

(Unofficial updated version in February 2001)

**Act on the Operation of a Foreign
Credit Institution or Financial Institution in Finland**

30.12.1993/1608

Chapter 1

General provisions

Section 1

Scope of application

This Act shall apply to the activity of a foreign credit institution or financial institution in Finland.

Membership of a foreign credit institution and financial institution in an investor-compensation fund referred to in the Act on Investment Firms (579/1996) shall be governed, where applicable, by the provisions of sections 4 a, 4 b, 7, 8 a, 8 b and 13 a of the Act on the Right of a Foreign Investment Firm to Provide Investment Services in Finland (580/1996). (10.7.1998/520)

Entry into force and the application of the amendments of Act 520/1998:

This Act shall enter into force on 1 September 1998.

A branch which upon the entry into force of this Act provides investment services in Finland shall submit to all its investor-clients the information referred to in section 13 a of the Act on the Right of a Foreign Investment Firm to Provide Investment Services in Finland within six months from the entry into force of this Act.

The amount of compensation payable to one investor may until 31 December 1999 be no more than an equivalent of 15 000 ecu in marks.

Section 2

Definitions

In this Act:

1) *a credit institution* shall mean a bank or other corporation whose business activity is to acquire deposits and other re-payable funds from the public and to grant credit for its own account;

2) *a financial institution* shall mean an undertaking other than a credit institution whose main business activity is to provide services referred to in section 20, subparagraphs 2-10 of the Act on Credit Institutions (1607/1993) or to acquire holdings; (26.7.1996/571) as well as

3) *a home state* shall mean a state in which a credit institution has been authorized or in which a financial institution has its registered office.

Chapter 2

Freedom of establishment from a State belonging to the European Economic Area

Section 3

Freedom of establishment of a credit institution

A credit institution authorized in a State belonging to the European Economic Area may, in Finland, establish a branch or otherwise offer services referred in section 20 of the Act on Credit Institutions (1607/1993) which are covered by its authorization.

Section 4

Freedom of establishment of a financial institution

A financial institution whose registered office is in a State belonging to the European Economic Area, may, in Finland, establish a branch or otherwise offer services referred to in section 20, subparagraphs 2-10 of the Act on Credit Institutions provided that:

1) one or more credit institutions referred to in section 3 together hold at least 90 per cent of the voting rights carried by the shares of the financial institution;

2) its Memorandum of Association and Articles of Association contain provisions on the offering of the services mentioned above;

3) the credit institutions owning it have a valid authorization in the State whose law shall be applied to the financial institution and where it shall carry on its activity;

4) the credit institutions owning it have given their joint and several guarantees for its liabilities; as well as that

5) the financial institution is subject to the consolidated supervision of the credit institution functioning as its parent company; as well as that

6) the credit institutions owning it can prove that it is managed in compliance with stable and sound business principles. (26.7.1996/571)

A financial institution, at least 90 per cent of the votes attached to the shares of which are owned by a financial institution which fulfills the requirements laid down in paragraph 1 alone or together with corresponding financial institutions or with credit institutions referred to in section 3 and with regard to which also the other requirements referred to in section 1, subparagraphs 2-6 are fulfilled, may, in Finland, establish a branch or otherwise offer services referred to in section 20, subparagraphs 2-10 of the Act on Credit Institutions. (26.7.1996/571)

Section 5

Notification of establishment of a branch

Before a credit institution or a financial institution may establish a branch in Finland, the Financial Supervision Authority shall be notified thereof by the supervisory authority of the home State of the institution.

The notification shall contain sufficient information on the business activity and administration of the branch to be established as well as on the persons responsible for its management.

A notification concerning a credit institution shall, in addition to the information referred to in section 3, contain information on the amount of the own funds and solvency ratio of the credit institution and the deposit-guarantee scheme intended to safeguard the claims of depositors of a branch as well as its scope.

A notification concerning a financial institution shall, in addition to the information referred to in section 4, also contain information on the amount of its own funds and the solvency ratio of the credit institution or a group of credit institutions owning it.

