to sections 20-29 to 20-32. Subsection (2)(c) and (d) applies *mutatis mutandis*.

(4) Where an order has been made under subsection (2) or (3), other member institutions shall immediately provide the deposit guarantee fund with resources corresponding to the cost of the measure concerned in the form of extraordinary contributions pursuant to section 19-10 subsection (2), where

(a) the need to reimburse covered depositors arises, and the guarantee fund's available financial resources amount to less than two-thirds of the minimum requirement under section 19-9 subsection (1), or
(b) the guarantee fund's available financial resources fall below 25 per cent of the minimum requirement under section 19-9 subsection (1).
Orders made under this section may not be appealed against.

Section 19-12 Right of recourse
(1) Where the deposit guarantee scheme has repaid covered deposits, the guarantee scheme is subrogated to the rights of the depositor against the member institution.

(2) Where the deposit guarantee scheme has used financial resources to implement measures pursuant to section 19-11 subsection (2) or (3), the guarantee scheme may demand reimbursement of those financial resources by the institution or the winding up estate.

(3) Where the deposit guarantee scheme has used financial resources to contribute to resolution proceedings under section 25-54, the guarantee fund may demand reimbursement of those financial resources by the institution.

III. Administrative matters

Section 19-13 Management of the scheme
(1) The Banks' Guarantee Fund shall manage the deposit guarantee scheme and the deposit guarantee fund. The board of directors of the Banks' Guarantee Fund shall be the board of directors of the deposit guarantee scheme and shall exercise the authority prescribed by the rules of this chapter.

(2) The Banks' Guarantee Fund shall in accordance with subsection (1) adopt decisions on:
   (a) the calculation and collection of contributions to the deposit guarantee fund,
   (b) the management of the guarantee fund's financial resources,
   (c) the calculation and repayment of covered deposits,
   (d) measures applied to member institutions pursuant to section 19-11 subsections (2) and (3),
   (e) entry into agreements on loans and other funding arrangements under section 19-9 subsection (4) and disposal of borrowed funds, and
   (f) other matters concerning the deposit guarantee fund's activity that are to be decided under the rules governing the guarantee scheme and the Banks' Guarantee Fund.

Section 19-14 Administrative requirements
(1) The Banks' Guarantee Fund shall establish administrative systems to calculate its potential deposit liabilities. The Banks' Guarantee Fund shall also take administrative measures to prepare for repayment of covered deposits, and to ensure that the member institutions electronically make available and regularly update the information needed on depositors and eligible deposits. Stress tests of the administrative systems shall be performed regularly and at least every three years.

(2) The Bank's Guarantee Fund may require members to inform it about the aggregate amount of eligible deposits of each depositor. Information may be specifically required about deposits coming under section 19-4 subsection (2). Information shall be submitted electronically in a transmissible form that is tailored to the guarantee fund's systems.

(3) The Bank's Guarantee Fund may examine members' accounts and audit and assess their management. In that context the Bank's Guarantee Fund may require a member to present any documents etc. and information considered necessary by the Bank's Guarantee Fund.
(4) The Bank's Guarantee Fund shall keep its members informed about the activity of the guarantee scheme. Members' meetings may be convened as and when required to consider matters related to the guarantee scheme's functioning.

(5) The Ministry of Finance may by regulations laid down rules concerning the tasks of and administrative requirements on the Bank's Guarantee Fund.

Section 19-15 *Obligation to inform depositors*
(1) The Bank's Guarantee Fund shall provide depositors with necessary information on the deposit guarantee scheme on its webpages.

(2) The Ministry of Finance may by regulations laid down rules concerning the obligation to inform depositors.

Section 19-16 *Non-performance*
(1) Should a member institution fail to fulfil its obligations as a member, the guarantee scheme shall notify Finanstilsynet. Finanstilsynet may order the member institution to rectify the matter.

(2) If the member institution fails to comply with the order, the guarantee scheme may with Finanstilsynet's consent give the institution not less than one month's notice that its membership will terminate if the institution does not rectify the matter by the expiry of the notice period.

(3) Deposits received by the institution before the expiry of the notice period shall continue to be covered by the guarantee scheme. The institution shall within one month of the expiry of the notice period notify depositors of the termination of its membership.

Section 19-17 *Right of appeal. Legal action*
(1) Decisions adopted by the Bank's Guarantee Fund concerning depositors' claims under the guarantee scheme may be appealed to Finanstilsynet under the provisions of the Public Administration Act. A dispute about whether a claim is covered by the deposit guarantee, and the right to satisfaction under that guarantee, may be heard by the courts of law under the provisions of the Dispute Act.

(2) Decisions adopted by the Bank's Guarantee Fund concerning the individual member institution's obligation to make contributions may be appealed to Finanstilsynet under the rules of the Public Administration Act except where risk adjustment of the member institution's share of the annual contribution is concerned. Subject to the constraints of the first sentence, disputes regarding a member institution's obligation to make contributions may be heard by a court of law under the provisions of the Dispute Act.
Chapter 20  Capital inadequacy and insolvency at banks, mortgage credit institutions and financial groups

I  General provisions

Section 20-1  Scope

(1) The provisions of this chapter apply to:
   (a) banks and mortgage credit institutions, as well as investment firms covered by the minimum requirement on start-up capital under the Securities Trading Act section 9-13 subsection (1) first sentence,
   (b) holding companies or other parent company in a financial group of which an institution as referred to in (a) forms part, and
   (c) finance companies that form part of a financial group as referred to in (b).

(2) The rules on financial groups in this chapter apply only to financial groups of which an institution as referred to in subsection (1)(a) forms part.

(3) In this chapter 'Norwegian financial groups' refers only to financial groups with a parent company having its head office and registered office in Norway.

Section 20-2  Prohibition against bankruptcy filing

Debt negotiation or winding-up proceedings pursuant to the Debt Settlement Proceedings and Bankruptcy Act may not be initiated against institutions referred to in section 20-1.

Section 20-3  Resolution authority

(1) Finanstilsynet's tasks and competence as resolution authority pursuant to section 20-6, section 20-9, section 20-10, section 20-11 subsection (4), section 20-14 and sections 20-15 to 20-57 shall be operationally separated from Finanstilsynet's supervision of institutions as referred to in section 20-1 subsection (1).

(2) Finanstilsynet shall inform the Ministry of Finance of decisions made and other exercise of competence as resolution authority under subsection (1). Decisions of significance for financial stability, including decisions on resolution plans pursuant to section 20-6 for larger institutions and decisions on write-down and conversion of own funds under section 20-14, shall be approved by the Ministry of Finance prior to implementation.

(3) The Banks' Guarantee Fund shall assist Finanstilsynet in the exercise of tasks and competence as resolution authority under subsection (1). Finanstilsynet shall determine what tasks are to be performed by the Bank's Guarantee Fund pursuant to the first sentence. The Bank's Guarantee Fund shall prepare cases in which Finanstilsynet is to make a decision as resolution authority under subsection (1).

Section 20-4  Proportionality. Regulations

(1) In applying the rules of this chapter and associated regulations, Finanstilsynet shall ensure that the effect of the individual provisions is adjusted to and in reasonable proportion to the institution's size, capital structure and ownership structure, nature and scale of its activity and risk exposure, and
to any likelihood of the institution's financial impairment or failure having repercussions for financial stability, market conditions or the wider economy.

(2) The Ministry of Finance may by regulations lay down rules to supplement, implement and delimit the provisions of this chapter, including rules to implement subsection (1). Such regulations may make exemptions from the rules of the Debt Settlement Proceedings and Bankruptcy Act, the Enforcement Act and the Dispute Act part VII.

(3) The Ministry of Finance may by regulations lay down rules on cooperation between Finanstilsynet and supervisory and resolution authorities in other EEA member states, including on the application of the rules of this chapter in cases where:
   (a) a Norwegian institution or financial group operates business through a subsidiary or branch in another EEA member state, and
   (b) a foreign undertaking or financial group operates business through a subsidiary or branch established in Norway.

II Preparedness

Section 20-5 Recovery plan
(1) An institution shall have in place a plan which sets out what measures the institution can take to restore its financial position following a significant deterioration, including the point at which conditions for intervention under section 20-11 are met. The recovery plan shall:
   (a) contemplate various situations involving serious macroeconomic and financial disruptions that may affect the institution,
   (b) include several models for the application of tools to restore the institution's financial position, and criteria and procedures that ensure that the measures can be implemented in a timely manner,
   (c) include an analysis of how and when the institution may avail itself of central bank facilities and identify those assets which would qualify as collateral,
   (d) not assume any access to or receipt of public financial support, and
   (e) be updated annually, or more frequently if required by Finanstilsynet, and after any change to the institution that necessitates a change to the recovery plan.

(2) The recovery plan shall be approved by the board of directors of the institution and forwarded to Finanstilsynet. Finanstilsynet shall within six months consider whether the plan satisfies the requirements of subsection (1), whether the planned measures will be sufficient to restore the institution's financial position, and whether the plan is reasonably likely to be implemented quickly and avoiding as far as possible any adverse effect on customers, other financial institutions and financial stability. If the institution has a branch with significant activity in another EEA member state, Finanstilsynet shall consult the supervisory authority of that state.

(3) If Finanstilsynet finds material deficiencies in the recovery plan, Finanstilsynet shall require the institution to submit within three months a revised plan. If Finanstilsynet does not consider the deficiencies to be adequately addressed by the revised plan, it may direct the institution to make changes to the plan. If the institution fails to submit a revised recovery plan, or if the revised recovery plan does not adequately remedy the deficiencies, Finanstilsynet may require the
institution to identify within a reasonable timeframe changes it can make to remedy the deficiencies. If the institution fails to identify such changes, or if Finanstilsynet finds that the actions proposed by the institution would not be adequate, Finanstilsynet may impose on the institution an order as referred to in section 14-6 subsection (3).

(4) Parent companies of Norwegian financial groups shall have in place a group recovery plan in accordance with subsections (1) to (3) which identifies measures that may be implemented to restore the group's and each group institution's financial position. Finanstilsynet may require a Norwegian group institution to have its own recovery plan and, in consultation with the supervisory authority in another EEA state, that the same shall apply to group institutions established in that state. Finanstilsynet's assessment and follow-up of a group's recovery plan shall be undertaken in agreement with the group's supervisory college if a subsidiary is established in another EEA member state. If the group has a branch with significant activity established in another EEA member state, Finanstilsynet shall consult the supervisory authority of that state.

(5) Finanstilsynet may require the respective institutions to have in place updated registers of financial contracts and established procedures to allow speedy presentation of an overview of the institution's economic and financial circumstances, and parent companies of Norwegian financial groups to maintain an updated overview of the institutions in the group that are subject to consolidated supervision.

(6) The Ministry of finance may by regulations make rules setting further requirements for institutions' recovery plans.

Section 20-6 Resolution plan

(1) Finanstilsynet shall for each institution draw up a plan for resolution actions which may be taken by Finanstilsynet when the conditions for intervention under section 20-15 are met. The resolution plan shall:

(a) contemplate various situations that may affect the institution, including a crisis hitting a single institution or large sections of the financial system,
(b) include several different models for the application of resolution tools towards the institution, and specify the minimum requirement on eligible liabilities under section 20-9,
(c) include an analysis of how and when the institution may avail itself of central bank facilities and identify those assets which would qualify as collateral,
(d) not assume any access to public financial support or to central bank liquidity support on special terms, and
(e) be updated annually, and after any change to the institution that necessitates a change to the resolution plan.

(2) When drawing up a resolution plan in accordance with subsection (1), Finanstilsynet shall consider whether the institution can be placed under resolution pursuant to section 20-15 with minimum possible adverse effects on customers, other financial institutions and financial stability, and with continuation of critical functions, or whether the institution should instead by wound up in accordance with section 20-29, if it is failing. If the institution has a branch with significant activity in another EEA member state, Finanstilsynet shall consult the resolution authority of that state.
If Finanstilsynet finds material impediments to an institution's resolvability, the institution shall be allowed up to four months in which to submit a proposal for measures to address or remove the impediments. If the institution has a branch with significant activity in another EEA member state, Finanstilsynet shall inform the resolution authority of that state. If Finanstilsynet considers that the proposed measures are not sufficient to remove the impediments, Finanstilsynet may require the institution:

(a) to examine the need to establish or revise any intragroup financing agreements pursuant to section 20-8, or draw up service agreements, whether intra-group or with third parties, to cover the provision of the institution's critical functions,
(b) to limit its maximum individual and aggregate exposures,
(c) to fulfil specific or regular additional information requirements relevant for resolution purposes,
(d) to divest specific assets,
(e) to limit or cease specific existing or planned activities,
(f) to restrict or refrain from the development of new or existing business lines or sale of new or existing products,
(g) to simplify the structure of the institution or the group in order to ensure that critical functions can be legally and operationally separated from other functions through the application of the resolution tools,
(h) to set up a holding company,
(i) to issue eligible liabilities to meet the requirements of section 20-9,
(j) to take other steps to meet the requirements of section 20-9, including renegotiation of any existing debt and capital instruments with a view to ensuring that they can be written down or converted under sections 20-14 and 20-24, and
(k) where the institution is part of a mixed group, to set up a separate holding company for the institution if this is necessary in order to facilitate the resolution of the institution without adverse effects on the non-financial part of the group.

Finanstilsynet may require the institution to provide any information required for the preparation of a resolution action. An institution that has received an order under subsection (3) shall within a period of one month submit to Finanstilsynet a plan for implementation of the order.

