

Financial Supervision Authority Act

Passed 9 May 2001

(RT¹ I 2001, 48, 267),

entered into force 1 June 2001,

amended by the following Act:

20.02.2002 entered into force 01.07.2002 - RT I 2002, 23, 131.

Chapter 1

General Provisions

§ 1. Scope of application of Act

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

§ 2. State financial supervision

(1) For the purposes of this Act, “state financial supervision” (hereinafter financial supervision) means supervision over the subjects of state financial supervision (hereinafter subjects of financial supervision) and the activities provided for in this Act, the Credit Institutions Act (RT I 1999, 23, 349; RT I 2002, 17, 96; 21, 117; 23, 131), the Insurance Activities Act (RT I 2000, 53, 343; 2001, 43, 238; 48, 268; 59, 359; 87, 529; 93, 565; 2002, 35, 215), the Insurance Act (RT 1992, 48, 601; RT I 1995, 26–28, 355; 1996, 23, 455; 40, 773; 1998, 61, 979; 1999, 10, 155; 27, 389; 2000, 53, 343; 2001, 43, 238; 48, 268; 79, 480), the Investment Funds Act (RT I 1997, 34, 535; 1998, 61, 979; 2000, 10, 55; 57, 373; 2001, 48, 268; 79, 480; 89, 532; 93, 565; 2002, 23, 131), the Funded Pensions Act (RT I 2001, 79, 480; 2002, 23, 131), the Securities Market Act (RT I 2001, 89, 532; 2002, 23, 131), the Motor Third Party Liability Insurance Act (RT I 2001, 43, 238), Estonian Central Register of Securities Act (RT I 2000, 57, 373; 2001, 48, 268; 79, 480; 89, 532; 93, 565; 2002, 23, 131), and legislation established on the basis thereof.

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

§ 3. Objective of financial supervision

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

§ 4. Financial Supervision Authority

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

(2) The Supervision Authority conducts financial supervision in the name of the state.

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

§ 5. Principles of activities of Supervision Authority

The Supervision Authority shall operate pursuant to legislation and the internationally recognised principles relating to financial supervision and shall act openly and transparently and apply the principles of sound administration. The Supervision Authority shall use the assets at its disposal prudently.

§ 6. Functions and rights of Supervision Authority

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

1) analyse and monitor constantly the compliance of subjects of financial supervision with the requirements for financial soundness and own funds, and other obligations prescribed by the Bank of Estonia Act (RT I 1993, 28, 498; 30, õiend; 1994, 30, 463; 1998, 64/65, 1006; 1999, 16, 271; 2001, 58, 353; 59, 358), the Acts specified in subsection 2 (1) of this Act, and legislation established on the basis thereof;

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

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

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

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

6) co-operate with international financial supervision organisations and foreign financial supervision authorities and other competent foreign authorities and persons;

7) perform the functions arising from the Guarantee Fund Act (RT I 2002, 23, 131) and Money Laundering Prevention Act (RT I 1998, 110, 1811; 2000, 84, 533; 2001, 93, 565);

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

(2) In the performance of its functions, the Supervision Authority has all the rights provided for in this Act, the Acts specified in subsection 2 (1) of this Act and legislation established on the basis thereof.

Chapter 2

Management of Financial Supervision Authority

Division 1

Supervisory Board

§ 7. Competence of supervisory board

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

(2) The supervisory board shall:

- 1) approve the operating strategy of the Supervision Authority at the proposal of the management board of the Supervision Authority (hereinafter the management board);
- 2) approve, on the proposal of the management board, the budget of the Supervision Authority and, in the case specified in § 45 of this Act, the supplementary budget, and make a proposal to the Minister of Finance concerning the rate of the share of the supervision fee calculated on the basis of assets for the following budgetary year;
- 3) approve, on the proposal of the management board, the bases for developing the structure of the Supervision Authority and for the payment of remuneration;
- 4) appoint the members of the management board and elect the chairman of the management board from among the members;
- 5) remove members of the management board;
- 6) decide on entry into, amendment of and termination of contracts of service with the chairman and members of the management board;
- 7) approve the size of the remuneration and additional sums payable and the social guarantees applicable to the chairman and members of the management board;
- 8) decide on the filing of a claim against the chairman or a member of the management board concerning compensation for damage caused by him or her to the state through violation of a legal act or his or her obligations;
- 9) approve the annual report of the Supervision Authority submitted by the management board;
- 10) approve the rules for the activities of the supervisory board;
- 11) decide on other matters placed in the competence of the supervisory board by law.

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§ 8. Members of supervisory board

- (1) The supervisory board shall consist of six members, two of whom are members by virtue of office and four of whom are appointed members.
- (2) The Minister of Finance and the President of the Bank of Estonia are members of the supervisory board by virtue of office.
- (3) One-half of the appointed members of the supervisory board shall be appointed and removed by the Government of the Republic on the proposal of the Minister of Finance and one-half by the Board of the Bank of Estonia on the proposal of the President of the Bank of Estonia.