Section 6

Response from the Financial Supervision Authority

The Financial Supervision Authority shall, within two months of receipt of the notification referred to in section 5, notify the credit institution or the financial institution of the requirements for the arrangements for the supervision of a branch and, where necessary, the conditions for its business activity necessary for the public benefit.

A branch may be established and it may commence its operations when the credit or financial institution has received the notification in accordance with paragraph 1 or when the time limit prescribed for the submission of the notification has expired.

(26.7.1996/571)

Section 7

Withdrawal of the right to operate

The Financial Supervision Authority may prohibit a credit institution or a financial institution from operating in Finland if the institution essentially or repeatedly violates this Act, the provisions issued thereunder or other legislation on credit institutions.

The Financial Supervision Authority shall notify the supervisory authority of the relevant State belonging to the European Economic Area of the measures taken under paragraph 1. (26.7.1996/571)

Section 7 a

(19.12.1997/1230)

Additional cover of a branch

A branch of a credit institution established in Finland may in Finland belong to a deposit-guarantee fund referred to in chapter 6 a of the Act on Credit Institutions in order to supplement the cover of the claims of depositors provided by its home State if the branch acquires deposits from the public and if the cover provided by its home State cannot be deemed as adequate as the cover provided by a deposit-guarantee fund in accordance with the Act mentioned above. The maximum amount of cover provided by the home State of a foreign credit institution and the deposit-guarantee fund may, however, not exceed 150 000 Finnish marks. Notwithstanding the above provisions of this paragraph on the maximum amount of compensation, the funds referred to in section 65 j, paragraph 3 of the Act on Credit Institutions shall be compensated in full.

A credit institution referred to in paragraph 1 shall apply for membership in a deposit-guarantee fund for its branch established in Finland. The application shall contain the necessary information on the credit institution and the cover scheme of its home State. The deposit-guarantee fund shall request an opinion of the Bank of Finland and the Financial Supervision Authority on the application. The deposit-guarantee fund may reject the application if the cover provided by the home State of the credit institution is to be deemed adequate.

The decision of the deposit-guarantee fund on the application referred to in paragraph 2 shall determine what claims of the depositor and to what amount shall be paid by the deposit-guarantee fund in Finland and the amount of the joining fee payable by the credit institution.

The duty of the deposit-guarantee fund to pay the claims of depositors referred to in paragraph 3 shall commence when the deposit-guarantee fund has received a notification from the supervisory authority of the home State of the credit institution regarding the enforcement of the duty to pay the claims of the depositors of the credit institution under the cover scheme of the home State.

The deposit-guarantee fund shall notify the depositors of the branch of the commencement of the duty to pay. The deposit-guarantee fund shall, by a public notice to be published also in the major daily newspapers published in the area of operation of the branch, notify of the measures that the depositors have to take in order to safeguard their rights.

For the fulfillment of the duty of the deposit-guarantee fund referred to in paragraph 5, the credit institution shall supply the deposit-guarantee fund with information on its depositors and their claims referred to in paragraph 1. The deposit-guarantee fund shall not disclose this information to anyone but the authorities who have the right to receive it under the law.

Entry into force and application of the amendments of Act 1230/1997 see Section 9a.

Section 7 b

(30.6.1995/898)

Exclusion of a branch from the deposit-guarantee fund

(19.12.1997/1230)

If a branch referred to in section 7 a has not complied with the provisions of this Act or the regulations issued thereunder or the bylaws of a deposit-guarantee fund, the deposit guarantee fund may exclude it from its membership no earlier than 12 months after the deposit-guarantee fund has issued the branch a warning. The deposit-guarantee fund shall hear the credit institution, the Financial Supervision Authority, the Bank of Finland and the supervisory authority of the home State of the credit institution before making a decision to exclude. (19.12.1997/1230)

The claims of the depositors of the branch made prior the decision of dismissal referred to in paragraph 1 shall be safeguarded until their date of expiration.

The deposit-guarantee fund shall notify the Financial Supervision Authority and the supervisory authority of the home State of the credit institution of the decision to

exclude as well as give a public notice thereof which shall also be published in the major daily newspapers published in the area of operation of the branch. (19.12.1997/1230)

Entry into force and application of the amendments of Act 1230/1997 see Section 9a.

