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Decree of 22 May 2012 laying down further rules with regard to the financial markets in the public entities of Bonaire, St Eustatius and Saba and the financial enterprises that are active in these markets (Financial Markets (BES Islands) Decree)

(Text as published in the Official Journal, 2012, no. 238)

We Beatrix, by the grace of God, Queen of the Netherlands, Princess of Oranje-Nassau, etc. etc. etc.

On the recommendation of Our Minister of Finance of 2 November 2011, No. FM/2011/9925 M;
In view of Sections 1:1, 1:3, subsection 4, 1:10, subsection 2, 1:27, subsection 1(b) and subsection 3, 2:6, subsection 3, 2:18, subsections 2 and 3, 2:19, subsection 3, 2:20, subsection 3, 2:23, subsection 5, 3:2, subsection 2, 3:4, subsection 3, 3:5, subsection 2, 3:6, subsections 1 and 2, 3:8, subsection 2, 3:9, subsection 2, 3:11, subsection 2, 3:12, subsection 3, 3:13, subsection 3, 3:16, subsection 3, 3:17, subsections 3 and 5, 3:18, subsections 1 and 2, 3:19, subsection 4, 3:21, subsection 1, 3:23, subsection 5, 3:24, 3:34, subsections 1 and 2, 3:35, subsections 1 to 3, 3:36, subsections 1 and 4, 3:45, subsection 5, 3:46, subsections 3 and 5, 4:3, subsection 2, 4:4, subsection 1, 4:5, subsection 2, 4:10, subsection 3, 4:11, subsection 4, 4:23, subsection 3, 4:26, subsection 3, 4:33, subsections 1 and 2, 4:42, subsection 2, 4:48, 5:4, subsection 3, 5:5, subsection 3, 5:10, subsections 2 and 3, 5:12, 5:14, subsections 2 and 3, 5:15, subsection 2, 5:21, subsection 3, 5:22, subsection 3, 5:25, subsection 3, 5:26, subsection 3, 5:27, subsection 3, 6:17, subsection 1, 7:30, subsection 2, 7:31, subsection 1, 8:3, subsection 2 and 8:5, subsection 3 of the Financial Markets (BES Islands) Act;
Having heard the Advisory Division of the Council of State (recommendation of 3 February 2012, No. W06.11.0468/III;
In view of the additional report by Our Minister of Finance of 14 May 2012, No. FM 2012-0204 U;

Have approved and decreed:

CHAPTER 1. GENERAL PROVISIONS

Section 1:1 (definitions)

Unless otherwise provided, in this Decree and the provisions based on it the following terms have the following meanings:
depositary: a depositary, as referred to in Section 4:4, subsection 1 of the Act, affiliated with an investment institution;
credit union: a credit institution with the legal form of a cooperative society whose object is to assist its members in saving and providing credit;
Act: Financial Markets (BES Islands) Act.

Section 1:2 (professional market participants)

By a regulation from Our Minister, persons who satisfy the criteria that are to be laid

down in said regulation with regard to the nature and scope of their activities, can be designated as professional market participants.

Section 1:3 (excepted advisers)

With regard to acting as an adviser, the Act does not apply to advisers who have a main professional activity other than providing financial services or offering financial products and who, by virtue of said activity, have insight into the financial position of a consumer or client, in so far as they give advice to a consumer or client without receiving a commission from the provider for this, without offering the recommended product or without providing other financial services with regard to the recommended product and their recommendations follow naturally from their main professional activity.

Section 1:4 (excepted investment institutions)

1. Chapters 2 to 5, with the exception of Sections 2:21 and 2:22 and paragraphs 4 and 5 of Chapter 5, do not apply to:
a. investment institutions that only offer participation rights in restricted circles or to professional market participants;
b. management companies and depositaries in so far as they manage the investment institutions referred to in (a) or are charged with the custody of the assets of these investment institutions;
c. investment institutions which satisfy the following requirements:
1^0. not more than 25 natural persons can participate in the investment institution;
2^0. not more than USD 10,000 is invested per participant;
3^0. the investment institution does not assume any obligations as a result of which the participants may be required to make additional payments;
4^0. the monies or other assets are not requested, or the participation rights are not offered by natural or legal persons who act in a professional or commercial capacity or invest in securities or other investments;
d. investment institutions whose balance sheet totals consist for less than 50% of investments and whose total realized revenues are generated for less than 50% from investments.
2. An investment institution as referred to in subsection 1(d) which makes a prospectus available shall specify therein that it is not under the supervision of the Netherlands Authority for the Financial Markets.

Section 1:5 (excepted intermediaries in purchase financing)

Chapters 2 to 5, with the exception of Sections 2:21, 2:22, 4:40, subsection 3, 5:2, 5:3 and 5:4 and paragraphs 4 and 5 of Chapter 5, do not apply to intermediaries in purchase financing used to procure the enjoyment of a movable property or the provision of a service, if the term of the purchase financing agreement does not exceed the expected economic life of the procured movable property or the period during which the service is provided, and the intermediary in purchase financing:
a. does not give the consumer advice about the purchase financing; and
b. has a main professional activity other than providing mediation services in respect of purchase financing.

Section 1:6 (excepted electronic money institutions)

The Act does not apply to the issue of electronic money that can only be used:
a. in business premises used by the enterprise or institution that issued the electronic money, or on whose behalf this was issued;
b. by virtue of a trade agreement with the enterprise or institution referred to in (a) within a restricted network of service providers;
c. or for a limited range of products or services.

Section 1:7 (excepted financial services for own employees)

1. With regard to acting as an adviser, the Act does not apply to advisers in so far as they give advice about financial products other than loans to consumers who are in their employ or otherwise fall under their responsibility.
2. With regard to acting as an intermediary, the Act does not apply to intermediaries in so far as they provide mediation services in respect of financial products other than credit for the benefit of consumers who are in their employ or otherwise fall under their responsibility.
3. With regard to acting as an authorized or indirectly authorized underwriting agent, the Act does not apply to authorized or indirectly authorized underwriting agents in so far as they arrange insurance for consumers who are in their employ or otherwise fall under their responsibility.

Section 1:8 (excepted financial services by or for pension funds)

This Act, with the exception of Chapter 1, Chapter 5, paragraphs 4 and 5 and Chapters 6 and 7, does not apply to:
a. the provision of financial services or the offering of financial products, not being participation rights in investment institutions, by pension funds in so far as they provide these financial services or offer these financial products to the business sector or enterprise with which they are affiliated;
b. acting as an investment manager for the benefit of pension funds or related funds by persons who are associated with the fund to which this financial service is provided.

Section 1:9 (excepted credit providers)

1. This Act does not apply to:
a. the exclusive provision of credit by an employer to its employees or the provision of a financial service relating to said credit as a subsidiary activity:
1°. Interest-free or at an interest rate that is lower than the customary interest rate on the market;
2°. at an interest rate that is not higher than the customary interest rate on the market and under conditions that are more favourable for the consumer than the customary conditions on the market;
b. providing credit, or providing a financial service relating to such credit, which must be paid off within three months and in respect of which only negligible costs are charged to the consumer.
2. This Act, with the exception of Sections 5:3, 5:4 and 5:15, does not apply to offering or providing financial services in respect of an authorised debit balance whereby a consumer is obliged to pay off within one month.

Section 1:10 (excepted funeral service insurers)

Chapters 2 to 5, with the exception of Sections 2:21 and 2:22 and paragraphs 4 and 5 of Chapter 5, do not apply to funeral service insurers with fewer than 200 insured parties.

Section 1:11 (through-charge supervision costs)

1. The supervising authority charges the financial enterprises which are under its supervision pursuant to Section 1:5, subsection 3, or 1:6, subsection 3, of the Act an annual amount in partial reimbursement of the expenses, referred to in Section 1:10, subsection 2 of the Act, in accordance with the rates established pursuant to Section 1:10, subsection 3 of the Act for this purpose.
2. The rates referred to in subsection 1 will be determined for different categories of financial enterprises, classified according to the nature and scope of their activities. When determining these levels, a distinction can also be made between financial enterprises that have their registered office in a public entity and financial enterprises that have their registered office in a foreign country.
3. Payment of the amount that is due pursuant to subsection 1 shall be made in a manner and within a period to be determined by the supervising authority.

Section 1:12 (exemptions)

1. The supervising authority can, on request, wholly or in part, for a specified period or otherwise, grant an exemption from Sections 3:4, 3:23 to 3:25, 3:29, 4:2, 4:3, 4:8, 4:20 to 4:26, 4:28, 4:29, 4:37 to 4:41, 4:47 to 4:51, 5:2 to 5:6, 6:2 to 6:4, 7:2, 7:4, 7:6 to 7:17, subsections 2 to 8, 7:20, subsections 2 to 8 and 8:1.
2. The Netherlands Authority for the Financial Markets can only grant an exemption from Section 4:14, subsection 2 of the Act if the activities are carried on within a restricted circle.

CHAPTER 2. MARKET ACCESS

§ 1. Application for a Licence

Section 2:1 (application form)

1. A licence application pursuant to the Act shall be submitted using the form that will be determined by the supervising authority for this purpose. The form will be made available at the request of an applicant.
2. The application form and the information and documents that are to be provided therewith by virtue of this paragraph shall be submitted in single copy, whereby the aforementioned information and documents shall be provided in such a form that the supervising authority will be able to make a proper assessment.

Section 2:2 (general information licence application)

When applying for a licence, a financial enterprise shall, where applicable, provide the supervising authority with the following information and documents about the financial enterprise:
a. the name, address and telephone and fax numbers;
b. the legal form;

c. the registered office, the name given in the articles of association and the trade name or trade names;
d. an extract from the Commercial Register;
e. a certified copy of the articles of association;
f. the operating plan which the financial enterprise intends to carry out in or from the public entities;
g. if the financial enterprise has its registered office in the public entities:
1°. the name, address and telephone and fax numbers of any branch offices in a foreign country;
2°. the operating plan which the financial enterprise intends to carry out from branch offices (if any) in a foreign country;
h. if the financial enterprise has its registered office in a foreign country:
1°. a statement by the supervisory authority of the state where it has its registered office showing that the financial enterprise is authorized to carry out activities that require a licence, referred to in Section 3:2 of the Act, in the state where it has its registered office;
2°. the names, addresses and telephone and fax numbers of any branch offices in the public entities.

Section 2:3 (a financial enterprise which has its registered office in the public entities)

1. A financial enterprise which has its registered office in the public entities shall enclose information and documents with the licence application on the basis of which the supervising authority will be able to assess if, in so far as applicable to the financial enterprise concerned, the rules laid down by or pursuant to Sections 3:4 to 3:6, 3:8 to 3:13, 3:16 to 3:19, 3:22 to 3:24, 3:33, 3:45 and 3:46 of the Act will be complied with, as well as:
a. for investment institutions: the rules laid down by or pursuant to Sections 4:1 to 4:5 and 4:10 of the Act;
b. for the owners of a stock exchange: the rules laid down by or pursuant to Sections 4:15 and 4:16 of the Act;
c. for credit institutions: the rules laid down by or pursuant to Sections 4:18 and 4:21 of the Act;
d. for insurers: the rules laid down by or pursuant to Sections 4:25 and 4:28 to 4:34 of the Act.
2. An intermediary which has its registered office in the public entities shall also provide the supervising authority with information and documents relating to any business relationships with insurers that show that he is dependent or independent.
3. An authorized or indirectly authorized underwriting agent which has its registered office in the public entities shall also provide the supervising authority with the name of the insurer to whom the authorization applies.

Section 2:4 (financial enterprise which has its registered office in a foreign country)

1. A financial enterprise which has its registered office in a foreign country shall enclose information and documents with the licence application on the basis of which the supervising authority will be able to assess if, in so far as applicable to the financial enterprise concerned, the rules laid down by or pursuant to Sections 3:4 to 3:6, 3:8 to 3:13, 3:23 and 3:24 of the Act will be complied with, as well as:

a. for investment institutions: the rules laid down by or pursuant to Sections 4:1 to 4:5 and 4:10 of the Act;
b. for the owners of a stock exchange: the rules laid down by or pursuant to Sections 4:15 and 4:16 of the Act;
c. for credit institutions: the rules laid down by or pursuant to Section 4:18 of the Act;
d. for insurers: the rules laid down by or pursuant to Sections 4:25 and 4:28 to 4:34 of the Act.
2. Section 2:3, subsections 2 and 3 apply *mutatis mutandis* to an intermediary or an authorized or indirectly authorized underwriting agent who has his registered office in a foreign country.

Section 2:5 (operating plan life insurer)

The operating plan, referred to in Section 2:2(f) and (g), under 2°, of a life insurer which has its registered office in a public entity shall contain:
a. a statement of the nature of the agreements which the insurer intends to conclude;
b. the policy conditions which the insurer intends to use;
c. the rates which the insurer intends to apply;
d. the technical bases which the insurer intends to apply, in particular the information that is necessary to calculate the rates and technical provisions;
e. an explanation of the guiding principles as far as reinsurance is concerned;
f. an estimate of the costs of setting up the administrative office and the organization for securing business, as well as supporting documents showing that the insurer has the financial resources to cover these costs;
g. an estimate for the first three financial years of the liquidity position;
h. an estimate for the first three financial years of the probable income and expenditure with regard to the direct insurance policies, the accepted reinsurance policies and the outward reinsurance policies;
i. an estimate for the first three financial years of the financial resources for covering the insurance liabilities;
j. an estimate for the first three financial years of the financial resources for covering the solvency margin.

Section 2:6 (operating plan non-life insurer)

The operating plan, referred to in Section 2:2(f) and (g), under 2°, of a non-life insurer which has its registered office in a public entity shall contain:
a. the information and documents referred to in Section 2:5(b), (c), (e) to (h), (j) and (k);
b. a statement of the nature of the risks which the insurer intends to cover;
c. an estimate for the first three financial years of the administrative expenses other than those referred to in Section 2:5(g), in particular the general expenses and commissions;
d. an estimate for the first three financial years of the premiums and of the claims relating to the direct insurance policies, the accepted reinsurance policies and the outward reinsurance policies.

Section 2:7 (operating plan insurer which has its registered office in a foreign country)

1. The operating plan, referred to in Section 2:2(f), of a life insurer which has its registered office in a foreign country shall contain:
a. a statement of the nature of the agreements which the insurer intends to conclude in the public entities;
b. the policy conditions which the insurer intends to use in the public entities.
2. The operating plan, referred to in Section 2:2(f), of a non-life insurer which has its registered office in a foreign country shall contain:
a. a statement of the nature of the risks which the insurer intends to cover in the public entities;
b. the policy conditions which the insurer intends to use in the public entities.
3. A life insurer or non-life insurer which has its registered office in a foreign country shall add its financial statements for the past three financial years to the operating plan.

§ 2. Reporting Changes

Section 2:8 (changes in antecedents)

1. A financial enterprise which has been granted a licence pursuant to this Act shall notify the supervising authority of any changes in the information that it previously provided to the supervising authority in respect of the properness of the persons referred to in Section 3:4, subsection 1 of the Act.
2. The financial enterprise shall report the changes in writing and without delay after it has learned of these changes in the course of normal business operations.

Section 2:9 (change of policymakers)

1. A financial enterprise that has been granted a licence pursuant to this Act shall notify the supervising authority of the intention to change:
a. the persons who determine the day-to-day policy of the financial enterprise or who determine or co-determine the policy of the financial enterprise;
b. if applicable, the persons who form part of a body that is responsible for the supervision of the policy and the general course of affairs of the financial enterprise.
2. With regard to the intention referred to in subsection 1, the financial enterprise shall provide information and documents on the basis of which the supervising authority will be able to assess if, in respect of the person concerned, the financial enterprise complies with the rules laid down by or pursuant to Sections 3:4 and 3:5 of the Act with regard to properness and fitness.
3. The financial enterprise shall not carry out the intentions referred to in subsection 1 until after the supervising authority has agreed to the changes. The supervising authority shall take a decision with regard to approval within eight weeks of receiving the notification.

Section 2:10 (changes in information about the financial enterprise)

A financial enterprise that has been granted a licence pursuant to this Act shall notify the supervising authority within two weeks in writing of a change in the information and documents relating to the financial enterprise that it provided to the supervising

authority pursuant to Section 2:2.