Finanstilsynet shall have in place a resolution plan in accordance with subsection (1) for the overall activity of Norwegian financial groups. The plan shall be based either on resolution action at the level of the parent company and the group as a single entity, or at the level of group institutions. Finanstilsynet may decide that a resolution plan shall also be drawn up for Norwegian group institutions and, by agreement with the resolution authority of another EEA member state, that the same shall apply to group institutions established in that state. Finanstilsynet's assessment and follow-up of the group's resolution plan shall be undertaken in consultation with the resolution authority of another EEA member state when the group has a subsidiary in that state. If the group has a branch with significant activity established in another EEA member state, Finanstilsynet shall consult the resolution authority of that state.

Finanstilsynet may require the individual institutions to maintain updated lists of financial contracts and established procedures to permit speedy presentation of an overview of the institution's economic and financial situation, and parent companies of Norwegian financial groups to maintain an overview of the institutions in the group that are subject to consolidated supervision.
(7) The Ministry of Finance may by regulations lay down supplementary rules on resolution plans.

Section 20-7 Simplified requirements on plans
(1) In the application of the rules of sections 20-5 and 20-6, the requirements on recovery plans and resolution plans shall take into account:
   (a) the institution's size, risk profile, complexity, shareholding structure, nature and scope of its activities, and its interconnectedness to the financial system in general, and
   (b) presumed impacts of the institution's failure on other institutions, financial stability, market conditions and the economy in general.

(2) Finanstilsynet may, in accordance with subsection (1) and in order to curb administrative costs, set simplified requirements for recovery plans and resolution plans for individual institutions or groups of institutions.

Section 20-8 Agreements on intra-group financial support
(1) An institution forming part of a financial group as referred to in section 20-1 subsection (2) may, notwithstanding the provisions of sections 18-3 and 18-4, enter an agreement to grant financial support in the form of a loan, guarantee or provision of collateral to another institution in the same group where that institution meets the conditions for early intervention under section 20-11. An institution which at the time of the agreement meets the conditions for early intervention under section 20-11 may not enter an agreement under the first sentence.

(2) The draft of an agreement as referred to in subsection (1) on intra-group financial support shall be sent to Finanstilsynet together with information on the parties to the agreement and fulfilment of conditions referred to in subsection (6). Finanstilsynet shall within four months, in the event in consultation with the supervisory authority of another EEA member state, consider whether the draft agreement shall be approved. The draft agreement shall not be approved if it contains conditions that conflict with subsection (6).

(3) The draft of an agreement as referred to in subsection (1) on intra-group financial support in financial groups established in another EEA state shall have been approved by the supervisory authority of that state.

(4) After Finanstilsynet or the supervisory authority of another EEA member state has approved the agreement draft, the draft shall be presented for approval to the owners of each of the institutions that are parties to the agreement. The agreement shall only be binding on group institutions that have received approval.

(5) A decision by a group institution to provide or receive financial support under the agreement shall be made by the board of directors. The decision shall be reasoned, indicate the object of the financial support and confirm that the conditions of subsection (6) are complied with. Before the financial support is provided the institution providing financial support shall give notification with relevant information to Finanstilsynet which shall within five working days decide whether the financial support shall be approved.

(6) Intra-group financial support may only be provided if:
(a) there is a reasonable prospect that the support will significantly redress the financial difficulties of the recipient institution,
(b) the support has the objective of preserving or restoring the financial stability of the group as a whole or of a group institution and is in the interests of the group institution providing the support,
(c) the support is provided on commercial terms and for a consideration,
(d) there is a reasonable prospect that the consideration will be paid and the support reimbursed,
(e) provision of the financial support does not jeopardise the liquidity or solvency of the group institution providing the support or create a threat to financial stability,
(f) the group institution providing the support complies at the time the support is provided with the requirements relating to capital, liquidity and large exposures, and the provision of the financial support does not cause the group institution to infringe those requirements, unless authorised by Finanstilsynet, and
(g) provision of the financial support would not undermine the resolvability of the group institution providing the support.

(7) A group institution shall publish information on whether it is or is not a party to an agreement on intra-group financial support under rules laid down in or pursuant to section 14-5.

(8) The Ministry of Finance may by regulations lay down supplementary rules on intra-group financial support.

Section 20-9 Minimum requirements on eligible liabilities
(1) Institutions as referred to in section 20-1 subsection (1)(a) shall at all times meet a minimum requirement for the sum of own funds and eligible liabilities as referred to in section 20-25 subsection (1), set by Finanstilsynet. The minimum requirement shall be set concurrently with the drawing up of the resolution plan under section 20-6 on the basis of:
   (a) the need for resolution measures involving bail-in or other measures as referred to in section 20-19 subsection (1) to be applied to the institution.
   (b) the need for the institution to have its losses covered and to be recapitalised to the extent necessary to restore its financial position,
   (c) the need for the institution to have its losses covered and to be recapitalised as referred to in (b), even where it is assumed that a portion of the eligible liabilities will be excluded under section 20-25 or transferred to another institution under section 20-21,
   (d) the institution's size, business model, funding structure and risk profile,
   (e) the extent to which the deposit guarantee scheme can contribute to funding the resolution process under section 20-54, and
   (f) the extent to which failure of the institution is likely to affect financial stability.

(2) When setting the minimum requirement under subsection (1), Finanstilsynet may decide that the requirement shall in part be met by debt instruments with lower priority than other debt.

(3) In the decision of whether an institution meets the minimum requirement under subsection (1), debt instruments shall only be counted as eligible liabilities provided that they are fully paid up, have a residual term of at least one year, and are not owned, guaranteed, secured or funded by the institution itself.
(4) Mortgage credit institutions covered by section 11-7 shall be excluded from the rules of this section.

(5) Parent companies of Norwegian financial groups shall meet the minimum requirements under subsection (1) to (3) on a consolidated basis. Where a group has a subsidiary in another EEA member state, the consolidated minimum requirement shall be determined by Finanstilsynet in consultation with the resolution college for the group in accordance with section 20-46. Norwegian group institutions shall meet the minimum requirement at the entity level. Minimum requirements for Norwegian institutions forming a group whose parent company is in another EEA member state shall be set by Finanstilsynet in consultation with the resolution college for the group concerned.

**Section 20-10 Facilitating write-down and conversion**

(1) Finanstilsynet may require institutions referred to in section 20-1 subsection (1) to maintain at all times prior authorisation to issue the number of shares or equity certificates sufficient to assure the passage of a resolution to convert own funds and liabilities under sections 20-14 and 20-24. It shall be possible to issue shares or equity certificates without consent from other shareholders and without formal requirements under the companies legislation being complied with.

(2) Institutions as referred to in section 20-1 subsection (1) shall ensure that agreements on new capital and debt instruments that are subject to the legislation of a state outside the EEA contain terms that provide for write-down and conversion under sections 20-14 and 20-24. Finanstilsynet may derogate from the requirement of contractual terms in the first sentence provided the law of the state concerned makes such provision, or such provision is assured by other means.

**III Early intervention**

**Section 20-11 Infringement of statutory requirements**

(1) If an institution infringes requirements laid down in or pursuant to the present act, or, due to a rapidly deteriorating financial position, is likely in the near future to infringe such requirements, the institution shall notify Finanstilsynet accordingly. When Finanstilsynet has received such notification, or considers that the conditions for the obligation to give notification are met, Finanstilsynet may order the institution:

(a) to initiate or update measures set out in the recovery plan,
(b) to draw up an action plan for measures able to restore the institution's position,
(c) to convene the general meeting at shorter notice than laid down in the articles of association in order to decide matters that Finanstilsynet requires to be considered, and, if the order is not complied with, Finanstilsynet may convene the general meeting,
(d) to draw up a plan for negotiations on restructuring of the institution's debt,
(e) to present a statement of financial position, which Finanstilsynet may require to be confirmed by the institution's auditor or other experts, and
(f) to engage independent experts to examine and assess the institution's situation; Finanstilsynet may lay down further rules on the execution of such assignment.

(2) The provisions of subsection (1) also apply to parent companies of financial groups and, in the event, institutions forming part of such group. Before issuing an order, Finanstilsynet shall inform the group's supervisory college or resolution college. The same applies where an order is to be
issued to a Norwegian institution that forms part of a group having its parent company in another EEA member state.

(3) Finanstilsynet shall inform the Ministry of Finance, Norges Bank and the Banks' Guarantee Fund that the conditions for issuing an order under subsection (1) or (2) are met, and of any orders that have been issued. Finanstilsynet may require the institution to provide the information needed to update the resolution plan and prepare resolution action, including information needed to carry out a valuation of assets and liabilities under section 20-16.

(4) After Finanstilsynet has given notification as referred to in subsection (3) first sentence, Finanstilsynet may require the institution to contact potential buyers in order to prepare for the possible application of resolution tools to the institution.

Section 20-12 Serious infringements of statutory requirements

(1) Where there is a significant deterioration in the financial situation of an institution or where there are serious infringements of requirements laid down in or pursuant to this Act, or serious administrative irregularities, and measures under section 20-11 are not considered sufficient to rectify the situation, Finanstilsynet may issue an order requiring changes to be made to the composition of the board of directors or senior management irrespective of the existence of circumstances referred to in section 3-5.

(2) Where an order issued under subsection (1) is considered to insufficient to rectify the situation, Finanstilsynet may appoint a temporary administrator to take charge of the activity of the institution for a period of up to one year, either to replace or to work together with the board of directors. The administrator shall have the qualifications necessary to carry out his or her assignment and be free of any conflict of interests.

(3) The administrator's tasks and powers, including powers that otherwise rest with the board of directors, shall be specified by Finanstilsynet in each case. It may be specified that decisions in particular cases may not be taken without administrator's consent or Finanstilsynet's approval, including in cases concerning disbursement of funds or incurrence of new exposures. If the administrator is to take over the board of directors' tasks and powers, this shall be notified to and announced by the Register of Business Enterprises.

(4) The administrator shall regularly submit a report to Finanstilsynet on the performance of his or her assignment. Finanstilsynet may at any time change the assignment or terminate it. In special cases the assignment may be extended beyond one year. The administrator is not liable for damage arising during the execution of the assignment, unless the damage is caused by intent or gross negligence.

(5) The provisions of subsections (1) to (4) also apply to parent companies of Norwegian financial groups and, in the event, institutions forming part of such group. Before adopting a decision under subsections (1) to (3), Finanstilsynet shall inform the group's supervisory college or resolution college. The same applies where an order shall be issued to a Norwegian institution that forms part of a group having its parent company in another EEA member state.
Section 20-13 Notification by a failing institution

(1) If an institution has to assume that, due to its financial position, it is failing or in the near future is likely to fail pursuant to section 20-15 subsection (2), the institution shall notify Finanstilsynet accordingly.

(2) Finanstilsynet shall notify the Ministry of Finance if Finanstilsynet considers the conditions of section 20-15 subsection (1)(a) and (b) to be met. The notification shall contain an assessment of whether the institution should be wound up under section 20-29 or whether the condition of section 20-15 subsection (1)(c) is also met. A copy of the notification shall be given to Norges Bank and the Banks' Guarantee Fund.

(3) Subsections (1) and (2) apply mutatis mutandis to the holding company or other parent company of a Norwegian financial group. Finanstilsynet shall inform the group's supervisory college or resolution college. The same applies where notification under subsection (2) concerns a Norwegian institution that forms part of a group having its parent company in another EEA member state.

Section 20-14 Write-down and conversion of own funds

(1) If Finanstilsynet has to assume that an institution is failing or in the near future is likely to fail pursuant to section 20-15 subsection (2), or will require state guarantees as referred to in section 20-15 subsection (2)(d), and there is no reasonable prospect that this can be prevented by action other than write-down and conversion of own funds under this section, Finanstilsynet shall immediately ensure that a valuation of the institution's assets and liabilities is carried out pursuant to section 20-16. If the Ministry of Finance consents thereto, Finanstilsynet shall on the basis of the valuation adopt a decision to write down or convert own funds in accordance with rules governing priority under competition law. This shall be done as follows:
   (a) the common equity tier 1 capital shall first be reduced to the extent required to cover the institution's loss,
   (b) additional tier 1 capital, as well as hybrid capital that does not count as additional tier 1 capital, shall thereafter be written down or converted into common equity tier 1 capital to the extent required to prevent the failure of the institution or to the extent of the capacity of the relevant capital instruments, and
   (c) tier 2 capital, as well as subordinated loan capital that does not count as tier 2 capital, shall thereafter be written down or converted into common equity tier 1 capital to the extent required to prevent the failure of the institution or to the extent of the capacity of the relevant capital instruments.

(2) Decisions pursuant to subsection (1) shall enter into force immediately and be binding on the institution and on the owners of the capital instruments the decision concerns. Finanstilsynet may implement or require the implementation of the administrative measures needed to put the put the decision into effect, including changes in register entries and changes in quotations on regulated markets.

(3) If the net value of the institution's and liabilities is negative at the time of the decision, Finanstilsynet shall decide whether existing shares or equity certificates shall be deleted or transferred to the owners of capital instruments that are to be converted. If the net value of the institution's assets and liabilities is positive, existing shares or equity certificates shall be diluted by
issuing new shares or equity certificates to the owners of capital instruments that are to be converted.

(4) New shares or equity certificates to the owners of capital instruments that are to be converted shall be issued by the institution without undue delay and with Finanstilsynet's consent. Finanstilsynet may order such issuance. The issuance must be carried out before shares or equity certificates can be issued for supply of capital from the government. Different conversion rates may be applied to different classes of capital instruments. The conversion rate shall be set such that the owners of capital instruments that are converted receive appropriate compensation for any loss incurred as a result of write-down or conversion. The provisions of the Private Limited Companies Act and the Public Limited Companies Act and of sections 10-9 to 10-24 of this Act concerning issuance and write-down of shares and equity certificates do not, with the exception of rules governing registration in the Register of Business Enterprises, apply to write-down or conversion under this section.