§ 9. Requirements for members of supervisory board

- (1) Appointed members of the supervisory board shall be Estonian citizens with active legal capacity, an academic degree recognised by the state or education corresponding to such level, an impeccable professional and business reputation, and the experience necessary to manage an agency in the financial or public sector.
- (2) The following shall not be appointed as members of the supervisory board:

1) persons under preliminary investigation for or accused of a criminal offence for which the law prescribes imprisonment or persons with a criminal record for criminal official misconduct or any other intentionally committed criminal offence;

2) persons whose previous unlawful act or omission has resulted in the bankruptcy, compulsory dissolution or revocation of the activity licence of a company;

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

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

§ 10. Term of authority of members of supervisory board

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

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

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

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

§ 11. Removal of member of supervisory board

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

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

1) a judgment of conviction made against him or her in a criminal matter enters into force;

2) he or she violates the provisions of subsection 32 (1) or (2) or § 34 of this Act;

3) a bankruptcy order enters into force or a prohibition on business is applied with regard to him or her or the right to engage in economic activity is taken away from him or her pursuant to law;

4) he or she does not comply with the requirements established by this Act for appointed members or submits false information concerning compliance with such requirements.

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

§ 12. Chairman of supervisory board

(1) The Minister of Finance shall be the chairman of the supervisory board.

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

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

§ 13. Calling meetings of supervisory board

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

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

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

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

§ 14. Organisation of activities of supervisory board

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

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

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

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

1) the procedure for the election of the chairman of the management board;

2) the procedure for giving notice of meetings of the supervisory board;

3) the procedure for communicating documents concerning the agenda of a meeting to the members of the supervisory board;

4) the information to be recorded in the minutes of a meeting, including the content of the resolutions of the supervisory board and issues relating to the recording of voting results;

5) the procedure for adoption of resolutions of the supervisory board without calling a meeting, the information to be entered in records of votes and the procedure for preservation of draft resolutions and the positions and dissenting opinions of the members of the supervisory board.

(5) Members of the supervisory board shall receive monthly remuneration in the amount of twice the minimum monthly wage.

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

§ 15. Resolutions of supervisory board

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

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

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

1) a member of the management board or a person to be appointed as a member of the management board, before voting on issues provided for in clauses 7 (2) 4)–8) of this Act;

2) a person required to pay the supervision fee specified in subsections 36 (1)–(3) of this Act or a shareholder with a qualifying holding in such person or a person who exercises dominant influence on the management thereof in any other manner or is a member of its management body, before voting on issues provided for in clause 7 (2) 2) of this Act.

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

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

§ 16. Minutes of meetings of supervisory board

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

(2) The chairman of the supervisory board and the secretary shall sign the minutes.

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

(4) Minutes of meetings of the supervisory board shall be preserved in the Supervision Authority indefinitely. The management board shall organise storage of the minutes and annexes thereto and shall be responsible for their preservation.

§ 17. Adoption of resolutions without calling meeting

(1) The supervisory board has the right to adopt resolutions without calling a meeting of the supervisory board if all members of the supervisory board consent thereto and hold a certificate for giving digital signatures issued pursuant to the Digital Signatures Act (RT I 2000, 26, 150; 92, 597; 2001, 56, 338).

(2) The supervisory board does not have the right to adopt resolutions on issues specified in clauses 7 (2) 1), 4) or 10) of this Act without calling a meeting of the supervisory board.

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

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

(5) The provisions of § 15 of this Act apply to the adoption of resolutions.

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

Division 2

Management Board

§ 18. Competence of management board

(1) The management board shall manage and organise the activities of the Supervision Authority. The management board is competent to adopt all resolutions relating to the performance of the obligations of the Supervision Authority and to perform all obligations and exercise all rights which pursuant to this Act are not in the competence of the supervisory board, the chairman of the supervisory board or the chairman of the management board. The management board shall execute the resolutions made by the supervisory board pursuant to subsection 7 (2) of this Act.

(2) In issues relating to the conduct of financial supervision on the bases provided for in the Acts specified in subsection 2 (1) of this Act, the management board shall decide on:

- 1) the issue and revocation of activity licences and other issues relating to activity licences;
- 2) the grant of consent, permission or concordance;
- 3) issues relating to performance of the registration obligation and entering items in lists;
- 4) the issue of precepts;
- 5) the application of administrative coercive measures;
- 6) the imposition of administrative penalties;
- 7) the ordering of special audits or expert assessments;
- 8) the establishment of a moratorium or a special regime and the performance of related acts;
- 9) the filing of bankruptcy petitions and the performance of other acts relating to bankruptcy or liquidation proceedings.

