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Extract from bill no 577 of 6 June 2007

Amending the Financial Business Act and Various Other Acts
(Covered Bonds)

Section 1

The Financial Business Act, see Consolidation Act No. 286 of 4 April 2006, as amended by section 1 of Act No. 527 of 7 June 2006, section 3 of Act No. 108 of 7 February 2007 and section 5 of Act No. 181 of 28 February 2007, is amended as follows:

1. In section 1(4), second sentence, “sections 360,” shall be amended to read: “section 152a(2), second sentence, section 360,”.

2. The following shall be inserted after section 16:

“**16a. (1)** The Danish FSA (‘the FSA’) may license commercial banks and mortgage banks to issue covered bonds.

(2) Commercial banks and mortgage banks with a licence under subsection (1) hereof and the ship financing institution with a licence under section 2c of the Danish Act on a Ship Financing Institution (*lov om et skibsfinansieringsinstitut*) shall have the exclusive right to issue covered bonds. Mortgage banks with a licence under subsection (1) hereof shall also have the exclusive right to issue covered mortgage bonds.

(3) Bonds issued by credit institutions that have been granted a licence in another country within the European Union, or in a country with which the Community has entered into an agreement for the financial area may also be designated covered bonds provided that they satisfy the conditions of Annex VI, Part 1, points 68-71, of the Directive relating to the taking up and pursuit of the business of credit institution.

(4) The FSA shall lay down detailed rules on

- 1) the assets in which the lending commercial bank or mortgage bank may place payments received until settlement takes place, and
- 2) the lending commercial bank’s or mortgage bank’s verification of separation and settlement to the issuing commercial bank or mortgage bank.

16b. (1) A commercial bank or a mortgage bank may fund loans secured by mortgages on real estate by covered bonds or covered mortgage bonds issued by another commercial bank or mortgage bank.

(2) The FSA shall approve the issue of covered bonds or covered mortgage bonds under subsection (1) hereof.

16c. If a loan is to be funded by covered bonds or covered mortgage bonds issued by another commercial bank or mortgage bank, such funding arrangement shall appear from the loan agreement concluded between the lending commercial bank or mortgage bank and the borrower. The loan agreement shall also state that the lending and issuing institutions may exchange information on the borrower, see section 120b.

16d. (1) If a commercial bank or a mortgage bank grants a loan secured by a mortgage on real estate on the basis of covered bonds or covered mortgage bonds issued by another commercial bank or mortgage bank, such loan and the related mortgage shall be assigned to the issuing institution to hold as its own.

(2) Assignment according to subsection (1) hereof cannot be avoided pursuant to sections 67, 70 or 72 of the Danish Insolvency Act (*konkursloven*). However, avoidance may be effected pursuant to the said provisions if the assignment did not specifically appear to be ordinary.

16e. If a commercial bank or a mortgage bank grants a loan secured by a mortgage on real estate on the basis of covered bonds or covered mortgage bonds issued by another commercial bank or mortgage bank, the borrower may discharge his liabilities by payment to the lending commercial bank or mortgage bank, unless the issuing commercial bank or mortgage bank separately notifies him otherwise.

16f. (1) The lending commercial bank or mortgage bank shall keep payments received which relate to loans secured by mortgages on real estate on the basis of another commercial bank's or mortgage bank's issue of covered bonds or covered mortgage bonds separate from the other funds of the institution.

(2) The lending commercial bank or mortgage bank shall verify the separation of funds on a regular basis.

(3) The lending commercial bank or mortgage bank shall settle payments received with the issuing institution according to a predetermined plan.

(4) The FSA shall lay down detailed rules on the verification and settlement with the issuing institution.

16g. If the lending commercial bank or mortgage bank is declared bankrupt, payments encompassed by section 16f, see section 16b(1), which the lending commercial bank or mortgage bank has received, but not yet settled, shall accrue to the issuing commercial bank or mortgage bank and shall not be included in the insolvent estate."