(5) Where a decision to convert capital instruments entails the acquisition of a qualifying holding pursuant to section 6-1, the voting rights attached to such shares or equity certificates shall be exercised by Finanstilsynet so long as authorisation has not been granted under section 6-4. If authorisation for the acquisition is not granted, the holding shall be divested within a deadline set by Finanstilsynet.

(6) A write-down of capital instruments pursuant to subsection (1) shall be permanent, but shall not prevent Finanstilsynet from subsequently writing up instruments pursuant to section 20-16 subsection (3) if the level of write-down based on the preliminary valuation is found to exceed requirements. No liability towards the holder of a written-down capital instruments shall remain, and no compensation shall be paid other than by conversion to shares or equity certificates in accordance with subsections (1) and (2).

(7) A write-down or conversion pursuant to this section may not be carried out if the holders of the capital instruments incur greater losses than if the institution had been wound up under section 20-29. Section 20-38 subsections (1) and (2) and section 20-44 subsections (1) and (2) apply mutatis mutandis where write-down or conversion under this section is subject to judicial review.

(8) Write-down and conversion under this section shall also cover instruments that are subject to the legislation of another EEA member state, or that are owned by persons in another EEA member state. Where the resolution authority of another EEA member state adopts a decision to write down or convert capital instruments that are subject to Norwegian law, or that are owned by creditors domiciled in Norway, the decision shall be regarded as valid in Norway. Finanstilsynet shall ensure that the decision is put into effect.

(9) The provisions of this section apply mutatis mutandis to a holding company or other parent company of a Norwegian financial group where this is necessary in order to prevent the group from failing, and there is no reasonable prospect of failure being prevented by other action than write-down or conversion of own funds under this section. A group shall be considered to be failing when it infringes or is likely in the near future to infringe the consolidated capital requirements and thereby trigger action by Finanstilsynet. Own funds of subsidiaries that are included in the own funds of the parent company or the group on a consolidated basis shall not be written down or
converted to a larger extent than equally ranked instruments issued by the parent company. If the group has a subsidiary in another EEA member state, any decision to write down or convert own funds shall be adopted in consultation with the resolution authority of that state. Finanstilsynet shall inform the group's supervisory college or resolution college.

(10) The Ministry of Finance may by regulations lay down further rules concerning write-down and conversion under this section.

IV Resolution and resolution tools

Section 20-15 Resolution decision
(1) Where the Ministry of Finance has received notification from Finanstilsynet pursuant to section 20-13 subsection (2), and a valuation of the institution's assets and liabilities has been carried out pursuant to section 20-16, the Ministry of Finance shall adopt a decision to apply resolution tools to a financial institution as referred to in section 20-1, if
(a) the institution is failing or likely to fail; see subsection (2),
(b) there is no reasonable prospect that any private sector action or action under sections 14-6, 20-11, 20-12 or 20-14 would prevent the failure of the institution, and
(c) there is a public interest in placing the institution under resolution.

(2) An institution shall be considered to be failing or likely to fail when:
(a) the conditions for withdrawal of the institution's authorisation are met or are likely to be met in the near future, including where losses incurred by the institution may deplete all or part of the institution's own funds,
(b) the value of the institution's assets is, or in the near future is likely to be, less than its liabilities,
(c) the institution is, or in the near future is likely to be, unable to pay its debts or other liabilities as they fall due, or
(d) the institution will need public financial support in order to continue operations, except when, in order to remedy serious disruptions to the economy, the support takes any of the following forms:
   (i) a state guarantee to back liquidity facilities provided by Norges Bank,
   (ii) a state guarantee of newly issued liabilities, or
   (iii) an injection of own funds at ordinary prices and on ordinary terms to the institution that is not in danger of infringing the requirements for authorisation.

(3) Resolving an institution shall be considered to serve the public interest where it is appropriate and necessary in order to:
(a) ensure the continuation of critical functions, i.e. activities, services or transactions that are of major significance for the economy and financial stability,
(b) avoid significant negative impacts on the financial system, in particular by avoiding contagion effects,
(c) protect public funds by minimising reliance on public financial support,
(d) protect deposits, or
(e) protect client funds and client assets.
(4) The provisions of this section apply *mutatis mutandis* to holding companies or other parent companies of financial groups; see section 20-13 subsection (3). The Ministry of Finance may adopt a decision requiring such institutions to be placed under resolution where the conditions of subsection (1) are met both by the parent company and by one or more subsidiaries covered by section 20-1 subsection (1)(a). If the conditions of subsection (1) are only met by one or more subsidiaries covered by section 20-1 subsection (1)(a), and this supports a determination that the financial group in its entirety is failing, or is likely in the near future to fail, the Ministry of Finance may adopt a decision requiring the parent company to be placed under resolution as well. Where the Ministry of Finance adopts a decision to place a parent company under resolution, other financial institutions making up the group may also be placed under resolution.

(5) A decision to place an institution under resolution shall be communicated to Finanstilsynet, Norges Bank and the Banks' Guarantee Fund. The decision shall be notified to the Register of Business Enterprises and be announced at the earliest opportunity in the Brønnøysund Register Centre's electronic publication.

**Section 20-16 Valuation of assets and liabilities**

(1) Before a decision is adopted under section 20-14, section 20-15 or section 20-29, Finanstilsynet shall ensure that a fair and realistic valuation of the institution's assets and liabilities is carried out. The valuation shall be carried out by one or more experts who are independent of the institution and public authorities.

(2) In the valuation losses shall be fully recognised, and the assumptions, including as to rates of default, severity of losses and costs of resolution action, shall be prudent. Creditors shall be grouped in accordance with the priority ranking applied when winding up the institution under public administration, and an overview shall be given of the creditors' and owners' position upon winding up. The valuation may be supplemented by an updated statement of financial position and book values. Account shall not be taken of any support or liquidity facilities provided by the central bank on special terms.

(3) Where, due to the need for rapid resolution action or other circumstances, it is not possible to carry out a definitive valuation pursuant to this section, a provisional valuation may be undertaken. A provisional valuation shall at the earliest opportunity be replaced by a definitive valuation. If the institution's net value in the definitive valuation is higher than that set in the provisional valuation, Finanstilsynet may change the decision that was based on the provisional valuation.

(4) The Ministry of Finance may by regulations lay down rules concerning valuations pursuant to this section.

**Section 20-17 Administration board**

(1) After the Ministry of Finance has adopted a decision pursuant to section 20-15 to place an institution under resolution or a decision under section 20-29 to wind up an institution, Finanstilsynet shall appoint an administration board. The administration board shall comprise at least three members with personal deputies, and shall function as the institution's board of directors for a period of up to one year. An auditor shall be appointed by Finanstilsynet. The decision shall be notified to the Register of Business Enterprises. The provisions of section 20-29 subsection (2) apply *mutatis mutandis*. 

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The administration board shall exercise the authority that is transferred from the institution's governing bodies to Finanstilsynet pursuant to section 20-18 subsection (1)(a), nonetheless such that decisions of material significance to the institution shall be approved by Finanstilsynet before they are implemented. Finanstilsynet shall lay down further rules concerning the tasks and work of the administration board and the auditor, and shall fix their remuneration.

The administration board shall as rapidly as possible make a decision on, and recommend to Finanstilsynet, resolution tools that are best suited to achieving the objectives referred to in section 20-15 subsection (3). The administration board shall apply resolution tools in accordance with Finanstilsynet's decision.

Finanstilsynet may at any time change the administration board's assignment or terminate it. In special cases the assignment may also be extended beyond one year. The members of the administration board shall not be liable for damage arising during the execution of the assignment, unless the damage is caused by intent or gross negligence.

Finanstilsynet may, instead of appointing an administration board, appoint a new ordinary board of directors and new senior management of the institution. Finanstilsynet may in whole or in part retain the entire board or parts of it if this is necessary in order to achieve the objectives referred to in section 20-15 subsection (3).

Section 20-18 Effects of a decision on resolution
(1) Where the Ministry of Finance has adopted a decision to place an institution under resolution pursuant to section 20-15, the following effects come into play:
   (a) the authority vested in the institution's governing bodies is transferred to Finanstilsynet, but the board of directors may nonetheless decide matters that cannot be deferred until the administration board has taken up its duties,
   (b) the members of the board of directors and the auditor shall provide Finanstilsynet and the administration board with full information on the institution's position and activities.
   (c) Finanstilsynet may decide that the institution or parts of it may not take deposits, contract borrowings, take on new exposures or expand previous exposures,
   (d) Finanstilsynet may decide that the institution may not make payouts to depositors or other creditors, and
   (e) Finanstilsynet may decide that creditors with claims established prior to the decision on resolution may not distrain upon, or by other means secure payment by recourse to, assets belonging to the institution.

(2) Finanstilsynet may summon the institution's creditors by notice giving a closing date for claims. Such notice may not encompass bank deposits or tax claims. Finanstilsynet shall determine the closing date and manner of announcement. The closing date shall cease to apply upon notification of a claim to Finanstilsynet.

Section 20-19 Choice of resolution tools
(1) Where the Ministry of Finance has adopted a decision on resolution pursuant to section 20-15, Finanstilsynet may adopt a decision on the following resolution tools:
(a) complete or partial transfer of the business of the institution to another institution pursuant to section 20-21,
(b) complete or partial transfer of the business of the institution to a bridge institution pursuant to section 20-22,
(c) transfer of assets and liabilities to an asset management vehicle pursuant to section 20-23, and
(d) bail-in pursuant to sections 20-24 to 20-26.

(2) Tools referred to in subsection (1) may be applied singly or in combination, nonetheless such that the tool referred to in subsection (1)(c) may only be applied together with other tools. Where only a part of the institution's business is transferred to another institution or to a bridge institution, the residual business shall be wound up in accordance with sections 20-29 to 20-32, unless residual assets or liabilities are to be transferred to an asset management vehicle pursuant to section 20-23.

(3) In its choice of resolution tool, Finanstilsynet shall give due weight to the objectives referred to in section 20-15 subsection (3).

(4) Write-down and conversion of own funds pursuant to section 20-14 shall be carried out before or simultaneously with the application of a resolution tool that would result in losses being borne by creditors or their claims being converted in accordance with sections 20-24 to 20-26.

(5) A decision to apply a resolution tool shall be communicated without undue delay to the Ministry of Finance, the administration board, Norges Bank and the Banks' Guarantee Fund.

Section 20-20 Further rules on the application of resolution tools

(1) When applying resolution tools, Finanstilsynet shall ensure that:
   (a) the institution's shareholders bear losses first,
   (b) the institution's creditors bear losses after shareholders in the order of priority of their claims under normal insolvency proceedings, except as otherwise provided in this chapter,
   (c) creditors in the same class as far as possible receive equal treatment,
   (d) no creditor incurs greater losses than it would have incurred if the institution had been wound up under section 20-29,
   (e) covered deposits are fully protected,
   (f) the rules of sections 20-23 to 20-26 are complied with, and
   (g) employee representatives are informed and consulted as far as possible.

(2) Where the application of a resolution tool entails the merger, demerger or conversion of the institution or business of the institution, sections 12-1 to 12-7, sections 12-13 to 12-18, and the provisions of the companies legislation governing mergers and demergers, shall not apply. The acquisition of shares or equity certificates as a result of the application of a resolution tool does not trigger a mandatory offer obligation under chapter 8 of the Securities Trading Act. The provisions of chapter 5 of the Satisfaction of Claims Act on the invalidation of transactions detrimental to the institution's creditors do not apply to transfers of business, assets or liabilities that result from the application of a resolution tool.

(3) In the case of transfers to another institution, bridge institution or asset management vehicle under sections 20-21 to 20-23, the following shall apply:
(a) the transfer may be undertaken without the consent of the institution's shareholders, creditors or third parties, and without formal requirements under a contract or under the companies or securities legislation being complied with,
(b) the institution's shareholders, creditors and third parties shall retain no rights attached to the assets and liabilities that are transferred,
(c) consideration paid by the acquirer shall accrue to the original shareholders if the transfer is effected by sale of shares or equity certificates issued by the institution, and to the institution if the transfer is effected by the sale of assets and liabilities, and
(d) Finanstilsynet may decide to transfer transferred assets and liabilities back to the institution, and transferred shares or equity certificates back to their original holders if a reservation to that effect was made upon the transfer to a bridge institution or an asset management vehicle. Where the acquirer is another institution, it must have given its approval for the transfer back. Where the acquirer is a bridge institution, it must have sought permission for the transfer back.

(4) In the case of transfers to another institution or bridge institution under sections 20-21 and 20-22, the acquirer shall after the transfer be entitled to offer services in another EEA member state in accordance with the institution's licence. If the acquirer fulfils the requirements for membership and participation, the acquirer shall also be able to take over the institution's membership of and access to payment and securities settlement systems, regulated markets and deposit-guarantee and investor-protection schemes. If the acquirer does not fulfil such conditions, Finanstilsynet may determine that the acquirer shall nonetheless be entitled to membership and access for a period of up to 24 months, with the opportunity to apply for an extension.

Section 20-21 Transfer of business to another institution
(1) Finanstilsynet may transfer all or part of an institution's business or its assets and liabilities upon sale to an institution licensed under section 12-1.

(2) The transfer shall take place on commercial terms that conform to the maximum extent possible with the valuation under section 20-16, and with the general rules on state support. Finanstilsynet shall ensure appropriate marketing to possible acquirers, except where this may undermine the objectives referred to in section 20-15 subsection (3) or other important considerations.