Section 2:11 (establishing a branch office and discontinuation of the activities of a branch office)

1. A financial enterprise which has its registered office in the public entities shall notify the supervising authority in writing of its intention to:
a. establish a branch office in a foreign country;
b. to discontinue the business operations from a branch office in a foreign country.
2. A financial enterprise which has its registered office in a foreign country shall notify the supervising authority in writing of the intention to discontinue the business operations from a branch office in the public entities.
3. The financial enterprise shall not carry out the intention referred to in subsections 1 and 2 until four weeks after the notification.

§ 3. Financial Markets Register

Section 2:12 (entry in the register)

1. The supervising authority is responsible for the layout and set-up of the financial markets register, referred to in Section 2:19, subsection 1 of the Act, such that the date from which the registered financial enterprises are allowed to carry out activities and the nature of these activities, including any restrictions that have been imposed, as well as the state where they have their registered office, can be determined from the register. The register shall be set up in such a way that it can be consulted on a website of the supervising authority.
2. With respect to a registered financial enterprise, the register will specify:
a. in cases to be determined by a regulation from Our Minister, the exemptions that apply to the financial enterprise;
b. exemptions granted pursuant to Section 1:27 of the Act;
c. if applicable, that it will wind up its business in accordance with Section 2:17 of the Act;
d. prohibitions imposed pursuant to Section 7:20 of the Act.
3. The register shall also specify:
a. if applicable, the management company and depositary affiliated with a registered investment institution, which management company and depositary shall be listed in the register with the investment institution concerned;
b. the name of the insurer to which the authorization of a registered authorized agent or indirectly authorized underwriting agent applies, which name of the insurer shall be listed in the register with the authorized or indirectly authorized underwriting agent concerned;
c. if a registered intermediary is dependent or independent on one or more insurers.

Section 2:13 (deregistration)

The entry in the register of a financial enterprise whose licence has been revoked will be cancelled as soon as the decision to revoke becomes effective. As long as this decision has not yet become final and conclusive, this will be specified by its deletion.

Section 2:14 (inspection of the register)

1. The supervising authority shall ensure that the information referred to in Section 2:12 will be back-dated at least five years.
2. The supervising authority shall, if so requested, on payment of the cost price, provide any person with copies taken from the register.

§ 4. Foreign Insurers and Credit Institutions

Section 2:15 (conditions inbound services insurers)

An insurer as referred to in Section 2:23, subsection 1 of the Act, not being an insurer which has its registered office in Curaçao or Sint Maartin, shall only be allowed to offer insurance policies in the public entities from a foreign country if, in view of the nature and value of the interest that is to be insured, this concerns risks that cannot be insured in the public entities.

Section 2:16 (further rules with regard to notifications)

1. An insurer as referred to in Section 2:23, subsection 1 of the Act shall use a form determined by the Dutch Central Bank for notifications prescribed pursuant to said subsection.
2. If an insurer as referred to in subsection 1 intends to offer third-party insurance, resulting from the use of motor vehicles, it shall prove that it complies with Section 4:32 of the Act and with Section 6:8 of this Decree.
3. If an insurer as referred to in subsection 1 intends to offer insurance policies as referred to in Section 6:7, subsection 2, it shall prove that it satisfies the requirements set by or pursuant to said section.

Section 2:17 (admission of branch offices)

1. A credit institution which has its registered office in a foreign country shall only be allowed to conduct the business of credit institution through a branch office in the public entities, if:
a. the sum of the current accounts and deposits held at the branch office at the end of the last closed financial year does not exceed an amount to be determined by a regulation from Our Minister; and
b. the credit institution only or primarily targets residents of the public entities of Curaçao or Sint Maartin or businesses which have their registered office there from the branch office.
2. An insurer which has its registered office in a foreign country shall only be allowed to conduct insurance business through a branch office in the public entities if:
a. the gross premiums received by the branch office over the last closed financial year do not exceed an amount to be determined by a regulation from Our Minister; and
b. the insurer only or primarily targets residents of the public entities of Curaçao or Sint Maartin or businesses which have their registered office there from the branch office.
3. A credit institution as referred to in subsection 1 or an insurer as referred to in subsection 2 which no longer meets the conditions set in subsection 1 or 2 should report this immediately to the Dutch Central Bank. The Dutch Central Bank shall give

the credit institution or insurer the opportunity to comply with the conditions at a later stage, within a reasonable time limit to be set by the Dutch Central Bank, or to transfer its activities to a legal entity which has or will have its registered office in the public entities or, alternatively, to wind them up.
4. The Dutch Central Bank can prescribe further rules with regard to subsections 1 to 3.

CHAPTER 3. MANAGEMENT, ORGANIZATION AND BUSINESS OPERATIONS

§ 1. Policymakers

Section 3:1 (properness test)

1. The supervising authority shall assess the properness of a person as referred to in Section 3:4, subsection 1 of the Act on the basis of his/her intentions, acts and antecedents.
2. In the assessment referred to in subsection 1, the supervising authority shall in any event take account of the antecedents referred to in Appendix 1, as well as:
a. the interrelation between the action or actions underlying a record and the other circumstances of the case;
b. the interests which the Act intends to protect;
c. the other interests of the financial enterprise and the party concerned.
3. The properness of the persons referred to in subsection 1 will be reassessed every three years.

Section 3:2 (antecedents which cast doubt on the properness)

The properness of a person as referred to in Section 3:1, subsection 1 is not beyond doubt if he was convicted of a crime, referred to in part 1 of Appendix 1, unless eight years or more have passed since the judgment became final and conclusive.

Section 3:3 (sources for the properness test)

1. The supervising authority shall gain insight into the intentions, acts and antecedents referred to in Section 3:1, subsection 1 on the basis of:
a. information provided by the party concerned;
b. information, taken from information from the Criminal Records Office, provided by the procurator general;
c. information obtained from the Tax and Customs Administration;
d. information obtained from Dutch or foreign government agencies or from Dutch or foreign, government-appointed agencies that are responsible for the supervision of financial markets or persons who are active in said markets;
e. official reports from the Public Prosecution Service;
f. information obtained from references provided by the party concerned;
g. information from open sources;
h. information obtained from liquidators or administrators in respect of bankruptcies, moratoria, debt rescheduling, administration or emergency regulations in which the person referred to in Section 3:1, subsection 1 was involved;
i. information obtained from the organizations of current or former professional colleagues of the party concerned;

j. information obtained from other sources to be designated by a regulation from Our Minister.
2. If the information obtained in accordance with subsection 1 gives the supervising authority grounds for further investigation, the supervising authority can also request information from persons or agencies other than those referred to in said subsection. In that case, the supervising authority shall notify the party concerned beforehand in writing about:
a. the reason for the further investigation;
b. the persons or agencies from whom more detailed information will be obtained;
c. the nature of the more detailed information.

Section 3:4 (fitness test)

Expertise in connection with the conduct of the business of non-life or life insurance intermediary or authorized or indirectly authorized underwriting agent shall be demonstrated on the basis of a diploma recognized by a regulation from Our Minister.

Section 3:5 (dual control principle and place of work)

1. The day-to-day policy of an investment institution, depositary, credit institution, trust service provider or insurer shall be determined by no less than two natural persons.
2. A credit institution or insurer which has its registered office in the public entities shall have a supervisory board or similar body that consists of no less than three members, that is responsible for the supervision of the policy and the general course of affairs of the financial enterprise.
3. If an investment institution which has its registered office in the public entities has a supervisory board, it should consist of at least three members.
4. At least one of the persons who determine the day-to-day policy of a trust service provider shall carry out his work in connection therewith from the public entities.

§ 2. Sound Operations

Section 3:6 (scope of application)

1. This paragraph does not apply to advisers, intermediaries, authorized or indirectly authorized underwriting agents if they generated sales of less than USD 0.5m in the preceding financial year.
2. For the purposes of this paragraph, “client” is also understood to mean a person who qualifies as a professional market participant, and a financial enterprise is equated with the depositary affiliated with an investment institution.

Section 3:7 (integrity-conscious corporate culture)

1. A financial enterprise shall be responsible for an integrity-conscious corporate culture, by putting in place procedures and measures that are integrated into the operations and that are based on a systematic analysis of risks that could affect the reputation or could constitute an existing or future threat to the capital or results of a financial enterprise as a result of insufficient compliance with that which has been prescribed by or pursuant to a legal provision or act in violation of the standard of conduct seemly in society.

2. A financial enterprise shall put down in writing its policy with regard to the provisions in subsection 1 and notify every business unit of this policy and the procedures and measures referred to in subsection 1.

Section 3:8 (compliance officer)

1. A financial enterprise shall appoint at least one officer at management level who independently and effectively monitors the compliance with the legal provisions and internal rules with respect to ethical business conduct and the rules referred to in Section 3:15, subsection 1.
2. The financial enterprise shall ensure that the officer referred to in subsection 1 can have transaction data at his disposal in the near future, as well as data which the financial enterprise recorded by virtue of this chapter or the Money Laundering and Terrorist Financing (Prevention) (BES Islands) Act, and other information that is relevant for his duties.
3. A financial enterprise shall have procedures in place that ensure that shortcomings or defects that have been identified are reported to the officer.
4. A financial enterprise shall regularly check the internal control systems for their effectiveness and news value and shall, if necessary, adjust them.
5. A financial enterprise shall guarantee that knowledge that is acquired in the implementation of subsections 1 to 3, and the results of measures taken as a result of the compliance monitoring, referred to in subsection 1, shall remain available within its organization.

Section 3:9 (client acceptance)

1. With a view to an ethical conduct of business, a financial enterprise shall have procedures and measures in place with regard to:
a. the acceptance of clients;
b. risk classification with respect to clients, products and services;
c. the analysis of client details, also in relation to the products or services purchased by said clients, and the detection of divergent transaction patterns.
2. On the basis of the procedures and measures referred to in subsection 1, the financial enterprise shall also determine the risks associated with certain clients, products or services for the ethical conduct of its business.
3. A financial enterprise shall be responsible for documenting and recording the acceptance of clients and classifying them in risk categories and for monitoring the actions of clients. Such information shall be kept for a period of five years after the provision of service or the termination of the relationship with the client concerned.

Section 3:10 (Escrow accounts)

1. The Dutch Central Bank can prescribe rules with a view to preventing the misuse of technical applications by financial enterprises for money laundering and terrorist financing.
2. With a view to an ethical conduct of business, the Dutch Central Bank can also prescribe rules with regard to the policy that credit institutions are to pursue in respect of Escrow accounts and accounts in which assets are held for the benefit of third parties.

Section 3:11 (back-to-back loans)

The Dutch Central Bank can prescribe rules with regard to credit instruments whereby funds or financial instruments are made available to the borrower, for which the latter provides the credit provider, directly or indirectly, with a security from his own liquid resources.

Section 3:12 (terrorism screening)

1. A credit institution, insurer or money transaction office shall investigate, at the request of the Dutch Central Bank, after the latter has been informed by Our Minister about certain persons or institutions who/which, in the opinion of Our Minister, could impair the integrity of the financial sector because of suspected terrorist activities or activities connected therewith, whether such persons or institutions appear in its records.
2. The financial enterprise shall provide the Dutch Central Bank with the investigation results referred to in subsection 1, within a time limit to be set by the Dutch Central Bank.

Section 3:13 (compliance with other laws)

1. A financial enterprise shall have procedures and measures in place to comply with:
a. the rules laid down by or pursuant to the Sanctions Act 1977 with regard to financial transactions;
b. the rules laid down by or pursuant to the Money Laundering and Terrorist Financing (Prevention) (BES Islands) Act.
2. The measures referred to in subsection 1(a) should at least pertain to a proper inspection of the records of the financial enterprise regarding conformity between the identity of a client and a person or entity, as referred to in the rules laid down by or pursuant to the Sanctions Act 1977 with regard to financial transactions, with a view to freezing the financial resources of said client or preventing the provision of financial resources or services to said client.
3. For the purposes of subsection 2, "client" is understood to mean: every person who is involved with a financial service or transaction.

Section 3:14 (incidents)

1. A financial enterprise shall have procedures and measures in place in respect of handling and recording incidents. In any event, these procedures and measures shall provide for a proper inclusion in the records of:
a. the characteristics of the incident;
b. information about the persons who caused the incident;
c. the measures taken as a result of the incident.
2. Following an incident, the financial enterprise shall take measures that are aimed at managing the risks that have arisen and preventing recurrence.
3. The financial enterprise shall immediately inform the supervising authority in writing about incidents.
4. For the purposes of this section, "incident" is understood to mean: an action or event that forms a danger to the ethical business conduct of the financial enterprise concerned.

Section 3:15 (conflicts of interest)

1. A financial enterprise shall have procedures and measures in place in respect of preventing conflicts between its interests or those of its clients and the private interests of:
a. persons who determine the policy of the financial enterprise;
b. persons who determine the policy of the group to which the financial enterprise belongs;
c. members of the body that is responsible for the policy and the general course of affairs of the financial enterprise;
d. other employees or persons who, on in its instructions, carry out work on its behalf on a structural basis.
2. To prevent conflicts of interest, the supervising authority can prescribe rules with regard to the provision of financial services on the basis of staff terms to persons who determine the policy of the financial enterprise and to group directors.

Section 3:16 (assessing the properness of employees)

1. A financial enterprise shall keep a list of the integrity-sensitive positions in its business and of the duties, powers and responsibilities that correspond to each of these positions.
2. A financial enterprise shall have procedures and measures in place that guarantee that integrity-sensitive positions are exclusively held by persons whose properness has been - and will continue to be - thoroughly assessed.
3. The financial enterprise shall put down in writing the work that was carried out for the compliance with subsections 1 and 2 and the results of said work.
4. The supervising authority can designate job categories which, for the purposes of this section, definitely qualify as integrity-sensitive, and prescribe further rules with regard to the manner in which a financial enterprise assesses the properness of persons as referred to in subsection 2 and with regard to the recording of data pursuant to subsection 3.

Section 3:17 (data exchange properness of employees)

1. With regard to a person whose properness it assessed pursuant to Section 3:16, a financial enterprise shall, on request, provide another financial enterprise with written information for the assessment by that other financial enterprise of said person pursuant to Section 3:16, in so far as this is necessary to give a picture of the properness that is as true and complete as possible.
2. A financial enterprise shall refrain from actions which, to its knowledge or reasonable assumptions, could cause an inaccurate picture of a person referred to in subsection 1 to be created.
3. The supervising authority can prescribe rules with regard to the manner in which a financial enterprise complies with subsections 1 and 2.

Section 3:18 (trust service providers)

1. A trust service provider shall at least keep the documents and information to be designated by a regulation from Our Minister available for the supervising authority in an orderly fashion.
2. The documents and information referred to in subsection 1 shall immediately be

put at the disposal of the supervising authority if said authority so requests.

§ 3. Sound Conduct of Business

Section 3:19 (general aspects of the sound conduct of business)

1. The management of a financial enterprise or a depositary shall comprise:
a. a clear and proper organizational structure;
b. a clear and proper allocation of duties, powers and responsibilities;
c. clear reporting lines;
d. a proper information and communication system;
e. a proper internal control system.
2. The management referred to in subsection 1 shall be tailored to the nature, scope, risks and complexity of the work of the financial enterprise or depositary and shall be documented in a transparent manner.
3. A management company shall establish a separate management as referred to in subsection 1 for each investment institution that it manages.

Section 3:20 (conflicts of interest)

1. A securities intermediary or investment manager shall have procedures and measures in place for preventing and dealing with conflicts of interest between his business and his clients or among his clients.
2. The Netherlands Authority for the Financial Markets can prescribe further rules with regard to subsection 1.

Section 3:21 (risk management)

1. A securities intermediary, electronic money institution, credit institution, asset management company or insurer shall pursue a policy aimed at controlling relevant financial risks.
2. The policy referred to in subsection 1 shall be laid down in procedures and measures to control relevant financial risks and shall be integrated into the operational processes. A financial enterprise as referred to in subsection 1 shall systematically ensure that the procedures and measures referred to in the first sentence are complied with and shall ensure that any shortcomings or defects that are identified will be resolved.
3. A credit institution or insurer shall have a separate risk management capacity that systematically carries out independent risk management procedures aimed at identifying, measuring and assessing the financial risks to which the credit institution or insurer may be exposed.
4. A financial enterprise which has its registered office in a foreign country and which is under prudential supervision in the state where it has its registered office is presumed to satisfy the requirements set in subsections 1 to 3 as long as it has been allowed to conduct its business in the state where it has its registered office.