3. The following shall be inserted after section 120a:

"120b. A lending commercial bank or mortgage bank may disclose information on a borrower to the issuing commercial bank or mortgage bank if a loan agreement has been concluded stating that the loan may be funded by covered bonds or covered mortgage bonds issued by another commercial bank or mortgage bank. Information may be exchanged between the lending commercial bank or mortgage bank and the commercial bank or mortgage bank issuing the covered bonds or covered mortgage bonds by which the loan is funded to the extent necessary for the purpose of risk

management and management of the portfolio in the register or the portfolio in a series or groups of series with series reserve fund.”

4. The following shall be inserted after section 152 before the heading “Special regulations for mortgage banks regarding the placement and liquidity of funds”:

“**152a. (1)** Commercial banks licensed to issue covered bonds shall establish and maintain a group of assets that must be kept separate from the other assets of the bank. The total value of the assets shall correspond at least to the value of the covered bonds issued at all times, and the mortgage collateral of the individual loan shall comply with the relevant lending limit at all times.

(2) If the value of the assets referred to in subsection (1) hereof no longer corresponds at least to the value of the covered bonds issued or does not comply with the relevant lending limit, the commercial bank shall promptly provide additional collateral to satisfy the requirement and shall notify the FSA thereof. For loans offered in Denmark, the duty to provide additional collateral and the related expenses cannot be imposed on the borrowers whose decreasing property values prompted the requirement for additional collateral.

(3) If the commercial bank fails to provide additional collateral under subsection (2) hereof, all bonds issued in the relevant register, see section 152g(1), shall lose their designation covered bonds. If subsequently the bonds again satisfy the requirements for covered bonds, the FSA may allow such bonds to be re-designated covered bonds.

(4) The provision of collateral under subsection (2) hereof cannot be avoided pursuant to sections 70 or 72 of the Insolvency Act. However, avoidance may be effected pursuant to the said provisions if the provision of collateral did not specifically appear to be ordinary.

152b. (1) Commercial banks licensed to issue covered bonds may raise loans to satisfy the requirement for the provision of additional collateral.

(2) The loan agreement shall state the register, see section 152g(1), for which the loan funds raised according to subsection (1) hereof are to be applied as additional collateral.

(3) Loan funds raised under subsection (1) hereof shall be placed in the asset types referred to in section 152c. As from the time when the loan is raised, the assets shall be placed in a separate account, a separate custody account or otherwise marked as deriving from the relevant loan.

152c. (1) The following types of assets may be included as collateral for the issue of covered bonds:

- 1) Loans secured by registered mortgages on real estate, see section 152d.
- 2) Loans secured by liens on ships registered in the Danish Ship Register, the Danish International Ship Register or any other internationally recognised ship register offering equivalent security, see section 152f, and loans for the purpose of funding the building or renovation of ships granted without liens on ships.
- 3) Bonds or instruments of debt issued by or guaranteed by central governments, central banks, public entities, regional or local authorities in a country within the European Union or in a country with which the Community has entered into an agreement for the financial area.