(3) Where the transfer entails the acquisition of a qualifying holding under section 6-1, section 20-14 subsection (5) shall apply mutatis mutandis.

Section 20-22 Transfer of business to a bridge institution
(1) Finanstilsynet may transfer all or part of an institution's business or its assets and liabilities to a bridge institution pursuant to this section.

(2) The value of liabilities transferred from an institution to the bridge institution shall not exceed the sum of the value of assets transferred from the institution and provided by other sources.

(3) The bridge institution shall be wholly or partially owned by the State, and be established in order:
    (a) to take over business or assets and liabilities from one or more institutions under resolution, (b) to maintain access to critical functions indicated in section 20-15 subsection (3)(a), and
(c) to facilitate the sale of acquired business or assets and liabilities to private sector purchasers where market conditions permit, and within a deadline of two years after the latest transfer to the bridge institution, unless Finanstilsynet extends the deadline by one year or more.

(4) Finanstilsynet shall approve the bridge institution's articles of association, board of directors, remuneration of the board of directors, the board of directors' tasks and functions and the bridge institution's business strategy and risk profile. Finanstilsynet may lay down further rules for the business. The bridge institution shall be licensed in accordance with the rules of chapter 2, and be subject to supervision under the Financial Supervision Act. If warranted by special considerations, such licence may be granted even where not all the conditions for a licence are met, provided that a deadline is set for meeting those conditions. The bridge institution's business shall be operated without liability towards the shareholders and creditors of the institution under resolution.

(5) Finanstilsynet shall adopt a decision to terminate the operation of a bridge institution where:
   (a) the bridge institution is merged with another entity under sections 12-1 to 12-7,
   (b) the bridge institution ceases to fulfil the requirements of this section,
   (c) all or substantially all of the bridge institution's assets or liabilities have been transferred to one or more private sector third parties,
   (d) the deadline referred to in subsection (3)(c), as extended or not, has expired, or
   (e) the bridge institution's assets have been wound down and its liabilities discharged.

(6) Finanstilsynet may upon application from a bridge institution decide to sell the latter's shares or equity certificates, or its assets and liabilities to a third party.

(7) Where Finanstilsynet seeks to sell a bridge institution or its assets and liabilities, Finanstilsynet shall ensure that the bridge institution or its assets and liabilities are appropriately marketed to potential purchasers. The sale shall take place on commercial terms and conditions and in accordance with the customary rules on State support.

(8) Where a bridge institution's business has been terminated pursuant to subsection (5)(c) or (d), a bridge institution is to be liquidated pursuant to section 20-29. Any proceeds resulting from the liquidation shall accrue to the shareholders of the bridge institution.

**Section 20-23 Transfer of assets and liabilities to an asset management vehicle**

(1) Finanstilsynet may decide that the assets and liabilities of an institution under resolution or a bridge institution under section 20-22 shall be transferred to one or more asset management vehicles in accordance with this section.

(2) Finanstilsynet may adopt a decision under subsection (1) where:
   (a) winding down the business pursuant to section 20-29 could have an adverse effect on one or more financial markets,
   (b) the transfer is necessary to ensure the proper functioning of an institution under resolution or a bridge institution, or
   (c) the transfer is necessary to maximise liquidation proceeds.

(3) Finanstilsynet shall determine a consideration for the transfer that conforms to the maximum possible extent with the valuation under section 20-16, and accords with the general rules governing
State support. The considerable may have negative value. The consideration may be paid in the form of debt issued by the asset management vehicle.

(4) An asset management vehicle shall be wholly or partially owned by the State, and be established for the purpose of:
(a) receiving the assets and liabilities of one or more one or more institutions under resolution, and of
(b) managing the assets transferred to it with a view to maximising their value through eventual sale or wind-down.

(5) Finanstilsynet shall approve an asset management vehicle's constitutional documents and board of directors, the remuneration of the board of directors, the board of directors' tasks and the asset management vehicle's business strategy and risk profile. Finanstilsynet may lay down further rules for the business. The asset management vehicle's business shall be operated without liability towards the shareholders or creditors of the institution under resolution.

Section 20-24 Bail-in
(1) Finanstilsynet may decide that a bail-in shall be carried out by write-down and conversion of the institution's debt to equity under sections 20-24 to 20-26 for the purpose of
(a) recapitalising an institution to enable it to comply with the conditions of its licence, to continue the business for which it is licensed and to sustain market confidence in the institution, or
(b) converting to equity or reducing the principal amount of debt instruments that are transferred to
(i) a bridge institution pursuant to section 20-22 with a view to providing capital for that bridge institution, or
(ii) another institution pursuant to section 20-21 or an asset management vehicle pursuant to section 20-23.

(2) A bail-in may be applied for the purpose referred to in subsection (1)(a) only if there is a reasonable prospect that recapitalisation together with measures set out in a reorganisation plan under section 20-27 and other relevant measures will restore the institution to financial soundness and long-term viability. If this is not the case, a bail-in may be applied as indicated in subsection (1)(b).

(3) A bail-in pursuant to subsections (1) and (2) shall also encompass liabilities that are governed by the legislation of another EEA member state, or that are owned by creditors in another EEA member state. The Ministry of Finance may by regulations lay down further rules concerning bail- in pursuant to sections 20-24 to 20-26, including special rules for liabilities that are subject to the legislation of a state outside the EEA.

Section 20-25 Eligible liabilities
(1) A bail-in shall encompass all liabilities that are not included in an institution's own funds and that are not:
(a) covered deposits,
(b) secured liabilities, including covered bonds, but not that portion of the secured liabilities that exceeds the value of the security interest,
(c) liabilities that have arisen from the management of client assets, including assets managed on behalf of securities funds referred to in the Securities Funds Act section 1-2 subsection (1) no. 4 and alternative investment funds referred to in the Act on Management of Alternative Investment Funds section 1-2 subsection (1)(a), provided that the client will be protected in the event that the institution is wound up,
(d) liabilities that have arisen from the management of entrusted funds, provided that the beneficiary will be protected in the event the institution is wound up,
(e) liabilities to other institutions, excluding entities that are part of the same group, with an original maturity of less than seven days,
(f) liabilities that have arisen from participation in payment systems and securities settlement systems, including liabilities to operators or other participants, and that have a remaining maturity of less than seven days, or
(g) liabilities to:
(i) employees in the form of accrued salary, pension benefits or other fixed remuneration, except for variable remuneration to employees with functions of significance for the institution's risk exposure and variable remuneration that is not regulated by a collective bargaining agreement,
(ii) suppliers of goods and services that are critical to the institution's daily functioning, including IT services, utilities and the rental, servicing and upkeep of premises,
(iii) public authorities in the form of tax or social security contributions, provided that those liabilities are preferred under the law, or
(iv) the deposit guarantee scheme or resolution financing arrangement in the form of contributions due under sections 19-10 or 20-51.

(2) A liability arising from a derivative contract shall be available for bail-in upon or after the derivative contract is closed out. Finanstilsynet is empowered to close out derivative contracts once it is decided to apply the bail-in tool. Finanstilsynet is not obliged to close out derivative contracts that have been excluded from bail-in under subsection (3). The value of derivative contracts, including contracts subject to a netting agreement, shall be determined under rules laid down in or pursuant to section 20-16.

(3) Finanstilsynet may in special cases exclude or partially exclude certain portions of an institution's liabilities from bail-in where
(a) it is not possible to write down or convert the liabilities within a reasonable timeframe,
(b) the exclusion is necessary and proportionate to ensuring the continuity of critical functions referred to in section 20-15 subsection (3)(a), core business lines and key services and transactions,
(c) the exclusion is necessary and proportionate to avoiding the spreading of contagion, especially with regard to customer deposits, that may cause serious disruptions to the financial system and the economy, or
(d) the exclusion is necessary and proportionate to preventing a destruction in value such that losses borne by other creditors would be higher than if those liabilities were not excluded from bail-in.

(4) Where Finanstilsynet has applied exclusion or partial exclusion under subsection (3), the level of write-down or conversion of other eligible liabilities may be increased by the same extent provided this would not be counter to section 20-20 subsection (1)(d). Where the loss that should
have been covered by the excluded liabilities has not been fully covered by other eligible liabilities, Finanstilsynet may decide that the resolution financing arrangement shall make a contribution under section 20-52 subsection (3).

**Section 20-26 Implementation of bail-in**

(1) Once it has been decided to apply the bail-in tool, Finanstilsynet shall on the basis of a valuation pursuant to section 20-16 determine the amount by which overall eligible liabilities must be:
   
   (a) written down in order to ensure that the institution's net asset value is zero, and
   
   (b) converted to common equity tier 1 capital in order for the institution or the bridge institution to meet the capital requirements and to sustain market confidence in the institution, and for at least one year to meet the conditions of its licence and to continue the business for which it is licensed.

(2) In the assessment made pursuant to subsection (1) Finanstilsynet may take into account any contribution of capital by the resolution financing arrangement to the bridge institution under section 20-52 subsection (1)(d). Where Finanstilsynet decides to transfer assets and liabilities to an asset management vehicle pursuant to section 20-23, the assessment made under subsection (1) shall take into account the capital needs of the asset management vehicle.

(3) After the own funds have been written down and converted pursuant to section 20-14 subsection (1), Finanstilsynet shall implement a bail-in at the level determined under subsection (1), such that:
   
   (a) eligible liabilities ranking at a lower level under section 20-9 subsection (2) than other eligible liabilities are written down or converted to common equity tier 1 capital in accordance with the liabilities' priority among themselves in the event of a winding up pursuant to section 20-29, to the extent required to cover the capital need determined under subsection (1), or to the extent of the capacity of the capital instrument concerned.

   (b) other eligible liabilities are then written down or converted to common equity tier 1 capital in accordance with the liabilities' priority among themselves in the event of a winding up pursuant to section 20-29, to the extent required to cover the capital need determined under subsection (1), or to the extent of the capacity of the capital instrument concerned.

(4) Capital and debt instruments as referred to in section 20-14 subsection (1)(b) and (c) and in this section's subsection (3)(a) shall be written down or converted in full in accordance with any contractual terms regarding write-down or conversion related to the institution's situation, financial soundness or level of own funds, before a write-down or conversion is carried out pursuant to subsection (3)(b).

(5) The provisions of section 20-14 subsections (2) to (9) apply *mutatis mutandis* to the write-down and conversion of eligible liabilities. Section 20-14 subsection (2) first sentence also applies where Finanstilsynet alters the maturity, rate of interest or interest periods of the institution's debt instruments, and closes out derivative contracts under section 20-25 subsection (2).

**Section 20-27 Business reorganisation plan**

(1) If Finanstilsynet has applied a bail-in tool under section 20-24 subsection (1)(a), the administration board shall within one month submit a business reorganisation plan to Finanstilsynet. Finanstilsynet may in special cases extend the deadline by up to one month. Where applicable, such
a plan shall be compatible with the restructuring plan that the institution is required to submit under the general rules governing State support.

(2) The business organisation plan shall set out measures aiming to restore the long-term viability of the institution or parts of its business within a reasonable timescale. Such measures may include the reorganisation of the activities of the institution, changes to systems and infrastructure, the sale or wind-down of business lines, and measures to improve competitiveness. The measures shall be based on realistic assumptions as to economic and market conditions, and take account of the institution's main vulnerabilities. The plan shall compare the assumptions underlying the measures with sector-wide benchmarks.

(3) The business reorganisation plan shall at least include a detailed analysis of the causes of the institution's distress, a description of measures it is planned to implement and a timetable for their implementation.

(4) Finanstilsynet shall within one month of receipt of the plan consider it for approval. If Finanstilsynet does not approve the plan, the administration board shall be instructed to submit an amended plan within two weeks. Finanstilsynet shall within one week of receipt of the amended plan consider it for approval. If Finanstilsynet does not approve the amended plan, it may require changes to the plan. Once Finanstilsynet has approved a business reorganisation plan, the administration board shall submit a report to Finanstilsynet at least every six months on progress in the implementation of the plan.

(5) Finanstilsynet may decide that the business reorganisation plan for the parent company of a Norwegian financial group shall cover Norwegian group institutions. By agreement with the resolution authority of another state, Finanstilsynet may decide that the same shall apply to group institutions established abroad. Where a foreign financial group has established a subsidiary in Norway, Finanstilsynet and the foreign resolution authority shall agree on whether a business reorganisation plan shall be drawn up for the subsidiary.

(6) The Ministry of Finance may by regulations laid down further rules on business reorganisation plans, including on the application of the rules of this section to group relationships, and on cooperation between Norwegian and foreign authorities.

V Government stabilisation tools

Section 20-28 Government stabilisation tools

(1) In the event of a serious disruptions to the financial system the Ministry of Finance may adopt a decision on government stabilisation tools if:
   (a) the Ministry of Finance has adopted a decision under section 20-15 to place an institution under resolution,
   (b) a contribution to loss absorption and recapitalisation equal to an amount not less than 8 per cent of total assets calculated under the rules of section 20-16 has been made by the holders of own funds and eligible liabilities through write-down and conversion,
   (c) the government stabilisation tool is suited to achieving the objectives referred to in section 20-15 subsection (3),
(d) the government stabilisation tool is approved under the general rules on public financial support, and
(e) the Ministry of Finance has after consultation with Finanstilsynet and Norges Bank concluded that the resolution tools referred to in section 20-19 will not suffice:
   (i) to prevent significant adverse effects on the financial system,
   (ii) to protect the public interest in cases where the institution has previously received extraordinary liquidity assistance from Norges Bank, or
   (iii) where measures in the form of temporary public ownership are concerned, to protect the public interest in cases where the institution has previously received public equity support in the form of an injection of own funds.