Section 3:22 (risk management management company and depositary)

A management company or depositary which has its registered office in a public entity shall have procedures and measures in place that guarantee that the extent and composition of and changes in the financial safeguards that are to be maintained

can be fully and accurately determined. Section 3:21, subsection 4 applies *mutatis mutandis*.

Section 3:23 (obligation to retain advice)

1. A financial services provider as referred to in Section 5:1 of the Act shall, if it gives advice to a consumer or client, keep the information that it obtained in accordance with Section 5:7 of the Act, as well as the information with regard to the financial product, financial service or securities, for a period of no less than one year, counting from the moment the advice was given.
2. With respect to financial services providers, not being advisers, subsection 1 shall not apply if the consumer or client does not enter into any obligations in respect of the recommended financial product, financial service or securities as a result of the advice.
3. If, through the intermediary services of a financial services provider, a consumer or client enters into an agreement whose contents differ from the advice given by said financial services provider, said financial services provider should for no less than one year afterwards be able to prove to the Netherlands Authority for the Financial Markets that, despite the advice, the consumer or client chose to enter into said agreement.

Section 3:24 (obligation to retain credit agreements)

A credit provider shall keep the information that it obtained pursuant to Section 5:14, subsection 2 of the Act, as well as the written credit agreements that it offered, if said agreements came into effect, for a period of no less than five years, counting from the day on which the agreement was completed.

Section 3:25 (obligation to retain securities broking and investment management)

1. A securities intermediary or investment manager shall keep the agreements with clients as well as information designated by the supervising authority with regard to all the services that it provided. It shall keep said agreements and information for a period of no less than five years.
2. An investment manager shall keep the information obtained pursuant to Section 5:8 of the Act for a period of no less than five years after concluding the management of the assets of the client.

Section 3:26 (further rules sound conduct of business)

The supervising authority can prescribe further rules with regard to Sections 3:19 to 3:25.

§ 4. Professional Competence

Section 3:27 (professional competence of employees)

1. Employees and other natural persons who, under the responsibility of a financial enterprise, engage directly in offering financial products or providing financial services, shall have received sufficient relevant training from a financial enterprise or

third party or have equivalent experience.
2. The Netherlands Authority for the Financial Markets can prescribe further rules with regard to the required training or experience and the ways in which said experience can be demonstrated. A distinction can be made here according to the degrees of freedom associated with different categories of persons.

Section 3:28 (recognition examining bodies)

Our Minister can recognize examining bodies that are authorized to award diplomas attesting to the professional competence referred to in Section 3:27, subsection 1. A distinction can be made here between categories of financial enterprises. Orders shall be gazetted.

Section 3:29 (professional competence management insurance agents)

A non-life or life insurance intermediary shall ensure that all those who are actually in charge of one of the branches of its business are in possession of a diploma which, pursuant to Section 3:4, is designated for providing brokerage services in respect of non-life or life insurance.

§ 5. Handling Complaints

Section 3:30 (record of complaints)

1. A financial enterprise which offers financial products or provides financial services shall, with a view to a proper handling of complaints by clients or consumers about said products or services, keep a proper record of said complaints, that will specify at least the following information:
a. the name and address of the complainer;
b. the complaint, together with the corresponding date of receipt;
c. a description of the complaint;
d. a description of the manner in which the financial enterprise dealt with the complaint.
2. A financial enterprise shall keep the information referred to in subsection 1 for a period of no less than one year after it has dealt with the complaint.

§ 6. Outsourcing to Third Parties

Section 3:31 (definition of outsourcing)

In this paragraph, "outsourcing" is understood to mean: an assignment given to a third party by a financial enterprise for carrying out work for the benefit of said financial enterprise:
a. that forms part of or results from the conduct of its business or offering financial products or providing financial services;
b. that forms part of the essential operational processes.

Section 3:32 (prohibition on outsourcing)

1. A financial enterprise shall not contract out work if this constitutes an obstacle to a proper supervision of the compliance with the rules laid down by or pursuant to the

law.
2. A financial enterprise shall not outsource the tasks and work of persons who determine the day-today policy, including adopting the policy and reporting on the policy conducted.

Section 3:33 (guarantees with respect to outsourcing)

1. A financial enterprise which contracts out work to a third party shall ensure that the third party properly carries out said work, adequately checks the performance of the work and adequately manages the risks associated therewith. It shall put down in writing the agreement with the third party to which the work is contracted out on a structural basis.
2. The supervising authority can prescribe further rules with regard to subsection 1.

Section 3:34 (outsourcing by management companies and depositaries)

1. A management company shall not outsource the determination of the investment policy of an investment institution.
2. Sections 3:32 and 3:33 apply *mutatis mutandis* to a management company or depositary.

CHAPTER 4. FINANCIAL SAFEGUARDS

§ 1. Introductory Provisions

Section 4:1 (foreign financial enterprises)

1. Paragraphs 2 to 5 do not apply to financial enterprises, management companies and depositaries which have their registered office in a foreign country and which are under prudential supervision in the state where they have their registered office.
2. A financial enterprise, management company or depositary as referred to in subsection 1 shall satisfy the requirements in respect of equity, solvability, liquidity and technical provisions that apply to it in the state where it has its registered office.

§ 2. Minimum Capital Requirement and Solvability of Credit Institutions

Section 4:2 (minimum capital requirement)

1. The minimum amount of equity amounts to:
a. for a credit institution, not being a credit institution as referred to in (b) to (d): USD 2,750,000;
b. for a credit institution which is primarily specialized in extending mortgage loans: USD 1,650,000;
c. for a credit institution which primarily raises funds in the form of savings deposits: USD 558,000;
d. for a credit union: USD 25,000.
2. The minimum amount of equity of a credit institution shall be formed by the value of the assets, referred to in Section 4:5, subsection 2. These assets, as well as the securities that they back, shall immediately and without limitations be put t the disposal of the credit institution.

Section 4:3 (solvency)

1. The solvability referred to in Section 3:17, subsection 1 of the Act shall be sufficient if the qualifying capital that is to be considered, referred to in Section 4:4, subsection 1, is at least equal to the minimum amount of qualifying capital, calculated in accordance with Sections 4:8 to 4:18.
2. The solvability of a credit union shall be sufficient if the qualifying capital that is to be considered, referred to in Section 4:4, subsection 2, is at least equal to five per cent of the total assets, with the exception of the liquid and fixed assets, of the credit union.
3. Without prejudice to subsections 1 and 2, the solvability of a credit institution shall be at least equal to the minimum amount of equity prescribed in Section 4:2, subsection 1.

Section 4:4 (composition qualifying capital)

1. The qualifying capital of a credit institution, not being a credit union, shall be formed by the sum of the core capital and additional capital that is to be considered, with due observance of Section 4:7.
2. The qualifying capital of a credit institution shall be formed by the sum of the retained earnings, other reserves and general provisions.
3. The Dutch Central Bank can prescribe further rules with regard to subsection 2.

Section 4:5 (core capital)

1. The core capital shall be formed by the value of the assets referred to in subsection 2 less the value of the items referred to in subsection 3.
2. The assets that are to be considered in order to determine the core capital are:
a. the issued and paid-up share capital;
b. share premium reserve;
c. other reserves;
d. retained earnings;
e. minority interests;
f. provisions to cover general contingencies;
g. other assets permitted by the Dutch Central Bank.
3. The items that are to be considered in order to determine the core capital are:
a. intangible assets;
b. goodwill;
c. disallowed deferred tax assets;
d. fifty per cent of the value of the following participations:
1^0. significant minority interests in credit institutions and other financial enterprises, not being insurers;
2^0. cross-holdings in other credit institutions which aim to give a flattering picture of the financial position;
3^0. participations in insurers;
4^0. participations in other enterprises.
4. The Dutch Central Bank can prescribe further rules with regard to the calculation of the assets and items referred to in subsections 2 and 3.

Section 4:6 (additional capital)

1. The additional capital shall be formed by the value of:

a. revaluation reserves;
b. legal reserves;
c. subordinated debt instruments and fixed-term preference shares.
2. The additional capital that is to be considered is the sum of the assets referred to in subsection 1 less fifty per cent of the value of the participations referred to in Section 4:5, subsection 3(d).
3. The Dutch Central Bank can prescribe further rules with regard to the calculation of the assets referred to in subsection 1.

Section 4:7 (quality of the qualifying capital)

For the purposes of Sections 4:5 and 4:6:
a. the core capital shall be taken into full consideration in the calculation of the qualifying capital;
b. the additional capital shall only be taken into consideration in the calculation of the qualifying capital in so far as this does not amount to more than the core capital;
c. the subordinated debt instruments and fixed-term preference shares shall be taken into consideration up to a maximum of fifty per cent of the core capital;
d. for each item, account will be taken of the foreseeable amount of tax owed thereon.

Section 4:8 (minimum amount of qualifying capital)

The minimum amount of qualifying capital for a credit institution equals the sum of:
a. eight per cent of the sum of the amounts of the risk-weighted, off-balance sheet assets and items for the credit risks that are to be calculated pursuant to Section 4:9 or 4:11;
b. the amount for the market risk that is to be calculated pursuant to Section 4:14;
c. the amount for the operational risk that is to be calculated pursuant to Sections 4:15 to 4:18.

Section 4:9 (standard approach for the credit risk)

1. The amount of a risk-weighted asset or item, as referred to in Section 4:8(a), equals its exposure value multiplied by the risk weight assigned to the off-balance sheet asset or item pursuant to subsection 2(a).
2. The Dutch Central Bank prescribes rules with regard to:
a. the classification of the off-balance sheet assets and items in categories according to the other party and the risk weights that are to be assigned to said categories, with due observance of Section 4:10;
b. the calculation of the exposure value of an off-balance sheet asset or item.

Section 4:10 (use of credit ratings)

1. When assigning a risk weight to a category of off-balance sheet assets or items, a credit institution may consistently use a credit rating by a credit rating agency recognized by the Dutch Central Bank pursuant to Section 4:13. “Credit rating” is understood to mean the assessment of the risk of nonpayment and the extent of nonpayment by a certain debtor on all its obligations or part of its obligations.
2. The Dutch Central Bank prescribes further rules with regard to the use of a credit rating as referred to in subsection 1.

3. A credit institution shall only use solicited credit ratings.
4. In derogation from subsection 3, the Dutch Central Bank can, at the request of a credit institution, grant permission to use unsolicicted credit ratings.

Section 4:11 (internal models method for the credit risk)

1. The Dutch Central Bank can, on request, grant a credit institution permission to calculate the amounts of its risk-weighted, off-balance sheet assets or items in derogation from Section 4:9, according to an internal models method whereby use is made of its own estimates of the probability that another party will remain in default over a period of one year and of the relationship between the expected economic loss on a claim as a result of nonpayment, with due observance of the time value of money, and the expected outstanding amount in case of nonpayment.
2. The internal models used to manage and assess credit risks shall be used with due care. The Dutch Central Bank can prescribe rules with regard to these internal models.

Section 4:12 (credit risk mitigation)

1. A credit institution may take credit risk mitigation into consideration, provided that it uses a technique allowed by the Dutch Central Bank in order to limit the credit risk associated with the off-balance sheet assets and items, and that it complies with the rules laid down pursuant to subsection 2 (if any).
2. The Dutch Central Bank can prescribe further rules with regard to the conditions under which techniques of credit risk mitigation, referred to under subsection 1, are allowed, and the limitation of the risks associated with credit risk mitigation.

Section 4:13 (recognition of credit rating agencies)

1. The Dutch Central Bank shall, on request, for a specified period or otherwise, recognize a credit rating agency if it satisfies the criteria laid down by the Dutch Central Bank.
2. The Dutch Central Bank may adopt a recognition procedure, referred to in subsection 1, which it will then make public.
3. If a credit rating agency no longer satisfies the criteria referred to in subsection 1, the Dutch Central Bank may withdraw the recognition.

Section 4:14 (required solvency for the market risk)

1. A credit institution shall calculate the amount of the requisite solvency for the market risk, referred to in Section 4:8 (b), according to the rules prescribed by the Dutch Central Bank. The Dutch Central Bank prescribes rules with regard to the calculation of the extent of the market risk in respect of the entire business and the bases of said calculation.
2. A credit institution is allowed to calculate the amount of the requisite solvency for the market risk in accordance with the rules laid down in Section 4:9, if the total solvency requirement for the market risk amounts to less than five per cent of the most recently calculated qualifying capital.
3. A credit institution that applies subsection 2 shall notify the Dutch Central Bank of this with a frequency that is to be determined by the latter following consultation with the credit institution. In the event that the limit referred to in subsection 2 is

exceeded, the credit institution shall immediately notify the Dutch Central Bank.

Section 4:15 (basic indicator for the operational risk)

1. A credit institution shall use the basic indicator approach to calculate the amount of the solvency required in respect of the entire business to cover the operational risk referred to in Section 4:8(c).
2. The Dutch Central Bank prescribes rules with regard to the basic indicator approach and the calculation of the solvency required to cover the operational risk according to said approach.

Section 4:16 (standard approach for the operational risk)

1. In derogation from Section 4:15, a credit institution may use the standard approach to calculate the amount of the solvency required to cover the operational risk referred to in Section 4:8(c).
2. The Dutch Central Bank can prescribe further rules with regard to the conditions under which the standard approach can be used and with regard to the calculation of the solvency required to cover the operational risk according to said approach.

Section 4:17 (alternative standard approach for the operational risk)

1. The Dutch Central Bank can, on request, grant a credit institution permission to use an alternative standard approach for calculating the solvency required to cover the operational risk.
2. The Dutch Central Bank can prescribe further rules with regard to the conditions under which the alternative standard approach can be used and with regard to the calculation of the solvency required to cover the operational risk according to said approach.

Section 4:18 (consistent accounting policies for the operational risk)

1. A credit institution which has chosen to use the standard approach referred to in Section 4:16 will not be allowed to use the basic indicator approach at a later stage.
2. The Dutch Central Bank can, on request, grant a credit institution permission to use the standard approach in combination with the basic indicator approach if the credit institution implements the standard approach in accordance with a time schedule agreed upon with the Dutch Central Bank.

Section 4:19 (major holdings)

1. For a credit institution, the value of the balance sheet and off-balance sheet items referred to in Section 3:17, subsection 5 of the Act shall, in respect of another party or a group of related other parties, amount to no more than twenty-five per cent of its qualifying capital.
2. The total value of the major holdings of a credit institution shall not exceed six hundred per cent of its qualifying capital.
3. The Dutch Central Bank can, on request, decide that a credit institution is allowed to exceed the percentage referred to in subsection 1 or 2 for a limited period of time. The Dutch Central Bank prescribes rules with regard to the conditions under which it allows the limit to be exceeded.

§ 3. Minimum Capital Requirement and Solvency other Financial Enterprises

Section 4:20 (minimum capital requirement investment company)

1. For an investment company, the minimum capital requirement referred to in Section 3:16, subsection 1 of the Act amounts to USD 279,000.
2. The minimum capital requirement for an investment company is formed by the value of the assets referred to in Section 4:5, subsection 2. These assets, as well as the securities that they back, shall, without limitations, be put at the immediate disposal of the investment company. Section 4:5, subsection 4 applies *mutatis mutandis*.

Section 4:21 (minimum capital requirement securities intermediary or investment manager)

1. The minimum capital requirement for a securities intermediary or investment manager amounts to USD 25,000.
2. Subsection 1 does not apply to a securities intermediary that only receives instructions from clients and passes these on, provided that said intermediary has a professional liability insurance that covers its liability arising from errors or omissions committed in the course of its business. Section 4:47, subsections 2 and 3 apply *mutatis mutandis*.
3. The minimum capital requirement for a securities intermediary or an investment manager is formed by the value of the following assets:
a. for a public or private limited company: the issued and paid-up share capital, to the exclusion of cumulative preference shares and fixed-term preference shares;
b. for a general partnership: the separated paid-up assets of the general partners;
c. for a limited partnership: the separated paid-up assets of the general partners as well as the limited partner’s paid-up capital contribution;
d. for a cooperative society: the capital paid or invested by the members;
e. for an enterprise that has a legal form other than those mentioned above: the positive discrepancy between assets and liabilities;
f. other assets permitted by the Dutch Central Bank.
4. The assets referred to in subsection 3, as well as the assets that they back, shall, without limitations, be put at the immediate disposal of the securities intermediary or investment manager. For each item, account will be taken of the foreseeable amount of tax owed thereon.
5. The Dutch Central Bank can prescribe further rules with regard to the calculation of the assets referred to in subsection 3.