(3) In issues relating to the management and organisation of activities, the management board shall:

- 1) submit the strategy of the Supervision Authority to the supervisory board for approval;
- 2) submit the draft budget of the Supervision Authority to the supervisory board for approval together with a proposal concerning the rate of the share of the supervision fee calculated on the basis of assets, payable on the basis of this Act for the following budgetary year;
- 3) submit the draft supplementary budget to the supervisory board for approval in the case provided for in § 45 of this Act;

- 4) decide, pursuant to and to the extent of the budget approved by the supervisory board, on the acquisition and transfer of immovables and of movables to be entered in a register;
- 5) submit proposals to the supervisory board concerning development of the structure of the Supervision Authority and the bases for payment of remuneration;
- 6) approve the structure and staff of the Supervision Authority pursuant to the bases approved by the supervisory board;
- 7) approve the accounting policies and procedures of the Supervision Authority;
- 8) submit the report provided for in subsection 49 (1) of this Act to the supervisory board for their information;
- 9) approve the procedure for conducting internal audits of the Supervision Authority;
- 10) if necessary, involve experts in the conduct of financial supervision;
- 11) form work groups and committees for the performance of the functions of the Supervision Authority;
- 12) decide on entry into co-operation agreements specified in § 50 of this Act;
- 13) decide on entry into co-operation agreements with foreign financial supervision authorities and other competent foreign bodies or persons;
- 14) submit an overview of the activities of the Supervision Authority and an income and expense statement to the supervisory board once per quarter;
- 15) submit the annual report of the Supervision Authority to the supervisory board for approval;
- 16) approve the rules for the activities of the management board;
- 17) decide on other issues relating to the organisation of the regular activities of the Supervision Authority if such decision is requested by at least two members of the management board.

§ 19. Members of management board

- (1) The management board shall consist of five members.
- (2) The members of the management board shall be appointed and removed by the supervisory board.

§ 20. Requirements for members of management board

- (1) Members of the management board must be Estonian citizens with active legal capacity and an academic degree recognised by the state or education corresponding to such level, the expertise necessary to manage the Supervision Authority, professional suitability, an impeccable professional and business reputation and a total of at least five years' work experience in the fields of finance, law, auditing or information technology or in public service in a position relating to such fields.
- (2) The following shall not be appointed as members of the management board:
 - 1) members of the supervisory board;
 - 2) members of the Board of the Bank of Estonia or the Executive Management of the Bank of Estonia;
 - 3) auditors of the Bank of Estonia;

4) persons under preliminary investigation for or accused of a criminal offence for which the law prescribes imprisonment or persons with a criminal record for criminal official misconduct or any other intentionally committed criminal offence;

5) persons whose previous unlawful act or omission has resulted in the bankruptcy, compulsory dissolution or revocation of the activity licence of a company;

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

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

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

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

§ 21. Term of authority of members of management board

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

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

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

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

§ 22. Removal of member of management board

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

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

1) a judgment of conviction made against him or her in a criminal matter enters into force;

2) he or she violates the provisions of subsection 32 (1) or (2) or § 34 of this Act;

3) a bankruptcy order enters into force or a prohibition on business is applied with regard to him or her or the right to engage in economic activity is taken away from him or her pursuant to law;

4) he or she does not comply with the requirements established by this Act for members of the management board or submits false information concerning compliance with such requirements.

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

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

§ 23. Chairman of management board

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

(2) The chairman of the management board shall:

1) organise the activities of the management board;

2) call and chair the meetings of the management board and organise the taking of minutes at the meetings;

3) organise the administration of the Supervision Authority and the disclosure of the activities of the Supervision Authority;

4) organise the accounting of the Supervision Authority;

5) decide on the making of expenditure necessary for the activities of the Supervision Authority according to and to the extent of the budget approved by the supervisory board;

6) enter into, amend, suspend and terminate employment contracts with employees.

(3) The chairman of the management board shall represent the Supervision Authority in court and in relations with other state agencies, the Bank of Estonia, other persons, international organisations for financial supervision, foreign financial supervision authorities and other competent foreign authorities, organisations and persons.

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

§ 24. Calling meetings of management board

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

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

§ 25. Organisation of meetings of management board

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

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

1) the procedure for giving notice of meetings of the management board;

2) the procedure for communicating documents concerning the agenda of a meeting to the members of the management board;

3) the information to be recorded in the minutes of a meeting, including the content of the resolutions of the management board and issues relating to the recording of voting results;

4) the procedure for the adoption of resolutions of the management board without calling a meeting, the information to be recorded in records of votes and the procedure for preservation of draft resolutions and the positions and dissenting opinions of the members of the management board.

§ 26. Resolutions of management board

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

(2) A resolution of the management board is adopted if at least three members of the management board vote in favour.

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

(4) A member of the management board shall give notice to the management board if his or her child, parent, sister, brother, spouse or cohabitee, or a child, parent, sister or brother of his or her spouse or cohabitee is a member of the management body, procurator, other representative, head of the internal audit unit, chairman of the audit committee or auditor of or shareholder with a qualifying holding in a relevant subject of financial supervision, or a person exercising dominant influence over the management of such company in any other manner or a director or representative of an Estonian branch of a foreign company.

(5) Members of the management board specified in subsection (4) of this section may participate in voting if all other members of the management board participating in the vote are in favour thereof.

