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7 March 1996;
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If a whole or part of a section has been amended, the date of the amending law appears in square brackets at the end of the section. If a whole section, paragraph or clause has been deleted, the date of the deletion appears in square brackets beside the deleted section, paragraph or clause.

The *Saeima*¹ has adopted and
the President has proclaimed the following law:

Credit Institution Law

Chapter I General Provisions

Section 1.

The following terms are used in this Law:

1) **credit institution** – a company that has been founded in order to accept deposits and other repayable funds from an unlimited circle of clients, and issue credits in its own name and issue other financial services;

2) **branch of a credit institution** – a territorially or otherwise separated structural unit of a credit institution which does not have the status of a legal person and which acts in the name of the credit institution;

3) **representative office** – a structural unit of a credit institution which is located in another state and represents the interests of the credit institution, but does not engage in entrepreneurial activities;

4) **financial services:**

- a) attraction of deposits and other repayable funds;
- b) crediting, also in accordance with the provisions of financial leasing;
- c) performance of cash and non-cash payments;
- d) issuance and servicing of non-cash means of payment (all means of payment, except bank notes and coins in any currency);
- e) commerce in one's own name or in the name of a client with money-

¹ The Parliament of the Republic of Latvia

market instruments (cheques, bills of exchange, certificates of deposit, etc.), foreign currency, financial contracts, securities;

- f) fiduciary operations (trust);
- g) safekeeping and administration of securities;
- h) issuance of guarantees and other binding obligations which create an obligation to be liable to the creditor for the debt of a third person;
- i) safekeeping of valuables;
- j) participation in the issuance of stock and the provision of services related to this;
- k) consultations with clients regarding issues of a financial nature;
- l) intermediary services in the monetary instruments market;
- m) provision of such information as is related to the settlement of the debt obligations of a client; and
- n) other transactions which are similar in nature to the above-mentioned financial services;

5) **credit** – a compensatory transaction in which a credit institution transfers, on the basis of a written contract, money or other things to a client and which creates for the client the right to act with them and an obligation to return the money or other things to the credit institution within a specified time and in accordance with specified procedures;

6) **deposit** – keeping of monetary funds in an account of a credit institution for a specific or an unlimited period, with or without interest;

7) **own funds** – the funds of a credit institution which comprise:

a) paid-up equity capital and mark-up of the issue of stocks, which have been reduced by the value of preferential stocks (for which accumulation of dividends is provided for by the articles of association of the credit institution), reserve capital, undistributed profit (with the condition that there is a sworn auditor's opinion regarding its existence), which have been reduced by the amount of losses of the previous operational years, and other elements in accordance with the regulations of the Finance and Capital Market Commission;

b) reduction by its own stock owned by a credit institution, the intangible assets, and the losses during the current operational year;

c) subordinated capital in accordance with the requirements of Section 36 of this Law; and

d) reduction by the qualified holdings of a credit institution in the equity capital of other credit institutions and financial institutions, as well as by the investments in the subordinated capital of such credit institutions and financial institutions, in which the credit institution has qualified holdings, and, in accordance with the regulatory directives and regulations of the Finance and Capital Market Commission – in other financial instruments;

e) reduction by that part of investments made by a credit institution in other credit institutions and financial institutions (in the equity capital, subordinated capital and, in accordance with the regulatory directives and regulations of the Finance and Capital Market Commission – other financial instruments), which exceeds 10 per cent of the own funds of the credit institution calculated in accordance with Sub-clauses a)-c) of this Clause. The total amount

of the investments shall be calculated only in such credit institutions and financial institutions in which the credit institution does not have qualified holdings;

8) **subordinated capital** – monetary funds which a credit institution borrows for a time period which is not less than seven years; moreover, the loan contract provides that the lender may request the repayment of the loan before the specified term only in case of liquidation of the credit institution, and its claim is satisfied only after the satisfaction of the claims of all other creditors, but before the satisfaction of the claims of the stockholders;

9) **client** – a person to whom a credit institution provides financial services;

10) **parent company** – a commercial company that controls other commercial companies;

11) **subsidiary company** – a commercial company that is controlled by another commercial company;

12) **control** – a condition where a person has control over a commercial company if:

a) such person has a deciding influence in the commercial company on the basis of holdings;

b) such person has a deciding influence in the commercial company on the basis of a group of companies agreement; or

c) between such person and the commercial company there exists any other analogous relations to the relations referred to in Sub-clause “a” or “b” of this Clause;

13) **substantial influence** – the ability to influence (but not to control) the determination of the financial and operational policy of an undertaking (company);

14) **fiduciary operations (trusts)** – transactions in which the relationship between a credit institution and a client is based on mutual trust and in accordance with the regulations of which the credit institution undertakes the responsibility for the management of property owned by the client for the benefit of the client, managing such property separately from its own property;

15) **qualified holdings** – directly or indirectly obtained holdings which comprise 10 or more per cent of the equity capital or of the number of stocks with voting rights, or provide the ability to exercise substantial influence over the operations of the undertaking (company);

16) **exposures** – operations shown in the asset items and in off-balance-sheet items of a credit institution, for which has been specified a high degree of risk;

17) [11 April 2002]

18) **a group of mutually associated clients** – two or more persons who constitute one joint exposure for a credit institution:

a) because one of such persons controls another person or other persons directly or indirectly, or has a substantial influence over them; or

b) because they are mutually associated in such manner that the financial problems of one person may cause difficulties for another person or other persons regarding repayment of debts;

19) **persons associated with a credit institution** – persons that are:

a) stockholders of a credit institution who have qualified holdings in the

credit institution, and the spouses, parents and children of such stockholders who are natural persons;

b) subsidiary undertakings of a credit institution, and undertakings (companies) in which the credit institution has a substantial influence;

c) the head and the members of the council, board of directors, audit commission, internal audit service of a credit institution, other employees of a credit institution who are authorised to conduct the planning, management and control of the operations of the credit institution and who are responsible for it, as well as the spouses, parents and children of such persons;

d) undertakings (companies) in which the persons referred to in Sub-clauses a) and c) of the explanation of this term have qualified holdings;

20) **financial institution** – an undertaking (company) which has been founded in order to provide one or more financial services, except the attraction of deposits and other repayable funds, as well as in order to perform insurance operations or to obtain holdings in the equity capital of other undertakings (companies);

21) **financial holding company** – a financial institution the subsidiary undertakings of which are either exclusively or primarily credit institutions or financial institutions, and moreover, one of which is of the credit institution;

22) **transit credit** – a Government credit which is granted through banks to entrepreneurs for the implementation of particular goals and which is not included in such assets of the bank as may be subject to the claims of creditors in case of liquidation or bankruptcy of a bank;

23) **tax administration** – authorities specified in the Law On Taxes and Fees;

24) **voluntary liquidation** – termination of the operations of a credit institution in accordance with a decision of a meeting of the stockholders of the credit institution;

25) **liquidation** – termination of the operations of a credit institution in the case of voluntary liquidation, pursuant to a court adjudication, or in case of bankruptcy;

26) **insolvency** – the state of a credit institution established by a court judgment, when it is unable to fulfil its debt obligations;

27) **actual insolvency** – a state of a credit institution when it is unable to fulfil its debt obligation until the initiation of an insolvency matter;

28) **insolvency proceedings** – proceedings which are carried on at a credit institution from the day when an insolvency petition is submitted to a court, until the day when the court takes a decision to reject the insolvency petition or to terminate the insolvency proceedings;

29) **restoration** – a solution to the state of insolvency, which manifests itself as a set of planned legal measures with the purpose of preventing a possible bankruptcy of an institution, to restore its solvency and to satisfy the legal claims of the creditors;

30) **bankruptcy** – a resolution of the state of insolvency, when the credit institution is liquidated and the funds which are obtained through insolvency proceedings, by alienating the property of the credit institution in accordance with the procedures specified by this Law, are used in order to satisfy the legal claims of the creditors;

31) **criminal bankruptcy** – the bringing of a credit institution into insolvency or bankruptcy, if such was caused by intentional action or neglect, and if such has caused substantial harm to the State, to a local government, or to the rights and interests of

another natural or legal person, which are protected by law, and if such has been established by a judgment of a court;

32) **creditor** – the State, a local government, a natural or a legal person, or a group of natural or legal persons, associated pursuant to a contract, and which has the right of claim against a credit institution;

33) **secured creditor** – a creditor whose claim rights (claim) against a credit institution is secured by a pawn-pledge, a commercial pledge or a mortgage recorded in the Land Register or the Ship Register;

34) **liquidator** – a person elected by a meeting of the stockholders of a credit institution (in case of voluntary liquidation), or a person appointed by a court pursuant to a recommendation from the Finance and Capital Market Commission, who exercises the authorisation specified by this Law and is liable in accordance with the procedures specified by this Law;

35) **administrator** – a person appointed by a court pursuant to a recommendation from the Finance and Capital Market Commission, who exercises the authorisation specified by this Law and is liable in accordance with the procedures specified by this Law;

36) **interested persons with respect to a credit institution** are:

a) the stockholders of a credit institution, the chairperson and members of the council, board of directors and administrative institutions which are equivalent to these, or of the audit commission, as well as the spouses, parents and children of such persons;

b) persons who are in a lawful employment relationship with the credit institution; and

c) persons who have been interested persons in accordance with the provisions of Sub-clauses a) and b) of this Clause during the previous six months up to the initiation of an insolvency case;

37) **financial leasing** – crediting which is performed in accordance with the basic principles specified by the UNIDROIT Convention on International Financial Leasing.

38) **payment instrument** – an instrument (separately or together with other payment instruments, which allows its user to receive cash or other things, receive or conduct payments, give orders for the transfer of monetary funds or approve the transfer of monetary funds and as a payment instrument is accepted also by those persons who have not placed in circulation this payment instrument. As payment instruments shall be considered cash, cheques, payment cards (credit cards, debit cards and other similar cards), automatic teller machine cards, payment documents, electronic money, remote electronic bank operations (in the World Wide Web or utilising a computer or telephone) software and other similar means; and

39) **electronic money** – monetary funds registered in an electronic device (in a smart card or computer memory), which are transferred to a user as a substitute for cash and which may be utilised for electronic money transfers.

40) **close links** – the mutual obligations between two or more persons as:

a) participation – a person has in direct or control way 20 or more per cent voting rights in the undertaking (company) or the person in a direct or control way has acquired participation, which includes 20 or more per cent of the equity capital or voting

rights equity capital of the undertaking (company),

b) control, and

c) where they are linked with one and the same person by control.

41) **meeting of creditors** – an organised form of joint activity by creditors in the restoration process of a credit institution;

42) **committee of creditors** – a body elected by the meeting of creditors, which in the case of the restoration of a credit institution represents the meeting of creditors in conformity with the specified amount of authorisation.

[30 May 1996; 30 October 1997; 21 May 1998; 1 June 2000; 11 April 2002; 24 October 2002]

Section 2.

(1) This Law determines the legal status of credit institutions, regulates their operations, liability and supervision, as well as determining the rights, duties and liability of those persons to whom the requirements of this Law are related.

(2) The rights and obligations of credit institutions regarding prevention of the laundering of proceeds from crime are determined by the Law On the Prevention of the Laundering of the Proceeds from Crime.

[21 May 1998; 11 April 2002]

Section 3.

(1) In the Republic of Latvia, a credit institution operates as a bank or a branch of a foreign bank.

(2) A bank may be founded as a stock company, and it may operate only as a stock company or as a State stock company.

[11 April 2002]

Section 4.

The founding, operation, reorganisation and liquidation of a bank shall be regulated by this Law, the Commercial Law, the Law On Securities and other laws, observing the provisions included in this Law.

[21 May 1998; 11 April 2002]

Section 5. [11 April 2002]

[21 May 1998; 11 April 2002]

Section 6.

The founding, operation, reorganisation and liquidation of a branch of a foreign bank shall be regulated by this Law, except for Clause 5 of Section 27; Sections 35, 36, 39, 40, 42, 43, 47, 49, 50.1, and 51; Clause 1 of Section 57; Sections 58, 59, 77-87, 90, and 94; Clauses 1, 2 and 4 of Section 102; Sections 109, 113-118, 121, and 125;

Paragraph one, Clauses 1 and 3 of Section 126; Sections 127 and 128; Paragraph two of Section 129; Sections 137, 138, 140-145, 152, 170, 172-177, 184, 185, and 188-190 and by the Law On Foreign Investments in the Republic of Latvia and other laws.
[21 May 1998; 11 April 2002]

Section 7.

(1) Credit institutions shall be bound by the regulatory regulations and orders issued by the Finance and Capital Market Commission pursuant to this Law and other laws, regarding regulatory requirements for the operation of credit institutions and the procedures for the calculation of indicators characterising the operation of credit institutions, and for the submission of reports.

(2) Credit institutions shall be bound by the regulatory directives and regulations approved by the Bank of Latvia pursuant to this Law and the Law On the Bank of Latvia, which are issued in order to ensure the fulfilment of the functions and tasks of the Bank of Latvia specified in this Law and the Law On the Bank of Latvia.

[1 June 2000]

Section 8.

(1) Credit institutions have a duty to submit to the Finance and Capital Market Commission and the Bank of Latvia, within the time periods specified by them, all of information requested by them, which is necessary for the Finance and Capital Market Commission and the Bank of Latvia to perform their functions as specified by law.

(2) Credit institutions have a duty to prepare public reports in order to inform the public regarding the activities and financial indicators of the credit institution. The public reports shall include a minimal amount of information and the Finance and Capital Market Commission shall determine the procedures for publication.

[30 May 1996; 1 June 2000; 11 April 2002]

Section 9.

(1) The words “kredītiestāde” [credit institution], “banka” [bank], or combinations thereof, may be used in the name of an undertaking (company) or for the purposes of advertising only by such credit institutions which have a licence issued by the Finance and Capital Market Commission for the operations of a credit institution.

(2) Only credit institutions are permitted to solicit the receipt of deposits and other repayable funds, and to receive them.

(3) Only credit institutions are allowed to issue and service non-cash means of payment. A credit institution may transfer to a third person sub-tasks associated with the issue and service non-cash means of payment if the credit institution assumes full liability for their performance and if the transfer of such tasks to a third person does not cause additional risks to the payment system.

[21 May 1998; 1 June 2000; 11 April 2002]

Section 10.

A credit institution is prohibited from distributing advertising that provides false information regarding its operations.

Chapter II Licensing of Credit Institutions

Section 11.

(1) Credit institutions may begin their operations in Latvia only after the receipt and registration of a licence (permit) issued in the Finance and Capital Market Commission in accordance with the procedures specified by law.

(2) The Finance and Capital Market Commission shall issue the licence (permit) for the operation of a credit institution for an indeterminate time.

[1 June 2000; 11 April 2002]

Section 12.

(1) In order to open a branch in a foreign state, banks of the Republic of Latvia shall obtain a permit from the Finance and Capital Market Commission.

(2) Banks of the Republic of Latvia shall notify the Finance and Capital Market Commission regarding the opening of branches in the Republic of Latvia or of representation offices in a foreign state.

(3) Foreign banks shall notify the Finance and Capital Market Commission regarding the opening of representation offices in the Republic of Latvia.

[1 June 2000; 11 April 2002]

Section 12.¹

(1) Banks registered in a Member State of the European Union or a state of the European Economic Area may open branches in Latvia without obtaining the licence (permit) specified in this Law only after:

1) the Finance and Capital Market Commission has received from the credit institution supervisory institution of the relevant Member State of the European Union or state of the European Economic Area a notification, which includes:

a) a confirmation that the relevant bank has a licence (permit) for the operation of a credit institution that is in effect,

b) the operations programme of the branch,

c) the address of the branch,

d) given name and surname of the head of the branch,

e) information regarding the amount of the bank's own capital and indicators of capital adequacy,

f) information regarding indicators of capital adequacy of the bank's parent undertaking, which is a credit institution or financial holding company, and

g) information regarding the investment guarantee system of which the relevant bank is a participant.

2) the Finance and Capital Market Commission has received from the credit institution supervisory institution written confirmation that it shall inform the Finance and Capital Market Commission in a timely manner regarding examinations of the bank's branches in Latvia and shall not hinder representatives of the Finance and Capital Market Commission in participating in such examinations, as well as without delay after the end of the examination it shall submit to the Finance and Capital Market Commission a notice regarding the results of the conducted examination; and

3) the Finance and Capital Market Commission has informed the credit institution supervisory institution of the relevant Member State of the European Union or state of the European Economic Area that it is ready to commence supervision of the bank branch or two months have passed since the day when the Finance and Capital Market Commission has received notification from the credit institution supervisory institution of the relevant Member State of the European Union.

(2) A bank registered in a Member State of the European Union or state of the European Economic Area has a duty to inform the Finance and Capital Market Commission one month in advance regarding any amendments to the information referred to in Paragraph one, Clause 1 of this Section, as well as regarding an intention to suspend the operation of a branch.

(3) For the fulfilment of Paragraph one, Clause 1 of this Section documents shall be submitted that give a clear representation regarding the operational strategy of the bank branch, financial forecasts for the next two years, a market research plan, organisational structure with precisely specified and divided unit tasks and duties of heads of units, as well as policy and procedures for the administration of essential risks, main principles of accounting policy and organisation of records, a description of the management information system, regulations for the protection of assets and information systems, policy and procedures for internal audits, as well as a description of the procedures for the identification of suspicious financial transactions.

(4) A bank registered in a Member State of the European Union or state of the European Economic Area shall, within 30 days after it has submitted the relevant notification regarding the provision of financial services in Latvia to the credit institution supervisory institution of such state, commence to provided financial services in Latvia without opening a branch.

(5) If within 30 days after the notification referred to in Paragraph four of this Section has been received, the Finance and Capital Market Commission does not issue a justified written refusal to the credit institution supervisory institution of the relevant state, it shall be deemed that it does not object to the provision of financial services by such credit institution in Latvia.

[11 April 2002]

Section 12.²

(1) A bank registered in the Republic of Latvia shall open a branch in a Member State of the European Union or state of the European Economic Area according to the procedures

specified in this Section.

(2) The bank shall inform the Finance and Capital Market Commission in writing that it wishes to open a branch in a Member State of the European Union or state of the European Economic Area. In the application it will indicate the Member State of the European Union or state of the European Economic Area in which it is intended to open the branch, the given name, surname of the head of the branch and personal identification number if such number has been granted.