Section 4:22 (minimum solvency requirement securities intermediary and investment manager)

1. The qualifying capital of a securities intermediary or investment manager shall be equal to at least twenty-five per cent of the fixed costs, as determined by the Dutch Central Bank, over the past financial year. In the event that the investment manager or securities intermediary did not carry out his work for a full financial year, the minimum qualifying capital requirement shall amount to twenty-five per cent of the fixed costs estimated in his operating plan. The Dutch Central Bank may decide on a higher minimum requirement if it is plausible that the fixed costs are too low.

2. Subsection 1 does not apply to securities intermediaries as referred to in Section 4:21, subsection 2.
3. The qualifying capital of a securities intermediary or investment manager that is to be considered is formed by the value of the assets referred to in Section 4:21, subsection 3. Section 4:21, subsection 4 applies *mutatis mutandis*.
4. Without prejudice to subsection 1, the qualifying capital shall at least be equal to the minimum amount prescribed pursuant to Section 4:21, subsection 1.

Section 4:23 (minimum capital requirement electronic money institution)

1. For an electronic money institution, the minimum equity requirement amounts to USD 50,000.
2. The minimum equity requirement for an electronic money institution is formed by the value of the assets referred to in Section 4:5, subsection 2. These assets, as well as the assets that they back, shall, without limitations, be put at the immediate disposal of the credit institution. For each item, account will be taken of the foreseeable amount of tax owed thereon.

Section 4:24 (minimum solvency requirement electronic money institution)

1. The qualifying capital of an electronic money institution shall be equal to at least two per cent of the current amount or the average amount over the past six months of its total financial liabilities connected with outstanding electronic money, whichever amount is the greater. In the event that the electronic money institution did not carry out its work for a period of six months, the minimum qualifying capital requirement shall amount to two per cent of the current amount or, as appears from its operating plan, the amount of its total financial liabilities related to outstanding electronic money that is aimed for within a six-month period, whichever amount is the greater. The Dutch Central Bank can, if the preceding sentence is applicable and it is plausible that the amount aimed for was estimated too conservatively, decide on a higher minimum qualifying capital requirement for the electronic money institution.
2. The qualifying capital that is to be considered is formed by the value of the assets referred to in Section 4:5, subsection 2. Section 4:5, subsection 4 applies *mutatis mutandis*.
3. Without prejudice to subsection 1, the qualifying capital shall at least be equal to the minimum amount prescribed in Section 4:23, subsection 1.

Section 4:25 (minimum amount of the guarantee fund of an insurer)

The minimum amount of the guarantee fund referred to in Section 3:16, subsection 4 of the Act shall amount to:
a. for a life insurer: USD 223,000;
b. for a funeral service insurer: USD 25,000;
c. for a non-life insurer: USD 167,000.

Section 4:26 (solvency margin of an insurer)

1. A life insurer or a funeral service insurer shall maintain a solvency margin that is at least equal to four per cent of the technical provisions referred to in Section 4:30, without taking account of the reinsurance of these obligations.
2. A non-life insurer shall maintain a solvency margin that is at least equal to fifteen

per cent of the gross premiums that were booked in the preceding financial year.
3. The minimum amount of the solvency margin referred to in subsections 1 and 2 shall be calculated on the basis of a model adopted by the Dutch Central Bank.

Section 4:27 (composition solvency margin)
1. The minimum amounts of the guarantee fund and solvency margin of an insurer shall be formed of the following assets:
a. the paid-up capital or initial fund plus members' accounts;
b. the legal reserves, the reserves provided for by the articles of association and other reserves;
c. the retained earnings or the loss;
d. subordinated loans and subordinated debt instruments;
e. other assets permitted by the Dutch Central Bank.
2. The Dutch Central Bank can prescribe further rules with regard to the extent to which and the conditions under which the assets referred to in subsection 1 are included when determining the solvency margin.

§ 4. Liquidity Investment Institutions and Credit Institutions

Section 4:28 (liquidity investment institutions)

1. An investment institution which has its registered office in a public entity and whose participation rights are, at the request of the participants, purchased or repaid directly or indirectly from the assets in the public entities, shall have sufficient financial strength.
2. The liquidity of an investment institution is sufficient if the available liquidity, referred to in subsection 4 is at least equal to the required liquidity referred to in subsection 3.
3. The required liquidity of an investment institution shall amount to ten per cent of the assets under management. Notwithstanding the first sentence, said amount will suffice if the amount that will be purchased on a certain date is known beforehand by virtue of an agreed termination arrangement.
4. The available liquidity of an investment institution shall be calculated on the basis of rules that are to be prescribed by the Dutch Central Bank.

Section 4:29 (liquidity credit institutions)

1. The liquidity of a credit institution shall be sufficient if the available liquidity referred to in subsection 3 is at least equal to the required liquidity referred to in subsection 2.
2. The required liquidity of a credit institution consists of the sum of the weighted outstanding cash flows on the basis of the asset or liability items of which cash inflows or outflows are included in the maturity calendar as a result of redemption or interest payments, plus the entrusted funds that were not included in the maturity calendar and other items that may result in a payment obligation, during the first calendar month following the reporting date. "Asset or liability items of which cash inflows or outflows are included in the maturity calendar as a result of redemption or interest payments" include assets or liability items of which cash inflows or cash outflows have been included in the maturity calendar as a result of repayment or interest payments.
3. The available liquidity of a credit institution is formed by the weighted inventory

items and the weighted cash inflow of the asset or liability items of which cash inflows or outflows are included in the maturity calendar as a result of redemption or interest payments during the first calendar month following the reporting date, as well as the official standby facilities. An "inventory item" includes the liquid assets that have not been included in the maturity calendar.
4. The Dutch Central Bank prescribes further rules with regard to subsections 2 and 3.

§ 5. Technical Provisions

Section 4:30 (composition technical provisions)

1. The technical provisions of an insurer shall consist, as and when applicable, of:
a. the provision for unearned premiums and the provision for current risks, including the catastrophe provision (if any such provision was made);
b. the provision for life insurance;
c. the provision for claims to be settled or benefits to be paid;
d. the profit-sharing provision and a provision for rebates;
e. the provision for deferred profit-sharing obligations;
f. the equalization provision, in so far as the equalization of profits and losses is allowed by or pursuant to an Act of Parliament;
g. the other technical provisions.
2. The Dutch Central Bank can prescribe further rules with regard to the extent to which technical provisions must be created in respect of liabilities and costs and with regard to the classification of the technical provisions.

Section 4:31 (valuation technical provisions)

1. The technical provisions shall be valued according to the accounting principles that have been accepted for the insurance business. When valuing the technical provisions, it will be assumed that the insurance company will be able to comply with its foreseeable obligations, according to the standards of reasonableness and fairness, under insurance contracts.
2. The Dutch Central Bank can prescribe further rules with regard to the principles to be employed for calculating the technical provisions.

Section 4:32 (separate calculation technical provisions)

The provisions referred to in Section 4:30(a) to (c) shall be determined as separately and carefully as possible for every contract or claim. Statistical or mathematical methods may be used if the nature of the contract allows for this and if, according to expectations, these methods produce the same results as the separate calculations.

Section 4:33 (provision for unearned premiums and current risks)

The provision for unearned premiums and current risks, referred to in Section 4:30(a), includes:
a. the premiums in respect of risks pertaining to the subsequent financial year or financial years that were paid in the financial year;
b. the claims and costs under current insurance contracts that may occur after the end of the financial year and that cannot be covered by the provision that pertains to

the unearned premiums together with the premiums that have yet to be paid in the subsequent financial year or financial years.

Section 4:34 (provision for life insurance)

1. The provision for life insurance, referred to in Section 4:30(b), is calculated on the basis of a sufficiently prudent prospective actuarial method, taking account of the premiums to be paid in the future and of every future obligation according to the conditions set for every current insurance contract, including:
a. all guaranteed benefits and surrender values;
b. the share in the profits to which the policyholder, insured party or benefit recipient is entitled, either collectively or individually;
c. all the options open to the policyholder, insured party or benefit recipient according to the terms of the contract;
d. the operational costs, including commissions.
2. In derogation from subsection 1, a retrospective method can be applied if the provisions calculated on the basis of this method do not yield a lower result than if a prospective method were applied, or if a prospective method cannot be used due to the nature of the type of contract concerned.
3. The provision for life insurance shall give a separate account of the technical provisions for insurance policies where the investment risk is borne by the benefit recipient.

Section 4:35 (provision for claims to be settled or benefits to be paid)

1. The provision for claims to be settled or benefits to be paid referred to in Section 4:30(c) includes the amount of the claims or benefits that are to be expected, taking into account:
a. claims or benefits that arose before the balance sheet date and that have been notified but not yet settled or paid, and claims or benefits that have not yet been notified;
b. the costs connected with the settlement of claims or payment of benefits;
c. the subrogation revenues to be expected in connection with claims or benefits and the acquisition of the ownership of insured items.
2. Discounting the provision for claims to be settled or benefits to be paid, other than claims that are to be settled periodically, is only permitted in cases to be decided upon by the Dutch Central Bank and on conditions to be set by the Dutch Central Bank.
3. If the obligations under insurance contracts cannot be reasonably assessed when drawing up the financial statements due to the lack of sufficient accurate information with regard to the premiums to be paid or claims to be settled over the underwriting year and claim settlement costs, the Dutch Central Bank can, on its conditions, permit a different calculation of the provision for claims to be settled or benefits to be paid.

Section 4:36 (provision for profit-sharing and rebates)

The provision for profit-sharing and rebates, referred to in Section 4:30(d), includes the amounts in the form of shares in the profit that are intended for the policyholders, insured parties or benefit recipients, in so far as these did not result in an increase in the provision for life insurance, as well as the amounts that represent

a partial repayment of premiums on the basis of the outcome of the contracts, in so far as these did not result in an increase in the members' accounts.

Section 4:37 (equalization provision credit insurers)

1. A non-life insurer which concludes insurance contracts to cover claims resulting from general insolvency, extended export credit, mortgage credit, agricultural credit and instalment sale shall, in order to cover a technical loss incurred during the financial year in this regard, maintain an equalization provision that is calculated in accordance with subsection 2.
2. The minimum amount of the equalization provision shall be 134 per cent of the average of the premiums that were booked every year over the previous five financial years less the cessions by virtue of reinsurance. In every financial year, such provision shall receive seventy-five per cent of any technical surplus that is realized in this regard, until the provision is at least equal to the minimum referred to in the preceding sentence.
3. Subsection 1 does not apply if the premiums that are booked every year in this regard amount to less than four per cent of the total amount of annually booked premiums.

Section 4:38 (earmarking)

The insurer shall administer the assets that serve to back the technical provisions as such. The Dutch Central Bank can object to the nature and valuation of these assets, which objection the insurer will have to meet.

Section 4:39 (congruence and localization)

1. It must be adequately possible to collect or convert into cash in the same currency the assets that serve to back the technical provisions as the assets in terms of which the obligations are expressed.
2. The assets that serve to back the technical provisions for the obligations assumed from the offices in the public entities shall be available in the public entities of Curaçao or Sint Maartin. Assets that consist of debts shall be available in the public entities of Curaçao or Sint Maartin if they can be recovered there.

Section 4:40 (prudent investment policy)

The insurer shall ensure that the nature and valuation of the assets that serve to back the technical provisions are in accordance with the nature or valuation of the obligations assumed. These assets shall be diversified and adequately spread. High-risk assets shall be limited to a prudent level and be prudently valued.

Section 4:41 (investment risk for policyholder)

The technical provisions in respect of payments which, in accordance with the contract, are directly linked to the value of a participation in an investment institution or to another reference value, shall be covered by these participation rights or by the units that represent the reference value, or by assets that tie in as much as possible with those on which the reference value is based. Section 4:40 does not apply to the technical provisions referred to in the preceding sentence.

Section 4:42 (claims against reinsurers)

1. A claim against a reinsurer by virtue of an insurance contract concluded by an insurer as a policyholder qualifies as an asset to back the technical provisions in so far as, in the opinion of the Dutch Central Bank, it is plausible that the claim will be settled in the public entities or that the insurer will have to settle its payments to insured parties or benefit recipients in a foreign country.
2. Subsection 1 also applies to a future claim against a reinsurer, provided that the claim pertains to an already known but not yet settled claim. When calculating the amount of the claim, the amounts that the insurer owes the reinsurer shall be deducted from the total amount of the claim.
3. With respect to the assets referred to in subsections 1 and 2, Section 4:39, subsection 2 does not apply.

Section 4:43 (further rules)

The Dutch Central Bank can prescribe further rules for the implementation of Sections 4:39 to 4:42.

§ 6. Separation of assets

Section 4:44 (securities intermediary and investment manager)

The Netherlands Authority for the Financial Markets can prescribe further rules with regard to:
a. the measures taken to protect the rights of the client and to prevent the use of securities or monies of the client, referred to in Section 3:23, subsection 1 of the Act;
b. the manner in which the consent, referred to in Section 3:23, subsection 4 of the Act, of the client can be obtained for the use of his securities at the expense of the securities intermediary or investment manager.

Section 4:45 (electronic money institution)

The Dutch Central Bank can prescribe further rules with regard to the measures, referred to in Section 3:23, subsection 3 of the Act, to be taken by the electronic money institutions in order to safeguard the resources received for the issue of electronic money.

Section 4:46 (trust service provider)

A trust service provider shall be responsible for a proper administration and shall take measures to protect the rights in respect of monies or monetary instruments of enterprises to which the trust service provider shall provide management services and those of third parties. In any event, said measures are intended to completely separate the assets of each of these enterprises, every third party and of the trust service provider.

§ 7. Professional Liability Insurance Intermediaries

Section 4:47 (professional liability insurance)
1. The professional liability insurance referred to in Section 3:24 of the Act covers the

liability of the adviser, intermediary, not being a securities intermediary, or authorized underwriting agent arising from errors or omissions committed in the course of his profession.
2. The professional liability insurance shall be purchased from an insurer that is authorized to conduct insurance business in question in the state where it has its registered office.
3. The Netherlands Authority for the Financial Markets can prescribe further rules with regard to the sum insured.

§ 8. Consolidated Supervision of Credit Institutions

Section 4:48 (reporting with regard to intra-group agreements and exposures)

1. A credit institution which has its registered office in the public entities and forms part of a group shall submit the report required pursuant to Section 3:45, subsection 4 of the Act to the Dutch Central Bank once a year unless, in the event that the solvency is at risk or could be at risk due to developments at the credit institution, the Dutch Central Bank decides that reports should be submitted with greater frequency.
2. “Significant intra-group agreements and exposures” are understood to mean agreements and exposures that exceed a threshold to be determined by the Dutch Central Bank. The threshold is related to the required solvency of the credit institution.
3. The Dutch Central Bank prescribes rules with regard to the report and the categories of agreements and exposures included therein.

Section 4:49 (solvency on consolidated basis)

1. Without prejudice to Sections 3:16 and 3:17 of the Act, a credit institution as referred to in Section 4:48, subsection 1 shall calculate its solvency on the basis of its consolidated financial position once a year.
2. The Dutch Central Bank can prescribe further rules with regard to the calculation of the consolidated financial position referred to in subsection 1.

§ 9. Supplementary Supervision of Insurers in a Group

Section 4:50 (reporting obligation with regard to intra-group agreements and exposures)

1. An insurer which has its registered office in the public entities and forms part of a group shall submit the report required pursuant to Section 3:46, subsection 4, of the Act once a year unless, in the event that the solvency is at risk or could be at risk due to developments at the credit institution, the Dutch Central Bank decides that reports should be submitted with greater frequency.
2. “Significant intra-group agreements and exposures” include agreements and exposures that exceed a threshold to be determined by the Dutch Central Bank. The threshold is related to the required solvency of the insurer.
3. The Dutch Central Bank prescribes rules with regard to the report and the categories of agreements and exposures included therein.