§ 27. Minutes of meetings of management board

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

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

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

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

§ 28. Adoption of resolutions without calling meeting

(1) The management board has the right to adopt resolutions without calling a meeting of the management board if all members of the management board consent thereto and hold a certificate for giving digital signatures issued pursuant to the Digital Signatures Act.

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

(3) The chairman of the management board shall send a draft resolution to all members of the management board and specify the term by which the members of the management board must present their positions. If a

member of the management board fails to present his or her position within the specified term, he or she is deemed to have voted against the resolution.

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

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

§ 29. Liability of members of management board

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

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

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

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

Chapter 3

Requirements for Employees

§ 30. Employees of Supervision Authority

(1) Employees of the Supervision Authority (hereinafter employees) and members of the management board of the Supervision Authority shall be subject to the Republic of Estonia Employment Contracts Act (RT 1992, 15/16, 241; 1993, 10, 150; RT I 1993, 26, 441; 1995, 14, 170; 16, 228; 1996, 3, 57; 40, 773; 45, 850; 49, 953; 1997, 5/6, 32; 1998, 111, 1829; 1999, 16, 276; 60, 616; 2000, 25, 144; 51, 327; 57, 370; 102, 669; 2001, 17, 78; 42, 233; 53, 311) and other labour laws unless otherwise provided by this Act.

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

(3) The following shall not be employed:

1) persons under preliminary investigation for or accused of a criminal offence or persons with a criminal record for criminal official misconduct;

2) persons whose previous unlawful act or omission has resulted in the bankruptcy, compulsory dissolution or revocation of the activity licence of a company;

3) bankrupts or persons who are subject to a prohibition on business or from whom the right to work in a particular position or operate in a particular area of activity has been taken away pursuant to law.

(4) Before an employment contract is entered into with a person applying for employment, he or she is required to submit to the management board a written overview of his or her education, qualifications, in-service training, professional experience and business activities, the information specified in subsection 32 (3) of this Act, and

confirmation that no circumstances exist which according to this Act would preclude his or her right to be an employee.

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

(6) An employment contract may be entered into with an employee for an unspecified term or for a term of up to five years.

§ 31. Duties of employees

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

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

§ 32. Avoiding conflicts of interest

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

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

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

§ 33. Removal

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

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

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

§ 34. Duty to maintain confidentiality

(1) Unless otherwise provided by this Act, employees of the Supervision Authority and the auditors, experts and other persons brought in by the Supervision Authority to participate in the conduct of financial supervision are

required to maintain indefinitely the confidentiality of any confidential information which they may receive while performing their duties in the Supervision Authority.

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

Chapter 4

Financing

§ 35. Sources of financing

(1) The expenses of the Supervision Authority shall be covered from the compulsory payments made by the subjects of financial supervision pursuant to the provisions of this Act (hereinafter the supervision fee) and, in the case provided for in § 45 of this Act, from the funds prescribed in the budget of the Bank of Estonia and appropriations prescribed in the state budget.

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

§ 36. Financing obligation

(1) The organisation specified in subsection 75 (1) of the Insurance Activities Act (hereinafter Lloyd's), investment firms, insurers, insurance brokers, credit institutions and management companies shall pay a supervision fee in the amount of the capital share and the share calculated on the basis of assets.

(2) The registrar of the Estonian Central Register of Securities, operators of clearing and settlement systems and operators of regulated securities markets shall pay a supervision fee only in the amount of the capital share.

(3) Unless otherwise provided by this Act, an Estonian branch of a foreign company, operating in the area of activity of an investment firm, insurer, insurance broker, credit institution or management company, shall pay a supervision fee only in the amount of the share calculated on the basis of assets.

(4) The financing obligation provided for in subsections (1)–(3) of this section (hereinafter the financing obligation) of the persons specified in those subsections or of an Estonian branch of a foreign company operating in the corresponding area of activity arises as of the entry of the corresponding area of activity of the person or branch in the commercial register. The financing obligation of an insurance broker arises as of the entry of the insurance broker in the list of insurance intermediaries.

(5) The financing obligation of a person specified in subsections (1)–(3) of this section or an Estonian branch of a foreign company expires upon the expiry of the corresponding right to operate and the financing obligation of an insurance broker expires upon the deletion of the broker from the list of insurance intermediaries.

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

§ 37. Rate of supervision fee

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

- 1) the minimum amount of the net own funds required pursuant to legislation in the case of a credit institution;
- 2) the highest amount of minimum own funds required pursuant to legislation in order to engage in the class of insurance specified in the activity licence, in the case of an insurer;
- 3) the highest amount of minimum own funds required pursuant to legislation in the case of the Estonian Central Register of Securities or an operator of a clearing and settlement system;

4) the highest amount of minimum share capital required pursuant to legislation in order to operate in the area of activity specified in the activity licence, in the case of an investment firm, operator of a regulated securities market or a management company;

5) the minimum amount of share capital required pursuant to legislation in the case of an insurance broker;

6) the amount provided for in clause 75 (6) 3) of the Insurance Activities Act in the case of Lloyd's.