(3) To the application referred to in Paragraph two of this Section, the bank shall append documents that provide a true and fair representation regarding the operation of the branch, the financial services to be provided, and the relevant structure and work organisation of the branch for them.

(4) The application for the opening of a branch in a Member State of the European Union or state of the European Economic Area shall be examined by the Finance and Capital Market Commission within a period of 30 days after receipt of all the necessary, prepared in conformity the requirements of regulatory enactments, documents and shall inform in writing the credit institution supervisory institution of the relevant Member State of the European Union or state of the European Economic Area and the relevant bank of its decision.

(5) The Finance and Capital Market Commission shall inform the credit institution supervisory institution of the relevant Member State of the European Union or state of the European Economic Area regarding the amount of the bank's own capital and the capital adequacy indicators, as well as make known its point of view regarding the appropriateness of the head of the branch to the position.

(6) The bank not later than 30 days prior to the making of amendments to the information referred to in Paragraphs two and three of this Section shall in writing notify the Finance and Capital Market Commission and the credit institution supervisory institution of the relevant Member State of the European Union or state of the European Economic Area regarding this. The Finance and Capital Market Commission shall decide regarding the approval of the amendments and shall make known its decision to the credit institution supervisory institution of the relevant Member State of the European Union or state of the European Economic Area and the bank according to the procedures and in the time period referred to in Paragraph four of this Section.

[11 April 2002]

Section 12.³

(1) A bank registered in the Republic of Latvia shall commence the provision of financial services in a Member State of the European Union or state of the European Economic Area, without opening a branch, according to the procedures specified in this Section.

(2) The bank shall inform in writing the Finance and Capital Market Commission that it wishes to commence the provision of financial services in a Member State of the European Union or state of the European Economic Area in which it is intended to provide financial services, and the financial services it intends to provide.

(3) The application regarding the provision of financial services in a Member State of the European Union or state of the European Economic Area, without opening a branch, shall

be examined by the Finance and Capital Market Commission within a period of 30 days after its receipt and shall inform in writing the credit institution supervisory institution of the relevant Member State of the European Union or state of the European Economic Area and the relevant bank of its decision.

[11 April 2002]

Section 13.

(1) A newly founded credit institution prior to its recording in the Commercial Register shall submit to the Finance and Capital Market Commission a application to obtain a licence (permit). The registration of the credit institution in the Commercial Register shall be made only after the decision of the Finance and Capital Market Commission to issue a licence (permit) for credit institution operations has been submitted to the Commercial Register.

(2) [21 May 1998]

(3) The founders of the bank shall organise the payment of money into a temporary account at the Bank of Latvia and shall fully pay in the bank's founding equity capital up to the examination of the application referred to in Paragraph one of this Section in the Finance and Capital Market Commission. The founding equity capital of the bank may be deposited only in money.

(4) The Finance and Capital Market Commission shall determine the procedures and documents to be submitted for the issue of the licence (permit) for credit institution operations and other permits provided for by this Law and issuing of notifications, as well as restrictions associated with credit institution operations.

(5) Recording in the Commercial Register shall be made only after the receipt of the relevant licence (permit) specified in this Law.

[21 May 1998; 1 June 2000; 11 April 2002]

Section 14.

(1) The Finance and Capital Market Commission shall examine an application regarding the issuance of a licence within three months after the receipt of all the necessary documents. The Finance and Capital Market Commission has the right not to issue a licence for a new credit institution if:

1) in the founding of such institution the law has not been complied with;

2) the close links of the credit institution with third persons may threaten its financial stability or restrict the right of the Finance and Capital Market Commission to perform the supervisory functions specified by law;

3) the laws and other regulatory enactments of other states that apply to persons who have close links with the newly founded credit institution, restrict the right of the Finance and Capital Market Commission to perform the supervisory functions specified by law;

4) the documents submitted by the credit institution contain false information;

5) one or more of the persons referred to in Section 24 of this Law do not conform to the requirements specified by law; or

6) the Finance and Capital Market Commission determines that the financial means which are invested in the equity capital of the bank have been acquired in unusual or suspicious financial transactions or there are no documents to prove the lawful acquisition of such financial means.

[1 June 2000; 11 April 2002]

Section 15.

In order to receive a licence from the Finance and Capital Market Commission for the operation of a credit institution, the founders of the credit institution shall ensure the following:

1) founding documents, articles of association and documents regulating the operation of the credit institution, which give a clear overview of the planned operations and its organisation appropriate thereto;

2) payment of the minimum founding equity capital; and

3) nominations of candidates in accordance with the requirements of law for the chairpersons and members of the council, board of directors and audit commission of a bank, and for the heads of a branch of a foreign bank.

[21 May 1998; 1 June 2000; 11 April 2002; 24 October 2002]

Section 16.

(1) A bank may be founded by:

1) natural persons who are of the age of majority and have the capacity to act;

2) legal persons which are registered in the Republic of Latvia or in another state and the period of operations of which is not less than three financial years;

3) a single foreign bank, the period of operations of which is not less than three financial years; and

4) the State.

(2) The persons referred to in Paragraph one, Clauses 1 - 3 of this Section must have an unimpeachable reputation and a stable financial condition.

Section 17.

The Finance and Capital Market Commission has the right to request additional information regarding persons referred to in Sections 16 and 29 of this Law, in order to evaluate their financial condition and reputation when investigating the above-mentioned person for the following purposes:

1) the adequacy of their financial resources;

2) the operations and management plans of the credit institution; and

3) their previous activities, competence and experience.

[1 June 2000]

Section 18. [11 April 2002]

[30 October 1997; 11 April 2002]

Section 19.

The Finance and Capital Market Commission shall verify the identity of the founders of a credit institution, but, if the founders of the credit institution are legal persons, – the information regarding their founders and owners.

[1 June 2000]

Section 20.

A foreign bank may open a branch in Latvia, if the minimum founding equity capital of such bank meets the requirements of Section 21 of this Law, and its period of operations is not less than three financial years.

[11 April 2002]

Section 21.

The minimum founding equity capital of a bank shall be equal to five million EUR, which have been converted to lati at the exchange rate set by the Bank of Latvia.

[11 April 2002]

Section 22. [11 April 2002]

[30 October 1997; 11 April 2002]

Section 23.

A foreign bank, which opens a branch in Latvia shall invest, within one year after the receipt of a licence, at least one million EUR in assets in Latvia and shall maintain such an investment level throughout the entire time of its operations.

[11 April 2002]

Section 24.

(1) The chairperson of the board of directors, members of the board of directors, head of the internal audit service (company controller), head of a branch of a foreign bank, as well as such persons who in the name of the credit institution take essential decisions and create for the credit institution civil legal obligations, may be persons:

- 1) who are domestic taxpayers (residents);
- 2) who are competent in issues of financial management;
- 3) who have the necessary education and three years professional work experience in an undertaking, organisation or institution of relevant size;
- 4) who have an unimpeachable reputation; and
- 5) who have not had revoked the right of engaging in entrepreneurial activities.

(2) It is necessary for the chairperson of the board of directors, members of the board of directors, head of the internal audit service (company controller) to have higher

education.

(3) The council of the bank has a duty on its own initiative or at the request of the Finance and Capital Market Commission to remove without delay from office the persons referred to in Paragraph one of this Section if they do not conform to the requirements specified in this Section.

[11 April 2002]

Section 25.

(1) The chairperson of the board of directors, the members of the board of directors, head of the internal audit service (company controller), head of a branch of a foreign bank, as well as such persons who in the name of the credit institution take essential decisions and create for the credit institution civil legal obligations, may not be persons:

1) who have been convicted of the intentional commission of a crime, including bankruptcy in bad faith;

2) who have been convicted of the intentional commission of a crime, even though released from serving the sentence because of a limitation period, clemency or amnesty; or

3) against whom criminal proceedings for the intentional commission of a crime have been terminated due to a limitation period or amnesty.

(2) The council of the bank has a duty on its own initiative or at the request of the Finance and Capital Market Commission to remove without delay from office the persons referred to in Paragraph one of this Section if Paragraph one, Clauses 1,2 or 3 of this Section may be applied to them.

[11 April 2002]

Section 26.

(1) The chairperson of the council and the members of the council of a bank may be persons who conform to the requirements of Section 24, Paragraph one, Clauses 2, 3, 4 and 5 of this Law. The chairperson of the council and the members of the council of a bank may not be persons to whom Section 25, Paragraph one, Clauses 1, 2, or 3 of this Law may be applied.

(2) The meeting of stockholders has a duty on its own initiative or at the request of the Finance and Capital Market Commission to remove without delay from office the persons referred to in Paragraph one of this Section if they do not conform to the requirements specified in this Section.

[11 April 2002]

Section 27.

(1) The Finance and Capital Market Commission may cancel the licence (permit) of a credit institution, if:

1) the credit institution has not commenced its operations within 12 months after the day when the licence (permit) was issued;

- 2) it is determined that the credit institution has submitted false information to receive the licence (permit);
 - 3) the credit institution has suspended its operations for a period that is longer than six months;
 - 4) the credit institution has commenced the self-liquidating process;
 - 5) the credit institution withdraws from the licence (permit) in the case of a reorganisation;
 - 6) a court has confirmed a decision taken in accordance with the procedures determined by this Law regarding the commencement of credit institution bankruptcy proceedings;
 - 7) the credit institution for more than two months after a warning by the Finance and Capital Market Commission regarding the cancellation of the licence (permit) for credit institution operation has not voluntarily and in full measure made payments to the Investment Guarantee Fund; and
 - 8) the credit institution regularly fails to observe the requirements of this Law and other laws regulating the operations of credit institutions, and the regulatory regulations and orders of the Finance and Capital Market Commission.
- (2) The licence (permit) of a credit institution shall not be renewed if the Finance and Capital Market Commission has cancelled it.
[21 May 1998; 1 June 2000; 11 April 2002]

Part III **Qualified Holdings**

Section 28.

Only a person who meets the requirements of Section 16 of this Law and ensures fulfilment of the conditions of Section 19 may acquire qualified holdings in a bank.

Section 29.

- (1) Any person who wishes to acquire qualified holdings in a bank shall notify in writing beforehand the Finance and Capital Market Commission. The notification shall indicate the qualified holdings to be acquired as a percentage of the equity capital of the bank or the number of stock with voting rights.
- (2) If a person wishes to increase his or her qualified holdings, thereby reaching or exceeding 20, 33 or 50 per cent of the equity capital of the bank or of the number of the voting stock, or the bank becomes a subsidiary company of such person, he or she shall notify in writing beforehand the Finance and Capital Market Commission regarding such decision. The notification shall indicate the qualified holdings to be acquired as a percentage of the equity capital of the bank or the number of stock with voting rights.
- (3) The Finance and Capital Market Commission shall, within a period of three months from the day when the notifications referred to in Paragraphs one and two of this Section were received, evaluate the person's reputation, financial situation and if the Finance and Capital Market Commission believes that the acquisition or increase of such qualified

holdings shall not ensure a financially stable, prudent and in conformity with regulatory enactments bank management because the person does not conform to the requirements specified for bank stockholders, it shall not consent to the acquisition or increase of the qualified holdings and shall notify without delay the relevant person and bank regarding such a decision by it.

(4) The Finance and Capital Market Commission has the right to request additional information regarding the persons referred to in this Section, in order to evaluate their reputation and financial condition.

[21 May 1998; 1 June 2000; 11 April 2002; 24 October 2002]

Section 30. [21 May 1998]

Section 30.¹

In evaluating the notifications referred to in Section 29, Paragraphs one and two of this Law, the Finance and Capital Market Commission shall consult with the credit institution supervisory institutions of the Member State of the European Union or the European Economic Area state if the acquirer of the qualified holdings is a credit institution registered in the Member State of the European Union or the European Economic Area state or the parent company of the credit institution registered in the Member State of the European Union or the European Economic Area state, or a person who controls the credit institution registered in the Member State of the European Union or the European Economic Area state, and if the relevant person acquires or increases the qualifying holding, the bank becomes a subsidiary company of such person or comes under his or her control.

[24 October 2002]

Section 31.

If a person wishes to terminate his or her qualified holdings in a bank, he or she shall notify in writing the Finance and Capital Market Commission regarding such decision. The notification shall indicate the person's remaining share of the equity capital of the bank or the number of stock with voting rights in percentages. If a person wishes to reduce his or her qualified holdings to under 20, 33 or 50 per cent of the equity capital of the bank or of the number of stocks with voting rights or the bank ceases to be a subsidiary company of such person, he or she shall notify in writing beforehand the Finance and Capital Market Commission regarding such decision.

[1 June 2000; 24 October 2002]

Section 32.

(1) A bank shall without delay according to specified procedures inform the Finance and Capital Market Commission in writing regarding the acquisition, increase or reduction in the qualified holdings of each person. The notification shall indicate the amount of holding by the relevant person as a percentage of the equity capital of the bank or the

number of stock with voting rights or information regarding the termination of the qualified holding.

(2) A bank shall, when submitting to the Finance and Capital Market Commission annual accounts in accordance with the procedures specified by law, submit at the same time also a list of all stockholders who own a qualified holding in the bank. It shall indicate in accordance with the law the information included in the list of stockholders prepared for the meeting of stockholders and the amount of the stockholder's qualified holding as a percentage the equity capital of the bank or of the number of stocks with voting rights.

[1 June 2000; 24 October 2002]

Section 33.

(1) if the influence of the person who has acquired a qualifying holding on the bank threatens or may threaten its financially stable, prudent and in conformity with regulatory enactments management, the Finance and Capital Market Commission shall without delay request that such influence cease, as well as if it is necessary request the removal of the board of directors of the bank or one of the members of the board of directors or prohibit the utilisation of all those stock voting rights, which belong the relevant person who has acquired a qualifying holding.

(2) If a person has not fulfilled the requirements of Section 29, Paragraph one or two of this Law, the Finance and Capital Market Commission shall apply the restrictions of rights and penalties referred to in Section 33 of this Law.

(3) If a person by not observing a prohibition of the Finance and Capital Market Commission acquires or increases a qualifying holding, he or she does not have the right to utilise all of the stock voting rights that belong to him or her, as well as decisions of meetings of stockholders, which are taken utilising such stock voting rights shall be void from the moment of their adoption and on their basis records may not be made in the commercial register and other public registers.

[1 June 2000; 11 April 2002; 24 October 2002]

Section 33.¹

In determining the amount of holdings acquired by a person in an indirect way in a bank, the following acquired voting rights of the person in the bank shall be taken into account:

1) voting rights, which arise from stock which third persons have acquired in their own name on the orders of such person;

2) voting rights, which arise from stock which have been acquired by a commercial company located under the control of such person;

3) voting rights, regarding which specified persons have entered into a written contract with a third person regarding long-term or systematic common actions in relation to the administration of the bank;

4) voting rights belonging to third persons, which the person or a commercial company which is located under the control of such person, in accordance with a written contract has the right to utilise restrictions for a specified time period or without a time

period for remuneration or without it;

5) voting rights which arise from stocks given to and held by the person, which the person is entitled to utilise on his or her own initiative without receiving an order from the persons to whom the stocks belong;

6) voting rights which arise from stocks which the person has given to a third person as security, without losing the voting rights arising from them;

7) voting rights which arise from stocks which the person is entitled to acquire in accordance with a written agreement the fulfilment of which is dependent only on this same person;

8) voting rights which arise from stocks which the person has acquired them by borrowing, repurchase or similar transactions; and

9) voting rights, which arise from any other indirect way acquired stocks by the person.

[24 October 2002]

Chapter IV

Requirements Regulating the Operations of Credit Institutions

Section 34.

A credit institution shall perform crediting in accordance with its credit policy, which specifies the procedures for granting and repayment of credits, the procedures for the supervision of the granted credits and the criteria for the assessment of their quality.

Section 35.

(1) The proportion of the own funds of a credit institution against the weighted assets and the total amount of the off-balance-sheet items (capital adequacy) may not be less than 10 per cent.

(2) The own funds of a credit institution may not become less than the minimum founding equity capital specified by law.

Section 36.

The part of the subordinated capital in the calculations of the own funds of a credit institution may not exceed 50 per cent of the total amount of the elements of the own funds referred to in Section 1, Clause 7, Sub-clauses a) and b) of this Law. The portion of the subordinated capital shall be gradually reduced at least during the last five years before the repayment date of the loan.

Section 37.

(1) A credit institution shall place its assets in such a way as to ensure that the legally justified claims of its creditors shall be satisfied at any time.

(2) The regulatory regulations (liquidity requirements) for the satisfaction of such claims shall be determined by the Finance and Capital Market Commission.

[1 June 2000]

Section 38. [1 June 2000]

Section 39.

The exposure of a credit institution in a transaction shall be qualified as large, if the amount of the transaction exceeds 10 per cent of the own funds of the credit institution.

Section 40.

The total amount of transactions with large exposures may not exceed the own funds of a credit institution by more than eight times.

Section 41. [21 May 1998]

Section 42.

The amount of transactions with exposure with one client (a mutually associated group of clients) may not exceed 25 per cent of the own funds of a credit institution.

Section 43.

The amount of transactions with exposure with persons that are associated with the credit institution may not in total exceed 15 per cent of the own funds of the credit institution. Such restriction does not apply to the holdings of the credit institution in the equity capital of its subsidiary undertakings and in the equity capital of those undertakings (companies) in which the credit institution has a substantial influence.

[21 May 1998]

Section 44.

Qualified holdings of a bank in the equity capital of such undertaking (company) which is not a credit institution or a financial institution may not exceed 15 per cent of the own funds of the bank.

[21 May 1998]

Section 45.

The total amount of the qualified holdings of a bank in the equity capital of such undertakings (companies) which are not credit institutions or financial institutions may not exceed 60 per cent of the own funds of the bank.

[21 May 1998]

Section 46. [24 October 2002]

Section 47.

(1) The investments of a credit institution in movable and immovable property, as well as holdings in the equity capital of other undertakings (companies), except credit institutions and financial institutions, may not in total exceed the own funds of the credit institution.

(2) The conditions which are referred to in Paragraph one of this Section do not apply to:

1) property and holdings which a credit institution has taken over as unpaid credit security for a time period up to two years from the moment of take-over; and

2) movable and immovable property, as well as holdings in undertakings (companies) which are necessary for the credit institution for the provision of services.

[21 May 1998]

Section 48.

A bank may not grant, directly or indirectly, credit for the acquisition of the stocks issued by itself or by its parent or subsidiary undertaking, as well as accept the own stocks as credit security.