(2) The Ministry of Finance may adopt a decision under subsection (1) to:
   (a) participate in the recapitalisation of the institution by injection of common equity tier 1 capital, additional tier 1 capital and additional tier 2 capital, or
   (b) acquire ownership of the institution or its business, and transfer the ownership to a public authority or a state-owned enterprise.

(3) Capital instruments that are acquired through measures referred to in subsection (2) shall be sold to a private purchaser as soon as market conditions permit. A decision regarding the sale of capital instruments shall rest with the Ministry of Finance.

(4) Finanstilsynet shall implement the decisions adopted by the Ministry of Finance pursuant to this section. Finanstilsynet shall to the extent permitted by the acquired ownership ensure that the institution's business is operated on a commercial and professional basis.

VI Winding up of institutions under public administration

Section 20-29 Decision to wind up an institution under public administration

(1) If the conditions of section 20-15 subsection (1)(a) and (b) are met, but the public interest does not call for the application of resolution tools, the Ministry of Finance shall adopt a decision to wind up an institution under public administration.

(2) A decision to wind up an institution under public administration shall be announced at the earliest possible opportunity. The decision shall be notified to the Register of Business Enterprises and announced in the Brønnoysund Register Centres' electronic announcement publication. The decision shall also be registered with a securities register and judicially registered with the registrar of real property.

(3) After a public administration order has been made the institution concerned shall add "under public administration" to its name.

(4) Sections 20-16 and 20-17 apply mutatis mutandis where a decision is adopted to wind up an institution under public administration.
Section 20-30 Effects of an order to wind up an institution under public administration

(1) Where the Ministry of Finance has adopted a decision to wind up an institution under public administration pursuant to section 20-29, the following effects come into play:

(a) the institution's former bodies become inoperative and the administration board assumes the authority vested in those bodies, but the last serving board of directors shall nonetheless decide matters which cannot be deferred until the administration board has taken up its duties,

(b) the members of the board and the control committee and the auditor shall furnish the administration board with full information on the institution's position and activities.

(c) the institution may not take deposits, contract new borrowings, incur new exposures or expand previous exposures without Finanstilsynet's approval,

(d) the institution may not make payments to depositors or other creditors without Finanstilsynet's approval,

(e) creditors with claims established prior to the resolution decision may not distrain upon, or by other means secure payment by recourse to, assets belonging to the institution, and

(f) the Satisfaction of Claims Act and the Financial Collateral Act apply mutatis mutandis, except as otherwise provided by section 20-32. The cut-off date is the date of the resolution decision or of the winding up decision. In cases as referred to in section 20-31 subsection (5), the cut-off date is the date of the resolution decision under section 20-15.

(2) Deposits, borrowings and other liabilities that are created after the date of the decision shall be regarded as preferential debt.

(3) Finanstilsynet may summon the institution's creditors by notice giving a closing date for claims. Such notice may not encompass bank deposits or tax claims. Finanstilsynet shall determine the closing date and manner of announcement. The closing date shall cease to apply upon notification of a claim to Finanstilsynet.

Section 20-31 Implementation of winding up of an institution under public administration

(1) Where the Ministry of Finance has adopted a decision under section 20-29 subsection (1) to wind up an institution under public administration, the administration board shall take charge of the winding up of the institution and its activity. The same applies if within one year of the decision to place an institution under resolution pursuant to section 20-15, it is unlikely that the business of the institution can be continued or transferred by means of resolution actions under the rules of this chapter.

(2) The winding up estate shall be notified to the Central Coordinating Register for Legal Entities. Settlement of creditors' claims shall take place in accordance with the rules of the Satisfaction of Claims Act, except as otherwise provided by section 20-32. As regards the settlement and winding up of the estate, the rules of the Debt Settlement Proceedings and Bankruptcy Act chapter VIII et seq. apply mutatis mutandis insofar as appropriate. Finanstilsynet shall make such decisions as are required pursuant to the Debt Settlement Proceedings and Bankruptcy Act with the exception of determining claims, which is done by the court of first instance.

(3) In the winding up proceedings the administration board shall after consulting the deposit guarantee scheme ensure as far as possible that covered deposits are transferred to another member institution and remain fully available to the depositors. The guarantee scheme's right of recourse
under section 19-12 in respect of measures taken pursuant to section 19-11 subsection (3) may be notified to the winding up estate. Disbursement from the deposit guarantee scheme of covered deposits that are made available to another member institution may not be requested under section 19-8, nor may such deposits be notified to the winding up estate.

(4) Once winding up has been completed the board shall submit final accounts, including a proposal for distribution of the estate, to Finanstilsynet for approval. Finanstilsynet shall order public announcement of the distribution of the estate and notify the Register of Business Enterprises that the institution shall be deleted from the Register.

(5) The provisions of this subchapter apply mutatis mutandis where a failing institution is placed under resolution and there is no basis for continuing the business or transferring it to another institution.

Section 20-32 Rules governing priority of deposits etc.

(1) Deposits covered under section 19-4 have a higher priority ranking than ordinary unsecured, non-preferred liabilities. The same applies to liabilities to the deposit guarantee scheme under section 19-12.

(2) That portion of eligible deposits from physical persons and small or medium-sized businesses which exceeds the covered amount under section 19-4 has a lower priority ranking than liabilities referred to in subsection (1), but nonetheless higher than ordinary unsecured, non-preferred liabilities. The same priority ranking is assigned to deposits at institutions established in the EEA that are not to be counted as eligible deposits because the deposits were made through a branch established by the institution in a state outside the EEA.

VII Intervention in contracts and additional resolution powers

Section 20-33 Transfer of assets etc.

(1) When applying resolution tools, Finanstilsynet may transfer assets and rights free of other liabilities that would entail restrictions on the acquirer's legal position, but with the exception of security interests referred to in section 20-41. When transferring business activity, Finanstilsynet may instruct the institution and any other institutions in the same group to take operational measures on reasonable terms that are needed for the operation of the acquired business.

(2) Decisions by the resolution authority of another EEA member state concerning the transfer of assets and rights located in Norway, or of liabilities that are subject to Norwegian law, shall be given effect in Norway.

(3) Finanstilsynet may adopt such decisions as are necessary for contractual and other rights held by the institution to be transferred to the acquirer, and may decide that the acquirer shall enter as a contracting party. Finanstilsynet may instruct the institution and the acquirer to provide each other with information and assistance in connection with the transfer. This shall not prevent an employee from terminating his or her employment relationship, or a contracting party from exercising rights in accordance with the contractual terms that obtained prior to the transfer.
(4) When applying resolution tools, Finanstilsynet may cancel existing preferential rights to shares or equity certificates.

(5) Finanstilsynet may not adopt decisions under subsections (1) to (4) that would conflict with the rules of sections 20-37 to 20-43.

Section 20-34 Relationship to the institution's contracts

(1) When applying resolution tools, Finanstilsynet may terminate contracts entered into by the institution, or amend the terms of a contract where this is necessary for the resolution of the institution and will not be counter to the rules of sections 20-24 to 20-26.

(2) In the case of contracts entered into by the institution, measures taken under the rules of subchapter III or IV shall not be regarded as enforcement under the Act on Financial Collateral section 5 or insolvency proceedings under the Act on Payment Systems etc. section 4-2 provided that the obligations under the contract continue to be performed. The same applies to contracts entered into by a subsidiary where the obligations are guaranteed by the parent company or another institution in the financial group, and to contracts entered into by a group institution that include cross-default provisions.

(3) Where the obligations under a contract continue to be performed, it shall not be possible, with a basis in the rules of subchapter III or IV, to:

   (a) exercise any termination, closeout, suspension, modification, netting or set-off rights in relation to a contract with the institution, a contract entered into by a subsidiary the obligations under which are guaranteed by another institution in the financial group, or a contract entered into by a subsidiary that includes cross-default provisions,
   
   (b) obtain possession, exercise control or enforce any security interest over assets belonging to the institution or to the parent company of the financial group, or belonging to any group institution in relation to a contract that includes cross-default provisions, or
   
   (c) restrict contractual rights of the institution or the parent company of the financial group, or to a group entity in relation to a contract that includes cross-default provisions.

(4) Suspension of any claim, security interest or termination right etc., under the rules of sections 20-35 or 20-36 shall not constitute default or non-performance of a contractual obligation.

(5) The provisions of this section cannot be set aside by agreement.

Section 20-35 Suspension of claims and security interests

(1) Finanstilsynet may order an institution under resolution not to make payments or deliveries under the institution's contracts in the period from publication of the order until midnight at the end of the first business day following publication. This shall not apply to eligible deposits or claims that are eligible for cover under the Norwegian Investor Compensation Scheme.

(2) Finanstilsynet may order secured creditors of an institution under resolution not to enforce their security interests in the period from publication of the order until midnight at the end of the first business day following publication.
Subsections (1) and (2) shall not apply to payment of claims owed to payment systems that are covered by the Act on Payment Systems etc., chapter 4, including the operator and the participants, central counterparties and central banks, or to collateral provided for such claims by an institution under resolution.

Section 20-36 Suspension of termination rights etc.
(1) Finanstilsynet may order any party who is entitled under a contract with an institution under resolution to terminate the contract, not to enforce such a right in the period from publication of the order until midnight at the end of the first business day following publication provided that payment and delivery obligations under the contract and the provision of collateral continue to be performed.

(2) An order pursuant to subsection (1) may also be issued to any party to a contract with a subsidiary of an institution under resolution where:
   (a) the obligations under that contract are guaranteed or otherwise supported by the institution under resolution,
   (b) the right to terminate the contract is based on the insolvency or financial condition of the institution under resolution, or
   (c) the assets and liabilities of the institution under resolution have been or will be transferred to another institution, and also the subsidiary's assets and liabilities relating to the contract are to be transferred to and taken over by the acquirer, unless Finanstilsynet provides protection for the obligations of the subsidiary under the contract.

(3) Orders made pursuant to subsections (1) and (2) do not apply in respect of payment systems covered by the Act on Payment Systems etc., chapter 4, including the operator and the participants, central counterparties and central banks. Nor do orders pursuant to subsections (1) and (2) apply where Finanstilsynet has confirmed that the assets and liabilities encompassed by the contract shall not be transferred to another institution or be subject to bail-in pursuant to sections 20-24 to 20-26. Finanstilsynet may derogate from any order made pursuant to subsections (1) and (2).

VIII Safeguards for shareholders, creditors and counterparties

Section 20-37 Loss limits for shareholders and creditors of an institution under resolution
(1) Finanstilsynet shall not apply resolution tools in such a way that only part of the institution's assets, rights and liabilities are transferred to another institution, including a bridge institution, if the application of that tool entails that creditors and shareholders with rights that are not covered by the transfer do not receive in satisfaction of their claims at least as much as what they would have received if the institution under resolution had been wound up in accordance with section 20-31 at the time when the decision referred to in section 20-15 to place the institution under resolution was taken.

(2) Finanstilsynet shall not undertake write-down and conversion of own funds under section 20-14 or apply the bail-in tool under section 20-24 if shareholders and creditors thereby incur a greater loss than they would have incurred if the institution had been wound up under section 20-31 at the time when the decision referred to in section 20-15 to place the institution under resolution was taken.
Section 20-38 Re-examination and new valuation

(1) Once Finanstilsynet has applied a resolution tool, Finanstilsynet shall ensure that a competent person independent of the institution and the public authorities carries out a new valuation which is independent of the valuations carried out pursuant to section 20-16 and can provide a basis for judging whether the institution's shareholders and creditors would have received better treatment if the institution had been wound up under section 20-31 at the time when the decision referred to in section 20-15 to place the institution under resolution was taken.

(2) A valuation under subsection (1) shall determine:
   (a) the treatment that shareholders and creditors, and the deposit guarantee scheme, would have received if the institution had been wound up at the time when the decision to apply resolution tools was taken, and without the resolution action having been effected,
   (b) the actual treatment that shareholders and creditors received in the resolution of the institution, disregarding any provision of public financial support under section 20-28, and
   (c) the extent of any difference between the treatment referred to in (a) and the treatment referred to in (b).

(3) If the valuation determines that shareholders and creditors, including the deposit guarantee scheme, have incurred greater losses as a result of the resolution of the institution than they would have incurred if the institution had been wound up, Finanstilsynet shall pay the difference using funds from the resolution financing arrangement.

(4) Valuations pursuant to subsections (1) to (3) may be reviewed under the rules of section 20-44 governing appeal or legal action.

(5) The Ministry of Finance may make regulations concerning valuations under this section.

Section 20-39 Safeguards for counterparties

(1) The rules of this section apply where Finanstilsynet:
   (a) pursuant to sections 20-21 to 20-23 is to transfer some but not all of an institution's assets, rights or liabilities to another entity, or from a bridge institution or asset management vehicle to another entity, or
   (b) pursuant to section 20-34 subsection (1) is to adopt a decision to terminate a contract entered into by the institution, amend the terms of the contract, or decide that the acquirer shall enter into the contract as a party.

(2) In cases coming under subsection (1) the following arrangements and counterparties shall be protected under the provisions of sections 20-40 to 20-43 subject to the exceptions set out in sections 20-34 to 20-36:
   (a) security arrangements under which a person has an interest in specific rights or assets or groups of rights or assets that are subject to transfer,
   (b) title transfer financial collateral arrangements under which collateral to secure or cover the performance of obligations is provided by a transfer of full ownership of assets from the collateral provider to the collateral taker, on terms providing for the collateral taker to transfer assets if those obligations are performed,
   (c) set-off arrangements under which two or more claims owed between the institution under resolution and a counterparty can be set off against each other,
(d) netting arrangements, including by agreement referred to in the Financial Collateral Act section 6 and the Act on Payment Systems section 4-2,
(e) covered bonds issued under section 11-5 to section 11-15, including claims arising from derivative contracts forming part of the cover pool, and
(f) structured finance arrangements, including securitisation and derivative contracts and financial hedging instruments.