- 4) Bonds or instruments of debt issued by or guaranteed by central governments, central banks, public entities, regional or local authorities in a country outside the European Union with which the Community has not entered into an agreement for the financial area, multilateral development banks or international organisations, if a calculation of the risk-weighted items weights the non-subordinated and unsecured debt of the issuers concerned by 0%, see Annex VI of the Directive relating to the taking up and pursuit of the business of credit institution.
- 5) Bonds or instruments of debt issued by entities referred to in nos. 3 and 4 hereof and where a calculation of the risk-weighted items weights the issuer's non-subordinated and unsecured debt at 20%, see Annex VI of the Directive relating to the taking up and pursuit of the business of credit institutions. It is a condition that the value by which these assets are included does not exceed 20% of the nominal value of the issuer's outstanding covered bonds.
- 6) Bonds or instruments of debt issued by credit institutions, if a calculation of the risk-weighted items weights the non-subordinated and unsecured debt of the relevant credit institutions at 20%, see Annex VI of the Directive relating to the taking up and pursuit of the business of credit institutions. Bonds or instruments of debt issued by a credit institution in a country within the European Union or in a country with which the Community has entered into an agreement for the financial area that have an original term of 100 days or less may be included if a calculation of the risk-weighted items weights the non-subordinated and unsecured debt of the relevant credit institution at not more than 50%, see Annex VI of the Directive relating to the taking up and pursuit of the business of credit institutions. The value by which the assets referred to in the first and second sentences hereof are included may not exceed 15% of the nominal value of the issuer's outstanding covered bonds. The 15% limit shall apply to the entire credit institution exposure according to this no. and no. 7. Receivables arising in connection with mortgage payments on and repayments of loans secured by mortgages on real estate shall not be included in the 15% limit..
- 7) Other non-subordinated receivables from and guarantees provided by credit institutions as referred to in no. 6 hereof. It is a condition that the value at which these receivables and guarantees are included does not exceed 15% of the nominal value of the issuer's outstanding covered bonds. The 15% limit shall apply to the total credit institution exposure according to no. 6 and this no. Receivables arising in connection with mortgage payments on and repayments of loans secured by mortgages on real estate, shall not be included in the 15% limit..

(2) A covered bond may not be issued with both real estate and ships as collateral.

(3) The FSA may authorise the use of assets as collateral for the issue of covered bonds other than those referred to in subsection (1) hereof and may set other limits for the proportion of the collateral for the bond issue which the relevant types of assets may account for, if such authorisation is in accordance with the Directive relating to the taking up and pursuit of the business of credit institutions.

152d. (1) For loans secured by registered mortgages on real estate and granted on the basis of the issue of covered bonds, the terms, repayment profiles and lending limits stipulated in sections 3-5 of the Danish Mortgage Credit Loans and Mortgage Credit Bonds etc. Act (*lov om realkreditlån og realkreditobligationer m.v.*), shall apply, but see subsections (2) and (3) hereof.

(2) For loans secured by registered mortgages on real estate and granted on the basis of the issue of covered bonds for properties covered by section 5(1) of the Mortgage Credit Loans and Mortgage

Credit Bonds etc. Act, sections 3 and 4 of the Mortgage Credit Loans and Mortgage Credit Bonds etc. Act shall not apply if the lending limit does not exceed 75%.

(3) For loans secured by registered mortgages on real estate and granted on the basis of the issue of covered bonds for commercial properties encompassed by section 5(3)(ii) and (iii), of the Mortgage Credit Loans and Mortgage Credit Bonds etc. Act, the lending limit of 60% may be raised to 70%, if additional collateral of not less than 10% is provided for the part of the loan that exceeds 60% of the value of the property. For loans for properties encompassed by section 5(2) of the Mortgage Credit Loans and Mortgage Credit Bonds etc. Act, the lending limit of 70% may be used only if additional collateral of not less than 10% is provided for the part of the loan that exceeds 60% of the value of the property.

(4) Fixtures and fittings encompassed by section 38 of the Danish Registration of Property Act (*tinglysningsloven*) may be included in a valuation of the property.

(5) Fittings installed in a commercial property for the purpose of its operation may be included in the valuation. The livestock belonging to an agricultural property may also be included in the valuation to the extent that the livestock forms part of the continuous production. With regard to the mortgaging of agricultural properties, the value of the livestock forming part of the continuous production may be included in the value of land and buildings by not more than 30%.

152e. (1) Loans secured by mortgages on real estate and granted on the basis of the issue of covered bonds shall be secured by a separate mortgage and may not be granted against collateral provided in the form of mortgages registered to the mortgagor and letters of indemnity, but see subsections (2) and (3) hereof. The mortgage shall state that it may serve as security for a loan funded by the issue of covered bonds.

(2) Mortgages on real estate registered before 1 July 2007 may serve as security for loans funded by the issue of covered bonds.

(3) The FSA may grant exemptions from subsection (1) hereof for loans granted for real estate located outside Denmark, the Faeroe Islands and Greenland.