Section 49.

The open foreign exchange position of a credit institution may not exceed:

1) in a single foreign currency – 10 per cent of own funds; and

2) in all foreign currencies altogether – 20 per cent of own funds.

Section 50.

The Finance and Capital Market Commission has the right to set additional requirements regulating the operations of credit institutions, in order to reduce the exposure in the operations of credit institutions and to protect the interests of creditors.

[1 June 2000]

Section 50.¹

(1) A credit institution which is a parent undertaking of another credit institution or a financial institution, which owns, in a direct or control way, 20 and more per cent of the equity capital, or of the number of stocks with voting rights, in another credit institution

or a financial institution, or whose parent undertaking is a financial holding company registered in Latvia, shall comply with the requirements regulating the operations of credit institutions specified in Paragraph one of Section 35, and Sections 40, 42, 44, 45 and 47 of this Law on the basis of the consolidated financial accounts.

(2) Procedures for the preparation of consolidated financial accounts and information necessary for the supervision of credit institutions, as well as the group of undertakings (companies) to be included in the consolidated financial accounts, shall be determined by the Finance and Capital Market Commission.

(3) If the Finance and Capital Market Commission requests it, a credit institution, the supervision of which is conducted by the Finance and Capital Market Commission under the provisions of Paragraph one of this Section on the basis of consolidated financial accounts, shall comply with the requirements regulating the operations of credit institutions also on the basis of unconsolidated financial accounts.

(4) A credit institution, the supervision of which is conducted on the basis of consolidated financial accounts, shall ensure that all undertakings (companies) whose financial accounts are consolidated have effective internal control mechanisms that ensure the preparation of accurate information for conducting the supervision.

(5) In order to evaluate the accuracy of the information submitted for supervision, the Finance and Capital Market Commission is entitled to perform internal audits in the undertakings (companies) whose financial accounts are consolidated.

(6) The Finance and Capital Market Commission has the right to request for the performance of supervision of credit institutions necessary information from undertakings (companies) the financial reports of which are not consolidated in accordance with the requirements of Paragraph one of this Section, but which the credit institution has close links in a control way, and to conduct an internal audit in them in order to evaluate the truth of information provided.

(7) The Finance and Capital Market Commission in conducting examinations in the undertakings (companies) referred to in this Section has the right to become acquainted with information and documents, which are necessary for the performance of its tasks and functions, but the undertakings (companies) have a duty to provide the Finance and Capital Market Commission with such information and documents.

[21 May 1998; 1 June 2000; 11 April 2002]

Section 51.

Credits which exceed, separately or in total, 1000 lati and are granted to the same person associated with a credit institution shall be granted by a unanimous decision taken by the board of directors of the credit institution.

Section 52.

Before and after the granting of the credit, the credit institution shall investigate the solvency of the borrower by regularly requesting documents that confirm the financial stability of the economic activities of the borrower, and the ability to repay the credit and the interest thereon.

Section 53. [21 May 1998]

Section 54.

In granting credit, a credit institution shall enter into a contract in which the purpose of the credit, its amount, the procedures for granting and repayment, the interest rate and the procedures for calculation of interest, the credit security and other conditions are indicated.

Section 55.

A credit institution shall conduct an evaluation of its assets and off-balance-sheet obligations in accordance with law and the directives of the Finance and Capital Market Commission.

[1 June 2000]

Section 56.

A credit institution shall register with the Finance and Capital Market Commission all guarantees and other surety documents, except pledges, whereby an obligation is undertaken to be liable to the creditor for the debt of a third person. Guarantees and other security documents whereby an obligation is undertaken to be liable to the creditor for the debt of a third person and which are not registered in the Finance and Capital Market Commission, shall be considered void.

[21 May 1998; 1 June 2000]

Section 56.¹

A bank which has been selected by the Finance and Capital Market Commission on the basis of competition procedures, from the bank to be liquidated shall take over in full the obligations arising from its issued mortgage debentures to the holders of such debentures together with assets, which are included in the mortgage debenture cover register.

[11 April 2002]

Section 57.

(1) A credit institution shall obtain the permission of the Finance and Capital Market Commission if:

- 1) the chairperson of the board of directors, his or her deputy or head of the internal audit service (company controller) is changed; or
- 2) the credit institution is reorganised.

(2) The credit institution, not later than 15 days prior to the taking of a relevant decision, shall notify in writing the Finance and Capital Market Commission regarding an intention

to change the name of the credit institution or the legal address. If within a period of seven days after receipt of the credit institution notification, the Finance and Capital Market Commission has not provided a reasoned objection against the change of the name of the credit institution or the legal address, it shall be considered that the Finance and Capital Market Commission has given permission for the change of the name of the credit institution or the legal address.

(3) The credit institution shall submit according to the specified procedures of the Finance and Capital Market Commission to the Finance and Capital Market Commission information regarding the composition of the council or board of directors, stockholders, the commencement of the provision of new credit institution financial services and registration of the articles of association (by-laws) or their amendments.

[1 June 2000; 11 April 2002]

Section 58.

If a credit institution is divided into two or more credit institutions, the own funds of the newly founded credit institutions may not be less than the minimum founding equity capital specified by law.

Section 59.

The own funds of a credit institution formed by a merger of credit institutions may not be less than the minimum founding equity capital specified by law.

Part V Relationships between Credit Institutions and Clients

Section 60.

(1) Relationships between a credit institution and a client shall be regulated by law and by the contracts that have been entered into.

(2) [21 May 1998]

(3) [21 May 1998]

(4) [21 May 1998]

[30 May 1996; 21 May 1998]

Section 61.

(1) It is the duty of a credit institution to guarantee the confidentiality of the identity, accounts, deposits and transactions of clients.

(2) In accordance with the regulatory directives and regulations of the Bank of Latvia, a credit institution shall submit to the Bank of Latvia, for the carrying out of macroeconomic analysis, the necessary statistical information regarding payments that have been made between residents and non-residents.

(3) The Bank of Latvia has the right to submit the compiled information referred to in

Paragraph two of this Section to the Central Statistics Bureau.

(4) A credit institution has the right to submit to its parent undertaking, which is a credit institution or a financial holding company, information which is necessary for the exercise of supervision of credit institutions in accordance with the regulatory directives and regulations of the Finance and Capital Market Commission or a mutual agreement between the Finance and Capital Market Commission and a supervisory authority for foreign credit institutions.

[21 May 1998; 1 June 2000]

Section 62.

(1) Information regarding the accounts of and the transactions conducted by natural persons shall be provided to such persons themselves and to their lawful representatives.

(2) Information regarding the accounts of and bank operations (transactions) legal persons shall be provided to authorised representatives of such legal persons and to their highest institutions pursuant to the request of the heads of such institutions.

(3) Information regarding the accounts of and the bank operations (transactions) conducted by State budget institutions shall be submitted to the State Treasury at its request.

(4) Information regarding a client, his or her accounts and transactions performed in accordance with a written agreement shall be provided to third persons if in respect of such provision of information to a third person, the client has unequivocally consented with an agreement entered into with the credit institution.

[21 May 1998; 11 April 2002]

Section 63.

(1) Information about the accounts of and the transactions conducted by natural and legal persons shall be submitted to such extent as is necessary for the performance of the relevant functions, only to the following State authorities in accordance with the procedures specified by law:

1) a court and the Office of the Prosecutor, if the information is necessary in respect of:

a) a criminal matter or a matter to which confiscation of property may be applied in cases specified by law,

b) a civil matter by which a civil claim arising from a criminal matter is satisfied,

c) a civil matter on the collection of means of support (child support), if there are no other earnings or property against which collection may be made,

d) a civil matter on the distribution of such deposit which is the joint property of both spouses,

e) a matter regarding the insolvency or bankruptcy of the debtor, and

f) an inheritance matter in case of death of the depositor.

2) the State Audit Office – regarding legal persons which have the capacity to act with State property, or which are financed from the State budgetary resources, or which

provide State procurement and supply;

3) the State Revenue Service, if:

a) a taxpayer does not submit to the tax administration the declarations or tax calculations specified in the pertinent tax laws,

b) during an audit of a taxpayer, violations in the accounting records or regulatory enactments regarding tax have been established, or

c) a taxpayer does not make tax payments in compliance with the requirements of tax laws;

4) [30 October 1997];

5) the Office for the Prevention of the Laundering of the Proceeds Derived from Crime – in cases provided for and in accordance with the procedures specified in the Law On the Prevention of the Laundering of the Proceeds Derived from Crime; and

6) State security institutions on the basis of a request accepted by the Prosecutor General or a specially authorised prosecutor if the information is necessary in order to examine the persons or financial means association with terrorism.

(2) A bailiff in a matter for execution regarding the recovery of an amount of money shall be provided with information regarding the accounts of natural persons and legal persons in such an amount as is necessary for the performance of the relevant function according to the procedures specified by law.

(3) A credit institution shall submit the information on the basis of a written request from a State institution or official, which indicates the particular person to be investigated and motivates the need for information in accordance with the requirements of the particular law.

[7 March 1996; 30 May 1996; 30 October 1997; 21 May 1998; 11 April 2002; 24 October 2002]

Section 64.

(1) Everyone who has, intentionally or unintentionally, made public or disclosed information regarding accounts of the clients of a credit institution, or financial services provided to the clients, to persons who do not have the right to receive the relevant information, if such information has been entrusted to or become known to him or her as an owner of the stocks or shares of the credit institution, as the chairperson, a member or a trustee of the council, the board of directors, the audit commission, as an employee of the credit institution, as an employee of the Bank of Latvia, the Finance and Capital Market Commission or a State institution, as a representative of the sworn auditors, as a person referred to in Section 62, Paragraph four of this law shall be held criminally liable in accordance with the procedures specified by law.

(2) Persons who have committed violations referred to in this Section shall be punishable also if such violations were committed after the persons referred to in Paragraph one of this Section have terminated contractual relations or the performance of their duties at, or employment relationship with, the credit institution, the Bank of Latvia, the Finance and Capital Market Commission, the State institution or as representatives of the sworn auditors.

[30 May 1996; 21 May 1998; 1 June 2000; 11 April 2002]

Section 65.

(1) Attachment of the monetary funds and other valuables of legal persons, which are placed at a credit institution, or imposition of arrest on them may only occur on the basis of a court issued execution document, a bailiff's order or by the sanction of a prosecutor, but a partial or complete suspension of the account operations of such persons shall be performed at the request of the State Revenue Service.

(2) Collection of the monetary funds and other valuables of legal persons may be exercised on the basis of a court issued execution document, a bailiff's order or also at the request of the tax administration – in cases provided for in the tax laws, but at the request of the State Revenue Service – also in cases provided for by other laws.

(3) Collection of the budgetary funds of local governments, which are located at a credit institution, may be exercised by uncontested procedures at the request of the State Treasury in cases provided for by other laws.

[7 March 1996; 30 October 1997; 24 October 2002]

Section 66.

(1) Attachment of the monetary funds and other valuables of natural persons, which are placed at a credit institution, or imposition of arrest on them may only occur on the basis of a court issued execution document, a bailiff's order or by the sanction of a prosecutor.

(2) Collection of the deposits and other valuables of natural persons may be exercised on the basis of a court issued execution document, a bailiff's order or a decision of the taxation administration regarding the collection of late tax payments in accordance with the Law On Taxes and Fees.

[11 April 2002]; 24 October 2002]

Section 67.

(1) The types of deposits are as follows:

1) demand deposits – for an indefinite period with an obligation to pay at demand;
and

2) fixed deposits:

a) for a definite period; or

b) for an indefinite period, to be paid upon a client's prior notice regarding withdrawal.

(2) Fixed deposits, which have been deposited for an indefinite period may be withdrawn not earlier than one month after the moment of the acceptance of the deposit. An application regarding withdrawal of the deposit shall be submitted 10 days before the withdrawal of the deposit, unless provided otherwise by the contract.

Section 68.

Fixed deposits for which the time of payment has become applicable and the contract in respect of which has not been extended or concluded anew, shall be regarded

as demand deposits, unless provided otherwise by the contract.

Section 69.

The amount of the interest rate and the procedures for the payment of interest shall be specified in the contract upon mutual agreement of the credit institution and the client.

Section 70.

If the contract does not specify otherwise:

1) the time period for the calculation of interest rate shall be the number of calendar days of the granted credit or the deposit. Such calculations shall be based on year which is deemed to have 360 days; and

2) the interest shall be paid each year on 31 December and upon the complete repayment of a credit or a deposit.

Section 71.

(1) A client shall lose the right of claim against a credit institution, if no transactions have been performed with the deposit for a period of 60 years.

(2) The limitation period shall start:

1) with respect to fixed deposits for a definite time period – from the last day of payment from the deposit; and

2) with respect to demand deposits and fixed deposits for an indefinite period – from the day when the last transaction with such deposit was performed on behalf of the client.

[21 May 1998]

Section 72.

Deposits in respect of which the limitation period has become applicable, shall be credited as income to the credit institution.

Section 73.

Upon requesting a credit or entering into other contractual relationship with a credit institution, or submitting a report regarding the fulfilment of obligations, the client has the duty to provide, pursuant to the request of the credit institution, complete and accurate information about his or her financial situation and property, including all encumbrances on the property, as well as other information which is necessary in order that the credit institution may ascertain whether the client is associated with the credit institution or constitutes a group of mutually associated clients for the credit institution.

Section 74. [21 May 1998]
[30 May 1996; 21 May 1998]

Section 74.¹

Credit institutions shall ensure effective examination procedures for client complaints and disputes with the credit institution regarding the credit transfer of non-cash funds and transactions with electronic payment instruments. Full written information regarding the referred to complaint and dispute examination procedures shall be freely available in the credit institution and electronically in the home page of the credit institution in the Internet network if such home page has been established.

[11 April 2002]

Chapter VI **Accounting and Annual Accounts**

Section 75.

A credit institution shall keep accounts in accordance with the Law On Accounting and the directives of the Finance and Capital Market Commission which must be in compliance with the laws of the Republic of Latvia and internationally accepted accounting standards.

[1 June 2000]

Section 76.

The Finance and Capital Market Commission is entitled to request from a credit institution and undertakings (companies) associated with it consolidated accounts, the procedures for the preparation and submission of which shall be specified by the Bank of Latvia.

[1 June 2000]

Section 77.

A credit institution shall prepare an account for each operational year, in which the balance sheet, the profit and loss account, report regarding changes in capital and reserves, cash flow report and Annexes, as well as a report shall be included.

[11 April]

Section 78.

The accounting year shall coincide with the calendar year. The first reporting period may be shorter than the calendar year, but it shall not be longer than 18 months.

Section 79.

The annual accounts shall be prepared in compliance with this Law and the directives of the Finance and Capital Market Commission arising from this Law. The annual accounts must present a true and clear view of the assets and liabilities of the credit institution, its financial situation and profit or losses.

[1 June 2000]

Section 80.

If it is not possible to obtain a true and clear view of the credit institution in accordance with the requirements of Section 79 of this Law, the annual accounts shall include relevant additional information.

Section 81.

Items in the annual accounts shall be evaluated under the following general principles:

- 1) it shall be assumed that the credit institution will continue its operations also in the future;
- 2) the same evaluation methods shall be maintained as were utilised in the preparation of the previous annual accounts;
- 3) the evaluation shall be performed in all cases with due prudence, taking into account the following conditions:
 - a) only the profit made until the balance sheet date shall be included in the account,
 - b) all possible losses shall be taken into account, regardless of the time when they were incurred, even those which have become known during the period between the day of preparation of the balance sheet and of the annual accounts, and
 - c) all amounts of reduction in value and depreciation shall be taken into account regardless of whether the accounting year was concluded with profit or with losses;
- 4) all income and expenses related to the accounting year, regardless of the payment date, shall be reflected in the accounts;
- 5) items of assets and liabilities shall be evaluated separately; and
- 6) the opening balance sheet of each accounting year must correspond to the closing balance sheet of the previous accounting year.

Section 82.

In exceptional cases derogation from the evaluation principles referred to in Section 81 of this Law shall be allowed, stating the grounds for any such derogation in the Annex and in which is indicated how the derogation will affect the assets, obligations, financial situation and profit or losses of the credit institution.

Section 83.

(1) The report shall include a description of the financial situation of the credit institution and its development. If the results of the operations of a credit institution, which are reflected in the annual accounts have been substantially affected by special circumstances, or the annual accounts cannot be considered adequate, the additional information shall be provided in a separate clause of the report.

(2) The report shall also provide information on important events, if such have occurred after the end of the accounting year, on the expected development of the credit institution and important development measures.

Section 84.

The report or the accounts shall also provide, in relation to the profit and loss account or the balance sheet, proposals regarding the distribution of the profit of the credit institution, including the value of dividends or the compensation of losses.

Section 85.

(1) The annual accounts of a credit institution shall be examined by a sworn auditor approved by the Finance and Capital Market Commission. If such examination has not been performed, it is prohibited to approve the annual accounts at the meeting of the stockholders of the credit institution.

(2) If the opinion of the sworn auditors contains notes, dividends may be paid only after co-ordination with the Finance and Capital Market Commission.

[1 June 2000; 11 April 2002]

Section 86.

The annual accounts of a credit institution shall be examined in accordance with this Law and international auditing standards.

Section 87.

In conducting the examination of annual accounts, the sworn auditors have the right to become acquainted with the assets of the credit institution, accounting entries, documents verifying such entries, and other information. It is the duty of the board of directors, the executive manager and employees of the credit institution to provide all necessary information to the sworn auditors.

Section 88.

(1) It is the duty of a credit institution to inform the Finance and Capital Market Commission regarding all circumstances, which may substantially affect the further

operations of the credit institution.

(2) A sworn auditor shall verify whether the credit institution complies with the requirement referred to in Paragraph one of this Section. The sworn auditor shall inform without delay, in writing, the management of the credit institution and the Finance and Capital Market Commission regarding any violations of regulatory enactments and other deficiencies determined during the provision of the audit services and during the fulfilment of specialist or entrusted tasks, due to which the fulfilment of the obligations or further operations or interests of the credit institution clients of this credit institution are threatened.

(3) The sworn auditor has a duty to submit without delay, in writing, a notification to the Finance and Capital Market Commission regarding the facts referred to in Paragraph two of this Section, which are discovered in providing audit services to clients with whom the credit institution is associated in relations of significant influence or close links in a control way, or in fulfilling expert or entrusted tasks given by such clients.