Section 20-40 Security, set-off and netting arrangements
(1) Finanstilsynet may not take measures covered by section 20-39 subsection (1) entailing that some but not all of the rights and liabilities that are protected under an arrangement as referred to in section 20-39 subsection (2)(b), (c) or (d) are transferred to another institution or are modified or terminated. Parties encompassed by such arrangements shall continue to be entitled to effect settlement by setting off or netting claims in accordance with the terms and conditions set for the arrangement.

(2) In order to ensure the availability of covered deposits, Finanstilsynet may nonetheless transfer such deposits without transferring other assets, rights or liabilities that are part of the same arrangement as referred to in subsection (1), and may transfer, terminate or modify those assets, rights or liabilities without transferring the covered deposits.

Section 20-41 Security arrangements
(1) Finanstilsynet may not, with effect for liabilities secured under security arrangements coming under section 20-39 subsection (2)(a),
(a) transfer an asset against which a liability is secured unless the liability is also transferred,
(b) transfer a secured liability unless the associated security interest is also transferred,
(c) transfer the right to enforce the security interest unless the secured liability is also transferred,
or
(d) modify or terminate a security arrangement under section 20-34 subsection (1) if the effect is that the liability ceases to be secured.

(2) In order to ensure the availability of covered deposits, Finanstilsynet may transfer covered deposits which are part of a security arrangement without transferring other assets, rights or liabilities that are part of the same arrangement, and may transfer, modify or terminate those assets, rights or liabilities without transferring the covered deposits.

Section 20-42 Structured finance arrangements and covered bonds
(1) Finanstilsynet may not, with effect for structured finance arrangements, including arrangements referred to in section 20-39 subsection (2)(e) and (f):
(a) transfer some, but not all, of the assets, rights and liabilities which constitute or form part of a structured finance arrangement to which the institution under resolution is a party, or
(b) apply a resolution tool as provided for in section 20-34 subsection (1) that entails the termination or modification of those assets, rights and liabilities which constitute or form part of a structured finance arrangement to which the institution under resolution is a party.

(2) In order to ensure the availability of covered deposits, Finanstilsynet is nonetheless entitled to transfer covered deposits which are part of a structured finance arrangement without transferring
other assets, rights or liabilities that are part of the same arrangement, and to transfer, modify or terminate those assets, rights or liabilities without transferring the covered deposits.

Section 20-43 Payment, clearing and settlement systems
(1) Finanstilsynet shall ensure that the operation of payment, clearing and settlement systems under the Act on Payment Systems etc. chapter 4 and the body of rules regulating such systems, is not affected where Finanstilsynet:
   (a) transfers some but not all of the assets, rights or liabilities of an institution under resolution to another entity, or
   (b) uses powers under section 20-34 subsection (1) to cancel or amend the terms of a contract to which the institution under resolution is a party or to substitute an acquirer as a party.

(2) A transfer, cancellation or amendment as referred to in subsection (1):
   (a) shall not revoke, modify or negate a transfer order or clearing and settlement in connection with netting in a payment system in contravention of the rules of the Payment System Act section 4-2, and
   (b) shall not prevent the use of collateral as referred to in the Act on Payment Systems etc., section 4-4.

Section 20-44 Appeal. Legal action
(1) Whoever has a legal interest in relation to a decision adopted by Finanstilsynet as the resolution authority may appeal against the decision under the rules of the Public Administration Act.

(2) A decision to resolve or to wind up an institution under the rules of sections 20-15 to 20-43 shall be immediately enforceable. Enforcement may nonetheless be suspended provided this would not be against the public interest and would not weaken the effect of the decision or the exercise of authority.

(3) Where someone acting in good faith has acquired shares, equity certificates, assets, rights or liabilities of an institution under resolution by virtue of a decision as referred to in subsection (2), the annulment or modification of the decision following an appeal or legal action shall not affect any subsequent administrative acts or transactions concluded by Finanstilsynet which were based on the annulled decision. In that case, remedies for the wrongful decision shall be limited to compensation for the loss suffered by the applicant as a result of the decision.

IX Financial groups and institutions engaged in cross-border activity

Section 20-45 Decisions with effect in another EEA member state
(1) When resolving a Norwegian institution engaged in activity through a subsidiary in another EEA member state, Finanstilsynet shall give due consideration to the effects that decisions made pursuant to the rules of this chapter can be expected to have in such a state, in particular as regards financial stability, tax revenues, funds present in the resolution financing arrangement and deposit guarantee or investor protection schemes. When resolving a Norwegian institution that has a branch with significant activity in another EEA member state, Finanstilsynet shall give due consideration to the financial stability of that host state.
(2) The provision of subsection (1) applies mutatis mutandis where Finanstilsynet takes any decision on activity conducted in Norway by the branch of an institution or by the subsidiary of an institution established in another EEA member state.

(3) Decisions pursuant to subsection (1) or (2) shall be taken by Finanstilsynet as far as possible after prior notice, exchange of relevant information and consultation with the resolution authority of the EEA member state(s) that is/are affected.

Section 20-46 Resolution colleges
(1) Where a financial group whose parent undertaking is situated in Norway includes institutions as referred to in section 20-1 subsection (1)(a) that are engaged in business through a branch or subsidiary in another EEA member state, Finanstilsynet shall establish a resolution college for the group.

(2) The Ministry of Finance may by regulations make rules concerning resolution colleges, their composition and their functions.

Section 20-47 Resolution of an institution having its parent undertaking in another EEA member state
(1) Where the Ministry of Finance decides that a Norwegian institution that is part of a financial group having its headquarters in another EEA member state meets the conditions for resolution under section 20-15, Finanstilsynet shall notify this to the group-level resolution authority, and to the members of the resolution college for the group.

(2) In the notification, Finanstilsynet shall provide information on the decision taken pursuant to section 20-15, and in the event on the resolution measures planned. If the group-level resolution authority considers that the resolution actions would not make it likely that the conditions for resolution would be met in relation to group entities established in the EEA member state, the resolution actions may be implemented. This shall not apply if the group-level resolution authority, no later than 24 hours after receiving the notification, has submitted a group resolution scheme to the resolution college for the financial group outlining resolution actions for the respective group institutions and how those resolution actions should be coordinated.

(3) A group resolution scheme under subsection (2) shall be established jointly by the resolution authorities for the group institutions that are covered by the scheme. In the event of disagreement between the resolution authorities, those authorities that are agreed on the scheme may adopt that scheme with effect for the group entities in their EEA member states.

Section 20-48 Resolution of a Norwegian parent undertaking of a financial group operating within the EEA
(1) Where the Ministry of Finance decides that the Norwegian parent undertaking of a financial group which includes group entities referred to in section 20-1 subsection (1)(a) and which operates within the EEA meets the conditions for resolution under section 20-15, Finanstilsynet shall provide this information to the other members of the resolution college for the financial group in question.

(2) The information provided by Finanstilsynet shall include details of the decision taken, and of the resolution actions that should in Finanstilsynet's assessment be implemented. The information may
include a resolution scheme for the financial group outlining resolution actions for the respective group entities and how those resolution actions should be coordinated, where:
(a) the resolution actions at parent level make it likely that the conditions for resolution of group institutions in another EEA member state will also be met.
(b) the resolution actions at parent level are not sufficient to stabilise the situation,
(c) the group-level resolution authority in another EEA member state has decided that the conditions for resolution of the institution there are met, or
(d) the resolution actions at parent level will confer particular advantages on some group entities.

(3) If the information provided does not include a group resolution scheme drawn up in accordance with subsection (2), Finanstilsynet may make a decision pursuant to the rules of this chapter after consulting with the members of the resolution college for the group. If the information does include a group resolution scheme, the scheme shall be adopted jointly by Finanstilsynet and the resolution authorities for those group entities that are covered by the scheme. In the event of disagreement between the resolution authorities, those authorities that are agreed on the scheme may adopt that scheme with effect for the group entities in their EEA member states.

Section 20-49 Branch in Norway of a foreign institution
(1) The Ministry of Finance may decide that a branch of an institution established outside the EEA shall be resolved or wound up under public administration in Norway if this is in the public interest, and where:
(a) the branch no longer meets and is unlikely to meet the requirements for continuing the business for which it is licensed or that are set out in applicable legislation, and there is no prospect of action being taken that will ensure compliance with the requirements within a reasonable timeframe,
(b) the Ministry of Finance is of the opinion that the foreign institution is unable or is likely to be unable to pay its liabilities in Norway, or liabilities arising from the branch's activity in Norway, as they fall due, or
(c) insolvency proceedings have been initiated against the institution in its home state.

(2) The provisions of sections 20-15, 20-18, 20-20, 20-29 to 20-31 and 20-34, and appurtenant provisions of regulations, apply to the resolution of a branch under subsection (1).

(3) Where called for on grounds of financial stability or other matters regulated by the financial legislation, the Ministry of Finance may decide that branches established in Norway by foreign institutions shall be placed under resolution or be wound up under public administration, and may make further provision in this regard in regulations.

X. Resolution financing arrangement

Section 20-50 Available resources
(1) The resources available to the resolution financing arrangement shall be sufficient to ensure the effective application of the resolution tools under the rules of this chapter. Finanstilsynet shall dispose over the resources of the resolution financing arrangement and contributions from the deposit guarantee fund pursuant to section 20-54. The resolution financing arrangement shall at least equal 1 per cent of aggregate covered deposits.
(2) The resources available to the resolution financing arrangement shall be invested in liquid, low-risk assets. The Banks' Guarantee Fund shall manage the resources of the resolution financing arrangement.

(3) Should the resources available to the resolution financing arrangement diminish below the minimum requirement of subsection (1), the shortfall shall be covered by guarantee from the institutions. The guarantee amount shall be apportioned on the institutions in accordance with the rules of section 20-51 subsection (3). Each institution's guarantee liability shall be limited to the same extent as additional contributions under section 20-51 subsection (2).

(4) The resolution financing arrangement shall have established alternative financing arrangements to the extent necessary to cover its presumed liquidity need. The resolution financing arrangement may also raise loans from other sources if the funds available to the arrangement are not sufficient to cover losses, costs or other expenses, and additional contributions pursuant to section 20-51 subsection (2) are not available or sufficient.

(5) The Ministry of Finance may by regulations make further provision concerning the resolution financing arrangement, including as to risk adjustment of contributions to the arrangement, the obligation of small institutions, investment firms and parent undertakings of financial groups to contribute, and the resolution financing arrangement's right to lend to, or borrow from, the resolution financing arrangement of another EEA member state.

Section 20-51 Contributions from the institutions

1 Contributions from the institutions

(1) Institutions as referred to in section 20-1 subsection (1)(a) shall each year make an overall contribution to the resolution financing arrangement equivalent to 0.1 per cent of aggregate covered deposits. Should the available financial resources diminish below two-thirds of the minimum requirement pursuant to section 20-50 subsection (1), the contribution shall instead be set at a level allowing for reaching the minimum requirement within six years. The Ministry of Finance may decide that the contribution for a particular year shall be lower than required by the first or second sentence.

(2) Should the resources available to the resolution financing arrangement not be sufficient to cover losses, costs or other expenses, the institutions shall make the overall additional contribution needed to cover the shortfall. The additional contribution shall for each institution not exceed three times that institution's ordinary annual contribution. Finanstilsynet may grant an institution a deferment of up to 6 months for payment of its additional contribution if this is required on grounds of the institution's liquidity and/or capital position.

(3) Finanstilsynet shall fix each institution's contribution under subsections (1) and (2) in proportion to the institution's share of aggregate assets under management less own funds and covered deposits. This share shall be adjusted up or down in proportion to the risk profile of the particular institution. Where the resolution financing arrangement exceeds the minimum requirement of section 20-50 subsection (1), contributions from mortgage credit institutions other those covered by section 11-7 shall be set at 50 per cent of the share referred to in the first sentence, provided Finanstilsynet considers the institution's activity to pose a particularly low risk to the resolution financing arrangement.
(4) Finanstilsynet may by regulations or administrative decision decide that institutions established outside the EEA that are engaged in activity in Norway shall pay contributions to the resolution financing arrangement, and may fix such contributions.

Section 20-52 Use of resources
(1) The resources available to the resolution financing arrangement may be used to contribute to the effective application of resolution tools, and only for the following purposes:
(a) to guarantee the assets or the liabilities of an institution under resolution, its subsidiaries, a bridge institution or an asset management vehicle pursuant to section 20-23,
(b) to make loans to institutions referred to in (a),
(c) to purchase the assets of an institution under resolution,
(d) to make contributions to a bridge institution pursuant to section 20-22 or to an asset management vehicle pursuant to section 20-23,
(e) to pay compensation for losses to shareholders, creditors and the deposit guarantee scheme in accordance with section 20-38 subsection (3), and
(f) to make contributions to a bail-in in accordance with subsections (3) and (4) and section 20-24,

(2) Finanstilsynet may also use resources referred to in subsection (1) with respect to an institution which purchases a business pursuant to section 20-21.

(3) Where Finanstilsynet pursuant to section 20-25 subsection (3) has excluded certain parts of an institution's liabilities from bail-in, and the losses which should have been borne by the excluded liabilities have not been fully passed on to other eligible liabilities, Finanstilsynet may make a contribution to the institution using resources available to the resolution financing arrangement in order:
(a) to cover losses which have not been absorbed and restore the net asset value of the institution under resolution to zero; see section 20-26 subsection (1)(a), and
(b) to purchase shares, equity certificates or other capital instruments issued by the institution in order to recapitalise the institution; see section 20-26 subsection (1)(b).