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

1) in the case of a credit institution or an Estonian branch of a foreign company operating as a credit institution, 0.01 to 0.05 per cent of the assets of the credit institution or the corresponding Estonian branch;

2) in the case of an investment firm or an Estonian branch of a foreign company operating as an investment firm, 0.4 to 0.75 per cent of the assets of the investment firm or the corresponding Estonian branch;

3) in the case of a management company or an Estonian branch of a foreign company operating as a management company, 0.05 to 0.25 per cent of the assets managed by the management company or the corresponding Estonian branch;

4) in the case of an insurer providing non-life insurance or reinsurance thereof or an Estonian branch of a foreign company operating as an insurer providing non-life insurance or reinsurance thereof, 0.1 to 0.5 per cent of the gross insurance premiums earned by the insurer or the corresponding Estonian branch. Reinsurance premiums paid to an insurer shall not be included in the total of the insurance premiums if, according to the reinsurance contract, the ceding company is an insurer registered in Estonia;

5) in the case of an insurer providing life insurance or reinsurance thereof or an Estonian branch of a foreign company operating as an insurer providing life insurance or reinsurance thereof, 0.05 to 0.25 per cent of the calculated assets of the insurer or the corresponding Estonian branch.

6) in the case of an insurance broker or an Estonian branch of a foreign company operating as an insurance broker, 1 to 5 per cent of the gross income from the commissions received by the insurance broker or the Estonian branch;

7) in the case of Lloyd's, 0.1 to 0.5 per cent of the gross insurance premiums earned by Lloyd's in Estonia.

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

(4) For the purposes of this Act, calculated assets are taken to be the total amount of assets and gross insurance premiums.

§ 38. Establishment of rate of share of supervision fee calculated on basis of assets

(1) The rate of the share of the supervision fee calculated on the basis of assets shall be established for a calendar year as a percentage within the limits provided for in subsection 37 (2) of this Act. The rate shall be established by a regulation of the Minister of Finance within ten days after approval of the budget of the Supervision Authority by the supervisory board.

(2) The rate of the share of the supervision fee calculated on the basis of assets shall be the same for all persons and Estonian branches of foreign companies operating in the same area of activity.

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

§ 39. Calculation of advance payment of supervision fee on basis of assets and gross insurance premiums

(1) In the case of a credit institution, investment firm or management company, the advance payment of the share of the supervision fee calculated on the basis of assets shall be calculated on the basis of the arithmetic mean of the assets of the person or the corresponding Estonian branch of a foreign company, calculated according to the data on the balance sheet thereof as at 31 December of the preceding year and 31 March and 30 June of the current year.

(2) In the case of an insurer providing life-insurance or reinsurance thereof, the advance payment of the share of the supervision fee calculated on the basis of assets shall be calculated on the basis of the arithmetic mean of the calculated assets of the person or the corresponding Estonian branch of a foreign company, calculated according to the data in the balance sheet and income statement thereof as at 31 December of the preceding year and 31 March and 30 June of the current year.

(3) In the case of Lloyd's, an insurance broker or an insurer providing non-life insurance or reinsurance thereof, the advance payment of the share of the supervision fee calculated on the basis of assets shall be calculated on the basis of twice the amount of the gross insurance premiums earned by the person or the corresponding Estonian branch of a foreign company according to the data presented in the half yearly income statement of the person or branch.

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

§ 40. Calculation of final payment of supervision fee on basis of assets and gross insurance premiums

(1) In the case of a credit institution, investment firm or management company, the final payment of the share of the supervision fee calculated on the basis of assets shall be calculated on the basis of the arithmetic mean of the assets of the person or the corresponding Estonian branch of a foreign company, calculated according to the data on the balance sheet thereof as at 31 March, 30 June, 30 September and 31 December of the preceding year.

(2) In the case of an insurer providing life-insurance or reinsurance thereof, the final payment of the share of the supervision fee calculated on the basis of assets shall be calculated on the basis of the arithmetic mean of the calculated assets of the person or the corresponding Estonian branch of a foreign company, calculated according to the data in the balance sheet and income statement thereof as at 31 March, 30 June, 30 September and 31 December of the preceding year.

(3) In the case of Lloyd's, an insurance broker or an insurer providing non-life insurance or reinsurance thereof, the final payment of the share of the supervision fee calculated on the basis of assets shall be calculated on the basis of the gross insurance premiums earned by the person or the corresponding Estonian branch of a foreign company according to the data presented in the previous year's income statement of the person or branch.

(4) If a financing obligation arises during a calendar year, the final payment of the share of the supervision fee calculated on the basis of assets payable for the forthcoming budgetary year shall be calculated on the basis of the assets, calculated assets or gross insurance premiums provided for in subsections (1)–(3) of this section as at 31 December.

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

§ 41. Payment of supervision fee

(1) Payment of the supervision fee shall be requested in a corresponding notice sent by the Supervision Authority.