(4) The provision of the information referred to in Paragraphs two and three of this Section to the Finance and Capital Market Commission shall not be deemed as the disclosure of non-disclosable information, and civil legal liability for the sworn auditor shall not come into effect.

[1 June 2000; 11 April 2002]

Section 89.

The specific content of the annual accounts balance sheet, off-balance sheet, profit and loss account items, the Annex and the report, as well as the evaluation methods for particular items, shall be determined by the Finance and Capital Market Commission.

[1 June 2000]

Section 90.

(1) The annual accounts, the minutes (extract of the minutes) of the meeting of the stockholders of the credit institution regarding the approval of the annual accounts and the full report of the sworn auditor shall be submitted to the Finance and Capital Market Commission within 10 days after its approval at the meeting of the stockholders of the credit institution, but not later than three months after the termination of the accounting year.

(2) The Finance and Capital Market Commission is entitled to request from the credit institution to additionally submit the expanded report prepared by the sworn auditor with comments regarding the applicability of the internal control system, analysis of the operations risk of the bank and assessment of conformity to the requirements of regulatory enactments and regulating regulations and orders of the Finance and Capital Market Commission.

[1 June 2000; 11 April 2002]

Section 91.

It is the duty of a credit institution to ensure that a complete annual accounts be readily accessible at the credit institution not later than 1 April of the following year and that it is possible for any interested person to receive the full text of the annual accounts at a charge that does not exceed the costs of copying it.

Section 92.

When the annual accounts of a credit institution has been submitted to the Finance and Capital Market Commission, the credit institution shall publish the balance sheet of the annual accounts and the opinion of the sworn auditors, not later than 1 May of the year succeeding the accounting year, in the newspaper *Latvijas Vēstnesis* [the official Gazette of the Government of Latvia], indicating that the abridged annual accounts are published, but the full annual accounts are readily accessible at the credit institution.

[1 June 2000]

Section 93. [11 April 2002]

Section 94.

If the annual accounts of a credit institution are published in full, they must be identical with the accounts examined by the sworn auditors; furthermore, they must be published together with a complete sworn auditors' opinion regarding the annual accounts. If the sworn auditor has refused to approve the annual accounts, such refusal shall be published together with the annual accounts, indicating the reason for the refusal.

Section 95.

(1) A branch of a foreign bank shall submit to the Finance and Capital Market Commission a Latvian translation of the annual accounts of the relevant foreign bank, and a complete sworn auditors' opinion, not later than seven months after the end of the accounting year.

(2) The annual accounts of a foreign bank must be examined in accordance with international auditing standards.

[21 May 1998; 1 June 2000; 11 April 2002]

Section 96.

Full annual accounts of a foreign bank, as well as a Latvian translation of the annual accounts balance sheet, the profit and loss account, and the full sworn auditors' opinion shall be readily accessible at the branch of the foreign bank in accordance with the requirements of Section 91 of this Law.

[11 April 2002]

Section 97.

The Latvian translation of the annual accounts balance sheet, and of the sworn auditors' opinion, shall be published in accordance with the requirements of Section 92 of this Law.

Section 98.

A credit institution shall perform the preparation, registration, and storage of record-keeping and other documents in accordance with the documentation standards determined for the State, the Law On Archives, and the directives of the Finance and Capital Market Commission.
[1 June 2000]

Chapter VII Supervision of the Operations of Credit Institutions

Section 99. [1 June 2000]

Section 99.¹

(1) In order to achieve the security, stability and development of Latvia's credit institution sector, the Finance and Capital Market Commission shall perform supervision of credit institutions.

(2) The Finance and Capital Market Commission has a duty to take measures without delay in accordance with the specifications of Chapter VII of this Law in order to prevent deficiencies in the operations of credit institutions and the credit institution sector, which threaten or may threaten the stable operation of a credit institution or the whole credit institution sector, interfere in the conduct of proper transactions, the provision of financial services or may cause significant losses to the whole of the State economy.

[11 April 2002]

Section 100.

The Finance and Capital Market Commission shall conduct supervision of credit institutions in accordance with this Law and other laws.

[1 June 2000]

Section 101.

The Finance and Capital Market Commission shall determine the procedures for the supervision process in accordance with this Law and other laws.

[1 June 2000]

Section 100.¹

The Finance and Capital Market Commission has the right not to allow a credit institution to be establish close links or to request the termination of the close links with third persons, or to prohibit transactions with them if such links may threaten or threaten the financial stability of the credit institution, or restrict the rights of the Finance and Capital Market Commission to perform the supervisory functions specified by law.

[11 April 2002]

Section 102.

Intensified supervision procedures shall be applied in the following cases:

- 1) the total amount of the paid-up equity capital and the accrued capital or the losses is less than the paid-up equity capital of the credit institution;
- 2) the capital adequacy of the credit institution is less than 10 per cent;
- 3) the credit institution violates the requirements regulating the operation of credit institutions, and the board of directors of the credit institution is unable to ensure the fulfilment of such requirements on a regular basis;
- 4) the Finance and Capital Market Commission has received an insolvency petition or has itself taken a decision on the submission of an insolvency petition to a court; or
- 5) the credit institution performs operations that threaten or may threaten the stability, solvency or reputation of this credit institution.

[21 May 1998; 1 June 2000; 11 April 2002]

Section 103.

If intensified supervision procedures are applied, the Finance and Capital Market Commission council is entitled to do the following:

- 1) to warn the credit institution;
- 2) to request the Bank of Latvia to suspend the granting of its credits to the credit institution;
- 3) to prohibit the credit institution from investing funds in illiquid assets;
- 4) to restrict the acceptance of deposits or to prohibit the credit institution from accepting deposits;
- 5) to restrict the granting of credits or to prohibit the credit institution from granting credits;
- 6) to request the Bank of Latvia to suspend the accounts of the credit institution which are utilised as correspondent accounts at the Bank of Latvia;
- 7) to prohibit the credit institution to conduct accounts and payments in cash which are utilised in correspondent accounts in other credit institutions and financial institutions;
- 8) to suspend, partially or fully, the provision of other financial services; and
- 9) to give the supervisory institutions and executive institutions of credit institutions, as well as the heads and members of such institutions justified written orders,

which are necessary in order to restrict or suspend the operations of a credit institution that threatens or may threaten the stability, solvency or reputation of this credit institution.

[21 May 1998; 1 June 2000; 11 April 2002]

Section 104.

In order to control the fulfilment of requirements specified in accordance with the intensified supervision procedures, the Finance and Capital Market Commission has the right to appoint its authorised representative. The authorised representative of the Finance and Capital Market Commission shall act in accordance with Sections 119 and 122-124 of this Law.

[1 June 2000]

Section 105.

The Finance and Capital Market Commission shall be liable for losses incurred through the fault of the authorised representative of the Finance and Capital Market Commission.

[1 June 2000]

Section 106.

(1) An authorised representative of the Finance and Capital Market Commission shall examine the operations of a credit institution not less than once every two years.

(2) An authorised representative of the Finance and Capital Market Commission has the right to become acquainted with all the documentation, assets and liabilities of the credit institution and to receive from the responsible persons of the credit institution explanations and information regarding undertakings (companies) in which the credit institution has investments.

(3) An authorised representative of the Bank of Latvia has the right to examine the compliance with its approved regulatory directives and regulations by the credit institution, as well as to become acquainted with all the documentation, assets and liabilities of the credit institution and to receive from the responsible persons of the credit institution the necessary explanations and information for the conduct of the examination.

(4) The preparation and functioning of a register of debtors of credit institutions by a credit institution in accordance with the regulatory directives and regulations of the Bank of Latvia shall provide information to the Bank of Latvia regarding the debtors of the credit institution and the fulfilment of their commitments.

(5) The Bank of Latvia has the right to provide the information referred to in Paragraph four of this Section to credit institutions and the Finance and Capital Market Commission in accordance with the regulatory directives and regulations of the Bank of Latvia.

(6) Credit institutions have the right to exchange, directly or through an institution established specifically for this purpose, information regarding debtors, the course of the fulfilment of their commitments, as well as regarding all cases when a client fails to

comply, fully or partially, with the requirements of Section 73 of this Law.
[21 May 1998; 1 June 2000; 11 April 2002]

Section 107.

(1) Supervisory institutions of foreign credit institutions have the right to perform examinations in the relevant divisions (branches) and representative offices of foreign banks in Latvia, as well as in the banks of which the relevant foreign bank is a parent undertaking.

(2) Before the beginning of an examination, the supervisory institutions of foreign credit institutions have a duty to inform the Finance and Capital Market Commission thereof in writing in a timely manner, but not later than 15 days before the commencement of the relevant examination. Representatives of the Finance and Capital Market Commission have the right to participate in such examination. The supervisory institution of foreign credit institutions shall submit to the Finance and Capital Market Commission a copy of the report prepared regarding the results of the examination in Latvian, English, Russian or German. A report submitted in other languages shall have appended a notarially certified translated copy of the report in Latvian.

(3) The Finance and Capital Market Commission has the right, in accordance with a mutual agreement, to submit information which is hereinafter regarded as confidential to the supervisory institutions of foreign credit institutions, if such information is necessary in order to exercise supervision of the banks referred to in Paragraph one of this Section, their divisions (branches) and representative offices, if the legislative acts of the relevant foreign country provide for liability for disclosure of non-disclosable information.

[21 May 1998; 1 June 2000; 11 April 2002]

Section 108.

(1) A written report shall be submitted to the management of the credit institution on the results of an examination which mentions the violations and gives directions regarding the necessary changes in the further operations and credit policy of the credit institution.

(2) If a credit institution does not agree with the opinion of the examination by the Finance and Capital Market Commission, it may submit a complaint to the council of the Finance and Capital Market Commission, which is entitled to determine a new examination or to decide to make amendments to the opinion of the examination, or to reject the complaint.

(3) If the decision of the council of the Finance and Capital Market Commission does not satisfy the credit institution, it is entitled to appeal the decision in court.

(4) If the credit institution does not agree with the opinion of the examination by the Bank of Latvia, it is entitled to submit a complaint to the council of the Bank of Latvia, which is entitled to determine a new examination or to decide to make amendments to the opinion of the examination, or to reject the complaint.

(5) If the decision of the council of the Bank of Latvia does not satisfy the credit institution, it is entitled to appeal the decision in court.

[1 June 2000]

Section 108.¹

(1) If the Finance and Capital Market Commission determines that the branch of a bank that is registered in a Member State of the European Union or a state of the European Economic Area, which operates in Latvia, or a bank that is registered in a Member State of the European Union or a state of the European Economic Area, which provides financial services without opening a branch performs operations that are in contradiction to the laws of Latvia, it shall without delay request that the Member State of the European Union or European Economic Area state bank terminate such operations.

(2) If the branch of a bank that is registered in a Member State of the European Union or a state of the European Economic Area, which operates in Latvia, or a bank that is registered in a Member State of the European Union or a state of the European Economic Area, which provides financial services without opening a branch does not discontinue operations that are in contradiction to the laws of Latvia, the Finance and Capital Market Commission shall inform without delay the relevant Member State of the European Union or European Economic Area state supervisory institution, the duty of which is to act so that the violations are rectified. The Member State of the European Union or European Economic Area state supervisory institution shall inform the Finance and Capital Market Commission regarding the measures taken.

(3) If the branch of a bank that is registered in a Member State of the European Union or a state of the European Economic Area, which operates in Latvia, or a bank that is registered in a Member State of the European Union or a state of the European Economic Area, which provides financial services without opening a branch continues to perform operations that are in contradiction to the laws of Latvia, the Finance and Capital Market Commission shall inform the relevant Member State of the European Union or European Economic Area state supervisory institution, and shall take measures so that such violations are rectified.

(4) The requirements specified in Paragraphs one, two and three of this Section shall not prevent the Finance and Capital Market Commission from performing activities in order to rectify violations, which are in contradiction with the laws of Latvia that safeguard the interests of society, and to apply penalties for them.

(5) The provisions of this Section shall not hinder a bank that is registered in a Member State of the European Union or a state of the European Economic Area to disseminate advertising in Latvia regarding the financial services provided by it.

[11 April 2002]

Section 109.

The Finance and Capital Market Commission may request the announcement of a meeting of the stockholders or a meeting of the board of directors of the credit institution and determine the issues to be discussed. Authorised representatives of the Finance and Capital Market Commission have the right to participate in such meetings.

[1 June 2000; 11 April 2002]

Section 110. [1 June 2000]
[21 May 1998; 1 June 2000]

Section 110.¹

(1) The Finance and Capital Market Commission and the Bank of Latvia in conformity with their competence and in accordance with a mutual agreement shall exchange necessary information for the performance of their tasks.

(2) In conformity with its competence, the Finance and Capital Market Commission shall co-operate with foreign central banks, financial supervision institutions and those foreign institutions, which are responsible for the supervision of the liquidation, bankruptcy, audit and other similar procedures in respect of credit institutions and other financial institutions, and monitor investment and deposit guarantee and accounting systems, and on the basis of mutual agreement perform such exchange of information with the referred to institutions as is necessary for supervision and fulfilment of the functions of these institutions.

(3) The information referred to in this Section shall be utilised only for fulfilment of the supervisory function and shall be deemed to be restricted accessibility information, however, with the prior written consent of the institutions providing the information it may be disclosed to third persons.

[11 April 2002]

Section 111.

(1) The employees of the Bank of Latvia, the Ministry of Finance and the Finance and Capital Market Commission, the authorised representatives and sworn auditors of the Finance and Capital Market Commission, the authorised persons of the Bank of Latvia and the Finance and Capital Market Commission or other persons who have acted pursuant to the instructions of the authorised representatives or sworn auditors of the Finance and Capital Market Commission, shall be considered to be officials and shall be punishable for the disclosure of non-disclosable information, if they have, intentionally or unintentionally, made public or disclosed information regarding a credit institution to other persons.

(2) The provisions of Paragraph one of this Section shall not apply to the information which is submitted by the employees of the Bank of Latvia and the Finance and Capital Market Commission in accordance with the procedures specified in Sections 61 and 107 of this Law, as well as in the cases and procedures specified by other laws.

(3) Information regarding a credit institution may be submitted to a court and the Office of the Prosecutor in a criminal matter, as well as disclosed in a court, if an insolvency or liquidation matter of the credit institution has been initiated.

(4) If the Bank of Latvia or the Finance and Capital Market Commission determines violations of law in the operations of a credit institution, it has the right to notify the State Revenue Service, the Office of the Prosecutor, the State police, and other State institutions, which are entitled to perform enquiry and pre-trial investigations.

(5) The Finance and Capital Market Commission, its employees and authorised persons

shall not be liable for losses, which have occurred to credit institutions or third persons, as well as they may not be held liable for performed activities. Which are lawful, precise, justified and performed in good faith, appropriately fulfilling supervisory functions according to the procedures specified in laws and regulatory enactments.

[21 May 1998; 1 June 2000; 11 April 2002]

Section 112.

A credit institution shall ensure the establishment and functioning of effective internal control systems, in order to ensure the control of bank exposures and active protection of the bank, the truthfulness and timeliness of the information submitted to management, the compliance with law, regulatory directives and regulations of the Bank of Latvia, the regulatory regulations and orders of the Finance and Capital Market Commission, and the policy and procedures of the credit institution.

[21 May 1998]

Chapter VIII

Restrictions on the Fulfilment of Obligations by a Credit Institution

Section 113.

A credit institution, from which an excessive outflow of deposits is occurring, may request the Finance and Capital Market Commission to set restrictions on the fulfilment of obligations by the credit institution.

[1 June 2000]

Section 114.

A decision on the setting of restrictions shall be taken jointly by the Finance and Capital Market Commission and the Cabinet, specifying the time period for such restrictions, but which may not exceed 12 months. In setting the restrictions on the fulfilment of obligations for a bank which services transit credit, the Ministry of Finance jointly with the Finance and Capital Market Commission shall take a decision on continuation of the servicing of transit credit in this bank or its transfer to other credit institutions.

[30 May 1996; 1 June 2000]

Section 115.

Restrictions to the fulfilment of obligations by a credit institution may be set only if the credit institution is able to satisfy the lawful claims of the creditors.

Section 116.

Restrictions may be set, fully or partially, on all types of obligations of a credit institution or on a part thereof.

Section 117.

Restrictions may not be set on the payment of interest of attracted deposits.

Section 118.

If restrictions have been set to the fulfilment of obligations by a credit institution, the Finance and Capital Market Commission shall appoint, within three days, its authorised representative, which may be also a legal person, for such credit institution.

[1 June 2000]

Section 119.

The authorised representative of the Finance and Capital Market Commission shall evaluate the situation of the credit institution, inform the Finance and Capital Market Commission thereof and take all necessary measures in order to stabilise the operation of the credit institution.

[1 June 2000]

Section 120.

A credit institution may raise objections against the actions of an authorised representative or appeal against such actions to a court, and the Finance and Capital Market Commission may replace its authorised representative, if there are substantial grounds for such action.

[1 June 2000]

Section 121.

During restrictions to fulfilment of its obligations, the credit institution shall continue its operation under the supervision of an authorised representative.

Section 122.

The credit institution may make payments to creditors only in accordance to the specified restrictions and with the permission of an authorised representative. The authorised representative shall verify the validity, the amount, and the order of such payments.

Section 123.

The Finance and Capital Market Commission may extend the authority of an authorised representative, taking into account the financial situation of a credit institution, determining that the credit institution shall harmonise the performance of new

transactions, alienation of property, accepting and giving of pledges, guarantees and securities, with the authorised representative.

[1 June 2000]

Section 124.

If an authorised representative finds or concludes that a credit institution cannot fulfil, or shall not be able to fulfil, its obligations to creditors, it is the duty of the authorised representative to immediately inform the Finance and Capital Market Commission regarding this.

[1 June 2000]

Section 125.

If the situation of the credit institution is restored to normal, the Finance and Capital Market Commission jointly with the Cabinet have the right to revoke the specified restrictions before the end of the specified time period.

[1 June 2000]

Chapter IX

Liquidation of a Credit Institution

[30 May 1996; 21 May 1998]

Section 126.

(1) The liquidation of a credit institution may be performed:

1) in accordance with a decision of a meeting of the stockholders of the credit institution (voluntary liquidation);

2) in accordance with a court adjudication; and

3) in case of bankruptcy.

(2) It is prohibited to liquidate a credit institution in order to perform its reorganisation.