Chapter 3
**Freedom of establishment from
outside the European Economic Area**

Section 8
Freedom of establishment

A credit institution authorized in a State outside the European Economic Area which is subject to sufficient public supervision and whose activity does not essentially differ from the activity permitted for a Finnish credit institution, may, in a branch established in Finland, offer services referred to in section 20 of the Act on Credit Institutions included in its authorization.

A credit institution may also have an agency in Finland.

Section 9
(30.6.1995/898)
Authorization of a branch

A credit institution shall apply for an authorization from the Ministry for a branch to be established in Finland. Opinions of the application shall be requested from the Bank of Finland and the Financial Supervision Authority as well as from the deposit-guarantee fund referred to in chapter 6 a of the Act on Credit Institutions. The application shall be accompanied by the documents and information deemed necessary by the Ministry. (19.12.1997/1230)

The Ministry shall grant the authorization if the operations of the credit institution are stable and if it is subject to adequate public supervision. The Ministry shall have the right to issue orders concerning the establishment, operations and supervision of the branch. The Ministry may decide on the membership of the branch in a Finnish deposit-guarantee fund under terms set by it. (19.12.1997/1230)

The authorization of a branch shall entitle it to operate in one or more places of business.

Entry into force and application of the amendments of Act 1230/1997 see Section 9a.

Section 9 a

(19.12.1997/1230)

Duty to compensate

With regard to a foreign credit institution referred to in section 9 and placed in liquidation or declared bankrupt, the assets of the deposit-guarantee fund may only be used to pay the claims of depositors referred to in sections 65 i and 65 j of the Act on Credit Institutions held in accounts referred to in section 50 of the same Act in its branch established in Finland and belonging to the deposit-guarantee fund when the funds of the credit institution in liquidation or of the bankruptcy estate are insufficient for their payment, however, for the claims of one depositor no more than an amount not exceeding 150 000 marks. The claims may be paid already during the bankruptcy or liquidation proceedings. Notwithstanding the provisions of this paragraph above on the maximum amount of compensation, the funds referred to in section 65 j, paragraph 3 of the Act on the Credit Institutions shall be compensated in full. The claims shall be paid to the depositors in Finnish marks.

The duty of the deposit-guarantee fund to compensate shall commence when the deposit guarantee fund has received a notification from the supervisory authority of the home State of the credit institution on the declaration of the bankruptcy of the credit institution or its placing in liquidation.

After being informed of the decision referred to in paragraph 2, the deposit-guarantee fund shall notify the depositors of the said branch thereof. The deposit guarantee fund shall also by public notice inform the depositors of the measures that the

depositors will have to take in order to safeguard their claims. The notice shall also be published in the major daily newspapers in the official languages of the country.

For the fulfillment of the duty of the deposit-guarantee fund referred to in paragraph 2, the branch of the credit institution shall supply the deposit-guarantee fund with information on its depositors and their claims referred to in paragraph 1. The deposit-guarantee fund shall not disclose this information to anyone but the authorities who have the right to receive it under the law.

Entry into force and application of the amendments of the Act 1230/1997 :

This Act shall enter into force on 1 January 1998

A foreign credit institution shall apply for membership in accordance with this Act in a deposit-guarantee fund at the latest on 30 June 1998 for its branch established in Finland which, upon the entry into force of this Act is a member of a guarantee fund referred to in chapter 6 of the Act on Credit Institutions. If a credit institution does not apply for membership in a deposit-guarantee fund referred to in this paragraph, the branch of the foreign credit institution shall be deemed to have withdrawn from the guarantee fund referred to above.

A claim of a depositor referred to in section 7 a, paragraph 3 and section 9 a, paragraph 1 based on a deposit placed as collateral for a loan or for another claim at the latest on 14 November 1997 shall, notwithstanding the maximum amount provided for in section 7 a, paragraph 1 and section 9 a, paragraph 1, be compensated in full from the assets of the deposit-guarantee fund if the payment obligation of the fund commences within three years from the entry into force of this Act.