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

(3) If an advance payment of the supervision fee exceeds the final payment, the Supervision Authority shall refund the overpaid amount of the supervision fee by the due date provided for in subsection 42 (2) of this Act.

(4) If an advance payment of the supervision fee is less than the final payment, a final payment in the amount of the difference between the final payment and the advance payment shall be made by the due date provided for in subsection 42 (2) of this Act.

(5) If a financing obligation arises during the first half of a calendar year, the final payment of the supervision fee shall be made only in the full amount of the capital share. As an exception, an Estonian branch of a foreign company, operating in the area of activity of an investment firm, insurer, insurance broker, credit institution or management company, shall pay the final amount of the supervision fee only in the amount of half the capital share.

(6) If a financing obligation arises during the second half of a calendar year, the final payment of the supervision fee shall be made only in the amount of half the capital share. As an exception, an Estonian branch of a foreign company, operating in the area of activity of an investment firm, insurer, insurance broker, credit institution or management company, shall pay the final amount of the supervision fee only in the amount of one-quarter of the capital share.

(7) The supervision fee shall be paid into the account of the Supervision Authority in the Bank of Estonia.

§ 42. Term for payment of supervision fee

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

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

(3) The capital share of the supervision fee shall be paid in two equal parts by 31 December of the year preceding the budgetary year and by 30 June of the current budgetary year.

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

§ 43. Consequences of failure to pay supervision fee

(1) If a person fails to pay the supervision fee to the Supervision Authority by the due date provided for in § 42 of this Act or fails to pay the fee in full, the Supervision Authority shall send a claim for enforcement to the relevant agency, body or person. Enforcement proceedings with regard to such decision shall be commenced immediately after service of the enforcement document on the person who failed to pay the supervision fee in part or in full.

(2) Enforcement proceedings commenced on the basis of subsection (1) of this section may be suspended, enforcement may be extended or postponed and the method of and procedure for the enforcement may be amended only on the basis of a court judgment which has entered into force or a petition of the claimant.

§ 44. Budgetary year of Supervision Authority

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

§ 45. Supplementary budget of Supervision Authority

(1) A supplementary budget shall be drawn up if the budgetary funds are not sufficient to cover the extraordinary expenses incurred by the Supervision Authority during a budgetary year.

(2) A draft supplementary budget shall be drawn up by the management board who shall submit the draft to the supervisory board for approval.

Chapter 5

Co-operation

§ 46. Co-operation with international organisations

The Supervision Authority shall participate in and co-operate with international organisations within the limits of its competence.

§ 47. Co-operation with foreign financial supervision authorities

(1) The Supervision Authority shall co-operate with foreign financial supervision authorities and other competent foreign bodies or persons.

(2) The Supervision Authority has the right to send confidential information necessary for the performance of its functions to the subjects of co-operation specified in subsection (1) of this section and to obtain such information therefrom and exchange such information therewith. Information sent, received or exchanged in this manner is deemed to be confidential.

(3) The Supervision Authority has the right to communicate confidential information to a foreign financial supervision authority or other competent foreign body or person only if the receiver of the confidential information is obliged to maintain the confidentiality of the information received and the information is used only for the purposes of financial supervision. The Supervision Authority may use information received on the basis of subsection (2) of this section only for the purposes of financial supervision.

(4) Information received as a result of the co-operation specified in subsection (1) of this section may be disclosed in the cases provided for in clauses 54 (4) 1)–6) of this Act if a corresponding agreement has been entered into with the foreign financial supervision authority or other competent foreign authority or person.

§ 48. Provision of information

(1) The Supervision Authority has the right to obtain information necessary for the performance of its functions from the Bank of Estonia, the Ministry of Finance and other state agencies.

(2) The Supervision Authority is required to provide the Bank of Estonia and the Ministry of Finance with information necessary for the performance of their functions.

§ 49. Co-operation of Supervision Authority with Bank of Estonia, Ministry of Finance and other state agencies in field of legislative drafting

(1) The Supervision Authority shall submit a report on the effects and application of legislation relating to the financial sector and financial supervision to the Government of the Republic and the Bank of Estonia by 1 October each year.

(2) The Supervision Authority has the right to submit proposals to the Bank of Estonia, the Ministry of Finance and other state agencies concerning the drafting, amendment and repeal of legislation.

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

§ 50. Co-operation agreements

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

(2) The Supervision Authority, the Ministry of Finance and the Bank of Estonia shall, on the basis of a written agreement, co-operate in the collection and analysis of reporting, the drafting of legislation and the exchange of information in the case of events which have a substantial impact on the situation in the financial sector.

Chapter 6

Reporting and Disclosure of Activities

§ 51. Annual report

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

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

(3) The statement of revenue and expenditure of the Supervision Authority shall be audited by an auditor of the Bank of Estonia.