(3) It is prohibited to reorganise a credit institution by re-registering it as another undertaking (company), unrelated to the operations of a credit institution, without written permission from the Finance and Capital Market Commission, which shall be issued by the Finance and Capital Market Commission if the credit institution has fulfilled all the obligations towards the depositors, which are recorded in the accounting registers of the credit institution.

[1 June 2000; 11 April 2002]

Section 127.

(1) A meeting of the stockholders of a credit institution is entitled to take a decision on the voluntary liquidation of the credit institution only after the credit institution has fulfilled all the obligations towards depositors, which are recorded in the accounting registers of the credit institution.

(2) The process of voluntary liquidation, which has been initiated by a decision of a meeting of the stockholders of a credit institution shall not be discontinued or suspended.
[30 may 1996; 11 April 2002]

Section 128.

(1) A credit institution, which has taken a decision on voluntary liquidation, shall submit to the Finance and Capital Market Commission a submission regarding voluntary liquidation within a period of five days after such decision has been taken. The submission shall be accompanied by the most recent balance sheet of the credit institution, prepared in conformity with the directives of the Finance and Capital Market Commission regarding the preparation of annual accounts, and information regarding the liquidator elected.

(2) The Finance and Capital Market Commission shall verify, within a period of five days from the receipt of the submission, whether the credit institution has fulfilled all the obligations towards creditors, which are recorded in the accounting registers of the credit institution, and decide on the acceptance of the submission submitted by the credit institution and the cancellation of the licence issued for the operations of the credit institution.

(3) Voluntary liquidation of a credit institution shall be performed by a liquidator elected by a meeting of the stockholders. The credit institution which is under voluntary liquidation shall prepare a deed of delivery of property (documents, objects, and the like), which shall be accepted and signed by the liquidator upon the commencement of the fulfilment of his or her duties.

[1 June 2000; 11 April 2002]

Section 129.

(1) If the Finance and Capital Market Commission cancels, in accordance with the provisions of Section 27, Clauses 1 – 4 of this Law, the licence issued for the operations of a credit institution, it shall apply intensified supervision procedures, appoint an authorised representative and submit to a court an application regarding the liquidation of such credit institution and the appointment of a liquidator, simultaneously nominating a candidate for the liquidator.

(2) After the cancellation of a licence, the meeting of the stockholders of the credit institution is not entitled to decide on voluntary liquidation and the appointment of a liquidator.

(3) If the licence issued for the operations of a credit institution of the credit institution is cancelled, the Finance and Capital Market Commission shall without delay inform the Bank of Latvia in writing of this.

[1 June 2000; 11 April 2002]

Section 130.

In case of bankruptcy, the liquidation of a credit institution shall be performed by

an administrator in accordance with the requirements of Chapter XIV of this Law.

Section 131.

(1) The liquidator of a credit institution, if the credit institution is to be liquidated by a court adjudication, may be:

- 1) sworn advocates;
- 2) sworn auditors; and
- 3) companies whose primary activity is auditing services.

(2) If the appointed liquidator is a legal person, it shall authorise, in writing, a natural person who will represent the liquidator in the liquidation proceedings and to whom the requirements specified in Paragraph one of this Section and the restrictions specified in Section 132 of this Law shall apply.

Section 132.

(1) The following persons may not be appointed as liquidators:

- 1) a person who is considered to be an interested person with respect to the credit institution to be liquidated, or is associated with the credit institution to be liquidated;
- 2) a person against whom the credit institution to be liquidated has a right of claim;
- 3) a person against whom another insolvency matter has been initiated as against a debtor, or who is considered to be a representative of a debtor in another insolvency matter and that other matter has not been terminated;
- 4) a person who has been sentenced for crimes against property, for economic crimes, business crimes, employment crimes, crimes against jurisdiction or crimes against administrative procedures, regardless of whether or not the previous sentence has been extinguished or set aside; and
- 5) a person against whom criminal prosecution has been initiated, or who is a suspect in a criminal matter.

(2) A natural person, or a natural person authorised by a legal person, may perform the duties of a liquidator or an administrator of a credit institution only in one insolvency or liquidation proceeding at a time.

(3) The Finance and Capital Market Commission has the right to control the activities of a liquidator. For this purpose, the authorised representative of the Finance and Capital Market Commission has the right to become acquainted with all the documentation of the credit institution, all the documentation of the liquidator which is related to the credit institution, as well as to receive explanations and any other necessary information, which are necessary for the performance of the supervisory function of the Finance and Capital Market Commission from the liquidator.

[1 June 2000; 11 April 2002]

Section 133.

(1) The liquidator of a credit institution shall submit, not later than within three days after

the acceptance by the Finance and Capital Market Commission of the decision of a meeting of the stockholders of the credit institution or after the adoption of a court adjudication on liquidation, for publication in the newspaper *Latvijas Vēstnesis* and at least in two other newspapers, a notice regarding the liquidation of the credit institution, in which the following shall be indicated:

1) the date when the decision on voluntary liquidation or the court adjudication was taken, and the date from which the credit institution is considered to be liquidated;

2) the time period during which the claims and other demands of creditors and other persons are to be submitted; and

3) the given name and surname of the liquidator (if the liquidator is a legal person, its name and the name of its authorised representative), the place of operations and the telephone number.

(2) The time period referred to in Paragraph two, Clause 2 of this Section, shall be three months. The time period shall begin to run from the day when the notice is published in the newspaper *Latvijas Vēstnesis*.

(3) A liquidator of the credit institution shall ensure the use of the word “likvidējamā” [to be liquidated] in all the particulars of the credit institution.

(4) The rights, duties and powers of an administrator specified in Chapter XI of this Law, except for Section 160, Paragraph three of Section 161 and Section 166, shall apply to a liquidator of a credit institution appointed by a court.

(5) The rights, duties and powers of an administrator specified in Chapter XI of this Law, except for Section 155, Paragraph two of Section 156, Paragraphs two and three of Section 157, Section 160, Paragraph three of Section 161 and Sections 166-169, shall apply to a liquidator of a credit institution elected by a meeting of the stockholders.

[1 June 2000; 11 April 2002]

Section 134.

(1) The liquidation expenses of a credit institution shall be covered by the credit institution to be liquidated.

(2) The following payments shall be included in the liquidation expenses:

1) the remuneration to the liquidator and the assistant to the liquidator in the amount specified in Section 135 of this Law;

2) the salaries to be paid to the employees, calculating from the day when the decision on the liquidation of the credit institution was taken, and the severance pay to be paid;

3) the necessary expenses for the maintenance of the property of the credit institution to be liquidated and for the maintenance of the necessary work premises during the liquidation;

4) court costs;

5) expenses for the placement of publications in newspapers; and

6) expenses for the organisation of auctions.

[30 May 1996; 17 October 1996]

Section 135.

(1) In the case of voluntary liquidation of a credit institution, the remuneration to the liquidator shall be determined by a meeting of shareholders (founders) or a stockholders meeting of the credit institution, and such remuneration may not exceed 15 minimum monthly wages per month.

(2) If the liquidation occurs pursuant to a court adjudication, the total amount of remuneration to the liquidator and the assistant to the liquidator shall be:

1) 15 per cent of the actually recovered and paid into the account of the credit institution at the Bank of Latvia monetary assets, which do not exceed the first recovered ten thousand lati;

2) if the actually recovered and paid into the account of the credit institution at the Bank of Latvia monetary assets exceed ten thousand lati – 15 per cent of the actually recovered and paid into the account of the credit institution at the Bank of Latvia monetary assets, which do not exceed the first recovered ten thousand lati, and 10 per cent of the actually recovered and paid into the account of the credit institution at the Bank of Latvia monetary assets, which exceed ten thousand lati, but which are not more than one hundred thousand lati; or

3) if the actually recovered and paid into the account of the credit institution at the Bank of Latvia monetary assets exceed one hundred thousand lati – 15 per cent of the actually recovered and paid into the account of the credit institution at the Bank of Latvia monetary assets, which do not exceed the first recovered ten thousand lati, and 10 per cent of the actually recovered and paid into the account of the credit institution at the Bank of Latvia monetary assets, which exceed ten thousand lati, but which are not more than one hundred thousand lati, and five percent of the actually recovered and paid into the account of the credit institution at the Bank of Latvia monetary assets, which exceed one hundred thousand lati.

(3) The money in the cashier's office of the credit institution, the monetary assets that were obtained through selling securities quoted on the stock exchange, and the monetary assets that were obtained by using rights of claim against the Bank of Latvia, credit institutions of Latvia and foreign credit institutions, the operation of which has not been suspended or stopped, the State of Latvia or a foreign state, remuneration (commission) in respect of the financial services provided by the credit institution, as well as monetary assets that are acquired by the sale of the ancillary claim of the claim referred to in this Section, and fruits which are acquired from the liquidation process of the property of the credit institution shall not be considered as recovered assets for the determination of remuneration.

(4) If in the liquidation, which takes place in accordance with a court adjudication, no monetary assets (also monetary assets, which in accordance with Paragraph three of this Section are not considered to be actual recovered assets for the determination of remuneration) have been actually recovered and paid into the account of the credit institution at the Bank of Latvia, the liquidator and the assistant to the liquidator shall receive a once-only remuneration, the amount of which shall be mutually agreed to by the liquidator and the Finance and Capital Market Commission.

[11 April 2002]

Section 136.

(1) If liquidation is carried out pursuant to a court adjudication, the liquidator shall submit, after the completion of the liquidation, a report on the entire liquidation period to the court and to the Finance and Capital Market Commission. The court shall approve the report on the entire liquidation period. The decision on the completion of liquidation proceedings shall be taken by the court.

(2) If voluntary liquidation of a credit institution is carried out, the liquidator shall submit, within a period of five days after the receipt of a written request from the Finance and Capital Market Commission, a report on the liquidation proceedings of the credit institution to the Finance and Capital Market Commission. After completion of voluntary liquidation, the liquidator shall submit a report on the entire period of voluntary liquidation to the Finance and Capital Market Commission.

(3) The report of the liquidator shall provide a true and clear presentation of the entire period of the liquidation.

(4) Within the first ten days of each month the liquidator shall submit, for publication in the newspaper *Latvijas Vēstnesis*, the balance sheet of the credit institution for the last day of the previous month, a report on the recovered assets (property) and the liquidation expenses of the previous month.

[1 June 2000]

Section 137.

(1) If a liquidator determines that the stockholders, the chairperson or the members of the council or the board of directors, the executive manager, the chairperson or members of the audit commission, sworn auditors or comptrollers, have exceeded their authority or violated the requirements of law, the regulations of the Cabinet, the regulatory directives and regulations of the Bank of Latvia, the regulatory regulations and orders of the Finance and Capital Market Commission, the provisions of the articles of association of the credit institution or the decisions of the meeting of the stockholders of the credit institution, or have acted neglectfully or in bad faith, it is the duty of the liquidator to inform law enforcement institutions regarding such in accordance with jurisdiction.

(2) If losses have been incurred by the creditors or stockholders as a result of actions referred to in Paragraph one of this Section, the liquidator shall bring an action in a court against the offenders for the compensation of such losses.

[1 June 2000; 11 April 2002]

Section 138.

(1) If a liquidator determines, during the course of liquidation of a credit institution, that the credit institution to be liquidated does not have enough property to fully satisfy the claims of all of the creditors, it is the duty of the liquidator to take a decision on the initiation of bankruptcy proceedings and to submit an insolvency petition to a court, petitioning the court in the name of the credit institution to declare the credit institution insolvent and to take a decision on the initiation of bankruptcy proceedings.

(2) Upon the declaration of insolvency of a credit institution after a court has examined the petition referred to in Paragraph one of this Section, a decision on the initiation of bankruptcy proceedings shall be simultaneously taken.

(3) In such case, the liquidator shall be appointed administrator of the credit institution by a court adjudication, if the requirements of Section 131 of this Law have been complied with and the restrictions specified in Section 132 do not apply.

Section 139.

Procedures for the making of payments and settling of debts shall be determined by the liquidator, observing the provisions of Section 191-195 of this Law.

Chapter X Insolvency of Credit Institutions

[21 May 1998]

Section 140.

(1) A credit institution may submit an insolvency petition if it is unable to, or under circumstances that can be proved will not be able to adequately fulfil its debt obligations.

(2) A credit institution has the duty to submit an insolvency petition if at least one of the following circumstances applies:

1) the credit institution is unable to fulfil its debt obligations within eight days after the time period for the fulfilment of the obligations has expired, and no written agreement with the creditors regarding the settlement of the debt has been reached; or

2) the debt obligations of the credit institution exceed its assets.

Section 141.

All the provisions of Section 138 and Section 140, Paragraph one of this Law shall apply to an insolvency petition, which is submitted by the liquidator of a credit institution.

Section 142.

(1) The administrator in another insolvency proceeding may submit an insolvency petition against a credit institution which has a debt obligation to the debtor represented by the administrator.

(2) In such event all the provisions of Section 143 of this Law shall apply to the petition of the administrator.

Section 143.

A creditor or a group of creditors may submit an insolvency petition, if at least one of the following circumstances exists:

1) within five days after a creditor has submitted a statement of claim to the credit institution, the claim is neither satisfied, nor are objections raised to it, and after the expiration of this time period the creditor has informed the credit institution, in writing, about his or her intention to submit an insolvency petition at least three days before submitting it, and the credit institution has not been able to settle the debt also during this time period; or

2) the credit institution has informed the creditor, in writing, about its actual insolvency.

Section 144.

(1) An insolvency petition may not be submitted by secured creditors. Until the initiation of an insolvency matter the claims of secured creditors against a credit institution regarding the collection of debts shall be examined in accordance with general procedures.

(2) An insolvency petition may be submitted by such secured creditors whose claim against a credit institution is not secured in full.

Section 145.

The Finance and Capital Market Commission may submit an insolvency petition to a court if at least one of the following circumstances exists:

1) the credit institution is unable to adequately fulfil its debt obligations; or

2) the debt obligations of the credit institution exceed its assets.

[1 June 2000]

Section 146.

(1) A credit institution, a liquidator of a credit institution, a creditor or a group of creditors, and an administrator in another insolvency proceeding shall first submit the insolvency petition to the Finance and Capital Market Commission.

(2) The Finance and Capital Market Commission shall examine the insolvency petition within five days from the receipt of such petition, and in the case of a determination of actual insolvency, or a possibility of its occurrence, shall decide on the submission of the petition to a court in accordance with the procedures determined by law. The Finance and Capital Market Commission shall submit the insolvency petition to the court within three days after it has taken a decision on the submission of the petition to a court.

(3) The Finance and Capital Market Commission may decide on suspension of the petition for a definite time period which does not exceed one month, if it is in possession of evidence that the actual insolvency of a credit institution is temporary and related to temporary problems of liquidity. If solvency of the credit institution has not been restored by the end of the time period specified for the suspension of the petition, the Finance and Capital Market Commission shall submit the petition to a court, in accordance with the procedures determined by law, within three days after the expiration of the time of suspension.

(4) If the Finance and Capital Market Commission has not determined the actual insolvency of a credit institution, or a possibility of its occurrence, in such case it shall take a substantiated decision on the rejection of the petition and inform the submitter of the petition regarding such within three days from the date of the taking of the decision, indicating the grounds of the decision. Rejection of an insolvency petition by the Finance and Capital Market Commission shall not be an obstacle for its submission to a court. In such case, however, such means of claim enforcement as prevent the bank from providing financial services shall not apply for the securing the claims of creditors.

(5) The Finance and Capital Market Commission shall without delay inform the Bank of Latvia in writing regarding the submission of an insolvency petition to a court.

[1 June 2000]

Section 147.

(1) After the receipt of an insolvency petition, the Finance and Capital Market Commission shall decide on determining intensified supervision procedures for the credit institution and on appointing an authorised representative. If the Finance and Capital Market Commission itself takes the decision on submission of an insolvency petition regarding a credit institution to a court, it shall apply the intensified supervision procedures and appoint an authorised representative.

(2) If an authorised representative has been appointed in cases provided for in Paragraph one of this Section, any actions with the property of the credit institution, as well as the property of third persons which is in the possession or care of the credit institution, may be performed by the administrative institutions of the credit institution only with the written permission of the authorised representative. If such actions are performed without the written permission of the authorised representative and if such actions have resulted in substantial harm, the offenders shall be held criminally liable.

(3) If an authorised representative has already been appointed for the credit institution for any other reason, the rights of the authorised representative shall be expanded, in accordance with the provisions of Paragraph two of this Section, from the day of receipt of the insolvency petition or from the day when the decision of the Finance and Capital Market Commission was taken regarding the submission of the insolvency petition.

(4) The intensified supervision procedures applied by the Finance and Capital Market Commission and the authorised representative appointed by the Commission shall be in operation until the day when a court decides to reject the insolvency petition, or to declare the credit institution insolvent.

(5) The Finance and Capital Market Commission shall without delay inform the Bank of Latvia in writing regarding the appointment of an authorised representative, if it is done in accordance with the provisions of this Section.

[1 June 2000; 11 April 2002]

Section 148.

(1) A creditor is prohibited to perform, from the initiation of an insolvency case, transactions whereby losses are incurred by other creditors or third persons.

(2) Property rights which a creditor or a third person has gained as a result of the acts referred to in Paragraph one of this Section, shall be deemed, on the basis of a submission by the creditor or the administrator, to be void in accordance with the procedures determined by law.

Section 149.

Upon the declaration of a credit institution as insolvent:

1) the credit institution shall lose the right to administer its property, as well as the property of third persons in the possession or care of the credit institution, and such rights shall be acquired by the administrator;

2) the operations of the administrative institutions of the credit institution shall be suspended, and the management of the credit institution shall be conducted by the administrator; and

3) increases in late charges and interest for the creditor claims shall be discontinued, except for tax debts where the calculation of increases in principal debt amounts and late charges shall be discontinued in accordance with the Law On Taxes and Fees.

Section 150.

(1) An adjudication on the termination of the insolvency proceedings shall be made by a court.

(2) The administrator may submit to a court an application regarding the termination of insolvency proceedings, attaching written evidence, if one of the following conditions applies:

1) the credit institution has fulfilled all its debt obligations by the due date for their performance, and after the fulfilment of such obligations, its assets exceed the outstanding debt amount, and the requirements of this Law, the regulatory directives and regulations of the Bank of Latvia and the regulatory regulations and orders of the Finance and Capital Market Commission have been complied with; or

2) bankruptcy proceedings have been terminated.