152f. For loans secured by liens on ships, the commercial bank may grant loans of up to 70% of the value fixed for the ship used as collateral. The term of loans granted may not exceed 15 years at the date of disbursement of the loan. For building loans, the term may not exceed four years counting from the date of the first disbursement. When fixing the term of loans, due consideration must be paid to the average life of the type, age and condition, etc., of the relevant ship.

152g. (1) Commercial banks shall keep registers of assets covered by sections 152a and 152b and of financial instruments that satisfy the conditions of subsection (2) hereof. A commercial bank may keep one or more registers. A register may not include assets secured on both real estate and ships.

(2) Financial instruments may be included in a register of assets only if they are used for hedging risks between the assets in the register on the one side and the covered bonds issued on the other side and where the agreement on the financial instrument specifies that the commercial bank's suspension of payments, bankruptcy or failure to observe the obligation to provide additional collateral according to section 152a(2) does not constitute a breach..

(3) Registered assets, including financial instruments, shall serve to satisfy the holders of the covered bonds and the counterparties with whom the agreements on the financial instruments have been concluded, and subsequently to satisfy loans raised under section 152b(1).

(4) The commercial bank shall report to the FSA which assets, etc., are included in the register. The FSA, or the party duly authorised by the FSA, shall verify the existence of the said assets.

152h. The FSA shall lay down detailed rules on the

- 1) valuation of covered bonds issued and the ongoing calculation of the value of the assets relative to the covered bonds;
- 2) valuation of the assets securing the issue of covered bonds, see section 152c(1);
- 3) conditions on which building loans for the building or renovation of ships may be granted, see section 152c(1), no. 2;
- 4) organisation, registration and verification of the existence of assets registered, see section 152g;
- 5) granting of loans funded by the issue of covered bonds secured by mortgages on real estate by commercial banks in cases where there is no clean registered mortgage and in such cases what alternative collateral may be provided; and
- 6) limitation of risks in connection with the issue of covered bonds, including interest rate risks, currency risks and option risks.”

5. The following shall be inserted after “Mortgage bonds” in section 162(1), no. 3: “, covered mortgage bonds and covered bonds issued by mortgage banks, commercial banks or the ship financing institution”.

6. In section 171(1) and section 172(1), “section 124(1) and (4),” shall be amended to read: “section 124(1) and (4)-(6),”.

7. In section 173(1) and section 174(1), “section 125(2) and (7)” shall be amended to read: “section 125(1) and (7)-(9)”.

8. The following shall be inserted in section 224 as a new subsection after subsection (2):

“(3) If a commercial bank or mortgage bank is licensed to issue covered bonds, such licence may be withdrawn if:

- 1) the commercial bank seriously or repeatedly violates sections 152a-152g or rules laid down pursuant to section 16a(4) or section 152h;
- 2) the mortgage bank seriously or repeatedly violates sections 33a-33e of the Mortgage Credit Loans and Mortgage Credit Bonds etc. Act or rules laid down pursuant to section 16a(4) of this Act or section 33 of the Mortgage Credit Loans and Mortgage Credit Bonds etc. Act; or
- 3) the issue of covered bonds has not been commenced within 12 months of the FSA having granted a licence to the institution.”

Subsections (3) and (4) shall then become subsections (4) and (5).

9. In section 226(1), “sections 223-225” shall be amended to read: “section 223; section 224(1), (2), (4) and (5) and section 225”.

10. In section 226(2), “section 224(2) and (3)” shall be amended to read: “section 224(2) and (4)”.

11. The following shall be inserted after section 247 before the heading “Special regulations for insurance companies regarding restoration and other measures”:

“**247a. (1)** If the FSA withdraws the licence of a commercial bank under section 224(1), no. 1 or 2; if the FSA according to section 234(1) or the commercial bank files a petition for bankruptcy; or if the commercial bank is declared bankrupt following a petition filed by other parties, the FSA shall decide that the repayment from the commercial bank to the holders of the covered bonds issued by the commercial bank shall be subject to administration. In situations encompassed by section 224(3), no. 1, the FSA may also decide that the commercial bank’s repayment to the holders of the covered bonds issued by the bank shall be subject to administration. At the same time, the FSA shall appoint an administrator to administer the repayment to the holders of covered bonds in cooperation with any co-administrators.