(4) The annual report of the Supervision Authority approved by the supervisory board shall be submitted to the Riigikogu² together with the annual report of the Bank of Estonia. The Riigikogu shall hear the report of the chairman of the management board concerning the annual report of the Supervision Authority pursuant to the procedure prescribed by the Riigikogu Rules of Procedure Act (RT I 1994, 90, 1517; RT I 2001, 1, 1; 94, 581; 2002, 30, 176).

§ 52. Yearbook of Supervision Authority

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

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

§ 53. Disclosure of activities of Supervision Authority

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

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

(3) The advisory guidelines issued by the Supervision Authority on the basis of § 57 of this Act shall be published on its web site.

(4) The Supervision Authority shall publish the lists provided for in the Acts specified in subsection 2 (1) of this Act and other information subject to disclosure on its web site.

§ 54. Confidentiality of information received during supervision

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

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

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

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

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

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

3) employees of the Bank of Estonia and public servants of the Ministry of Finance if this is necessary for the performance of their duties, on the condition that they are required to maintain professional secrets pursuant to law;

4) a court, liquidator of a subject of financial supervision, interim trustee or trustee in bankruptcy in the liquidation or bankruptcy proceedings of a subject of financial supervision, and to a moratorium administrator of a credit institution or special regime trustee of an insurance company to the extent necessary for the performance of their duties;

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

(20.02.2002 entered into force 01.07.2002 - RT I 2002, 23, 131)

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

7) a foreign financial supervision authority in the case specified in § 47 of this Act;

8) the registrar of the Estonian Central Register of Securities, to the extent provided for in the Funded Pensions Act and the Guarantee Fund Act;

(20.02.2002 entered into force 01.07.2002 - RT I 2002, 23, 131)

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

(20.02.2002 entered into force 01.07.2002 - RT I 2002, 23, 131)

Chapter 7

Legal Acts and Liability

§ 55. Resolutions and precepts of management board

(1) The management board shall adopt resolutions and issue precepts on the bases and pursuant to the procedure provided for in this Act and the Acts specified in § 2 of this Act.

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

§ 56. Precepts of chairman of management board

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

§ 57. Guidelines of Supervision Authority

(1) The Supervision Authority has the right to issue advisory guidelines to explain legislation regulating the activities of the financial sector and to provide guidance to subjects of financial supervision.

(2) The Supervision Authority has the right to involve experts and representatives of the subjects of financial supervision in the drafting of advisory guidelines.

(3) The advisory guidelines of the Supervision Authority shall be approved by a resolution of the management board and the guidelines shall be disclosed as provided for in subsection 53 (3) of this Act.

§ 58. Liability of Supervision Authority

(1) The liability of the Supervision Authority for rights violated or damage caused in the conduct of financial supervision, and the bases of and procedure for the restoration of violated rights and the payment of compensation for damage caused shall be provided by law.

(2) The Supervision Authority shall be liable for damage not related to the conduct of financial supervision pursuant to the provisions of private law and within the limits of the funds prescribed in its budget. If the funds prescribed in the budget of the Supervision Authority are not sufficient, the damage shall be compensated for by the Bank of Estonia.

Chapter 8

Implementing Provisions

§ 59. Commencement of activities of Supervision Authority

The Supervision Authority shall commence activities on 1 January 2002.

§ 60. Appointment of members of supervisory board and management board

(1) The Government of the Republic and the Board of the Bank of Estonia shall appoint the members of the supervisory board within one month after the entry into force of this Act.

(2) The Minister of Finance shall call the first meeting of the supervisory board within twenty days after all members of the supervisory board have been appointed.

(3) The agenda of the first meeting of the supervisory board shall include at least the election of the chairman of the management board from among the persons specified in subsection 61 (1) of this Act.

(4) The supervisory board shall appoint the members of the management board pursuant to the procedure provided by this Act not later than by 30 June 2002.

§ 61. Commencement of activities of Supervision Authority

(1) The Director General of the Securities Inspectorate, the Director General of the Insurance Supervision Authority and the Head of the Banking Supervision of the Bank of Estonia, or the persons performing their

duties, shall perform the duties of a member of the management board provided by this Act if, by 10 June 2001, they have granted corresponding written consent to the person or body who appointed them. If one of the aforementioned persons refuses to consent, he or she shall be released from service on the basis of § 116 of the Public Service Act (RT I 1995, 16, 228; 1999, 7, 112; 10, 155; 16, 271 and 276; 2000, 25, 144 and 145; 28, 167; 102, 672; 2001, 7, 17 and 18; 17, 78; 42, 233; 47, 260; 2002, 21, 117) or the employment contract with him or her shall be terminated on the basis of clause 86 3) of the Republic of Estonia Employment Contracts Act.

(2) The term of the authority of the persons specified in subsection (1) of this section commences on the day following the date of the first meeting of the supervisory board and ends upon commencement of the term of the authority of the members of the management board pursuant to the procedure provided for in subsection 21 (3) of this Act.

(3) Until the term of the authority of the members of the management board provided for in subsection 60 (4) of this Act commences, the management board shall consist of three members.