(4) A contribution under subsection (3) may be made only where:
(a) the contribution does not exceed 5 per cent of the institution's total assets measured in accordance with section 20-16, unless all unsecured eligible liabilities, other than eligible deposits, have already been written down or converted in full, and further contributions can be financed by the resources available to the resolution financing arrangement, and
(b) the holders of shares or equity certificates, other capital instruments and eligible liabilities have in aggregate taken losses and contributed to the recapitalisation of the institution in an amount that at least equals:
(i) 8 per cent of the institution's total assets measured in accordance with section 20-16, or
(ii) 20 per cent of the institution's risk weighted assets measured in accordance with section 20-16 provided the resources available to the resolution financing arrangement at least equal 3 per cent of aggregate covered deposits, and the institution's total assets are below EUR 900 billion on a consolidated basis.
Section 20-53 Use of the resolution financing arrangement's resources in the case of a group resolution

(1) Upon the resolution of the Norwegian parent undertaking of a financial group under section 20-48 and a Norwegian-established group entity under section 20-47, the national financing arrangements for each of the institutions or subsidiaries, including the resolution financing arrangement under section 20-50, shall contribute to the financing of the resolution.

(2) The authority responsible for the resolution referred to in subsection (1) shall in consultation with the resolution college for the financial group draw up a financing plan that specifies the apportionment between the national financing arrangements concerned. The financing plan shall be adopted in accordance with the rules of section 20-48 subsection (3) and section 20-47 subsection (3). The Ministry of Finance may by regulations make rules concerning the financing plan and the apportionment of contributions.

Section 20-54 Contributions from the deposit guarantee fund

(1) Where Finanstilsynet decides to apply a resolution tool which ensures that depositors with a member of the deposit guarantee scheme under section 19-2 continue to have access to their deposits, the guarantee scheme shall compensate the resolution financing arrangement in the following amounts determined on the basis of a valuation in accordance with section 20-16:
   (a) where bail-in is applied in accordance with sections 20-24 to 20-26, the amount by which covered deposits would have been written down had covered deposits not been excluded from the scope of the bail-in, and
   (b) where other resolution tools as referred to in section 20-19 are applied, the amount of losses that covered depositors would have had to bear had creditors' losses instead been apportioned under the rules of section 20-31.

(2) The amount shall not exceed the loss the guarantee scheme would have had to bear had the institution been wound up under section 20-29. Nor shall the amount exceed 50 per cent of the minimum requirement of section 19-9 subsection (1). The Ministry of Finance may derogate from the second sentence in special cases if a larger amount is required.

(3) The guarantee scheme's contribution pursuant to subsections (1) and (2) shall be determined by Finanstilsynet in consultation with the Bank's Guarantee Fund.

(4) Where it is determined by a new valuation under section 20-38 that the deposit guarantee scheme’s contribution to resolution was greater than permitted under subsection (2) first sentence, the resolution financing arrangement shall repay the difference in accordance with section 20-38 subsection (3).

(5) Where covered deposits at an institution under resolution are transferred in full to another entity in accordance with sections 20-21 or 20-22, the depositors shall have no claim against the deposit guarantee scheme in relation to any part of their deposits that are not transferred.

Section 20-55 Right of recourse

(1) Where the resolution financing arrangement has disbursed funds in accordance with sections 20-52 or 20-53, Finanstilsynet may require the institution to repay those funds.
Section 20-56 Asset management and administrative tasks
(1) The Bank's Guarantee Fund shall manage the resources available to the resolution financing arrangement.

(2) The Bank's Guarantee Fund may carry out administrative tasks related to the resolution financing arrangement which according to the rules of this subchapter are not part of Finanstilsynet's remit. Administrative tasks include inter alia:
   (a) calculation of annual contributions and additional contributions to the resolution financing arrangement,
   (b) collection of contributions, including ensuring that the minimum requirement of section 20-50 subsection (1) is complied with,
   (c) calculation of disbursements in accordance with sections 20-52 or 20-53,
   (d) calculation and transfer to the resolution financing arrangement of contributions from the deposit guarantee scheme in accordance with section 20-54, and
   (e) drawing up of loan agreements in accordance with section 20-50 subsection (4) and transfer of borrowed funds to the resolution financing arrangement.

(3) The Bank's Guarantee Fund shall prepare the annual report and accounts for the resolution financing arrangement and forward them to the Ministry of Finance, Finanstilsynet and Norges Bank.

Section 20-57 Appeal against decisions regarding contributions to the resolution financing arrangement
(1) Decisions regarding institutions' contributions to the resolution financing arrangement may be appealed to the Ministry of Finance pursuant to the rules of the Public Administration Act.

Chapter 20A Guarantee schemes for insurance undertakings

1 Guarantee scheme for non-life insurance

Section 20A-1 Scope. Purpose
(1) The provisions of sections 20A-1 to 20A-7 concern the Guarantee Scheme for Non-Life Insurance.

(2) The guarantee scheme shall help to ensure payments of claims under direct non-life insurance contracts to insureds and injured third parties.

(3) The guarantee scheme does not cover claims relating to an insured risk that is not situated in Norway. The Ministry of Finance may make regulations with regard to when an insured risk is deemed to be situated in Norway.

(4) The Ministry of Finance may make regulations on the Guarantee Scheme for Non-Life Insurance, including on what contracts for direct non-life insurance are covered by the guarantee scheme, what persons the guarantee scheme applies to, the limit on the maximum amount covered per claim, and what proportion of any claim is covered by the guarantee scheme.
(5) The Ministry of Finance may make regulations on the application of the Public Administration Act and the Freedom of Information Act to the guarantee scheme.

**Section 20A-2 Board of directors and articles of association etc.**

(1) The Guarantee Scheme for Non-Life Insurance is a legal entity in its own right. No member has a proprietary right to any portion of the Guarantee Scheme's funds. The Guarantee Scheme shall have articles of association approved by the ministry.

(2) The Guarantee Scheme shall be headed by a board of directors consisting of five members with personal deputies. The King shall appoint the members, deputy members and the chairman of the board. Appointments shall be for a four-year term.

(3) Valid board resolutions require the backing of at least three votes.

(4) Finanstilsynet may convene the board. The Ministry of Finance may by regulations make further provision concerning Finanstilsynet's authority and obligation to convene the board.

**Section 20A-3 Membership**

(1) Insurance undertakings which are granted a licence to carry on direct non-life insurance in Norway shall be members of the Guarantee Scheme.

(2) Where an insurance undertaking with its head office in another EEA state carries on direct non-life insurance through a branch established in Norway, the branch shall be a member of the Guarantee Scheme.

(3) The Ministry of Finance may by regulations make further provision on membership of the scheme, including making exceptions from the obligation to be a member.

**Section 20A-4 Members' liability to the Guarantee Scheme**

(1) A member's maximum liability to the Guarantee Scheme shall each year be 1.5 per cent of the sum of the member's gross premiums earned in the three financial years immediately preceding the capital call year in the case of direct non-life insurance covered by the Guarantee Scheme. Finanstilsynet may lay down further rules concerning which premium revenues shall be included in the basis for calculation.

(2) To cover its liability, each member shall make annual provisions pursuant to rules laid down by Finanstilsynet.

**Section 20A-5 Capital calls**

(1) The board of directors shall adopt any decision to make a call for capital from members to cover disbursements from, and costs associated with, the Guarantee Scheme. The call amount shall be apportioned on the members on a proportional basis in accordance with section 20-4 subsection (1).

(2) Finanstilsynet may in those cases where no disbursements are to be made from the scheme decide that the costs associated with the operation of the Guarantee Scheme shall be covered by Finanstilsynet and be levied on the non-life insurance undertakings in accordance with section 9 of the Financial Supervision Act.
Section 20A-6 Disbursement from the Guarantee Scheme
(1) The board of directors shall decide how the Guarantee Scheme's funds shall be used to prevent or reduce losses for insureds or injured third parties, and may lay down conditions for disbursement.

(2) The Ministry of Finance may by regulations make provision concerning disbursement under the Guarantee Scheme, including reduction of the amount of cover, partial disbursement, power to set conditions for the disbursement, and concerning the coverage of interest claims.

(3) The Guarantee Scheme shall assume the insured's position with regard to claims against the insurance undertaking with the same priority to the extent that the claims are covered by the Guarantee Scheme. The board of directors shall decide whether or not funds that are received through redemption of claims shall be paid back to the members or added to the paid-in capital.

Section 20A-7 Reporting, accounts and audit
The Ministry of Finance may make regulations concerning the board of directors' obligation to present reports on activities, financial statements and audit.

II Other guarantee schemes

Section 20A-8 Other guarantee schemes
The Ministry of Finance may decide that guarantee schemes shall be established for credit insurance undertakings, life insurance undertakings and pension undertakings, and may lay down rules for such schemes.

Chapter 21 Capital inadequacy and public administration

I Payment and capital adequacy difficulties

Section 21-1 Notice of payment difficulties etc.
(1) The board of directors and the general manager of a financial institution that is not covered by section 20-1 subsection (1) are each obliged to notify Finanstilsynet if there is reason to fear that:

(a) the institution may be unable to meet its commitments as they fall due,
(b) the institution may be unable to meet the minimum requirements as to own funds or other capital adequacy and prudential requirements set out in law or regulations,
(c) circumstances have arisen that may entail serious loss of confidence or losses that will substantially weaken or threaten the institution's financial position.

(2) If the institution's auditor learns of circumstances as referred to in subsection (1), he/she shall notify Finanstilsynet accordingly as referred to in subsection (1), unless he/she has received confirmation from Finanstilsynet that notification pursuant to subsection (1) has already been given.

(3) Notification pursuant to subsection (1) shall contain information on the institution's liquidity and capital situation, and explain the reason for the difficulties.
(4) The Ministry of Finance may by regulations provide that the provisions of sections 21-1 to 21-6 apply *mutatis mutandis* to branches in Norway of foreign financial institutions, and may establish further rules.

**Section 21-2 Finanstilsynet's authority**

(1) Where Finanstilsynet has been notified of payment difficulties, or has reason to believe that the conditions for notification are present, Finanstilsynet shall in consultation with the institution clarify what measures are necessary. Norges Bank shall be informed.

(2) If such measures are not taken by the institution itself, Finanstilsynet may:

   (a) convene the general meeting at shorter notice than that stated in the institution's articles of association,
   (b) order the composition of the governing bodies to be altered,
   (c) set such conditions or guidelines as are considered necessary to ensure that further activities will be carried on in a satisfactory manner financially and in other respects,
   (d) require preparation of an audited statement of financial position.

(3) This section entails no curtailment of Finanstilsynet's authority under the Financial Supervision Act.

**Section 21-3 Audited statement of financial position**

(1) If Finanstilsynet requires preparation of an audited statement of financial position, the board shall see to it that this is done immediately. The rules on annual financial statements and annual reports apply *mutatis mutandis* to the preparation of such a statement.

(2) Finanstilsynet may appoint one or more auditors to examine the institution's financial position. Finanstilsynet determines their remuneration and may lay down further provisions on the auditor's work. The remuneration shall be paid by the institution.

**Section 21-4 Notice of general meeting**

(1) If the audited statement of financial position shows that a substantial portion of the equity has been lost since the last annual accounts, the board shall immediately convene a general meeting. The same applies if the audited statement of financial position shows that more than 25 per cent of the share capital, or 25 per cent of the sum of the owners' capital and the ownerless capital of a financial institution that is not organised as a private limited company or public limited company, has been lost.

(2) The general meeting shall decide whether the institution has sufficient capital for continued satisfactory operation and whether operation in that case shall continue. A resolution to continue operations shall be adopted by the same majority as that needed to amend the articles of association.

(3) A resolution pursuant to subsection (2) requires Finanstilsynet's approval. Section 21-2 applies *mutatis mutandis*. 

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(4) If no resolution is passed requiring the institution to continue its activities, the general meeting may vote by simple majority to transfer the institution's business in its entirety to other financial institutions.

(5) If no resolution is passed regarding transfer of the activities in their entirety, the institution shall be wound up. If a resolution to this effect is not passed at the general meeting, Finanstilsynet shall appoint an administration board to undertake winding up at the institution's expense. The same applies if a resolution to continue activities is not approved by Finanstilsynet, or conditions for approval are not satisfied in due time, or an adopted transfer is not implemented within a period stipulated by Finanstilsynet.

Section 21-5  Reduction of share capital and owners' capital
(1) If the audited statement of financial position shows that only 25 per cent or less of the share capital is intact, the board shall present to the general meeting a description of the institution's financial position accompanied by a proposal to write down the share capital against losses shown in the audited statement of financial position.

(2) If the general meeting does not pass a resolution pursuant to the preceding subsection within the period stipulated by Finanstilsynet, the Ministry of Finance may decide that the share capital shall be written down by the amount of capital shown to have been lost by the audited statement of financial position. If it is necessary in order to secure continued satisfactory operation of the institution, the Ministry of Finance may also stipulate that the share capital shall be increased by new subscription of shares. The Ministry of Finance sets the further terms and conditions for subscription. The shareholders' preferential rights may be departed from in the subscription terms and conditions. In that case the parties eligible to subscribe the shares shall be specified.

(3) The provisions of this section apply mutatis mutandis to the sum of owners' capital and ownerless capital of a financial institution that is not organised as a private limited company or public limited company.