(2) When the repayment from a commercial bank to the holders of covered bonds issued by the commercial bank becomes subject to administration, the FSA shall ensure that the decisions to commence administration and appoint an administrator are registered with or otherwise made public by the Danish Commerce and Companies Agency. The administration estate shall also notify the borrowers that future payments relating to the individual borrower’s instalment and interest payments on the loan may be effected in full discharge to the administration estate only.

(3) The administrator may appoint one or more co-administrators with knowledge of matters relevant for the administration.

(4) The administration estate shall pay fees to administrators and any other expenses in connection with the administration. The amount of fees shall be fixed according to negotiations with the FSA.

(5) The administration estate shall be subject to supervision by the FSA.

247b. (1) At the beginning of the administration, the registered assets, see section 152g(1), shall promptly be transferred to the administration estate. The administration estate represented by the administrator shall be entitled to dispose of the said assets. For investment securities, this shall be registered at a central securities depository; for rights in real estate, this shall be registered in the Land Register; and for ships, this shall be registered in a ship register.

(2) If a commercial bank is declared bankrupt, the liquidator shall immediately transfer the assets referred to in subsection (1) hereof to the administrator.

(3) The administrator shall have the registered assets valued in accordance with the provisions laid down pursuant to section 152h, no. 2.

(4) The administration estate cannot be closed until repayment has been made of all the bonds, for which the registered assets have been provided as collateral, and the financial instruments have matured.

(5) If a commercial bank is declared bankrupt after administration has commenced, the said bankruptcy shall have no effect on the administration estate.

(6) The administrator shall manage the assets received from the commercial bank, and may require all material necessary for the administration from the bank, possibly with the assistance of a bailiff.

247c. If a commercial bank is declared bankrupt, or the bank fails to observe the obligation to provide additional collateral under section 152a(2), the holders of the covered bonds or the lenders under section 152b(1) cannot claim such bankruptcy or failure to constitute a cause for early repayment of payment obligations. Nor shall the borrowers of loans granted on the basis of covered bonds be caused to forfeit their right, if any, to repay the loan, in full or in part, in accordance with the terms of repayment that apply to the loans.

247d. (1) If a commercial bank is declared bankrupt, the registered assets, including financial instruments, calculated after deduction of expenses for the administrator, shall be used to pay claims from the holders of covered bonds and counterparties on the financial instruments secured by the registered assets and agreements. Then loans raised by the commercial bank for the purpose of providing additional collateral, see section 152b(1), shall be paid. Any excess funds shall be included in the insolvent estate, see section 32 of the Insolvency Act.

(2) The individual holders of covered bonds, counterparties on the financial instruments and lenders under section 152b(1) cannot raise any claims against the estate. However, on behalf of the administration estate, the administrator may prove claims against the estate of amounts required according to the valuation to satisfy the holders of the covered bonds, counterparties on the financial instruments and lenders under section 152b as well as any claims of interest accrued on the said claims from issue of the bankruptcy order, in order to satisfy the bondholders, counterparties on financial instruments and lenders under section 152b.

(3) If the registered funds are insufficient to satisfy the holders of the covered bonds and counterparties on the registered financial instruments and to cover any debt raised by the commercial bank for the purpose of providing additional collateral, see section 152b(1), the administrator may prove as ordinary claims any remaining uncovered claims against the commercial bank's assets available for distribution at the closing and dissolution of the administration estate.

(4) Any excess registered funds cannot be transferred to another register, but shall be transferred to the insolvent estate.

(5) No set-off by a creditor as referred to in section 42 of the Insolvency Act may be made to satisfy a claim owing to the commercial bank and relating to loans raised on the basis of covered bonds issued by the bank.