A claim of a depositor referred to in section 7 a, paragraph 3 and section 9 a, based on a deposit made for fixed term at the latest on 14 November 1997 shall, notwithstanding the maximum amount provided for in section 7 a, paragraph 1 and section 9 a, paragraph 1, be compensated in full from the assets of the deposit-guarantee fund if the payment obligation of the fund commences prior to the termination of the fixed term.

Deposits referred to in paragraphs 3 and 4 shall be taken into consideration in full when calculating the amount of the contribution payment referred to in section 65, paragraph 1 of the Act on Credit Institutions.

Section 9 b

(30 .6.1995/898)

Exclusion of a branch from membership of the deposit-guarantee fund

(19.12.1997/1230)

If a branch referred to in section 9 a has not complied with the provisions of this Act or the regulations issued thereunder or the bylaws of a deposit-guarantee fund, the Ministry may exclude it from membership of the guarantee fund. The Ministry shall hear the credit institution, the Financial Supervision Authority, the Bank of Finland and the

supervisory authority of the home State of the credit institution before making a decision to exclude. (19.12.1997/1230)

The branch of a foreign credit institution referred to in paragraph 1 shall notify the depositors of its exclusion from the deposit-guarantee fund. Deposits made in the branch prior to the decision to exclude shall be safeguarded until their date of expiration. (19.12.1997/1230)

A branch referred to in paragraph 1 shall also inform the depositors of the measures that they have to take in order to safeguard their rights by a public notice which shall also be published in the major daily newspapers of the area of operation of the branch.

Entry into force and the application of the amendments of Act 1230/1997 see Section 9a.

Section 10

Withdrawal and restriction of the authorization

The Ministry of Finance may withdraw the authorization of a branch if its activity has materially violated the provisions of an Act or decree or provisions issued or confirmed thereunder by the authorities or if it no longer fulfills the conditions laid down in sections 8 and 9 under which the authorization was granted.

If incompetence or carelessness has been found in the management of the branch and if it is evident that this may seriously damage the interests of the depositors or other creditors, the Ministry of Finance may, on proposal of the Financial Supervision Authority, restrict the activity of a branch as referred to in its authorization for a fixed period of time.

Section 11

Establishment of an agency and its operations

Before a credit institution may establish an agency in Finland, it shall notify the Financial Supervision Authority thereof. The agency may not carry on operations referred to in section 20 of the Act on Credit Institutions.

The Financial Supervision Authority shall within two months of receipt of the notification issue further orders on the establishment, activity and supervision of the

agency. The agency may be established when the credit institution has received the orders of the Financial Supervision Authority referred to in this subparagraph.

Section 12

Withdrawal of the right to operate

The Financial Supervision Authority may forbid the agency from continuing its operation in Finland if its activity has materially violated the provisions of an Act or decree or provisions issued thereunder by the authorities or if it no longer fulfills the conditions laid down in section 8.

Chapter 4

Common provisions

Section 13

(19.12.1997/1230)

Common provisions concerning branches

A branch of a foreign credit institution may belong to a deposit-guarantee fund referred to in chapter 6 a of the Act on Credit Institutions.

A branch of a foreign credit institution may withdraw from the membership of a deposit-guarantee fund. The guarantee fund or, in the case of a branch referred to in section 9, the Ministry shall grant the withdrawal from the deposit-guarantee fund on application. Prior to the granting of the withdrawal the Financial Supervision Authority, the Bank of Finland and the supervisory authorities of the home State of the credit institution as well as, in the case of a branch referred to in section 9, the deposit-guarantee fund shall be heard. The decision may contain further orders concerning the withdrawal.

The branch of a foreign credit institution shall give its depositors, in the official languages of Finland, information on the cover of the claims of depositors provided by the deposit-guarantee fund or other corresponding cover scheme as well as on the lack of cover as well as on changes in the information submitted previously.

Entry into force and the application of the amendments of Act 1230/1997 see Section 9a.

Section 14

Supervision

The supervision of the activity of a credit or financial institution carried on in Finland shall be governed by the Act on the Financial Supervision Authority (503/1993).

Section 15

Annual accounts

The branch shall publish the annual accounts and the annual consolidated accounts as well as the annual report of the credit institution and the annual report of the group as well as the auditors' report relating thereto. They shall be published in Finnish or Swedish.