(3) Insolvency proceedings shall be terminated if a court rejects the insolvency petition or terminates the insolvency case.

[1 June 2000]

Section 151.

(1) If the insolvency proceedings are terminated due to the restoration of solvency of a credit institution, the powers of the administrator in the relevant insolvency proceedings shall terminate and the right of the credit institution to control its property shall be restored, as well as the operations of the administrative institutions of the credit institutions shall be restored. A deed of acceptance and delivery of property shall be prepared and signed within 30 days after court adjudication on termination of the insolvency proceedings comes into effect. Until the time of the signing of such deed, the

administrator shall continue the performance of his or her duties and shall be liable in accordance with this Law.

(2) If insolvency proceedings are discontinued in connection with the completion of the bankruptcy procedures of a credit institution, the powers of the administrator shall terminate upon the making of a court adjudication regarding the termination of insolvency proceedings. The administrator shall transfer the documents for preservation in the archives in accordance with the Law On Archives.

(3) Upon the termination of the powers of an administrator, the identification document of the administrator and the seal referred to in Section 156 of this Law shall be transferred to a court.

Section 152.

(1) Insolvency proceedings shall be financed from the funds of the credit institution.

(2) In case of a criminal bankruptcy, the court may collect the expenses for the insolvency proceedings jointly from the chairperson and the members of the council and the board of directors of the credit institution.

Section 153.

The following payments shall be included in the expenses of insolvency proceedings:

1) the remuneration for the administrator and the assistant to the administrator in the amount specified in Section 166 of this Law;

2) the salaries to be paid to the employees, starting from the day when an adjudication was made on the insolvency of the credit institution, and the severance pay to be paid;

3) the necessary expenses for the maintenance of the property of the credit institution and for the maintenance of work premises during the insolvency proceedings;

4) court costs;

5) expenses for the placement of publications in newspapers; and

6) expenses for the organisation of auctions.

Chapter XI

Administrators in Insolvency Proceedings

[21 may 1998]

Section 154.

- (1) Administrators may be the persons referred to in Section 131 of this Law.
- (2) All the restrictions specified in Section 132 of this Law shall apply to administrators.
- (3) If a legal person is appointed as administrator, it shall authorise, in writing, a natural person who will represent the administrator in the insolvency proceedings and to whom the requirements specified in Section 131, Paragraph one of this Law and the restrictions specified in Section 132 of this Law shall apply.
- (4) The Finance and Capital Market Commission is entitled to control the activities of an administrator. For this purpose, the authorised representative of the Finance and Capital Market Commission has the right to become acquainted with all the documentation of a credit institution which is related to the credit institution, as well as to receive explanations and any other necessary information, which is associated with the insolvency proceedings of the credit institution from the administrator.

[1 June 2000; 11 April 2002]

Section 155.

- (1) An administrator shall have security for such cases when he or she causes harm, through his or her activities, upon creditors or other persons.
- (2) The security shall be civil liability insurance for the activities of the administrator.
- (3) Regulations for the civil liability insurance for the activities of an administrator shall be issued by the Cabinet.

Section 156.

- (1) An administrator shall have a personal seal with the inscription “Administrators (kreditiestādes nosaukums) maksātnešpējas procesā” [Administrator of insolvency proceedings for (the name of the credit institution)] and his or her given name, surname or the name of the legal person, if a legal person has been appointed administrator.
- (2) An administrator shall have an identification document with his or her photograph, given name and surname, or the photograph, given name and surname of the natural person authorised by the legal person, and the inscription “Administrators (kreditiestādes nosaukums) maksātnešpējas procesā” [Administrator of insolvency proceedings for (the name of the credit institution)]. The identification document shall be approved by the Chief Judge of a court with his or her signature and the seal of the court.

Section 157.

- (1) After the appointment and until the examination of the matter in court the administrator shall conduct the following activities:

1) prepare a list of the employees, stockholders and other persons whose participation in the insolvency proceedings is mandatory, and submit such list to the court;

2) prepare a summary of the assets (property) of the credit institution in accordance with its real (market) value and submit it to the court;

3) ascertain any property of third persons that is in the possession or care of the credit institution; and

4) prepare a list of creditors based on the data in the accounting registers of the credit institution, indicating information on creditors, the amount of debt obligations, and the time periods for fulfilment.

(2) Within three days after the initiation of insolvency proceedings and the appointment of an administrator, the administrator and the chairperson of the board of directors of the credit institution shall jointly begin an inventory of the documents and property of the credit institution. If the chairperson of the board of directors is temporarily absent or his or her location is not known, the inventory shall be conducted by the administrator and the members of the board of directors. After completion of the inventory, an inventory document and a deed of acceptance and delivery of property (documents, objects etc.) shall be prepared and signed.

(3) If all members of the board of directors are temporarily absent, or their location is unknown, the administrator shall inform, in writing, the Finance and Capital Market Commission regarding such and conduct the inventory alone. After completion of the inventory the administrator shall prepare and sign an inventory document, and it shall be considered also as a deed of acceptance and delivery of property (documents, objects, and the like).

[1 June 2000; 11 April 2002]

Section 158.

From the day of the initiation of an insolvency matter no extinguishment by amortisation of the claims or debts of the credit institution shall be permitted, fully or partly, except in cases when such is provided for in the restoration plan approved by the Finance and Capital Market Commission and a meeting of creditors.

[1 June 2000; 11 April 2002]

Section 159.

(1) Within three days after the credit institution is declared insolvent, the administrator shall send a notice and a copy of the court judgment to the Bank of Latvia, the Enterprise Register and the Land Registry Office according to the location of the immovable property, indicating in a covering letter his or her given name, surname (if the administrator is a legal person, its name and the given name and surname of its authorised representative), the place of operations and the telephone number.

(2) The Enterprise Register has the duty to record the submitted information in accordance with the procedures determined by the Law On the Enterprise Register of the Republic of Latvia.

(3) The Land Registry Office has the duty, in accordance with the Land Register Law, to make an entry in the relevant section of the Land Register regarding the declaration of the insolvency of the owner.

(4) If insolvency proceedings are terminated in connection with the renewal of the solvency of the credit institution, the administrator shall send the court adjudication to the Enterprise Register and the relevant Land Registry Office for expungement of the entries.

(5) If insolvency proceedings are terminated due to the completion of bankruptcy proceedings, the administrator shall send to the Enterprise Register the court adjudication regarding the completion of bankruptcy proceedings, for the deletion of the credit institution in the Enterprise Register.

[1 June 2000]

Section 160.

(1) Within three days after the declaration of the insolvency of a credit institution, the administrator shall submit a notice of the declaration of the insolvency of the credit institution for publication in the newspaper *Latvijas Vēstnesis* and at least two other newspapers.

(2) The notice shall include:

1) the date of the court judgment, as well as the date from which the credit institution has been declared insolvent; and

2) the given name, surname (if the administrator is a legal person, its name and the given name and surname of its authorised representative), the place of operations and the telephone number of the administrator.

Section 161.

(1) After a credit institution has been declared insolvent, the administrator has all the duties, rights and powers of the administrative institutions and the heads of such institutions, provided for by law and in the articles of association of the credit institution.

(2) Administrators have the following duties:

1) to ensure the lawful and effective progress of the insolvency proceedings;

2) to receive the property, documentation and seal of the credit institution, as well as the property of third persons that is in the possession or care of the credit institution;

3) to control the property of the credit institution;

4) to evaluate the financial situation of the credit institution, to take, within a month after the declaration of insolvency, a decision on the solution to the insolvency (restoration, bankruptcy) and its provisions, and to submit it to the Finance and Capital Market Commission for approval in accordance with the provisions of this Law;

5) to prepare a list of the property against which the claims of the secured creditors and other creditors may be made;

6) to complete the inventory of the documentation and property of the credit institution which was begun in accordance with the procedures specified in Section 157, Paragraph two of this Law;

7) not later than within one month after the receipt of the request from the

Ministry of Finance, to transfer the servicing of transit credits to the Ministry of Finance or to a bank indicated by it;

8) to inform the court about the application of restoration and forward the decision on the application of restoration to the court for its information, and to submit to the court a petition regarding the initiation of bankruptcy proceedings in accordance with the procedures determined by law;

9) to provide information regarding the insolvency proceedings to the Finance and Capital Market Commission and the Bank of Latvia, and to submit all the requested information that is necessary for them to perform their functions, within the terms specified by them;

10) within the first ten days of each month, to submit for publication in the newspaper *Latvijas Vēstnesis* the balance sheet for the last day of the previous month and a report of the recovered assets (property) and the expenses of the insolvency proceeding during the previous month;

11) to conduct the accounting in accordance with the requirements of Section 75 of this Law;

12) to provide the information provided for in this Law and in the Law On the Enterprise Register of the Republic of Latvia, as well as in the Land Register Law, to the Enterprise Register and the Land Registry Office;

13) in accordance with the procedures determined by law, to submit reports and materials to competent institutions regarding the facts discovered during the insolvency proceedings, which may be the basis for initiation of criminal proceedings;

14) to report to law enforcement institutions according to jurisdiction, if the administrator determines that the stockholders, the chairperson or members of the council or the board of directors, the executive manager, the chairperson or members of the audit commission, sworn auditors or comptrollers, have exceeded their authority or violated the requirements of law, the regulations of the Cabinet, the regulatory directives and regulations of the Bank of Latvia, the regulatory regulations and orders of the Finance and Capital Market Commission, the provisions of the articles of association of the credit institution or the decisions of the meeting of the stockholders of the credit institution, or have acted neglectfully or in bad faith, as well as bring an action in a court against the offenders regarding compensation of losses if as a result of such actions losses have been incurred by the creditors or stockholders;

15) to convene the first meeting of creditors in the case of the restoration of the credit institution;

16) to calculate and compile in conformity with the Law On Protection of Employees in case of Insolvency of Employer the claims of employees and to submit applications regarding the satisfaction of employee's claims to the Insolvency Administration. After the receipt of monetary assets from the Insolvency Administration, the administrator shall pay out to third persons on the basis of the execution documents from the relevant monetary amount of the employee claim to those whom it is applicable. The administrator shall include in the unsecured creditor claims list the employee claim amounts satisfied by the Insolvency Administration;

17) prior to the transfer of the obligations arising from mortgage debentures and the assets included in the debenture cover to another bank, to perform payments to the

holders of mortgage debentures if the time period for the payment of interest or the extinguishing of mortgage debentures has come into effect, ensuring that the payments are performed from the assets included in the debenture cover register, and not allow the performance of other payments from the assets included in the debenture cover register or the making of other amendments to the mortgage debenture register; and

18) not later than within a period of 10 days after the receipt of the order from the Finance and Capital Market Commission, to transfer to the bank indicated by the Finance and Capital Market Commission the obligations arising from the bank to be liquidated issued mortgage debentures against the holders of such debentures together with the assets, which are included in the mortgage debenture cover register.

(3) Other duties of an administrator in specific stages of the insolvency proceedings are specified in Sections 178, 180, 182-184, 187 and 190 of this Law.

(4) An administrator has the following rights and powers:

1) to alienate the property of the credit institution in accordance with the procedures determined by this Law;

2) to close divisions (branches) or representative offices of the credit institution;

3) to bring an action in a court in order that transactions of the credit institution which the credit institution has entered into, within five years before being declared insolvent, with third persons, or for the benefit of third persons, whereby, losses to the creditors have been or may be incurred, as well as transactions which have been entered into with any of the creditors whereby losses to other creditors have been or may be incurred, be declared void;

4) to submit to the court any claim of the credit institution against a third person;

5) to represent the credit institution in court and in relationships with natural or legal persons, and to appear on its behalf;

6) to insure the transactions of the credit institution and the property of the credit institution;

7) to prepare and sign any document in the name of the credit institution;

8) to employ and discharge from employment the assistant to the administrator;

9) to employ and discharge from employment employees, including those employees who were employed before the initiation of the insolvency proceedings;

10) to cover the expenses of the insolvency proceedings from the funds of the credit institution;

11) to lease out any property of the credit institution, as well as to acquire by lease any property, if it is in the interests of all creditors;

12) to waive any claim against a third person or to enter into any settlement in the name of the credit institution in respect of the claims of the credit institution against third persons, if such actions result in the increase of the possibility to satisfy the claims of creditors, or in a more rapid repayment of debts, without a substantial reduction of the amount of the compensation to be paid to the creditors;

13) to require that the stockholders of the credit institution perform the obligations determined by a relevant decision of a meeting of the stockholders with respect to the equity capital or other property of the credit institution, or to bring an action in court regarding compulsory fulfilment of such obligations;

14) to submit a petition to a court regarding the declaration of insolvency of any

such third person who has debt obligations towards the credit institution, and to represent the claims of the credit institution, if an insolvency matter is initiated against the third person on the basis of such petition;

15) to change the registered legal address of the credit institution;

16) to require and receive from natural persons, State and local government authorities, undertakings (companies), information regarding the credit institution and its representatives which is necessary for the insolvency proceedings; and

17) to represent the credit institution in criminal proceedings and to request that security measures be determined for the relevant representatives of the credit institution, if in connection the particular insolvency matter, criminal proceedings have been initiated.

(5) If the administrator terminates the employment contract with the employees of the credit institution after the credit institution has been declared insolvent, the lawful basis of the termination of the employment contract shall be considered to be the provisions of Section 33, Paragraph one, Clauses 1 and 1.2 of the Employment Law Code of Latvia, if no other lawful basis for the termination of the employment contract exists. In case of termination of the employment contract the discharged employees acquire the status of creditors:

1) to the extent of the unpaid salaries and related receivable payments; and

2) to the extent of remuneration for an occupational accident or an occupational disease for the whole unpaid period, and to the extent of such payments that are to be made for three years thereafter into the special State social insurance budget if the occupational accident occurred, or the occupational disease was incurred, by 1 January 1997.

[1 June 2000; 11 April 2002]

Section 162.

(1) Persons have a duty to submit to the administrator such information within their control, which is significant in the insolvency proceedings.

(2) The representatives of the credit institution and the persons whose participation in the insolvency proceedings or in the liquidation of the credit institution is compulsory have the duty to submit the information requested by the administrator within fifteen days from the date when the request was sent. The request shall be delivered to a representative of the credit institution or to a person whose participation in the insolvency proceedings or in the liquidation of the credit institution is compulsory, in person, or sent by registered post.

(3) The representatives of the credit institution and the persons whose participation in the insolvency proceedings or the liquidation of the credit institution is compulsory, shall submit the requested information in writing, confirming its accuracy by their signatures.

Section 163.

(1) Administrators shall be fully liable for the losses that have been incurred by the creditors through their fault.

(2) In case of the appointment of several administrators, the administrators shall be liable only for their own actions and in proportion to the losses, which have been incurred by creditors through their own fault. In such case the scope of liability of each administrator shall be determined by a court.

(3) Administrators shall not be liable for losses, which were incurred by creditors before they commenced the performance of their duties.

Section 164.

(1) Actions regarding losses occasioned by administrators may be brought in a court by creditors in accordance with general procedures.

(2) Actions against administrators may be brought not later than within three years after the termination of the insolvency proceedings.

(3) If an administrator has occasioned through his or her activities, losses to creditors or other interested persons, and the court has established the constituent elements of a criminal offence in such activities, the action against the administrator shall be subject to the general limitation period.

(4) The requirements of this Section apply to all administrators who have participated in the relevant insolvency process, regardless of the time or duration of the participation, and each administrator shall be liable only for his or her activities.

Section 165.

The administrator may authorise, in writing, his or her assistant, or any employee of the credit institution, to perform particular activities which are within the powers of the administrator in accordance with this Law. The administrator shall be liable for losses occasioned by the assistant to the administrator or an employee who acts on the basis of such authorisation.

Section 166.

(1) The total proportional amount of remuneration for the administrator and the assistant to the administrator shall be:

1) 15 per cent of the actually recovered and paid into the account of the credit institution at the Bank of Latvia monetary assets, which do not exceed the first recovered ten thousand lati;

2) if the actually recovered and paid into the account of the credit institution at the Bank of Latvia monetary assets exceed ten thousand lati – 15 per cent of the actually recovered and paid into the account of the credit institution at the Bank of Latvia monetary assets, which do not exceed the first recovered ten thousand lati, and 10 per cent of the actually recovered and paid into the account of the credit institution at the Bank of Latvia monetary assets, which exceed ten thousand lati, but which are not more than one hundred thousand lati; or

3) if the actually recovered and paid into the account of the credit institution at the Bank of Latvia monetary assets exceed one hundred thousand lati – 15 per cent of the

actually recovered and paid into the account of the credit institution at the Bank of Latvia monetary assets, which do not exceed the first recovered ten thousand lati, and 10 per cent of the actually recovered and paid into the account of the credit institution at the Bank of Latvia monetary assets, which exceed ten thousand lati, but which are not more than one hundred thousand lati, and five percent of the actually recovered and paid into the account of the credit institution at the Bank of Latvia monetary assets, which exceed one hundred thousand lati.

(2) The administrator and the assistant to the administrator shall receive a fixed remuneration in the following cases and in the following total amounts:

1) from the day of appointment of the administrator up to the adjudication of the insolvency proceedings – a once-only remuneration to the amount of ten minimum monthly wages;

2) up to the completion of bankruptcy proceedings if no monetary assets have been actually recovered – a once-only remuneration the amount of which shall be mutually agreed to by the administrator and the Finance and Capital Market Commission by entering into a relevant written contract, but the maximum amount of which may not exceed 20 minimum monthly wages;

3) in the case of restoration – a monthly salary of 20 minimum monthly wages; or

4) in the case, that the insolvency proceeding is terminated because of the renewal of solvency if solvency is renewed – a once-only remuneration of five per cent of the own capital of the credit institution on the day of the termination of the insolvency proceedings.

(3) in calculating the total proportional remuneration of the administrator and the assistant to the administrator it shall be reduced by the amount of the calculated fixed remuneration.

(4) The money in the cashier's office of the credit institution, the monetary assets that were obtained through selling securities quoted on the stock exchange, and the monetary assets that were obtained by using rights of claim against the Bank of Latvia, credit institutions of Latvia and foreign credit institutions, the operation of which has not been suspended or stopped, the State of Latvia or a foreign state, remuneration (commission) in respect of the financial services provided by the credit institution, as well as monetary assets that are acquired by the sale of the ancillary claim of the claim referred to in this Section, and fruits which are acquired from the insolvency process of the property of the credit institution shall not be considered as recovered assets for the determination of remuneration.