Section 4:51 (adjusted solvency)

1. An insurer which has participating interests in one or more other insurers shall calculate its adjusted solvency on a consolidated basis. The adjusted solvency equals the difference between the assets that qualify for the solvency margin, calculated on the basis of the consolidated information, and the minimum solvency margin, calculated on the basis of the consolidated information.
2. If an insurer has a participating interest in an electronic money institution, credit institution or asset management company, the value of this interest will be deducted from the assets to be considered for its solvency margin.
3. The Dutch Central Bank can prescribe further rules with regard to subsections 1 and 2. These rules may imply that the insurer will be allowed to calculate its adjusted solvency according to a method other than the one prescribed in subsection 1 or 2.

CHAPTER 5. ACCOUNTS AND REPORTS

§ 1. Accounts and Financial Statements

Section 5:1 (separate accounts foreign financial enterprises)

1. A financial enterprise which has its registered office in a foreign country shall keep separate accounts in respect of its activities in the public entities that show the nature and scope of said activities.
2. The separate accounts referred to in subsection 1 will, on request, immediately be made available to the supervising authority.

Section 5:2 (financial statements and annual report for the supervising authority)

1. An investment institution, securities intermediary, electronic money institution, credit institution, investment manager or insurer shall submit financial statements and an annual report to the licensing supervisory authority.
2. The period referred to in Section 3:35, subsection 1 of the Act comes to:
a. for investment institutions: four months after the end of the financial year;
b. for the other financial enterprises referred to in subsection 1: six months after the end of the financial year.
3. As far as contents and form are concerned, the financial statements and annual report shall satisfy the requirements for financial statements under Book 2, Section 120, subsections 3 and 5 of the Civil Code (BES Islands).
4. A financial enterprise as referred to in subsection 1 shall, together with the financial statements and annual report, also submit the following information to the licensing supervisory authority:
a. the information referred to in Book 2, Section 120, subsection 2 of the Civil Code (BES Islands);
b. a copy of the report by the auditor, referred to in subsection 5;
c. the audit letters.
5. The financial statements of a financial enterprise, referred to in subsection 1, shall be approved by an external auditor as referred to in Book 2, Section 121 of the Civil Code (BES Islands). In the event that the financial enterprise does not satisfy the criteria set out in Book 2, Section 119, subsection 2 of the Civil Code (BES Islands),

the financial statements may be approved by an auditor other than the one referred to in the first sentence.
6. The supervising authority can prescribe further rules with regard to subsections 1 to 4.

Section 5:3 (financial statements and annual report management company and depositary)

1. A management company or depositary of an investment institution shall submit financial statements and an annual report to the Netherlands Authority for the Financial Markets within four months of the end of the financial year. Section 5:2, subsections 3 to 5 apply *mutatis mutandis*.
2. The Netherlands Authority for the Financial Markets can prescribe further rules with regard to subsection 1.

Section 5:4 (financial statements foreign credit institution or insurer)

1. The financial statements of a credit institution which has its registered office in a foreign country and is active in the public entities through a branch office shall reveal the size of the current accounts, savings and deposits held at the branch office at the end of the closed financial year.
2. The financial statements of an insurer which has its registered office in a foreign country and is active in the public entities through a branch office shall reveal the amount of the gross premiums that the branch office received over the closed financial year.

§ 2. Statements

Section 5:5 (statements credit institution)

1. The statements, referred to in Section 3:36, subsection 1 of the Act, that are to be provided by a credit institution shall include:
a. balance sheet data and results, as well as additional financial information for the prudential supervision carried out by the Dutch Central Bank pursuant to Section 1:5 of the Act;
b. other information for the supervision of the compliance with the rules with regard to:
1º. the solvency pursuant to Section 3:17, subsection 1 of the Act;
2º. maintaining balance sheet items and off-balance sheet items pursuant to Section 3:17, subsection 4 of the Act;
3º. the liquidity pursuant to Section 3:18, subsection 2 of the Act.
2. The Dutch Central Bank prescribes further rules with regard to the statements referred to in subsection 1. These rules pertain to:
a. the models of the statements;
b. the scope of application of the statements and the level of detail of the information that is to be filled in, on the understanding that these do not comprise an expansion or further classification of the statements;
c. the scope of the consolidation in accordance with the rules with regard to consolidation that the credit institution applies in its financial statements, in so far as the law does not provide otherwise;
d. the valuation of the items in accordance with the valuation methods that the credit

institution uses in its financial statements;
e. the currency and unit of account that are to be used;
f. rounding;
g. the period during which the statements are provided, on the understanding that this shall not be shorter than necessary for carrying out the prudential supervision;
h. the frequency with which the statements are provided, on the understanding that this will be at least once a year.
3. The rules referred to in subsection 2(b), (f), (g) and (h) are tailored to the nature and size of the credit institution, as well as to the solvency level of the credit institution.
4. In individual cases, the Dutch Central Bank may, if its solvency or liquidity exceeds a signalling value set by the Dutch Central Bank, require a credit institution to report on a regular basis. The report shall be submitted no more than once a month and shall be tailored to the nature and size of the credit institution, as well as to the solvency level of the credit institution.
5. The Dutch Central Bank decides which statements are made public.

Section 5:6 (statements insurer)

1. The statements, referred to in Section 3:36, subsection 1 of the Act, that are to be provided by an insurer shall include:
a. financial statements, as well as additional financial information for the prudential supervision carried out by the Dutch Central Bank pursuant to Section 1:5 of the Act;
b. other information for the supervision of the compliance with the rules with regard to:
1º. the solvency pursuant to Section 3:17 of the Act, and
2º. the technical provisions pursuant to Section 3:19 of the Act.
2. The Dutch Central Bank prescribes further rules with regard to the statements referred to in subsection 1. Section 5:5, subsections 2 to 5 apply *mutatis mutandis*.

CHAPTER 6. PROVISIONS REGARDING SPECIFIC CATEGORIES OF FINANCIAL ENTERPRISES

§ 1. Investment Institutions

Section 6:1 (agreement in respect of management and custody)

The agreement which, pursuant to Section 4:4, subsection 1 of the Act, is to be concluded between an investment institution and a depositary shall in any event stipulate that:
a. whilst performing its safe-keeping duties, the depositary shall only act in the interest of the participants in the investment institution;
b. safe-keeping in the name of the investment institution shall be done in such a way that the assets that have been given for safe-keeping can only be disposed of by the investment institution and the depositary jointly;
c. the depositary shall only deliver the assets that have been given for safe-keeping on receipt of a statement by the investment institution which shows that this is required in connection with the regular exercise of the management duties;
d. according to the laws of the state where the management company has its registered office, the depositary shall be liable to the investment institution and the

participants for the loss that they sustained in so far as the loss is the result of culpable or inadequate compliance with its obligations, also in the event that the depositary has entrusted the assets that were given to him for safe-keeping wholly or in part to a third party;
e. in the event that share certificates are issued, these certificates shall also be signed by the depositary;
f. a proposal by the management company of an investment institution to amend the terms and conditions that apply between the investment institution and the participants shall be made together with the depositary;
g. in the event that the depositary of an investment fund makes it known that he intends to relinquish its function, a participants' meeting shall be held within a period of four weeks in order to appoint a new depositary.

Section 6:2 (minimum capital requirement management company and depositary)

1. The minimum equity requirement, referred to in Section 4:5, subsection 1 of the Act, shall amount to USD 279,000 for the management company of an investment institution and USD 139,000 for the depositary of an investment institution.
2. The minimum equity requirement for a management company or depositary shall be formed by the value of the assets referred to in Section 4:5, subsection 2(a) to (g). These assets, as well as the securities that they back, shall, without limitations, be put at the immediate disposal of the investment institution. Section 4:5, subsection 4 applies *mutatis mutandis*.
3. A depositary of an investment institution shall provide sufficient security with a view to the liability for damage resulting to the depositary which may arise from fire, money and securities transport, fraud and robbery.

Section 6:3 (prospectus investment institution)

1. The prospectus referred to in Section 4:10, subsection 1 of the Act shall at least contain the information specified by a regulation from Our Minister, which, amongst other things, pertains to the management company and the depositary, as well as to the terms and conditions, the investment objectives and the investment activities of the investment institution.
2. The Netherlands Authority for the Financial Markets may require that the prospectus is made available in one or more languages - to be decided upon by said authority - if, in view of the intended distribution of the prospectus, this is necessary for an adequate provision of information to the public.
3. When offering its participation rights beyond a restricted circle or when making a written announcement that an offer will be made beyond a restricted circle, the investment institution shall make the prospectus generally available free of charge no later than on the day of issue, of opening to external participation or of the written announcement of the opening to external participation. Every announcement in which participation rights are offered shall specify where the prospectus is available for the public.

Section 6:4 (conditions investment institution and other information)

1. At the same time as the prospectus, referred to in Section 6:3, an investment institution shall make the information referred to in Section 7:5 and the following

information generally available:
a. the announcement that the value of the participation rights can either increase or decrease and that the return of the participants may be less than their investment;
b. in the event that the investment institution invests with funds borrowed on behalf of or at the risk and expense of the participants:
1°. the risks associated herewith;
2°. a specification of any obligations of the participants in the investment institution to make up possible deficits of the investment institution if the losses exceed the investment; and
3°. a specification of the maximum level of the investments that may be acquired with borrowed funds in terms of absolute value or as a percentage of the assets under management.
c. if the investment institution exists long enough to make this possible: the returns realized by the investment institution in the past;
d. a description of the manner in which and the conditions under which the investment institution is wound up and liquidated, in particular with respect to the rights of the participants in the investment institution.
2. The investment institution shall also make the terms and conditions of the investment institution generally available prior to offering participation rights. These terms and conditions should at least contain the information referred to in Appendix 2.

§ 2. Credit Institutions

Section 6:5 (actions credit institutions that require a No Objection Certificate)

1. For the purposes of Section 4:23, subsection 1, opening words and (b) of the Act, the following will be regarded as significant participations:
a. a participation in a financial enterprise whose balance sheet total amounted to more than one per cent of the consolidated balance sheet total of the credit institution at the time of the acquisition or increase;
b. a participation in an enterprise, not being a financial enterprise, if the amount that is paid for the acquisition of said participation or for the increase in said participation, together with the amounts that were paid for said acquisition and for previous increases in these participations, amounts to more than one per cent of the consolidated available equity of the credit institution.
2. One can speak of a complete or significant take-over, indirect or otherwise, of the assets and liabilities of another enterprise or institution within the meaning of Section 4:23, subsection 1, opening words and (d) of the Act if the total amount of the assets or liabilities that are to be taken over is more than one per cent of the consolidated balance sheet total of the credit institution.

§ 3. Insurers

Section 6:6 (additional risks)

A non-life insurer which has its registered office in the public entities is also allowed, in addition to the risks associated with the sector for which the licence was granted, to insure risks associated with other sectors in the conduct of its business if, in the opinion of the Dutch Central Bank, these risks may be regarded as additional risks

since they:
a. are related to the principal risk associated with the sector for which the licence was granted;
b. pertain to the interest or risk object that is insured against the principal risk; and
c. are insured under the same contract as the principal risk.

Section 6:7 (claim settlement legal expenses insurance)

1. A legal expenses insurer shall entrust the work in respect of the settlement of claims for legal expenses to a legally independent firm of loss adjusters and specify this firm in the contract in respect of the legal expenses cover, or shall include in said contract that the insured party, as soon as he is entitled to legal assistance by virtue of the insurance policy, will be allowed to entrust the representation of his interests to a lawyer or to another legally authorized expert of his choosing.
2. "Legal expenses insurer" is understood to mean: a non-life insurer which offers insurance policies to cover services provided and costs incurred, particularly with a view to recovering a loss sustained by an insured party and his defence or representation, both in and out of court.
3. The Netherlands Authority for the Financial Markets may, under its terms, in derogation from subsection 1, allow a legal expenses insurer to entrust the work in respect of the settlement of claims for legal expenses to its own staff members, provided that its management is organized in such a way that conflicts of interest are prevented.
4. By a regulation from Our Minister, further rules may be prescribed with regard to the contents of the contract in respect of legal expenses cover.

Section 6:8 (claims adjuster motor third-party insurance)

1. An insurer which has its registered office in a foreign country and which, by performing services from a foreign office in the public entities, offers insurance policies to cover third-party liability, resulting from the use of motor vehicles, shall appoint a claims adjuster who is charged with settling claims of aggrieved parties as referred to in Section 1 of the Civil Liability Insurance (Motor Vehicles) (BES Islands) Act on its behalf.
2. The claims adjuster shall carry out his work from an office in the public entities and shall have sufficient powers to represent the non-life insurer, both in and out of court.
3. An insurer as referred to in subsection 1 shall notify the Netherlands Authority for the Financial Markets within two weeks of any changes in the instrument of appointment of the claims adjuster referred to in said subsection.

§ 4. Intermediaries

Section 6:9 (entitlement insurance agent to commission)

1. An insurance intermediary is entitled to a commission from the insurer on all the insurance policies that belong to his portfolio.
2. The revocation of the licence of an insurance intermediary shall not affect his entitlements to commissions in respect of insurance policies that belong to his portfolio at the time of revocation or to which Section 4:43, subsection 2 of the Act applied at the time.

3. Following a transfer as referred to in Section 4:43, subsections 2 and 3 of the Act, the entitlement to commissions will, in derogation from subsection 1, remain in force until the end of the current policy year, if this concerns a life insurance policy. If this concerns a non-life insurance policy, the entitlement will remain in force until the next maturity date of the insurance contract or until an earlier date on which the policyholder can terminate the insurance contract, unless otherwise agreed upon.

Section 6:10 (take-over premium collection by insurer)

1. The take-over of the premium collection by an insurer of an insurance intermediary as referred to in Section 4:45, subsection 3 of the Act shall not affect the entitlement to commission of said intermediary, referred to in Section 6:9, subsection 1.
2. Without prejudice to subsection 1, after taking over the premium collection, the insurer shall be authorized to charge the intermediary an equitable and objectively justified fee for the premium collection or to buy out the entitlement of the intermediary to commission. By a regulation from Our Minister, further rules may be prescribed with regard to said fee or buy-out payment.

CHAPTER 7. PROPER SERVICES

§ 1. General Provisions with regard to the Provision of Information

Section 7:1 (provision of information by financial services provider)

The information provided by a financial services provider:
a. shall be accurate and shall not point out the potential benefits of a financial product without also giving a correct and clear indication of the potential risks;
b. shall be sufficient and, by its manner of presentation, comprehensible for the average member of the group for which it is intended;
c. shall not conceal or diminish important matters, reports or warnings.

Section 7:2 (information to be provided in writing)

A financial services provider shall, pursuant to Sections 5:4 to 5:6 of the Act and Sections 7:5 to 7:14 of this Decree, provide the information in writing. The financial services provider may provide the information by means of another durable carrier if the consumer or client agrees to this.

§.2 Advertisements and other Voluntary Information

Section 7:3 (content of credit advertisements)

1. A financial services provider:
a. shall not include any information in a credit advertisement that focuses on the ease or speed with which the credit is provided;
b. shall not state in a credit advertisement that current credit agreements play a minor role (if any) in the assessment of a credit application.
2. It may be decided by a regulation from Our Minister that financial services providers should include a warning in credit advertisements in respect of the consequences associated with the credit.

Section 7:4 (specification of the costs of credit)

1. If a financial services provider includes information about the costs of credit in a credit advertisement, it shall simultaneously provide information about:
a. the credit amount;
b. the duration of the credit agreement;
c. the total costs of credit;
d. the total amount to be paid by the consumer;
e. the effective annual interest rate;
f. if the assumption of another obligation is required to obtain the loan on the conditions referred to in the advertisement: the obligation to that effect and the costs thereof, or in so far as these cannot be determined in advance, an indication of said costs;
g. other costs that form part of the total costs of credit;
h. the monthly payment.
2. A financial services provider shall present the information, referred to in subsection 1, if this is provided in a credit advertisement by other means than radio or television, in a table that does not include any other information.
3. If a financial services provider advertises products or services that are to be purchased with credit in a credit advertisement, it will therein specify the effective annual interest rate and any other costs that form part of the total costs of credit.
4. If an advertisement pertains to a loan with an effective interest rate that applies for a limited period of time, said advertisement shall also disclose the period during which the offered effective interest rate applies, as well as the highest effective interest rate during the term of the credit agreement.
5. If an advertisement contains an instalment amount, the advertisement shall specify the weighted average instalment amount that applies to the loan.
6. The information referred to in subsections 1, 3, 4 and 5 only pertains to loans that are representative of the loans that are actually provided by the financial services provider.