Section 21-6  Reduction of subordinated debt
(1) If the audited statement of financial position shows that a substantial portion of the subordinated debt has been lost, the provisions of section 21-5 subsection (1), and subsection (2) first sentence, apply mutatis mutandis unless the loan agreement bars the institution from making such a write-down.

(2) In the case of subordinated debt raised after the Act's commencement and having a term of more than five years, the debt may be written down under the rules of subsection (1) even if the loan agreement does not contain rules in that respect, unless otherwise expressly provided in the approval of debt incurrence.

II  Public administration

Section 21-7  Scope
(1) The provisions of sections 21-7 to 21-20 apply to insurance undertakings, pension undertakings and holding companies that are not covered by section 20-1 subsection (1)(b).
(2) The Ministry of Finance may by regulations provide that the provisions of sections 21-7 to 21-20 shall apply *mutatis mutandis* to branches in Norway of insurance undertakings or pension undertakings. Further provision may in the event be made in orders regarding public administration of branches as referred to in the first sentence, including provision for exclusion from or application of provisions of sections 21-7 to 21-20.

(3) The Ministry of Finance may by regulations make further rules to supplement and implement the rules of sections 21-7 to 21-16 regarding public administration. Such regulations may depart from the provisions of sections 21-7 to 21-16, the provisions of the Debt Settlement Proceedings and Bankruptcy Act and of the Enforcement Act.

**Section 21-8 Debt negotiation or winding-up**

(1) Debt negotiation or winding-up proceedings pursuant to the Debt Settlement Proceedings and Bankruptcy Act may not be initiated against entities covered by section 21-7. The same applies to companies that are placed under public administration pursuant to section 21-11 subsection (2).

**Section 21-9 Capital inadequacy**

(1) If Finanstilsynet has reason to believe:

(a) that an institution is unable to meet its liabilities as they fall due,

(b) that an institution is unable to meet the existing own funds requirements in accordance with an order from Finanstilsynet, or

(c) that an institution's assets and incomes combined are not sufficient to meet its liabilities in full, notification shall be given immediately as stated in subsection (2).

(2) Finanstilsynet shall notify Norges Bank and the guarantee scheme to which the company is affiliated.

(3) The bodies in receipt of notification pursuant to subsection (2) shall give Finanstilsynet their assessment of whether the institution can be assured a sufficient financial basis for continued satisfactory operation. If support is offered, the type and scope of such support shall be explained.

**Section 21-10 Notification to the Ministry of Finance**

(1) If Finanstilsynet considers that an institution cannot be assured a financial basis for continued satisfactory operation, the Ministry of Finance shall be informed immediately. The notification shall contain an assessment of whether the institution should be placed under public administration.

**Section 21-11 Public administration order**

(1) If it has to be assumed that an institution cannot meet its liabilities as they fall due and that it cannot be assured a sufficient financial basis for continued satisfactory operation, the Ministry of Finance may order the institution to be placed under public administration. The same applies where an institution is unable to meet the own funds requirements, unless consent is given for the institution temporarily to have lower own funds than stipulated. Before an order is made, the board of the institution shall if possible be invited to make a statement. The provisions of section 21-2 apply *mutatis mutandis* if the institution is not placed under public administration.
(2) If the Ministry of Finance makes an order to the effect that the parent company of a financial group shall be placed under public administration, other companies in the financial group may also be placed under public administration.

(3) A public administration order shall be announced at the earliest possible opportunity. The order shall be notified to the Register of Business Enterprises and announced in the Brønnoysund Register Centres' electronic announcement publication. The order shall also be registered with a securities register and judicially registered with the registrar of real property.

(4) After the public administration order has been made, the institution shall add "under public administration" to its name.

**Section 21-12 Effects of a public administration order**

(1) Once a public administration order has been made, the following effects come into play:

(a) The institution's former bodies become inoperative. The administration board assumes the authority vested in those bodies. The last serving board of directors shall nonetheless decide matters which cannot be deferred until the administration board has taken up its duties.

(b) The members of the board and the auditor shall furnish the administration board with full information on the institution's position and activities.

(c) The institution may not incur new exposures or expand previous exposures without Finanstilsynet's approval.

(d) Payments to creditors may not take place without Finanstilsynet's approval.

(e) The Satisfaction of Claims Act and the Financial Collateral Act apply mutatis mutandis. The cut-off date under this Act is the date of the order to place the institution under administration.

(f) Creditors with claims established prior to the public administration order may not distrain upon, or by other means secure payment by recourse to, assets belonging to the institution.

(2) Liabilities that are established during the period of administration shall be regarded as preferential debt. The same applies to remuneration to the auditor for assignments performed pursuant to section 21-3 subsection (2).

(3) The Ministry of Finance may authorise the administration board to summon the institution's creditors by notice giving a cut-off date for claims. Such notice may not encompass tax claims. The cut-off date and manner of announcement shall be stipulated in the authorisation.

**Section 21-13 Administration board and auditor**

(1) The administration board shall comprise at least three members with personal deputies appointed by Finanstilsynet. The chairperson shall as a rule be a lawyer.

(2) Finanstilsynet appoints one or more auditors.

(3) Finanstilsynet lays down rules for the work of the administration board and the auditor(s), and stipulates their remuneration. Finanstilsynet may withdraw appointments of board members and auditors.
Section 21-14 Administration board's and auditor's tasks and competence
(1) The administration board shall endeavour as rapidly as possible to draw up arrangements enabling the continued operation of the institution's activities on an adequate financial basis, or to bring about a merger with, or have its activities transferred to, other institutions, or wind up the institution.

(2) The administration board shall as soon as possible prepare internal guidelines for the institution's operations. The board shall ensure that a creditors' committee is established which the board can consult, and the board may engage experts to assist in the administration of the estate.

(3) Decisions of material significance to the institution require Finanstilsynset's approval before they are implemented.

(4) The administration board shall within three months of its appointment provide Finanstilsynset with an assessment of the institution's position and present a plan for the further work of the board. Finanstilsynset may extend the three-month period.

(5) The auditor shall examine the financial institution's conduct of its business and prepare an audit report.

Section 21-15 Resumption of ordinary operations
(1) If the administration board finds that a sufficient financial basis exists for continued satisfactory operation, the board shall propose to the Ministry of Finance that an order be made for ordinary operations to be resumed.

(2) The recommendation may call for claims to be reduced to the extent that there is not assumed to be cover for them, and for instalments to be fixed for payments to creditors. A recommendation for reduction of claims, including claims in regard to subordinated debt, shall be drawn up in accordance with the Satisfaction of Claims Act and other applicable rules. The proposal shall contain provisions on payment of interest on claims that are covered.

(3) The Ministry of Finance may make an order for ordinary operations to be resumed. The order may provide that claims, including interest claims, shall be reduced to the extent that there is not assumed to be cover for them, and fix instalments for payments to creditors. The Ministry of Finance may decide that funds shall be set aside to secure corresponding cover of disputed claims. Disputed claims shall be tried by the court of first instance.

(4) The administration board shall arrange for the election of new officers before ordinary operations are resumed. The administration board shall function until a new election has taken place. Finanstilsynset shall lay down necessary transitional rules.

(5) An order for resumption of ordinary operations by an institution and the conditions attached thereto shall be notified and announced as provided in section 21-11 subsection (3).

Section 21-16 Winding up
(1) If within one year of an institution being placed under administration the institution is unlikely to be able in the near future to resume operations, be merged with one or more other financial
institutions or have its activities taken over by one or more other financial institutions, the administration board shall wind up the institution's activities and effect a settlement with the creditors. The Ministry of Finance may stipulate a different period.

(2) As regards the settling and winding up of the estate, the rules of chapter VIII et seq. of the Debt Settlement Proceedings and Bankruptcy Act apply *mutatis mutandis* insofar as appropriate. Finanstilsynet shall make such decisions as are required pursuant to the Debt Settlement Proceedings and Bankruptcy Act with the exception of determining claims, which is done by the court of first instance.

(3) Once winding up has been carried out the board shall submit final accounts, including a proposal for distribution, to Finanstilsynet for approval. Finanstilsynet shall order their publication and shall notify the Register of Business Enterprises that the institution shall be deleted from the Register.

### III Special rules for insurance undertakings and pension undertakings

#### Section 21-17 Scope
The provisions of sections 21-17 to 21-20 apply to insurance undertakings and pension undertakings. In the case of pension undertakings the provisions of sections 21-17 to 21-20 also apply to pension agreements that do not build on an insurance contract.

#### Section 21-18 Insurance liabilities

(1) After a public administration order has been made, the insurance undertaking may not write or renew insurances. Finanstilsynet may nonetheless authorise this to be done when called for on special grounds.

(2) Where an insurance undertaking is under public administration, any claim emanating from a direct insurance contract, including interest, shall be paid before other claims, except preferential claims.

(3) The preferential right for life insurance claims applies to an overall amount corresponding at least to the undertaking's technical provisions.

#### Section 21-19 Termination of non-life insurances and certain life insurances

(1) Three months after a public administration order is made, all non-life insurances become void. The administration board shall as soon as possible and to the extent possible notify in writing policyholders, the insureds and others with financial interests related to the insurance cover, of the date on which their insurances terminate. Notification may be by electronic means provided the person concerned has given their express consent for notification by such means.

(2) Claims emanating from a direct insurance contract which arise in the period between the date of a public administration order and the date of termination of the insurance contract qualify for payment under the provisions of section 21-18 subsection (2).

(3) Claims for refund of prepaid premiums (ristorno) for the period after termination of the
insurances may not be made for amounts below a threshold set by the Ministry of Finance.

(4) The provisions of this section apply *mutatis mutandis* to risk insurances conferring the right to payment as a result of the insured's death or disablement.

**Section 21-20 Disposal of life insurance portfolio**

(1) Upon winding up of a life insurance undertaking the administration board shall endeavour to have the entire insurance portfolio taken over by one or more life insurance undertakings. The administration board shall prepare a description of the offers that have been reviewed by the administration board. If the transfer contract will entail reduction of the insurance amounts, this shall be stated.

(2) The descriptions and the draft transfer agreement shall be announced in the Norwegian Gazette, in the newspaper(s) where the public administration order was announced, and in such other newspapers as Finanstilsynet may decide. The administration board shall also send the announcement to all policyholders and insured persons whose whereabouts are known. The announcement may be sent by electronic means provided the policyholder or the insured person has given their express consent for notification by such means. The announcement shall advise all policyholders and insured persons that they must come forward by a certain date if they wish to raise objections against the transfer. If objections to the transfer have not been raised by the said date by at least one-fifth of the policyholders and insured persons to whom the announcement was sent, the administration board shall with Finanstilsynet's approval formalise an agreement on transfer. Such transfer entails that the obligations under the insurance contracts pass to the acquiring institution.

(3) If transfer of the insurance portfolio is not achieved, the Ministry of Finance shall fix a final reduction of the insurance amounts in accordance with the settlement carried out, and call a general meeting of policyholders to form a mutual undertaking. Two months' notice shall be given of this general meeting. The notice shall be announced and dispatched as stated in subsection 2.

(4) The general meeting shall adopt articles of association by simple majority and elect the board and other officers of the company. The board shall send a report to the Ministry of Finance with an application for authorisation.

**Chapter 22 Penalties. Sanctions**

**Section 22-1 Penalties**

Anyone who wilfully or through negligence contravenes the provisions of this Act or orders issued pursuant thereto shall be punishable by fines or, in particularly aggravating circumstances, by a term of imprisonment not exceeding 1 year, provided the offence is not subject to any severer penal provision.

**Section 22-2 Orders and coercive measures**

(1) The Ministry of Finance may issue an order to the effect that circumstances in contravention of this Act or of provisions made in pursuance of this Act shall cease. The Ministry of Finance may set a deadline for such circumstances to be brought into compliance with the order.
(2) The Ministry of Finance may impose a coercive fine, accruing to the Treasury, on any party that fails to comply with an order issued pursuant to subsection (1). A coercive fine may be imposed in the form of a one-off fine or a cumulative daily fine. The Ministry of Finance may by regulations make further rules on the determination of coercive fines, including the size of such fines.

(3) Holdings acquired in contravention of the rules governing supervision of holdings in financial institutions shall be subject to immediate forced sale. The same shall apply where an authorisation is revoked pursuant to section 6-4 subsection (5). The Enforcement Act section 10-6, cf. section 8-16, is not applicable. Voting rights attached to such holdings may not be exercised. If the Ministry of Finance has cause to believe that the owner of a qualifying holding in a financial institution displays or will display conduct in contravention of proper and adequate management of that institution, the Ministry of Finance may impose an order or prohibition under the provisions of subsections (1) or (2), which may include barring the exercise of voting rights attached to the holdings.

Section 22-3 Disclosure requirement
Any party that has a holding in a financial institution or in the parent company of a financial group is required at the request of Finanstilsynet to disclose such information as is necessary to implement and oversee compliance with this Act.

Chapter 23 Entry into force etc., transitional rules

Section 23-1 Entry into force, deposits, assets and liabilities, transitional rules
(1) This Act comes into force on the date decided by the King. The King may put the individual provisions of the Act into force at different times.

(2) Deposits that were covered up to the entry into force of this Act, shall remain covered until they are repaid or repayment is offered to the depositor.

(3) Assets and liabilities managed by the Norwegian Banks' Guarantee Fund under the previously applicable Chapter 19 of this Act shall be transferred to the deposit guarantee fund as mentioned in section 191-9 and the resolution financing arrangement as mentioned in section 20-50. Assets and liabilities shall be split up such that 45 per cent are transferred to the deposit guarantee fund and 55 per cent to the resolution financing arrangement.

(4) The Ministry of Finance may make transitional rules.