(5) If credit institution has insufficient in order to ensure the remuneration specified in Paragraph two of this Section monetary assets, as well as has insufficient monetary assets, which in accordance with Paragraph four of this Section are not considered to be actual recovered assets for the determination of remuneration, the administrator and the assistant to the administrator shall receive remuneration from the Finance and Capital Market Commission. The amount of the remuneration, which may not exceed 20 monthly minimum wages shall be mutually agreed to by the administrator and the Finance and Capital Market Commission by entering into a written contract and:

1) taking a decision to initiate bankruptcy proceedings; and

2) submitting applications to a court regarding confirmation of the procedures for

the covering of administration costs and debts, specifying of the time period for the covering of costs and debts, commencement of bankruptcy proceedings and termination of insolvency proceedings.

[1 June 2000; 11 April 2002]

Section 167.

(1) The duties of an administrator shall be terminated:

- 1) if the administrator is discharged in accordance with Section 168 of this Law;
- 2) if the administrator resigns in accordance with Section 169 of this Law;
- 3) if the insolvency proceedings are terminated in accordance with Section 150 of this Law; or
- 4) in case of death of the administrator, or if the administrator is a legal person and a decision has been taken and recorded in the Enterprise Registry regarding the insolvency or liquidation of such legal person.

(2) If a change of administrators takes place in accordance with the provisions of Paragraph one, Clause 1 or 2 of this Section, the new administrator shall commence the performance of his or her duties after the deed of acceptance and delivery of property (documents, objects, and the like) has been signed. The deed shall be accompanied by a report on the actions of the previous administrator. Until the signing of such deed, the previous administrator shall continue the performance of duties and shall be liable in accordance with the procedures specified by law.

(3) Upon the termination of the powers of the administrator, a court shall declare the administrator's identification document and seal referred to in Section 156 of this Law as invalid.

(4) A court shall publish the information regarding the termination of the powers of the administrator, and the declaration of the administrator's identification document and seal as invalid, in the newspaper *Latvijas Vēstnesis*.

[11 April 2002]

Section 168.

(1) If the Finance and Capital Market Commission expresses a lack of confidence in an administrator, it shall request a court to discharge such administrator and to appoint another, recommending a new candidacy for the administrator.

(2) It is the duty of the discharged administrator to submit to the Finance and Capital Market Commission and a court, within 15 days from the day of discharge, a report that must present a true and clear view of his or her activities.

[1 June 2000]

Section 169.

(1) Administrators are entitled to withdraw from the fulfilment of their duties, informing the Finance and Capital Market Commission and submitting a written submission to a court regarding their withdrawal, and a report which must present a true and clear view of

their activities. The application shall include the reasons why they are unable to, or do not wish to, continue the performance of an administrator's duties.

(2) An administrator whose withdrawal has been approved by a court shall receive remuneration in accordance with Section 166 of this Law.

[1 June 2000]

Chapter XII

Property of Credit Institutions During Insolvency Proceedings

[21 May 1998]

Section 170.

The property of a credit institution during insolvency proceedings shall be:

- 1) the assets (property) of the credit institution on the day when the insolvency petition was submitted to the court;
- 2) the fruits that were gained from the assets (property) of the credit institution during the insolvency proceedings; and
- 3) other assets (property) lawfully obtained during the insolvency proceedings.

Section 171.

(1) After the declaration of the insolvency of a credit institution, only the administrator shall have the right to administer the property of the credit institution.

(2) The administrator shall administer the property of a credit institution and act with it within the scope of the powers determined by this Law.

(3) Monetary funds that were obtained through the recovery of property during the insolvency proceedings or the selling of the assets of the credit institution, shall be paid in to the account of the credit institution in the Bank of Latvia. An administrator has the right to keep cash in the cashier's office in amounts that are necessary to cover the current expenditures of the insolvency proceedings.

Section 172.

(1) The list of the property of the credit institution shall include deposits and interest on deposits, but shall not include other property belonging to third persons that is in the care of the credit institution.

(2) An administrator shall ensure safekeeping of the property belonging to third persons until its transfer to the owner. An administrator is entitled to collect from third persons the expenditures incurred in relation to the safekeeping of their property.

(3) If the property belonging to third persons has been alienated, and the owners of the property have submitted their claims within the specified time period, the value of such property shall be compensated in full, prior to the satisfaction of other claims. The amount, which has been paid, shall be collected from the person through whose fault the property of the third person was alienated.

(4) If the owners do not take possession of the property belonging to third persons that is in the possession or care of the credit institution by the beginning of the auction of the property of the credit institution, the administrator shall transfer it for safekeeping to a notary. Safekeeping applies to money, documents and securities.

(5) The property belonging to third persons, referred to in Paragraph four of this Section, which is in the possession or care of the credit institution and is not money, documents or securities, shall be sold by the administrator at an open auction, and the funds thereby obtained shall be transferred for safekeeping to a notary together with the documents regarding the organisation and progress of the auction.

Section 173.

(1) Pursuant to the request of an administrator, transactions of a credit institution may be declared void regardless of the type of such transactions, if:

1) they have been concluded after the day when the insolvency came into effect, and the credit institution has occasioned losses to creditors thereby;

2) they have been concluded within five years before the day when the insolvency came into effect, the credit institution has knowingly occasioned losses to creditors thereby, and the person with whom, or on behalf of whom, the transaction was concluded, has known about the occasioning of such losses; or

3) they have been concluded within five years before the day when insolvency came into effect and a court has determined that the credit institution was brought to insolvency by a criminal offence and the person with whom, or on behalf of whom, the transaction was concluded, knew about such offence.

(2) If the transactions by which losses have been occasioned to creditors have been concluded by the credit institution with the interested persons with respect to the credit institution, or on behalf of such persons, it shall be considered that such persons knew of the occasioning of losses or the criminal offence, if they do not prove the contrary.

(3) A secured creditor may submit an action to a court to have a transaction concluded by the administrator declared to be void, if the transaction relates to property pledged for claim security, and the rights of the secured creditor have been violated.

Section 174.

(1) A gift agreement for the property of the credit institution may be declared void in accordance with the provisions of Section 1927 of the Civil Law.

(2) Transactions concluded within five years before the day when insolvency came into effect, or after such day, in which inequality of mutual obligations indicates that actually a gift has been made, may be declared void.

(3) Donations to public organisations registered in Latvia, which promote culture, science, education, sport, health protection or social assistance may not be declared void. A donation to such organisation may be declared void and reclaimed, if there is evidence that the donation is fictitious or is not utilised for the intended purposes.

Section 175.

- (1) A pledge agreement may be declared void upon the request of the administrator, if:
- 1) the right of pledge of the creditor of the credit institution was established after the day when insolvency came into effect, or within the last six months before the day when insolvency came into effect, for such creditor's claim against the credit institution which had not been, until then, previously secured;
 - 2) it was entered into after the day when insolvency came into effect, or within a year before it, and the pledgee was an interested person with respect to the credit institution; or
 - 3) the pledge was alienated in order to satisfy a claim of a secured creditor after the day when insolvency came into effect, or six months before it, and the alienation did not take place at an open auction in cases when the pledge was to be sold at such auction in accordance with law or with the agreement.
- (2) If a pledge agreement is declared void, the relevant secured creditor shall acquire the status of an unsecured creditor.

Chapter XIII Restoration of a Credit Institution

[21 May 1998]

Section 176.

Restoration is a planned set of legal measures with the purpose of preventing a possible bankruptcy of a credit institution, to restore solvency and to satisfy the legal claims of creditors. Restoration of a credit institution is performed in accordance with a restoration plan adopted pursuant to the procedures specified by this Law.

Section 177.

- (1) A restoration plan may be submitted by:
- 1) the administrator;
 - 2) a creditor or group of creditors; or
 - 3) the stockholders of the credit institution who jointly represent not less than one tenth of the paid up equity capital of the joint-stock company.
- (2) A restoration plan shall include:
- 1) the specific measures that will be performed in order to restore solvency of the credit institution;
 - 2) the time periods for the execution of such measures;
 - 3) the necessary funds and the sources of their acquisition;
 - 4) the anticipated time periods for the improvement of solvency of the credit institution, and the amount;
 - 5) the time periods when the credit institution will be able to satisfy all the requirements of law and the regulatory directives and regulations of the Finance and Capital Market Commission; and
 - 6) the procedures by which it is planned to make payments in order to satisfy the

claims of creditors, and the time periods for so doing.
[1 June 2000]

Section 178.

The time period for the preparation of a restoration plan shall be specified by an administrator, but it may not exceed a month from the day when the credit institution was declared insolvent.

Section 179.

(1) The decision on the implementation of restoration shall be taken by the administrator. The decision on the implementation of restoration and the restoration plan shall come into effect after its approval by the Finance and Capital Market Commission and the meeting of creditors. The restoration of the credit institution shall be managed by the administrator in accordance with the restoration plan adopted and approved by the Finance and Capital Market Commission and the meeting of creditors.

(2) A court may revoke a decision on the implementation of a restoration plan on the basis of an application by an administrator, meeting of creditors or the Finance and Capital Market Commission if the adoption of such decision has been achieved by fraud or duress, or a misleading influence has occurred.

[1 June 2000; 11 April 2002]

Section 179.¹

The meeting of creditors and the committee of creditors of the credit institution, administrator and persons the participation of whom in the insolvency proceedings is mandatory, shall be involved in the restoration process.

[11 April 2002]

Section 179.²

(1) The first meeting of creditors shall be convened by the court appointed administrator not later than within a period of three weeks after the decision has been taken regarding the application of restoration (Section 179) for the credit institution.

(2) The administrator shall notify the creditors of the place, time and agenda of the meeting of creditors, not later than two weeks before the specified date of the meeting. The notice regarding the first meeting of creditors shall be published in the newspaper *Latvijas Vēstnesis* and two other newspapers.

(3) If there are more than three hundred creditors, the administrator shall when notifying regarding the meeting of creditors, invite creditors the claims of whom does not exceed one per cent of the whole of the claim amount to authorise a common representative.

[11 April 2002]

Section 179.³

(1) All creditors have the right to be represented at a meeting of creditors, irrespective of the amount of claim. Participation in the meeting of creditors is personal or through the mediation of a lawful or contractual representative.

(2) If the number of creditors more than three hundred, only those creditors who represent not less than one per cent of the whole of the claim amount are entitled to personally participate in the meeting of creditors. In such case one person shall represent several creditors.

(3) Voting rights in the meeting of creditors at which a vote is taken on a restoration plan are also for secured creditors for the full amount of the claim. If the restoration plan is adopted, voting rights in the meeting of creditors during the period of restoration are also for those secured creditors whose rights to sell debentures is restricted.

(4) Secured creditors in the meeting of creditors have voting rights to the extent of the unsecured part of the debt. Secured creditors may withdraw from the security or its part and declare a claim, thus gaining voting rights to the extent of the whole debt or the unsecured part of the debt.

(5) To meetings of creditors shall be invited person the participation of whom in the insolvency proceedings is mandatory.

[11 April]

Section 179.⁴

(1) The meeting of creditors shall:

1) elect the committee of creditors;

2) approve or reject the restoration plan, as well as amendments to it;

3) take a decision regarding the reduction of equity capital in accordance with the restoration plan if the own capital of the company has been less than three-quarters of the company's equity capital or the subscribed equity capital of the company and the shareholders or stockholders have not taken a decision regarding the reduction of equity capital in conformity with the Commercial Law prior to a court adjudication regarding the insolvency of the credit institution; and

4) take a decision regarding an increase in equity capital in accordance with the restoration plan, providing for right of first refusal for the existing shareholders or stockholders to the shares or stocks in conformity with the Commercial Law.

(2) If only one creditor participates in the insolvency proceedings, he or she has all the authorisations of the meeting of creditors provided for in this Law.

[11 April 2002]

Section 179.⁵

(1) The meeting of creditors is chaired by the administrator.

(2) The meeting of creditors is entitled to take a decision irrespective of the amount of debt represented in it if all known creditors were notified of the convening of the meeting within the time period provided for in this Law and if to the meeting persons whose

participation in the insolvency proceedings is mandatory have been invited.

(3) The non-attendance at the meeting of creditors of those persons whose participation in the insolvency proceedings is mandatory shall not be an obstacle for its proceeding if the meeting of creditors has been convened according to the procedures specified in this Law.

(4) The meeting of creditors shall take decisions with a simple majority of those creditors with voting rights on the basis of amount of claims. The number of votes of each creditor shall be specified proportional to his or her declared amount of debt, as well as the amount reflected in the debtor – credit institution documents (accounting records registers) if the creditor claim has not been declared.

(5) The number of votes in the meeting of creditors shall be determined by granting one vote for the smallest known creditor claim (amount of claim); the remaining number of votes shall be specified by dividing the claim (amount of claim) of each creditor with the smallest known creditor claim (amount of claim). The number of votes of each creditor shall be determined before each meeting of creditors taking into account changes in the composition of unsecured creditors and the amount of claims.

(6) Minutes shall be taken during the course of the meeting of creditors. The minute taking shall be ensured by the chairperson of the meeting of creditors.

(7) The meeting of creditors with its justified decision may be suspended for a period of up to one month if more than half of the creditors present on the basis of amounts of claim voted for this, indicating the time, place and agenda for the recommencement of the meeting.

[11 April 2002]

Section 179.⁶

(1) The meeting of creditors may elect a committee of creditors.

(2) It is mandatory for the meeting of creditors to elect a committee of creditors if more than fifty creditors have declared their claims in the insolvency proceedings.

(3) The committee of creditors shall be elected from among the participants with voting rights at the meeting of creditors composed of not less than five and not more than nine members for the whole of the insolvency proceedings period. In the committee of creditors shall be represented all the groups of creditors involved in the relevant insolvency proceedings (Sections 192 and 193).

[11 April 2002]

Section 179.⁷

(1) The committee of creditors has the authorisations in the insolvency proceedings specified in this Law for the meeting of creditors.

(2) The meeting of creditors has the right to remove the committee of creditors.

(3) After its election, the committee of creditors from among its members shall without delay elect a chairperson of the committee of creditors. If the meeting of creditors considers it necessary, it may entrust the chairperson of the committee of creditors, one or more of its members to permanently control the observation of the interests of creditors

during the course of the restoration process. In such case, the meeting of creditors shall determine the remuneration for such person, which shall be included in the costs of administration.

(4) A member of the committee of creditors may withdraw from the fulfilment of duties, providing a warning in writing to the administrator one month beforehand. If the number of members of the committee of creditors becomes less than five, the administrator shall convene a meeting of creditors, which shall elect new members of the committee of creditors.

[11 April 2002]

Section 179.⁸

(1) The form of activity of the committee of creditors is meetings.

(2) The meetings of the committee of creditors are convened and chaired by the chairperson of the committee of creditors. The administrator may request that the chairperson of the committee of creditors convene a meeting of the committee of creditors within a period of one week from day of the submission of the request.

(3) The committee of creditors is entitled to take decisions if more than half of the members elected at the meeting of creditors take part in the meeting. Decisions shall be taken by the committee of creditors by a simple majority of votes of the members of the committee present. If the votes are divided equally, then the deciding vote shall be the vote of the chairperson of the committee of creditors.

[11 April 2002]

Section 179.⁹

(1) A creditor to represent him or her at the meeting of the creditors may authorise not more than one person. The authorised person shall represent the creditor to the full amount of the creditor's claim.

(2) A group of creditors to represent them at the meeting of the creditors may authorise not more than one person. The authorised person shall represent the group of creditors to the full amount of the group of creditors' claim.

[11 April 2002]

Section 180.

(1) The restoration of a credit institution shall be managed by the administrator in accordance with the restoration plan approved by the Finance and Capital Market Commission and the meeting of creditors.

(2) In addition to the rights and powers of an administrator in the course of restoration, specified in Section 161, Paragraph four of this Law, an administrator is entitled to acquire or borrow funds in the name of the credit institution and to pledge the property of the credit institution, respectively co-ordinating this with the meeting of creditors.

(3) If there has been a substantial change in the circumstances, which affect, or may affect, the fulfilment of a restoration plan, the administrator shall make, with the consent

of the meeting of creditors, amendments to the restoration plan and submit it to the Finance and Capital Market Commission for approval or take a decision on revocation of restoration or discontinuation of restoration.

[1 June 2000; 11 April 2002]

Section 181.

(1) The decision on the implementation of restoration, the restoration plan and subsequent decisions regarding amendments to such plan shall be approved by the Finance and Capital Market Commission within 15 days from the day of their submission and the administrator shall submit them for approval to the meeting of creditors.

(2) If the Finance and Capital Market Commission or the meeting of creditors does not approve the restoration plan, or if restoration is revoked or discontinued, the administrator shall take a decision on the initiation of bankruptcy proceedings.

(3) If the Finance and Capital Market Commission or the meeting of creditors does not approve the decision regarding amendments in the restoration plan, the restoration shall be continued in accordance with the previously approved plan.

[1 June 2000; 11 April 2002]

Section 182.

(1) The time period for restoration may not exceed six months from the day when the decision on the implementation of restoration and the restoration plan were approved by the Finance and Capital Market Commission and the meeting of creditors. The time period for restoration shall commence after the restoration plan has been approved by the meeting of creditors. After the end of the initial time period for restoration, the administrator may, with the consent of the Finance and Capital Market Commission and the meeting of creditors, extend the time period for restoration each time by a three-month period, counting from the day when the decision regarding the extension of the time period for restoration and the amendments to the restoration plan were consented to by the meeting of creditors.

(2) The total time period for restoration may not exceed two years.

[1 June 2000; 11 April 2002]

Section 183.

(1) An administrator may request the Finance and Capital Market Commission or the meeting of creditors to discontinue the restoration, if:

- 1) restoration actions are not taking place in accordance with the restoration plan;
- 2) the solvency of the credit institution has not improved to the extent anticipated in the time period specified in the restoration plan; or
- 3) it is determined that the restoration plan cannot be executed.

(2) In case of discontinuation of restoration, the administrator shall take a decision to submit a petition to the court on initiation of bankruptcy proceedings.

[1 June 2000; 11 April 2002]

Chapter XIV Bankruptcy Proceedings for Credit Institutions

[21 may 1998]

Section 184.

(1) A decision on initiation of bankruptcy proceedings shall be taken, upon receipt of a petition, by a court.