§3. Mandatory Pre-contractual Information

Section 7:5 (general pre-contractual information)

Before a consumer or client assumes an obligation in respect of a financial product or service, the financial services provider shall at least provide the consumer or client with information regarding:
a. its legal form;
b. its name, address and contact details and, if the financial services provider is a legal entity, the name given in the articles of association and the trade name or trade names;
c. the nature of the financial service;
d. its registration in the register maintained by the supervising authority;
e. its internal complaints procedure as referred to in Section 3:12, subsection 1 of the Act and, where applicable, the recognized dispute settlement authority with which it is affiliated;
f. the law that applies to the obligation or the choice of law proposed by the financial services provider;

g. the manner in which the obligation can be terminated, the applicable period that must be observed, the costs connected with the termination and the other consequences of the termination of the obligation.

Section 7:6 (pre-contractual information credit)

1. Prior to the formation of a credit agreement, the credit provider shall at least provide a consumer, without prejudice to Section 7:5, with the following information:
a. a rough description of the manner in which the credit provider implements the credit check, referred to in Section 5:14 of the Act;
b. the type of credit;
c. the credit amount;
d. the duration of the agreement;
e. the total costs of credit;
f. het total amount to be paid by the consumer;
g. the effective annual interest rate;
h. if the assumption of another obligation is required to obtain the loan: the nature and the costs or, in so far as this cannot be determined in advance, an indication thereof;
i. other costs that form part of the total costs of credit;
j. the monthly payment and, if the instalments are not monthly, the instalment amount and the corresponding number of instalments;
k. if the obligation referred to in (h) pertains to a financial product or financial service, not being a current account as referred to in Section 5:16, subsection 1(a) of the Act: a mention of the fact that the consumer has the right to choose the party with which the other obligation will be assumed;
l. if the effective interest rate applies for a limited period of time, or if a variable effective interest rate applies: the period during which said interest rate applies, as well as the level of the various effective interest rates that apply to the agreement or, if this cannot be determined yet, the manner in which the level of the interest rate will be determined;
m. the borrowing rate with a description of the costs included therein, the maximum borrowing rate referred to in Section 5:15, subsection 1 of the Act, and the reporting of the reason for being declared void, referred to in Section 5:15, subsection 3 of the Act;
n. the conditions in respect of the right of the consumer to repay in full or to make partial accelerated repayments;
o. the fee that becomes chargeable if, after receiving notice of default, the consumer fails to pay, specifying the maximum late redemption fee pursuant to Section 5:15, subsection 1 of the Act;
p. the manner in which the consumer can make use of his right, referred to in Section 5:17 of the Act, to terminate the agreement;
q. where applicable, the conditions in respect of security rights to be established for the credit provider.
2. The information referred to in subsection 1(b) to (l) shall be represented in a transparent manner in a single document.
3. The information referred to in subsection 1 shall be based on the preference expressed by the consumer with regard to the credit.
4. In order to be able to assess whether the proposed credit agreement meets the needs and financial situation of a consumer, the provider shall provide the consumer with a proper explanation of the main characteristics of the proposed credit, including

the consequences if the consumer fails to pay. In derogation from Section 7:2, this explanation may be given orally.

Section 7:7 (pre-contractual information life insurance)

Prior to the formation of a life insurance contract, a life insurer shall at least provide a client, without prejudice to Section 7:5, with the following information:
a. the amount of the benefit or benefits to which it has committed itself or, in so far as this amount cannot be accurately determined in advance, an accurate description of said benefit or benefits, and of the factors on which the level of benefit or benefits depends;
b. a description of the options open to the client or the benefit recipient by virtue of the contract;
c. an accurate description of the currency in which the premium or payment is expressed, if this is a currency other than the dollar, or of the units or otherwise in which the premium or payment is expressed or, if the payment provides for benefits other than cash benefits, of said benefits;
d. if a benefit involves a conversion into dollars or another currency: an accurate description of the conversion method;
e. if the benefit is expressed in terms of assets: a specification of the nature of the assets, including shares or different participation rights in an investment institution;
f. if the contract includes a right to a share in the profits: the manner in which the shares in the profits are calculated and appropriated;
g. the term of the contract;
h. the premium that is due for the main cover and, if the contract provides for one or more ancillary benefits, the premiums that are due for each of the ancillary benefits and, if these premiums fluctuate during the term, a description - as accurate as possible - of the manner in which they are calculated and of the factors affecting these fluctuations;
i. a specification if the premium is payable once only or on a regular basis;
j. the period during which premiums are due;
k. the costs that are charged in addition to the gross premium;
l. if the benefit is expressed in terms of participation rights in an investment institution:
1°. the costs that are deducted from the premium, referred to in (h), classified according to initial expenses, recurring costs and purchasing and selling costs;
2°. the costs that are deducted from the value of the participation rights, classified according to initial expenses, recurring costs and purchasing and selling costs;
3°. the costs which the management company of the investment institution charges every year for managing the participation rights in said investment institution;
4°. the effect of the average annual percentage of the costs referred to under 1°, 2° and 3° on the return and the benefit associated with the contract;
5°. the manner in which costs as referred to under 1°, 2° and 3° are spread across the term of the contract with the client;
m. a description of the consequences of an increase or decrease in the premium, including making the policy paid-up and, if the contract provides for this possibility, of surrender, and a specification of the surrender value during at least the first five years of the term, specifying the rate of return used for the calculation;
n. the manner in which the client can make use of his right, referred to in Section 5:18 of the Act, to terminate the contract;
o. the financial risk associated with the contract and the extent to which this risk is

borne by the client.

Section 7:8 (pre-contractual information funeral service insurance)

1. Prior to the formation of an agreement with regard to a funeral service insurance, a funeral service insurer shall provide a client, without prejudice to Section 7:5, with the following information:
a. a description of the service to which the funeral service insurer commits itself;
b. a description of the options open to the client or insured party by virtue of the contract;
c. a specification if the premium is payable once only or on a regular basis;
d. the premium payment period;
e. a statement of the indexation that is applied to the covered service or premium;
f. the other options open to the provider to adjust the covered service or premium;
g. a statement or indication of the surrender or paid-up value or a specification of the manner in which these values are calculated;
h. the manner in which the client can make use of his right, referred to in Section 5:18 of the Act, to terminate the contract;
i. a statement of the funeral company that will take care of the funeral arrangements, or of the manner in which it will be decided which funeral company will take care of the funeral arrangements.
2. If the notice period referred to in Section 7:5, subsection 1(g) is longer than one year, the funeral service insurer will make this expressly known to the client in a striking manner, failing which a notice period of one year will apply, irrespective of that which is provided in the contract.

Section 7:9 (pre-contractual information non-life insurance automotive industry)

Prior to the formation of an insurance contract to cover third-party liability, resulting from the use of motor vehicles, a non-life insurer which has its registered office in a foreign country and which, by providing services from a foreign office in the public entities, offers such insurance policies, shall give a client, without prejudice to Section 7:5, the name and address of the claims adjuster appointed pursuant to Section 6:8, subsection 1.

Section 7:10 (pre-contractual information brokerage commission)

If a life insurance contract, not being a life insurance policy, is concluded through the agency of an intermediary, said intermediary will inform the client in a timely fashion prior to the formation of the contract in question about the amount of the commission that he will receive in connection with these intermediary services.

Section 7:11 (providing information after the conclusion of a contract)

1. In derogation from Sections 7:7, subsection 1 and 7:8, subsection 1, the information referred to in these sections may also be provided immediately after the life insurance contract or funeral service insurance contract is concluded or, at the latest, at the same time the policy is issued, if the client has the right to terminate the contract - without penalty and without stating reasons - within thirty calendar days of the day on which he received the information, backdated to the date on

which the contract was concluded, and the client has been informed about the manner in which he can invoke that right.
2. Subsection 1 applies *mutatis mutandis* to the information which, pursuant to Section 7:5, is to be provided before a non-life insurance contract is concluded, on the understanding that the notice period will then come to fourteen calendar days and the termination will not have retroactive effect.

§ 4. Providing Information during the Term of a Contract

Section 7:12 (interim information credit)

1. During the term of a credit agreement with a variable effective interest rate, the credit provider shall inform the consumer about any changes in the effective interest rate, whereby said provider, where applicable, will also inform the consumer about the relevant consequences for the instalment amount.
2. During the term of a credit agreement, the credit provider shall, on his request, provide the consumer with a specification of the outstanding balance. The provider may then be able to charge a fee of no more than the amount of the actual costs.
3. The credit provider shall, on his request, provide the consumer - free of charge - with an itemized account up to one year after the completion of a credit agreement.

Section 7:13 (interim information life insurance policies)

1. During the term of a life insurance contract, a life insurer shall provide clients with at least the following information:
a. a change in the policy conditions, in so far as reasonably relevant;
b. in so far as this is not shown by the change in the policy conditions referred to in (a): any contract change with regard to the issues referred to in Sections 7:5, subsection 1(b) and (d) and 7:7, subsection 1, with the exception of (n), or the regulations applicable to said units of text;
c. the annual profit-sharing payments;
d. if the benefit is expressed in terms of participation rights in an investment institution: an annual statement for the preceding year of:
1°. the value development of the accumulated capital;
2°. the premiums, referred to in Section 7:7, subsection 1(h), paid by the client;
3°. costs, referred to in Section 7:7, subsection 1(l), under 1°, 2° and 3°, settled with the client;
4°. the return realized on the accumulated capital;
e. if the benefit is expressed in terms of participation rights in an investment institution: an annual forecast of the extent of the final capital on the basis of a pessimistic prediction of the historical return;
f. if the benefit is expressed in terms of participation rights in an investment institution: the management of the investment institution; and
g. if the client so requests: a statement of the paid-up value on the maturity date of the insurance policy, specifying the rate of return used for the calculation, or a statement of the costs owed in connection with surrender and the current surrender value.
2. If the benefit is expressed in terms of participation rights in an investment institution, the life insurer, without prejudice to subsection 1, opening words and (g), shall provide the client who is requesting an increase or decrease in his premium or that his policy is made paid-up, with a statement adapted to the new premium in

accordance with Section 7:7, subsection 1 (l), under 1°, 2° and 3°.

Section 7:14 (interim information funeral service insurance)

During the term of a contract in respect of funeral service insurance, a funeral service insurer shall provide a client with at least the following information:
a. a change in the policy conditions, in so far as reasonably relevant;
b. in so far as this is not shown by the change in the policy conditions referred to in (a): any changes in the contract with respect to the issues referred to in Section 7:5, subsection 1(b) and (d) and 7:8, with the exception of (h) or in the regulations applicable to said units of text.

Section 7:15 (interim information non-life insurance policies motor vehicles)

A non-life insurer which has its registered office in a foreign country and which, by providing services from a foreign office in the public entities, offers insurance policies to cover third-party liability, resulting from the use of motor vehicles, shall inform the client within two weeks about any changes in the name or address of the claims adjuster appointed pursuant to Section 6:8, subsection 1.

Section 7:16 (interim information by an authorized underwriting agent)

1. An authorized or indirectly authorized underwriting agent who took out an insurance policy at the expense of an insurer shall specify in the policy or in an appendix attached thereto the name of the insurer and, in case of coinsurance, the share that he accepted on behalf of the insurer. In case of a non-life insurance policy, he shall also specify in an appendix any changes in the share that he accepted on behalf of the insurer.
2. If, after the authorized or indirectly authorized underwriting agent took out the insurance policy or, in case of a non-life insurance policy, the share in the insurance policy accepted by the authorized or indirectly authorized underwriting agent is changed, a policy or appendix is not or not immediately given to the client, the authorized or indirectly authorized underwriting agent shall provide the information referred to in subsection 1 to the client within four weeks of taking out the insurance policy or of making the change. If the insurance policy belongs to the portfolio of an intermediary, the authorized or indirectly authorized underwriting agent shall provide said intermediary with this information within two weeks.
3. If, after an insurance policy has been taken out or, in case of a non-life insurance policy, the share in the agreement accepted by the insurer is changed, a policy or appendix in which the name of the insurer and, in case of coinsurance, his share or any changes made therein are specified is not or not immediately given to the client, the intermediary to whose portfolio the insurance policy belongs shall provide the client with this information within four weeks of concluding the agreement or of making the change.
4. Subsections 2 and 3 do not apply if, within the period concerned, the insurance is cancelled and the client or other interested parties can no longer derive any rights therefrom.
5. The authorized or indirectly authorized underwriting agent or the intermediary concerned shall, on request, immediately notify the client of the name of the insurer and, in case of coinsurance, of the shares that the insurers have accepted or of any changes that were made therein.

§ 5. Granting Credit

Section 7:17 (provision of credit)

1. In order to prevent over-indebtedness, a credit provider shall take account of the current regular and consistent net income of a consumer on the one hand and, on the other, his fixed expenses and, if applicable, financing charges connected with other credit agreements when determining the maximum amount of credit with which he is to be provided.
2. A credit provider shall not extend credit to a consumer if the monthly financing charges connected with this credit exceed the monthly credit limit of the consumer.
3. The monthly credit limit referred to in subsection 2 amounts to:
a. if the net income of the consumer does not exceed his living expense amount: 5% of the standard amount applicable to said consumer;
b. if the net income of the consumer exceeds his living expense amount: the sum of 5% of the standard amount applicable to said consumer and an amount that is equal to [(net income – living expense amount)^{2} / net income].
4. If the consumer has already entered into other credit agreements, the financing charges connected with these other agreements on a monthly basis will be deducted from his credit limit calculated pursuant to subsection 3.
5. The living expense amount referred to in subsection 3 shall be determined by deducting the amount of the standard housing costs that corresponds to the standard amount applicable to the consumer from said amount of standard housing costs and adding the actual housing costs of the consumer.
6. The standard amount referred to in subsection 3 is determined by a regulation from Our Minister and consists of a standard amount of the housing costs and a standard amount of the other fixed charges. This standard amount may vary per household composition and per public entity, and may be reviewed on a regular basis.
7. Instead of the living expense amount, a provider can, in so far as the provider complies with Section 7:19, subsection 2, use the actual fixed expenses of the consumer and, if applicable, of other persons with whom the consumer shares a household on a long-term basis, in the calculation referred to under subsection 3.
8. The provider shall not provide consumer credit with a term of more than five years unless the economic life of the product that is to be purchased with the credit is greater than five years.

Section 7:18 (household applicant)

1. The income of other persons with whom an applicant shares a household on a long-term basis may be taken into account when calculating the net income of a credit applicant.
2. The financing charges of other persons with whom an applicant shares a household on a long-term basis shall be included when calculating the financing charges of the applicant.

Section 7:19 (credit application assessment)

1. A credit provider shall lay down the criteria on which, with due observance of Section 7:17, it bases the assessment of credit applications by consumers.

2. In individual cases, a credit provider may derogate from Sections 7:17 and 7:18, provided that the following conditions have been demonstrably met:
a. the credit agreement is, in view of the risk of over-indebtedness, justified;
b. the provider has checked the correctness of the facts and circumstances underlying the derogation;
c. the provider has established that it is plausible that the grounds for the derogation are stable;
d. the derogation will be justified and documented and substantiated with documents, and will contain a clear calculation which shows that the exceptional case has been tested for the prevention of over-indebtedness.

Section 7:20 (maximum borrowing rate)

1. The maximum cost of credit is expressed in terms of an effective annual rate in total costs with respect to the credit amount. This rate shall be determined by a regulation from Our Minister.
2. The borrowing rate that applies to a credit agreement is calculated as follows:

$$KVP_j = \left(1 + \frac{k_j}{12}\right)^{12} - 1$$

where:

KVP_j = borrowing rate per year;
k_j = nominal borrowing rate per year.

3. The nominal borrowing rate per year is calculated by multiplying the nominal borrowing rate per month by twelve.
4. The nominal borrowing rate per month is calculated as follows:

$$PMT = KB \ \frac{k_m}{1 - (1 + k_m)^{-n}}$$

where:

PMT = monthly annuity;
KB = credit amount;
n = the number of monthly instalments;
k_m = nominal lending rate per month.

5. The monthly annuity is calculated as follows:

$$PMT = TB \ \frac{i_m}{1 - (1 + i_m)^{-n}}$$

where:

TB = total amount, being the credit amount plus all the costs, not being interest, expressed in terms of its present value at the time the credit agreement was entered into;

i_m = nominal interest rate per month, divided by one hundred.