(4) The management board consisting of the persons specified in subsection (1) of this section (hereinafter the management board) has a quorum if all members of the management board are present. A resolution of the management board is adopted if at least two members of the management board vote in favour.

(5) The management board shall, pursuant to the procedure established by the supervisory board, report to the supervisory board on the implementation of the action plan for commencement of the activities of the Supervision Authority.

§ 62. Continuation or termination of service or employment relationships

(1) Officials of the Securities Inspectorate and the Insurance Supervision Authority and employees of the Banking Supervision of the Bank of Estonia who meet the requirements for employees provided by this Act and who submit a corresponding application to the management board by 1 November 2001 shall be employed by the Supervision Authority as of 1 January 2002. In such case, the service relationship of an official of the Securities Inspectorate or the Insurance Supervision Authority shall be deemed to terminate as of 31 December 2001 on the basis of § 114 of the Public Service Act.

(2) Officials of the Securities Inspectorate and the Insurance Supervision Authority and employees of the Banking Supervision of the Bank of Estonia who do not meet the requirements for employees provided by this Act or who do not submit the application specified in subsection (1) of this section shall be released from service on the basis of § 116 of the Public Service Act or the employment contracts with such persons shall be terminated on the basis of clause 86 3) of the Republic of Estonia Employment Contracts Act.

(3) The length of service of a person at the Financial Supervision Authority shall be calculated as of the commencement of his or her employment or service at the Bank of Estonia, the Insurance Supervision Authority or the Securities Inspectorate.

§ 63. Transfer of assets and performance of proprietary obligations

(1) State assets in the possession and at the disposal of the Securities Inspectorate or the Insurance Supervision Authority which are necessary for the activities of the Supervision Authority shall be transferred by the administrator of state assets to the Supervision Authority free of charge not later than by 1 January 2002.

(2) The state shall be liable with the budgetary funds thereof for proprietary obligations which arise out of the activities of the Securities Inspectorate or the Insurance Supervision Authority before 1 January 2002, and the Bank of Estonia shall be liable with the budgetary funds thereof for proprietary obligations which arise out of the activities of the Banking Supervision of the Bank of Estonia before 1 January 2002.

§ 64. Application of Act

(1) Administrative matters and administrative offence matters which are subject to proceeding by the Securities Inspectorate, the Insurance Supervision Authority or the Banking Supervision of the Bank of Estonia on 1

January 2002 and petitions which have been submitted but not accepted by that date shall be transferred to the Supervision Authority who shall conclude the proceedings pursuant to this Act and the Acts specified in subsection 2 (1) of this Act.

(2) In matters arising from the conduct of supervision over securities markets or insurance activities, which are subject to court proceeding as at 1 January 2002 and in which the state is represented by the Securities Inspectorate or the Insurance Supervision Authority on the basis of law or general or special authorisation or in which one of the participants in the proceedings is the Bank of Estonia in a dispute concerning the exercise of banking supervision, the state shall be thereafter represented by the Supervision Authority or the Supervision Authority shall substitute for the Bank of Estonia as a participant in the proceedings.

(3) Activity licences and authorisations, other permits and administrative legislation of specific application issued by competent bodies on the basis of an Act specified in § 2 of this Act before the commencement of the activities of the Supervision Authority shall be valid until the expiry thereof or until their revocation.

(4) In 2002 and 2003, the expenses of the Supervision Authority may be partially covered from the funds prescribed in the budget of the Bank of Estonia or from the appropriations prescribed in the state budget.

(5) If the expenses of the Supervision Authority are partially covered on the basis of subsection (4) of this section, rates of the supervision fee lower than the rates provided for in § 37 of this Act may be applied.

(6) In the case of management of the assets of mandatory pension funds, the rate of 0.02–0.1 per cent shall be applied to the share of the supervision fee calculated on the basis of assets until the end of the budgetary year 2005.

(20.02.2002 entered into force 01.07.2002 - RT I 2002, 23, 131)

§ 65. Information relating to supervision activities

(1) Information relating to the supervision activities of the Securities Inspectorate, the Insurance Supervision Authority or the Banking Supervision of the Bank of Estonia which is recorded or documented in any manner on any data media shall be transferred to the Supervision Authority.

(2) A member of the management board or an employee of the Supervision Authority may disclose confidential information obtained in the course of the supervision activities of the Securities Inspectorate, the Insurance Supervision Authority or the Banking Supervision to other members of the management board or employees of the Supervision Authority if this is necessary for the performance of their duties.

§ 66. Entry into force of Act

(1) This Act enters into force on 1 June 2001.

(2) Clauses 7 (2) 4–7), subsection 14 (5), subsection 18 (2), clauses 18 (3) 3), 4), 8), 10) and 13)–15), §§ 20–22, 29, 51 and 52, subsection 53 (3) and §§ 54, 55, 57 and 58 of this Act enter into force on 1 January 2002.

(3) Subsection 53 (4) of this Act enters into force on 1 July 2002.

¹ RT = *Riigi Teataja* = the State Gazette

² Riigikogu = the parliament of Estonia