(2) A decision of an administrator on the submission of a petition to a court shall be approved by the Finance and Capital Market Commission.

(3) After a court has taken a decision on initiation of bankruptcy proceedings, the administrator shall ensure the use of the phrase “likvidējamā” [to be liquidated] on all particulars of the credit institution.

[1 June 2000]

Section 185.

(1) The basic purpose of bankruptcy proceedings is to gain maximum income from the sale of the assets (property) of a credit institution, thereby ensuring the satisfaction of the creditors' claims as fully as possible.

(2) The sale of the assets (property) of a credit institution shall take place in public auctions, if the law does not specify other alienation procedures in respect of the particular property. Auctions shall be organised by and auction regulations shall be prepared by the administrator.

Section 186.

(1) Within three days after a court has taken a decision on the initiation of bankruptcy proceedings, the administrator shall submit a notice regarding the initiation of bankruptcy proceedings for the credit institution for publication in the newspaper *Latvijas Vēstnesis* and at least in two other newspapers.

(2) The notice shall include:

- 1) the date of the court judgment on initiation of bankruptcy proceedings;
- 2) the time period within which the creditors and other persons must submit their actions and other statements of claims; and
- 3) the given name and surname of the administrator (if the administrator is a legal person, its name and the given name and surname of its authorised representative), the location of operations and the telephone number.

(3) The time period referred to in Paragraph two, Clause 2 of this Section shall be three months. The running of the time period shall begin on the day of publication of the notice in the newspaper *Latvijas Vēstnesis*.

(4) Claims of creditors submitted after the expiration of the time period specified in Paragraph three of this Section, also claims of the State and local government institutions responsible for tax administration and control, shall be satisfied according to the group of

creditors' claims provided for in Section 193, Clause 3 of this Law.

Section 187.

The administrator shall specify the day for beginning the auction of the property of the credit institution and provide notice of it in the newspaper *Latvijas Vēstnesis* and in at least two other newspapers. If it is impossible to begin the auction within the specified time period, the administrator shall decide on the postponement of the day for beginning the auction.

Section 188.

An auction shall include the property of a credit institution referred to in Section 170 of this Law, except monetary funds, as well as the property, which serves as security for the secured creditors in accordance with the valid contracts entered into by the credit institution.

Section 189.

(1) An auction of the property of a credit institution shall take place pursuant to The Civil Law, the Civil Procedure Law and other regulatory enactments, taking into account the exceptions specified in this Section.

(2) The activities of a bailiff provided for in the Civil Procedure Law shall be performed by the administrator.

(3) In the first auction the bidding shall proceed with an ascending step. If the property is not sold at the auction, the bidding in subsequent auctions shall proceed with a descending step.

(4) After the bidder has paid the determined price for the immovable property, the administrator shall prepare and sign a purchase contract, on the basis of which an entry shall be made in the Land Register.

[11 April 2002]

Section 190.

(1) The regulations for a voluntary auction of the pledged property of a credit institution, and the initial price, shall be co-ordinated by the secured creditor with the administrator. The administrator shall represent the interests of the credit institution at the auction, and he or she has the right to request the auction documents (the auction sheet, the minutes of the auction) from the organiser of the auction.

(2) Upon selling of the pledged property of a credit institution at the open market in accordance with Section 1321 of the Civil Law, a property alienation agreement shall be entered into in writing and be co-ordinated with the administrator.

(3) If the provisions of Paragraphs one and two of this Section have not been complied with, there are grounds for disputing the alienation agreement for the pledged property.

(4) If an amount of money has been received for the pledged property of the credit

institution, which exceeds the expenditures for the secured claims and the auction, the administrator shall arrange that the surplus is credited to the account of the credit institution in the Bank of Latvia.

Section 191.

(1) The monetary funds of a credit institution that have been obtained from such mortgage and substitute coverage as has been included, pursuant to the Law on Mortgage Bonds, in the register of mortgage bond coverage, shall be utilised for the fulfilment of obligations arising from the emission of the mortgage bonds. Only when the aforementioned obligations have been fulfilled, the remaining funds may be used to cover other expenses and debts. Procedures for the coverage of other expenses and debts shall be determined by the administrator in accordance with the provisions of Sections 192-195 of this Law.

(2) From those funds of the credit institution that are not included in the register of the mortgage bond coverage, the costs of the insolvency proceedings or liquidation shall be first be fully covered.

Section 192.

After the covering of the expenses of the insolvency proceedings or liquidation, the remaining funds shall be distributed, for the satisfaction of the principal sums (without interest) of the creditors' claims, according to the following groups:

1) payments to depositors, who in accordance with the law are entitled to a guaranteed compensation. Payments shall be specified in the amount of the guaranteed compensation provided for by law. If the depositor has several accounts at a credit institution, it shall be deemed that the depositor has one deposit in the total amount of all the deposits. If a depositor has received the guaranteed compensation, he or she shall lose the right of claim with respect to the amount received, and claims of the deposit guarantee fund against the credit institution shall be treated as claims of this group;

2) claims of employees with respect to the salary for the first three months, counting from the day when payment of salaries was discontinued, with respect to vacation pay and social benefits within a year before the initiation of the insolvency proceedings or the adoption of a court adjudication on liquidation, with respect to compensation for injuries related to an occupational accident or an occupational disease for the whole unpaid period, and the payments of such compensation which are to be made three years in advance into the special State social insurance budget, if the occupational accident occurred, or the occupational disease was incurred, by 1 January 1997, as well as the mandatory payments of State social insurance and personal income tax payments which are related to the payments referred to in this Clause, and the mandatory payments of State social insurance which ensure the receipt of unemployment benefits, or the claims of the State agency *Maksātnespejās administrācija* [Insolvency Administration] if it has satisfied the previously referred to claims from the funds of the employees claims guarantee fund in accordance with the Law On Protection of Employees in case of Insolvency of Employer;

3) taxes and other payments (debts) to the State budget and the budgets of local governments, as well as such transit credits and interest payments for the use of such credits which were paid back to the credit institution before the day when insolvency was declared or the day when the court adopted an adjudication on the liquidation of the credit institution;

4) such debts to creditors which have arisen from a credit institution accepting, but failing to fulfil, payment orders from a client regarding money transfer to accounts of the State or local government budgets; and

5) State claims regarding repayment of credits guaranteed by the State.

[11 April 2002]

Section 193.

After complete satisfaction of the creditors' claims provided for in Section 192 of this Law, the remaining funds shall be distributed for the satisfaction of creditors' claims according to the following groups:

1) the remaining legal claims of the creditors (principal sums without interest), including claims of such creditors as have obtained the status of a creditor after the initiation of insolvency proceedings or the adoption of the court adjudication on liquidation, if they are not, in accordance with this Law, treated as if they were the creditors' claims provided for in Section 192. Deferred tax payments after the performance of payments of the creditors' claims provided for in Section 192 of this Law, the remaining deposits of natural persons and salary debts, as well as other payments arising from lawful employment relations, shall be treated as if they were claims of this group. If a creditor's deposit has been insured and the creditor has received insurance compensation, the claims of the relevant insurance company (fund) against the credit institution shall be treated as if they were claims of this group;

2) claims regarding interest payments to the creditors;

3) claims of such creditors who have submitted their claims after the specified time limit; and

4) claims regarding the funds which creditors have loaned to the credit institution for a definite time period, with the condition that they may be requested before the expiration of such time period only in the case of liquidation of the credit institution.

Section 194.

The claims of each subsequent group of creditors shall be satisfied only after complete satisfaction of the previous group of creditors. If the funds of the credit institution are insufficient to fully satisfy all claims of the creditors of one group, such claims shall be satisfied proportionately to the amount due to each creditor within such group.

Section 195.

The funds which remain after the satisfaction of the claims referred to in Sections

192 and 193 of this Law shall be distributed to the stockholders of the credit institution proportionately to the amount of the contribution of each.

[11 April 2002]

Chapter XV Liability

[21 May 1998]

Section 196.

For attraction of deposits and other repayable funds without obtaining a licence (permit) from the Finance and Capital Market Commission:

1) the Finance and Capital Market Commission shall impose a fine up to 5000 lati upon a legal person; and

2) a natural person shall be subject to administrative or criminal liability.

[21 May 1998; 1 June 2000]

Section 197.

Administrative or criminal liability applies to a person who:

1) has knowingly submitted false or incomplete information, or has not provided the information requested in accordance with this Law; and

2) has hindered an authorised representative of the Bank of Latvia in performing examinations, has not submitted information, documents or explanations within the specified time period, or has submitted imprecise or false information.

Section 198.

(1) If a credit institution does not fulfil the requirements of Section 8 of this Law, the Finance and Capital Market Commission and the Bank of Latvia are entitled to impose a fine on the credit institution up to 1000 lati.

(2) If a credit institution does not fulfil the requirements of Sections 32, 90, 91, 95 and 96 or Section 106, Paragraph four, the Finance and Capital Market Commission is entitled to impose a fine on the credit institution up to 1000 lati.

[21 may 1998; 1 June 2000]

Section 199.

For other activities which have resulted in violation of the requirements of this Law or of the regulatory enactments arising from it:

1) the Finance and Capital Market Commission and the Bank of Latvia shall impose a fine up to 5000 lati on a legal person; and

2) a natural person shall be subject to administrative or criminal liability.

[1 June 2000]

Section 200.

If the chairperson or the members of the council or the board of directors, the executive managers or the employees of a credit institution have intentionally granted unjustified priority rights to any creditor, or have agreed that such rights be granted, the relevant person shall be subject to administrative or criminal liability.

Section 201.

The fines collected for the violations specified in Sections 196, 198 and 199 of this Law shall be paid into in the State budget.

[1 June 2000]

Section 202.

Persons who , due to neglect or intentionally, have brought a credit institution to a state of insolvency, the result of which is manifested as a criminal bankruptcy, shall be subject to criminal liability.

[21 may 1998]

Section 203.

If the chairperson or the members of the council or the board of directors of a credit institution, or the liquidators of a credit institution, have failed to submit an insolvency petition in the cases provided for by Section 138 and Section 140, Paragraph two of this Law, the offenders shall be subject to criminal liability for the failure to submit an insolvency petition in the cases provided for by law.

[21 may 1998]

Section 204.

(1) If an insolvency petition has been held to be knowingly false, its submitter shall cover the court costs and the expenses of the insolvency proceedings.

(2) A petition in which knowingly false information has been submitted or information has been concealed, and due to which the credit institution may be, or has been, unjustifiably declared insolvent, shall be considered to be a knowingly false insolvency petition.

(3) The petition of a creditor shall not be considered to be a knowingly false insolvency petition, if the credit institution, while being solvent, has not fulfilled the commitments.

[21 May 1998]

Section 205.

(1) For submission of a knowingly false insolvency petition the debtor or the creditor shall be subject to criminal liability.

(2) The submitter of a knowingly false insolvency petition shall be liable for the harm occasioned to the credit institution as a result of the false petition.

[21 May 1998]

Section 206.

A creditor or another person interested in the insolvency proceedings of a credit institution may be subject to criminal liability for the knowing violation of the insolvency proceedings, which is manifested as a failure to provide, or concealment of, the information requested by a court or an administrator and prescribed by law, the submission of false information, the avoidance of participation in the examination of the matter, the illegal alienation of property during the insolvency proceedings, the concealment, destruction or falsification of property, transactions, documents, or other knowingly acts which hinder the course of the insolvency proceedings.

[21 May 1998]

Section 207.

An administrator may be subject to criminal liability for knowingly concealing of information from a court, for misleading it, for the performance of transactions, not provided for by this Law, in favour of one creditor or one group of creditors at the expense of other creditors.

[21 May 1998]

Section 208.

The administrative instruments issued by the Finance and Capital Market Commission in relation to a particular credit institution or its officials may be appealed to a court within a period of one month after the coming into effect of the relevant administrative instrument.

[11 April 2002]

Transitional Provisions

1. With the coming into force of this Law, the Law On Banks (*Latvijas Republikas Augstākās Padomes un Valdības Ziņotājs*, 1992, No. 22/23 and No. 44/45; *Latvijas Republikas Saeimas un Ministru Kabineta Ziņotājs*, 1994, No. 11), Cabinet Regulation No. 212, Regulations for Commercial Banks issued in accordance with the procedures of Article 81 of the Constitution (*Latvijas Vēstnesis*, 1995, No. 109), Cabinet Regulation No. 213, Regulations Regarding Compensation of Deposits for Natural Persons (*Latvijas Vēstnesis*, 1995, No. 109), and Cabinet Regulation No. 211, Regulations Regarding Restoration and Bankruptcy of Commercial Banks (*Latvijas Vēstnesis*, 1995, No. 109) are repealed.

2. Sections 42, 43 and 49 of this Law shall come into force on 1 January 1996.

3. In applying the requirements of Section 35, Paragraph two, and Section 59 of this Law:

1) the registered banks shall observe that the minimum founding capital of a bank is:

- from the day of the coming into force of this Law until 31 March 1996 – not less than 100 000 lati,

- from 1 April 1996 until 31 March 1998 – not less than 1 000 000 lati, and

- from 1 April 1998 until 31 December 1999 – not less than 2 000 000 lati.

2) [30 October 1997]

4. The norms of Section 38 of this Law shall not apply to the recognised internal debt of the State from the moment of the coming into force of the 1 October 1992 decision No. 411 of the Council of Ministers of the Republic of Latvia (*Latvijas Republikas Augstākās Padomes un Valdības Ziņotājs*, 1992, No. 49/50).

5. Registered banks shall fulfil the requirements of Section 21 of this Law by 31 December 1999.

6. With the coming into force of this Law, pawnshops shall continue to operate in accordance with the Law On Joint-Stock Companies and other laws, but the licences issued by the Bank of Latvia shall be annulled. They shall be transferred to the Bank of Latvia by 1 December 1995.

7. Compensation payments to depositors – natural persons – whose deposits are located in commercial banks which have become bankrupt or have been declared insolvent by the day of the coming into force of this Law, shall be continued in accordance with the procedures specified by the Cabinet.

8. In accordance with the provisions of Clause 7 of the Transitional Provisions of this Law, the right of claim in the amount of the State-guaranteed compensation, regarding the funds which have been recovered from a commercial bank which has become bankrupt or been declared insolvent, shall be transferred from the natural person – depositor to the Ministry of Finance.

9. The procedures for the coming into force of Sections 12.1, 12.2, 12.3 and 108.1 shall be determined by a special law.

10. Section 161, Paragraph two, Clause 16 and the amendment to Section 192, Clause 2 of this Law shall come into force on 1 January 2003.

11. Section 24, Paragraph one, Clause 3 of this Law shall come into force on 1 April 2004, but Paragraph two – on 1 April 2007.

12. Insolvency (bankruptcy) or liquidation proceedings of credit institutions that were commenced prior to the coming into force of this law [amending Law of 11 April 2002], shall be resolved and completed according to procedures that were specified in the Credit Institutions Law up to the day of the coming into force of this law [amending Law of 11 April 2002].

13. Amendments to Section 63 of this Law shall come into force at the same time as the coming into force of the Bailiff Law.
[30 May 1996; 30 October 1997; 21 May 1998; 11 April 2002; 24 October 2002]

The Law shall come into force on the day of its publication.

The Law has been adopted by the *Saeima* on 5 October 1995.

Acting for the President
Chairperson of the *Saeima*

A. Gorbunovs

Rīga, 24 October 1995

Transitional Provisions Regarding Amendments to the Credit Institution Law

Transitional Provisions (regarding amending law of 12 June 1996)

1. With the coming into force of this Law, Cabinet Regulation No. 118, Amendments to the Credit Institutions Law issued in accordance with the procedures of Article 81 of the Constitution (*Latvijas Vēstnesis*, 1996, No. 64), is repealed.

2. Amendments made to Sections 60 and 74 of the Credit Institutions Law shall come into force on 1 January 1997.

3. After 1 January 1999, in relation to accounts which were opened without client identification prior to the date of the coming into force of the amendments made to Section 60 of the Credit Institutions Law, no operations may be conducted without identification of the account holder, except the closing of the account.

Transitional Provisions (regarding amending law of 13 November 1997)

1. Sections 1, 4 and 5 of this Law shall come into force on 1 January 1998.
2. With the coming into force of Section 6 of this Law, Cabinet Regulation No. 272, Amendments to the Credit Institutions Law issued in accordance with the procedures of Article 81 of the Constitution (*Latvijas Republikas Saeimas un Ministru Kabineta Ziņotājs*, 1997, No. 18), is repealed.

Transitional Provisions
(regarding amending law of 21 May 1998)

1. The Cabinet shall prepare and issue regulations on the civil liability insurance for the activities of the administrator referred to in Section 155 of the Credit Institution Law.
2. The norms of the Credit Institution Law which regulate the security of administrators in such cases, if they by their actions cause harm to creditors or other persons (civil liability insurance for the activities of the administrator), shall not be applied, until the regulations on the civil liability insurance for the activities of the administrator issued by Cabinet have come into force.
3. Insolvency (bankruptcy) or liquidation proceedings of a credit institution which were commenced prior to the coming into force of this Law, shall be resolved pursuant to the procedures which were specified by the provisions of Chapter IX "Liquidation and Bankruptcy of Credit Institutions" of the Law, except for cases, which are provided for in Paragraphs 4 and 5 of the Transitional Provisions.
4. The provisions of Section 164 of the Credit Institutions Law also relates to those credit institution liquidators (administrators), who have fulfilled the duties of a credit institution liquidator (administrator) prior to the coming into force of this Law or fulfil them at the time of the coming into force of this Law.
5. The provisions of Sections 135 and 166 of the Credit Institutions Law also relates to those credit institution liquidators (administrators) who at the time of the coming into force of this Law, fulfil the duties of a credit institution liquidator (administrator), however, a recalculation of the remuneration received during the previous period of the activities shall not be conducted.

This Law shall come into force simultaneously with the relevant amendments to the Civil Procedure Code of Latvia.

Amendments to Section 2; Section 60, Paragraphs two, three and four; Section 63, Paragraph one, Clause 5 and Section 74 of the Credit Institution Law shall come into force on 1 June 1998.

Amendments to Section 1, Clause 7, Sub-clauses d) and e); Section 1, Clause 19, Sub-clause b); Sections 43, 44 and 45; Section 47, Paragraph two, Clause 2 and Section 50.1 of the Credit Institution Law shall come into force on 1 January 1999.