6. If the total amount that is to be paid by the consumer is paid in instalments other than monthly instalments, the credit provider will base its calculation of the borrowing rate, referred to in subsection 2, on the repayment periods that apply to the credit.
7. If the costs referred to in subsection 1 consist exclusively of interest, the borrowing rate is equal to the effective interest rate, which is calculated as follows:

$$r_j = \left(1 + \frac{i_j}{n}\right)^n - 1$$

where:
r_j = effective interest rate per year;
i_j = nominal interest rate per year, divided by one hundred;
n = number of instalments per year.

8. If the nominal interest rate is not constant during the term of the credit agreement, the credit provider shall use the weighted average interest rate or, in case this cannot be determined yet, the highest interest rate during the term of the agreement.

Section 7:21 (maximum late redemption fee)

The maximum late redemption fee shall be determined by a regulation from Our Minister.

§ 6. Remuneration of Intermediaries

Section 7:22 (commission insurance agents)

The remuneration of an insurance agent shall, subject to Section 7:23, subsection 2, consist exclusively of commissions in respect of arranging insurance, effecting insurance renewals or collecting premiums.

Section 7:23 (claim settlement commission)

1. In case of a claim, an insurance agent is not allowed to charge a policyholder or those on whose behalf an insurance policy has been taken out a claim settlement commission.
2. The Netherlands Authority for the Financial Markets may grant the insurance agent who, to the satisfaction of the Netherlands Authority for the Financial Markets, has proven that he has the proper business set-up and expertise for this purpose and that he is able to make the efforts that may reasonably be required of him for the claim settlement, an exemption - for forms of insurance to be determined by a regulation from Our Minister - from the prohibition referred to in subsection 1.
3. The Netherlands Authority for the Financial Markets may have the assessment of the quality of the business set-up, the expertise and the procedures for settling claims carried out by an expert third party at the expense of the insurance agent concerned.
4. The claim settlement commission that may be charged shall amount to no more

than one per cent of the amount of the claim to be paid out to the insured party.
5. The exemption referred to in section 2 shall apply for a period of three years and may be extended by periods of three years.

Section 7:24 (prohibition on passing on commissions)

1. With regard to an insurance policy, it is forbidden, without prejudice to Section 6:9, subsection 3, to directly or indirectly give, cede or promise parties other than the insurance agent to whose portfolio the insurance policy belongs a commission, return commission or any other benefit capable of being expressed in money.
2. The Netherlands Authority for the Financial Markets may, in addition to Section 1:12, subsection 1, grant an exemption from the prohibition referred to in subsection 1 if the prohibition is incompatible with generally recognized practices or the general interest of the insurance business.

CHAPTER 8. SECURITIES TRANSACTIONS

§ 1. Offering Securities

Section 8:1 (contents of a prospectus)

1. The prospectus referred to in Section 5:19, subsection 1 of the Act shall at least contain the information to be determined by a regulation from Our Minister, whereby a distinction shall be made between the following categories of securities:
a. share certificates, share purchase warrants, warrants, share register entries, profit-sharing and founder's certificates, rights of joint ownership and similar securities or rights;
b. debt instruments, debt register entries and similar securities or rights;
c. depositary receipts and similar securities;
d. options and similar rights;
e. futures;
f. scrips representing securities as mentioned above.
2. The Netherlands Authority for the Financial Markets can prescribe rules with regard to the layout of the prospectus.

Section 8:2 (language of the prospectus)

The Netherlands Authority for the Financial Markets may require that a prospectus as referred to in Section 5:19, subsection 1 of the Act is drawn up in one or more languages - to be decided upon by said authority - if, in its opinion, in view of the intended or possible distribution of the prospectus, this is necessary for a proper disclosure to the investors. It can issue instructions with respect to the manner in which the prospectus is made generally available.

Section 8:3 (supplementary document)

1. Any relevant new facts that emerge or are established between the time of approval of a prospectus as referred to in Section 5:19, subsection 1 of the Act and the date on which the offering of the securities ends or trading in securities

commences, and that may be important for assessing the capital, financial position, results and prospects of the issuing institution and the rights and obligations connected with the securities, as well as substantial lacunae, inaccuracies or errors in the prospectus, shall be specified or corrected in a document that will be made generally available as a supplement to the prospectus.
2. The document referred to in subsection 1 requires the approval of the Netherlands Authority for the Financial Markets and is made generally available. Section 8:2 applies *mutatis mutandis*.

§ 2. Market Abuse

Section 8:4 (exceptions to the prohibition on the use of inside information)

Section 5:25, subsection 1 of the Act does not apply to the following categories of transactions:
a. transactions within the context of the monetary policy, the foreign exchange policy or the management of the national debt;
b. awarding securities to persons as referred to in Section 3:5, subsection 1 of the Act within the scope of a staff arrangement or to employees, if consistent accounting policies in respect of the conditions and periodicity of the arrangement are applied to this;
c. the exercise of granted options or similar rights within the scope of a staff arrangement as referred to in (b), on the expiry date of the right concerned or within a period of five working days prior to said date, as well as the sale of securities acquired through the exercise of said rights in this period, if the rightholder in the latter case has made his intention to sell known in writing to the issuing institution no less than four months before the expiry date or has granted the issuing institution an irrevocable power of attorney to sell;
d. transactions that need to be conducted or effectuated in order to be able to comply with an obligation to transfer shares or depositary receipts;
e. the issue of shares or depositary receipts by way of dividend distribution or the acquisition, other than in the form of optional dividend, of shares or depositary receipts;
f. the sale of securities awarded within the scope of a staff arrangement as referred to in (b) immediately after their sale first becomes possible under the conditions of the award, whereby the party concerned immediately uses the proceeds of the sale to settle a liability for tax resulting from the award.

Section 8:5 (exceptions to the prohibition on market manipulation)

1. Section 5:27, subsection 1, of the Act does not apply to conducting or effectuating transactions within the context of the monetary policy, the foreign exchange policy or the management of the national debt. On the recommendation of the Netherlands Authority for the Financial Markets, other transactions or orders to trade to which the prohibition of Section 5:27, subsection 1 of the Act does not apply may be designated by a regulation from Our Minister.
2. Section 5:27, subsection 2 does not apply to the dissemination of information within the context of the monetary policy, the foreign exchange policy or the management of the national debt.

§ 3. Major Holdings in Listed Companies

Section 8:6 (excepted companies)

Chapter 6, sections 2 and 3 do not apply to:
a. companies whose shares - which, without application of Section 6:2 of the Act, would be regarded as voting shares - are not traded on recognized stock exchanges;
b. companies whose articles of association stipulate that shareholders have the right, under terms and conditions laid down by or pursuant to the articles of association, to have their shares in the capital of the company repurchased;
c. companies where the investment and management of the assets has been contractually commissioned to a third party, provided that this is shown by the articles of association or was clearly made known to the shareholders and subscribers for shares the last time shares were issued.

CHAPTER 9. ADMINISTRATIVE FINE

Section 9:1 (administrative fine categories)

For the purposes of this chapter, the following categories of administrative fines and their corresponding basic amounts, minimum amounts and maximum amounts are distinguished:

Fine Category	Basic Amount	Minimum Amount	Maximum Amount
First Category	USD 500	USD 0	USD 2,000
Second Category	USD 5,000	USD 0	USD 10,000
Third Category	USD 25,000	USD 0	USD 50,000

Section 9:2 (applicable fine category)

1. A violation of a regulation referred to in Appendix 3 to this Decree shall be subject to an administrative fine of the category which, according to said appendix, applies to a violation of said regulation.
2. Noncompliance or late or partial compliance with an order given pursuant to Section 7:12, subsection 1 of the Act shall, in the event that the order was given with regard to noncompliance with a regulation referred to in Appendix 3, be subject to an administrative fine of the category that applies to said regulation.
3. If an order as referred to in subsection 2 is given with regard to a regulation, not being a regulation referred to in Appendix 3, noncompliance or late or partial compliance with said order shall be subject to an administrative fine of the first category.
4. Noncompliance or late or partial compliance with an order given pursuant to Section 7:12, subsection 2 or 7:13 of the Act shall be subject to an administrative fine of the second category.

Section 9:3 (basic amount and increase or decrease of the amount of the fine)

1. The supervising authority shall fix an administrative fine at the basic amount, corresponding to the applicable category.
2. The supervising authority shall increase the basic amount of a fine of the first

category that is to be imposed by no more than 300 per cent of said amount if the seriousness or the duration of the violation justifies such an increase.
3. The supervising authority shall decrease or increase the basic amount of a fine of the second or third category that is to be imposed:
a. by no more than 50 per cent of the basic amount if the seriousness or the duration of the violation justifies such a decrease or increase;
b. by no more than 50 per cent of the basic amount if the degree of blame for the violation justifies such a decrease or increase.

Section 9:4 (doubling the fine in case of repeat violation)

The amount of the fine that is to be determined by the supervising authority pursuant to Section 9:3 shall be doubled if, at the time the violation was committed, fewer than five years had passed since an administrative fine was imposed on the offender in respect of an identical violation.

Section 9:5 (fine according to financial capacity)

1. The supervising authority shall take account of the financial capacity of the offender when setting an administrative fine.
2. The supervising authority can reduce the fine that is to be imposed pursuant to subsection 1 by no more than 100 per cent of the amount determined pursuant to Sections 9:3 and 9:4.

CHAPTER 10. SPECIAL PRUDENTIAL MEASURES INSURERS

Section 10:1 (recovery plan)

1. A recovery plan as referred to in Section 8:3, subsection 1 of the Act shall specify the manner in which and the period within which the circumstances that gave rise to the need for a recovery plan will be ended.
2. The recovery plan shall at least contain information for the next three financial years concerning:
a. an estimate of the management expenses, in particular the general current expenses and commissions;
b. a detailed forecast of the probable receipts and expenses concerning direct insurance policies, the accepted reinsurance policies and transfers by virtue of reinsurance;
c. the expected balance sheet position;
d. an estimate of the financial resources to cover the obligations and of the required solvency margin;
e. the general reinsurance policy.
3. The Dutch Central Bank may require additional information if this is necessary for a proper assessment of the recovery plan.

Section 10:2 (debt restructuring and financing plan)

1. A debt restructuring plan as referred to in Section 8:5, subsection 1 of the Act shall specify the manner in which and the period within which the solvency margin will be restored to the requisite level. If, pursuant to Section 8:3, subsection 1 of the

Act, a recovery plan is adopted to which consent has been granted, the debt restructuring plan shall also specify the manner in which the recovery plan will be incorporated therein.
2. A financing plan as referred to in Section 8:5, subsection 2 of the Act shall specify the manner in which and the period within which the solvency margin will be restored to the requisite level. If, pursuant to Section 8:3, subsection 1 of the Act, a debt restructuring plan is adopted to which consent has been granted, the financing plan shall also specify the manner in which the debt restructuring plan will be incorporated therein.

CHAPTER 11. CLOSING PROVISIONS

§ 1. Transitional Law

Section 11:1 (transitional law in connection with Bazel II)

A credit institution which has its registered office in the public entities shall, in derogation from the rules laid down by or pursuant to Section 4:3 or 4:29, have sufficient financial strength and liquid funds until 1 January 2014 if it complies with Sections 2.2 to 2.5 of the Financial Markets (BES Islands) Regulation 2010, as this regulation was called immediately before this Decree came into force.

§ 2. Amendment of other Decrees

Section 11:2 (Administrative Authorities (National Ombudsman Act and Government Information (Public Access) Act) Decree)

Section 1 of the Administrative Authorities (National Ombudsman Act and Government Information (Public Access) Act) Decree will be amended as follows:
1. In part b, the Financial Markets (BES Islands) Act will be added after "the Notaries Act".
2. In part c, the Financial Markets (BES Islands) Act will be added after "the Financial Reporting (Supervision) Act".

Section 11:3 (Elections Decree)

In Sections Ya 1 and Ya 3 of the Elections Decree, "Bank and Credit System (Supervision) (BES Islands) Act 1994" is replaced by: Financial Markets (BES Islands) Act.

Section 11:4 (Police Data Decree)

Section 6a:6, subsection 2 of the Police Data Decree will read as follows:
2. In derogation from Section 4:2, subsection 2, police data as referred to in subsection 1 may be provided to members of the Public Prosecution Service for the advisory role within the scope of the implementation of the below-mentioned laws and may, through the intervention of said Public Prosecution Service within the scope of the role referred to above, also be provided to:
a. the Dutch Central Bank, in order to:
- gain insight into the intentions, actions and antecedents, referred to in Section 3:1

of the Financial Markets (BES Islands) Act, to determine the properness of a person, as referred to in Section 3:4, subsection 1 of the Financial Markets (BES Islands) Act;
- gain insight into the intentions, actions and antecedents, referred to in Section 4, subsection 1 of the Pensions Act (BES Islands) Decree, to determine the properness of a person, as referred to in Section 5a, subsection 5 of the Pensions (BES Islands) Act;
b. the Netherlands Authority for the Financial Markets, in order to gain insight into the intentions, actions and antecedents, referred to in Section 3:1 of the Financial Markets (BES Islands) Decree, to determine the properness of a person, as referred to in Section 3:4, subsection 1 of the Financial Markets (BES Islands) Act.

§ 3. Entry into Force and Short Title

Section 11:5 (entry into force)

This Decree will take effect on a date that is to be determined by Royal Decree, which may vary for the various sections and units of text thereof and for the various categories of financial enterprises that may be distinguished by virtue of this Decree.

Section 11:6 (short title)

This Decree shall be cited as: Financial Markets (BES Islands) Decree.

We hereby order and command that this Decree and the accompanying Explanatory Memorandum shall be published in the Bulletin of Acts and Decrees.

The Minister of Finance,

Unofficial translation. No rights can be derived from this translation.

APPENDIX 1. ANTECEDENTS THAT ARE TO BE CONSIDERED

Appendix as referred to in Section 3:1, subsection 3

1. Criminal Antecedents

1.1. Convictions

By final judgement the party concerned was convicted in the public entities or in a foreign country with respect to making attempts to, making preparations for, having others commit, provoking, having complicity in, participating in or committing:
– conducting or effectuating transactions in certain securities in or from a country in the Kingdom with prior knowledge (Sections 5:24 and 5:25 of the Act);
– passing on inside information as referred to in Sections 5:24 and 5:25 of the Act or the emphatic recommendation to conduct certain transactions without passing on inside information (Section 5:26 of the Act);
– participating in an organization of which the object is to commit crime or terrorist crime (Sections 146 and 146a of the Penal Code (BES Islands);
– perjury (Section 213 of the Penal Code (BES Islands);
– forgery of documents (Sections 230 to 239 of the Penal Code (BES Islands);
– aggravated theft (Sections 324 to 325 and 312 of the Penal Code (BES Islands);
– embezzlement (Section 334 of the Penal Code (BES Islands);
– prejudice to creditors or entitled parties (Sections 353 to 361 of the Penal Code (BES Islands);
– deliberately handling stolen property (Section 431 of the Penal Code (BES Islands);
– money laundering (Sections 435a to 435c of the Penal Code (BES Islands);
– violation of a stipulation of the financial regulatory legislation, made punishable as a serious offence and for which the party concerned received a nonsuspended prison sentence or a fine of at least the fourth category;
– violation of one or more penal provisions in force in a foreign country, comparable with those referred to above.

2. Other Criminal Antecedents

2.1. Convictions

By judgement the party concerned was convicted in the public entities or in a foreign country with respect to making attempts to, making preparations for, having others commit, provoking, having complicity in, participating in or committing:

Penal Code (BES Islands):
– public order and discrimination (Sections 136bis to 157);
– crimes endangering general safety (Sections 163 to 182b);
– public authority (Sections 182c to 212);
– currency offences (Sections 214 to 220);
– forgery offences other than currency offences (Sections 222 to 239);
– serious offences against public decency (Sections 248 to 261);
– threats of violence or crime (Sections 297 and 298);
– violent crimes against life (Sections 300 to 312);
– abuse (Sections 313 to 316);
– criminally negligent homicide and culpable physical injury (Sections 320 and 321);
– simple theft (Section 323);
– aggravated theft (Sections 324 and 324a);
– robbery (Section 325);

– extortion (Sections 330 and 331);
– embezzlement (Sections 334 to 336);
– fraud (Sections 339 to 350);
– prejudice to creditors or entitled parties (Sections 353 to 361);
– destruction (Sections 366 to 370);
– serious offences committed by a public servant in the course of his duties (Sections 372bis to 393);
– handling stolen property and receiving stolen property (Sections 431 to 432bis);
– laundering (Sections 435a to 435c);
– giving a false name, title, etc. (Section 454);
– unauthorized exercise of a profession (Section 456);
– creating the impression of having official support or recognition (Section 454b);
– acting without authorization during a moratorium (Section 462).