Section 16

Information supplementing the annual accounts

In addition to the information contained in the annual accounts, the Financial Supervision Authority and the Bank of Finland shall, for the fulfillment of their tasks, have the right to receive from the branch the information corresponding to the information that they are entitled to from credit institutions authorized in Finland.

Chapter 5

Miscellaneous provisions

Section 17

Entries in the Trade Register

The branch shall be notified for entry in the Trade Register in accordance with the provisions of the Trade Register Act (129/1979).

Without prejudice to the provisions on a trade name elsewhere in the law, a credit or financial institution may carry on its operation in Finland under the same trade name as in its home State.

The National Board of Patents and Registrations may demand that the trade name be supplemented by a clarification if it is apparent that the trade name is confusingly similar with another trade name held by another under a sole right in Finland.

Section 18

Management of the branch

Responsibility for the activity of the branch shall lie with the branch manager, who shall also represent the credit or financial institution in legal relationships relating to the operation of the branch.

A minor or a person declared bankrupt or enjoined from carrying on a business activity may not act as branch manager.

A branch manager shall be liable to compensate any damage that he has caused in his function either willfully or through negligence to a customer of the branch or other person through a violation of this Act or other provisions relating to the operation of the branch.

Section 19

Signing the branch name

The name of the branch shall be signed by the branch manager. The credit or financial institution may authorize also other persons, at least two jointly, to sign the branch name.

The persons signing the branch name shall be resident in Finland unless the Financial Supervision Authority grants an exemption.

Section 20

Notices

A summons or other notice shall be deemed delivered to the credit institution or financial institution when it has been served upon a person authorized to sign the name of the branch either alone or jointly with another person.

Section 21

Surrender in bankruptcy

The assets of a credit institution or financial institution may be surrendered in bankruptcy in Finland upon the decision of the branch manager.

Section 22 repealed by Act of 18.12.1998/414.

Act 18.12.1998/414 v. 1999 entered into force 1.4.1999 by Decree 26.3.1999/415.

Section 23

Liquidity

To support its liquidity, a branch shall have a cash reserve corresponding to that provided in section 67 of the Act on Credit Institutions. The Financial Supervision Authority shall issue further orders on the calculation of the cash-reserve ratio and on notifying the Financial Supervision Authority thereof. (19.12.1997/1346)

A branch may not, in the course of its operations, incur a risk that fundamentally endangers the operation of the branch. A branch shall have adequate risk monitoring systems vis-à-vis its operations.

Section 24

Secrecy obligation

The secrecy obligation, right to give information and breach of the secrecy obligation by an employee of a branch and an agency as well as the operation of credit reference services by an agency shall, where appropriate, be governed by the provisions of sections 94, 94 a, 95 and 100 of the Act on Credit Institutions. (30.1.1998/70).

Without prejudice to the provisions of paragraph 1, a branch and an agency shall have the right to give to an authority or supervisory corporation of the home State of the credit institution or financial institution that they represent as well as to an auditor of the credit institution or financial institution that they represent the information provided to be disclosed by the law or by duly issued provisions.

Section 25

Consequences of the withdrawal of an authorization

If the authority of the home State of a credit institution withdraws its authorization, its branch or a branch of a Financial institution operating as subsidiary of the credit institution shall be closed in accordance with orders issued by the Financial Supervision Authority.

The procedure laid down in paragraph 1 shall also be complied with when the Ministry of Finance withdraws the authorization of a branch or when the Financial Supervision Authority forbids a credit institution or financial institution from continuing its operation in Finland.

Section 26

Provisions on entry into force and transitory provisions

This Act shall enter into force on a date to be provided for by decree.

This Act shall repeal the Act on the Right of a Foreigner to Hold Shares of a Finnish Credit Institution and to Carry on Banking Activity in Finland of 31 August 1978 (684/1978) with later amendments.

Authorizations granted under the Act repealed in paragraph 2 shall remain in force and they shall correspond to authorizations and rights to operate in accordance with this Act.

Act. 30.12.1993/1608 entered into force 1.1.1994 by Decree 30.12.1993/1617.