Tax Law (BES Islands):
– violations of tax laws (Section 8.74).

Opium (BES Islands) Act 1960:
– deliberately smuggling, preparing, selling, delivering, stocking, etc. hard drugs or soft drugs (Sections 2 to 4).

Money Laundering and Terrorist Financing (Prevention) (BES Islands) Act:
- deliberately violating the regulations referred to in Section 6.1 of the Money Laundering and Terrorist Financing (Prevention) (BES Islands) Act.

Firearms (BES Islands) Act:
- unauthorized possession of a firearm (Section 3).

Weapons (BES Islands) Act:
- unauthorized possession of a weapon (Section 1).

Act of 20 April 1932 in respect of motor vehicle collisions and disqualification from driving (BES Islands):
- driving a motor vehicle after having been disqualified from driving (Section 5), other acts pertaining to traffic safety as referred to in Section 3.

Customs and Excise (BES Islands) Act:
– violations of customs laws (Sections 2.126 – 2.142).

Foreign penal provisions:
"Convictions" include convictions in a foreign country for a violation of one or more penal provisions in force in a foreign country, comparable with those mentioned above.

2.2. Transactions
The party concerned has conducted a transaction as referred to in Section 76 of the Penal Code (BES Islands) in respect of one or more of the criminal offences referred to above under 2.1. "Transactions" include a similar non-prosecution agreement in respect of criminal offences similar to those referred to above in a foreign country, concluded with the authority that is competent in the matter.

2.3. (Conditional) Dismissal, Acquittal or Discharge from Prosecution
The party concerned will not be (conditionally) prosecuted (further) in respect of one or more of the criminal offences referred to above under 2.1, or has been acquitted or discharged from prosecution.
"Conditional dismissal, foregoing further prosecution, acquittal or discharge from prosecution or otherwise" also include similar judgements and measures in a foreign country in respect of a violation of one or more penal provisions that are in force there and that are comparable with those referred to above.

2.4. Other Facts or Circumstances
Other facts or circumstances that may be reasonably important for the supervising authority for assessing the properness of the party concerned, as appears from official reports or reports drawn up by officials who are authorized to investigate criminal offences that indicate that the party concerned is or was involved in one or more of the criminal offences referred to under 2.1. "Official reports or reports" also include similar documents of equal evidentiary value drawn up by officials who are authorized to investigate criminal offences in a foreign country in respect of penal provisions that are in force there and that are comparable with those referred to under 2.1.

3. Financial Antecedents

3.1. Personal
– the party concerned had significant personal financial problems, that have resulted in legal, collection or debt collection proceedings;
– bankruptcy proceedings have been instituted against the party concerned or the party concerned has been declared bankrupt, or applications for a moratorium, debt management or debt settlement have been submitted or granted on behalf of the party concerned;
– the party concerned is currently involved, in the Netherlands or elsewhere, in one or more legal proceedings as a result of personal financial problems, or expects to become involved therein;
– the personal financial liabilities of the party concerned are not, according to general standards, in healthy proportion to his income or assets.

3.2. Non-personal
– the current or one of the former employers of the party concerned or any company or legal entity where the party concerned holds or held a position as a policymaker or co-policymaker, exercises or exercised actual control over the policy, or is or was otherwise (jointly) responsible for the policy, had significant financial problems, that have resulted in legal proceedings in the public entities or elsewhere;
– with regard to the current or one of the former employers or any company or legal entity where the party concerned holds or held a position as a policymaker or co-policymaker, exercises or exercised actual control over the policy, or is or was otherwise (jointly) responsible for the policy, an application for a moratorium has been submitted or granted or a bankruptcy petition has been submitted or granted;
– the party concerned was ordered to settle outstanding debts on account of a liability for the liquidation of a company or legal entity by virtue of the applicable provisions of Book 2 of the Civil Code (BES Islands) (Section 16).

3.3. Other Facts or Circumstances

Other facts or circumstances that point to the involvement of the party concerned in one or more financial actions, in so far as these may be reasonably important for the Dutch Central Bank for assessing his properness.

4. Record of Supervision

4.1. Record of Supervision
– providing a regulatory or supervisory authority with incorrect or incomplete information;
– the party concerned or a company or legal entity where the party concerned holds or held a position as a policymaker or co-policymaker exercises or exercised actual control of the management, or is or was otherwise (jointly) responsible for the policy, was refused an admission, licence or exemption by a regulatory or supervisory authority;
– an admission, licence or exemption granted to the party concerned or a company or legal entity where the party concerned holds or held a position as a policymaker or co-policymaker, exercises or exercised actual control of the management, or is or was otherwise (jointly) responsible for the policy, is withdrawn by a regulatory or supervisory authority;
– the party concerned or his current or one of his former employers or a company or legal entity where the party concerned holds or held a position as a policymaker or co-policymaker, exercises or exercised actual control of the management, or is or was otherwise (jointly) responsible for the policy, was in conflict with a regulatory or supervisory authority and this conflict resulted in a measure against the party concerned or against the company or legal entity where the party concerned holds or held a position as a policymaker or co-policymaker, exercises or exercised actual control over the policy, or is or was otherwise (jointly) responsible for the policy;
– the party involved or a company or legal entity where the party concerned holds or held a position as a policymaker or co-policymaker, exercises or exercised actual control of the management, or is or was otherwise (jointly) responsible for the policy, was refused a statement by the Minister of Justice in respect of the formation of a company or in respect of the amendment of the articles of association of a company on grounds referred to in Sections 68, subsection 2, 179, subsection 2, 125, subsection 2, or 235, subsection 2 of Book 2 of the Civil Code. This refusal is equated with a refusal of such a statement on similar grounds by an authority that is competent in the matter in another part of the Kingdom.

4.2. Other Facts or Circumstances
Other facts or circumstances that point to the involvement of the party concerned in one or more actions in respect of which rules have been laid down in Dutch or foreign financial regulatory legislation, which action or actions may be reasonably important for the Dutch Central Bank for assessing his properness.

5. Fiscal and Administrative Antecedents

5.1. Personal
A punishment has been imposed on the party concerned by virtue of the Tax Law (BES Islands) in respect of one or more criminal offences mentioned below:
- providing incorrect or incomplete information or instructions, or failing to do so (Section 8.74(f));
- failure to meet obligations to provide information (Section 8.76).

5.2. Non-personal
Pursuant to the Tax Law (BES Islands), a punishment has been imposed on the current or one of the former employers or any company or legal entity where the party concerned holds or held a position as a policymaker or co-policymaker, exercises or exercised actual control of the management or otherwise is or was (jointly) responsible for the policy, in respect of one or more of the criminal offences mentioned below:
- providing incorrect or incomplete information or instructions, or failing to do so (Section 8.74(f));
- failure to meet obligations to provide information (Section 8.76).

5.3. Other Facts or Circumstances
Other facts or circumstances that point to the involvement of the party concerned in one or more actions in the tax field that may be reasonably important for the supervising authority for assessing his properness.

6. Non-personal Financial Antecedents

- the party concerned has or was going to secure(d) more than one of the following positions with the same enterprise, which conducts its business by virtue of a licence from the supervising authority:
a. director;
b. member of the Board of Directors;
c. member of the Supervisory Board.
- the party concerned has or was going to secure(d) more than one of the following positions with the same enterprise, which conducts its business by virtue of a licence from the supervising authority:
a. director;
b. member of the Board of Directors;
c. member of the Supervisory Board.
- the party concerned is the owner or was going to become the owner of an insurance brokerage business.
- the party concerned has one of the following in an enterprise that conducts its business by virtue of a licence from the supervising authority and that does not form part of the group to which the enterprise where the party concerned is or was going to become policymaker belongs:
a. a direct or indirect participating interest of no less than 5% of the nominal capital;
b. a controlling interest, giving the holder the right to exercise, directly or indirectly, no less than 5% of the voting rights or an interest comparable therewith.

7. Other Antecedents

– the party concerned is or was subjected to a procedure for taking disciplinary or other (similar) measures by or on behalf of an organization of his professional colleagues in or outside the public entities and this procedure resulted in measures against the party concerned;
– the party concerned is or was involved in a conflict with his current or former employer concerning the proper performance of his duties or compliance with standards of conduct in connection with the performance of said duties and this conflict resulted in the imposition of a penalty under employment law on the party

concerned (e.g. in the form of a warning, reprimand, suspension or dismissal).

APPENDIX 2. CONDITIONS OF INVESTMENT INSTITUTIONS
Appendix as referred to in Section 6:4, subsection 2

I. The terms and conditions of the investment institution shall specify:
1.1. the rules for calculating the issue, sale or repurchase price of shares and for calculating the repayment on the shares;
1.2. the rules that apply to the repurchase and sale of, as well as the repayment on, shares by the investment institution, including, if applicable, the rules that apply if the investment institution has, by agreement, entrusted a third party with tasks in respect of the administration, repurchase, sale or custody of shares that it issued;
1.3. by the investment institution which is obliged to repurchase shares, in so far as reasonably foreseeable: the cases where, in the interest of the participants, the repurchase of the shares or the repayment of the value of the shares can be suspended or deferred;
1.4. where applicable, the stock exchanges and the other regulated, properly functioning, recognized open markets where the securities are traded in which the investment institution invests;
1.5. the rules for valuing the assets;
1.6. the remunerations and expenses which the management company of an investment fund is allowed to deduct from the fund, as well as the manner in which these remunerations are calculated;
1.7. the nature of the costs that are payable by the investment company;
1.8. the manner in which it is decided if the returns of the investment institution are to be distributed or reinvested;
1.9. the situations in which participants' meetings can or must be held, the rules for calling these meetings and the manner in which the right to vote is regulated;
1.10. the manner in which changes can be made to the terms and conditions of the investment institution and the extent to which the participants' meeting is involved in this;
1.11. the rules and conditions that apply when the management company of the investment fund is replaced;
1.12. the rules and conditions that apply when the depositary is replaced.

II. The terms and conditions of the investment institution shall stipulate that:
2.1. all shares of the same class shall entitle the holder to a proportional share in the capital of the investment institution in so far as this is due to the shareholder;
2.2. the investment institution must have sufficient guarantees in place for the shares that it freely repurchases and sells at the request of participants so that, with the exception of legal provisions and the cases mentioned above under I.1.3., the obligation to purchase and sell can be complied with;
2.3. with the exception of bonus issues, shares can only be issued if the net issue price is paid into the assets of the investment institution within the time limits that have been set;
2.4. in case share certificates are issued, these certificates will be signed by the investment institution;
2.5. the availability for payment of distributions to participants, the composition of these distributions as well as the manner in which these distributions will be made payable shall be announced to the address of every participant or, if these address details are not known, on the website of the investment institution or, if the investment institution does not have a website, in an advertisement in the official list of the stock exchange on which the shares in the investment institution are listed;

2.6. the participants' meeting must be convened by notice sent to the address of every participant at least fourteen days before the date of the meeting or, if these address details are not known, by an announcement on the website of the investment institution or, if the investment institution does not have a website, by placing an advertisement in the official list of the stock exchange on which the shares in the investment institution are listed;
2.7. a proposal to amend the terms and conditions of the investment institution shall be sent to the address of every participant or, if these address details are not known, announced on the website of the investment institution or, if the investment institution does not have a website, placed in an advertisement in the official list of the stock exchange on which the shares in the investment institution are listed;
2.8. the terms and conditions of the investment institution can only be amended with the knowledge of the participants' meeting;
2.9. an amendment of the terms and conditions of the investment institution as a result of which the rights or securities of participants are reduced or obligations are imposed on them will not become effective until after three months have expired following the approval of the Netherlands Authority for the Financial Markets and that the participants may convert their shares on the usual conditions in this period;
2.10. a motion to wind up the investment institution must be made known to the participants' meeting;
2.11. notice shall be given of a request by the supervising authority pursuant to Section 2:14, opening words of the Act to revoke the licence or, if these address details are not known, on the website of the investment institution or, if the investment institution does not have a website, in an advertisement in the official list of the stock exchange on which the shares in the investment institution are listed;
2.12. the management company of the investment fund shall act exclusively in the interest of the participants whilst performing its management services;
2.13. if the management company makes its intention to relinquish its function known, a participants' meeting shall be held within a period of four weeks to appoint a new management company;
2.14. when liquidating the assets referred to in Section 6:4, subsection 1(d), the management company of the investment fund shall report to the participants before proceeding with the distribution to the participants.

Unofficial translation. No rights can be derived from this translation.

APPENDIX 3. TABLE ON FINES

Appendix as referred to in Section 9:2

A. Financial Markets (BES Islands) Act

Section	*Cat.*
1:7, subsection 2	2
2:1, subsection 1	3
2:3, subsections 1 and 2	3
2:17, subsection 1	2
2:21, subsection 1	2
2:23, subsections 1, 3 and 5	3
3:1, subsections 1 and 3	3
3:2 and 3:3	3
3:4, subsection 1	2
3:5	2
3:6	2
3:7	2
3:8 to 3:12	2
3:13	2
3:15	2
3:16 to 3:19	3
3:21 and 3:22	3
3:23 to 3:26	2
3:28, subsection 1	3
3:29	2
3:33 and 3:34	2
3:35	1
3:36	2
3:37 to 3:40	2
3:44	3
3:45, subsection 3	3
3:45, subsection 4	2
3:45, subsection 5	3
3:46, subsection 3	3
3:46, subsection 4	2
3:46, subsection 5	3

Section	*Cat.*
4:1, subsections 1 and 2	3
4:2	2
4:3	2
4:4 and 4:5	3
4:8	2
4:9	2
4:10 to 4:13	2
4:15 to 4:17	2
4:18, subsection 1	2
4:19	2
4:20	2
4:22	2
4:23, subsections 1 and 3	3
4:25	3
4:26, derde lid	2
4:28, subsection 1	3
4:29, subsection 1	3
4:30 to 4:32	2
4:33	2
4:34, subsection 1	2
4:35, subsections 1 and 2	3
4:36, subsection 1	2
4:37	2
4:38 to 4:41	3
4:43	3
4:45, subsections 2 and 3	2
4:46	3
4:47, subsection 1	1
4:48	2

Section	*Cat.*
5:2	2
5:3	2
5:4 to 5:10	2
5:14	2
5:15, subsections 1 and 2	2
5:16, subsection 1	2
5:16, subsection 2	2
5:19, subsection 1	2
5:21	2
5:22, subsections 1 and 3	2
5:23, subsection 1	2
5:25, subsection 1	3
5:26, subsection 1	3
5:27, subsections 1 and 2	3
7:10, subsection 4	2
7:11, subsection 1	2
7:17, subsection 1	3
7:17, subsection 2 (a)	2
7:20, subsections 1 and 2	3
8:2, subsections 1 and 2	3
8:3	3
8:4, subsection 1	3
8:5, subsection 1 to subsection 3	3
8:6	3
8:7, subsection 1	3

B. Financial Markets (BES Islands) Decree

Section	*Cat.*
2:8 to 2:11	2
2:15	3
2:16	2

Section	*Cat.*
2:17	3
3:3 to 3:5	2
3:7, subsection 1	2

Section	*Cat.*
3:7, subsection 2	2
3:8 and 3:9	2
3:12 to 3:27	2

Unofficial translation. No rights can be derived from this translation.

Section	*Cat.*
3:29 and 3:30	2
3:32 to 3:34	3
4:2 to 4:9	3
4:10 and 4:11	2
4:12	3
4:14, subsection 1	3
4:14, subsection 3	2
4:15	3
4:17, subsection 2	3

Section	*Cat.*
4:18, subsection 1	3
4:19, subsection 3	3
4:20 to 4:32	3
4:34 to 4:42	3
4:46 to 4:51	2
5:1	2
5:2 to 5:4	1
5:5 and 5:6	2
6:1	2
6:2	3

Section	*Cat.*
6:3 and 6:4	2
6:6 to 6:8	2
7:1 to 7:17	2
7:19 and 7:20	2
7:22	2
7:23 and 7:24	2
8:1 to 8:3	2
10:1 and 10:2	2