247e. If the commercial bank is declared bankrupt, proceeds from loans raised by the bank for the purpose of satisfying the requirement for provision of additional collateral, see section 152a(2), which do not form part of a register, shall serve to cover the holders of the covered bonds and counterparties on financial instruments of the register for the purpose of which the loan was raised to provide additional collateral. Any excess funds shall be disbursed to the lender.

247f. (1) Holders of bonds having lost the designation covered bonds, see section 152a(3), first sentence, and counterparties on the registered agreements on financial instruments secured by the registered assets and agreements, shall retain the position assigned to holders of covered bonds and

financial counterparties according to Danish insolvency law, see section 247d(1), first sentence. The same applies to loans raised by the commercial bank for the purpose of providing additional collateral, see section 152b.

(2) The administrator shall prove any remaining claims as ordinary claims against the insolvent estate of the commercial bank.

(3) The provisions of section 152a(1), first sentence, sections 152b-152h and sections 247a-247e shall apply correspondingly to bonds having lost the designation covered bonds, see section 152a(3), and the related financial instruments.”

12. In section 253(1), “section 224(1), nos. 1 and 2 and (4)” shall be amended to read: “section 224(1), nos. 1 and 2 and (5)”.

13. In section 373(1), the following shall be inserted after “section 11(1)-(4);”: “section 16a(2); section 16b(2);”.

14. In section 373(2), the following shall be inserted after “Any person violating the provisions in”: “section 16c; section 16d(1); section 16f(1)-(3);”.

15. In section 373(2), “sections 122, 123, 158, 159 and 167” shall be amended to read: “sections 122 and 123; section 152a(1), first sentence; section 152c(2); section 152e(1); section 152g(1), first and third sentences, (2) and (4); sections 158, 159 and 167”.

16. In section 373(2), the following shall be inserted as the second sentence:

“Similar punishment shall apply to any violation of the duty to notify under section 152a(2), first sentence.”

17. In Annex 3, the following shall be inserted after no. 1 as a new number:

“2) Granting of loans without mortgages on real estate to public authorities or against a guarantee from a public authority to undertake primary liability.”

Nos. 2 and 3 shall then become nos. 3 and 4.

Section 2

Act No. 454 of 10 June 2003 on Mortgage Credit Loans and Mortgage Credit Bonds etc., as amended by section 105 of Act No. 90 of 31 January 2007, shall be amended as follows:

1. The following shall be inserted as a footnote to the title of the Act:

"1) The Act contains provisions implementing parts of Directive 2006/48/EC of 14 June 2006 of the European Parliament and the Council relating to the taking up and pursuit of the business of credit institution (recast) (OJ 2006 No. L 177, p. 1)."

2. The following shall be inserted in section 1(1), first sentence, after "This Act shall apply to mortgage bonds": ", covered mortgage bonds, covered bonds".

3. Section 2(1) shall be drafted as follows:

"Mortgage loans shall be granted against recorded mortgages on real estate according to the rules stipulated in this Part. Loans may be granted without mortgages on real estate to public authorities or against a guarantee from a public authority to undertake primary liability as mentioned in section 152c(1), nos. 3-5, of the Financial Business Act."

4. Section 6 shall be repealed.

5. The following shall be inserted in *section 8* as a new subsection after subsection (5):

"(6) To the extent that a loan is granted on the basis of covered mortgage bonds and covered bonds, the loan may be disbursed before final registration, see subsections (1)-(5) hereof, if collateral is provided in accordance with section 152c(1), nos. 3-7, of the Financial Business Act. In the event that the collateral provided takes the form of a guarantee from a commercial bank, the guarantee shall be covered by the 15% limit stipulated in section 152c(1), nos. 6-7, of the Financial Business Act."

Subsection (6) shall then become subsection (7).

6. In *section 8(6)*, which shall become subsection (7), "(1)-(5)" shall be amended to "(1)-(6)".

7. Section 19 shall be drafted as follows:

"19. Mortgage bonds issued before 1 July 2007 shall be negotiable homogenous debt instruments admitted for trading in regulated markets in countries within the European Union or countries with which the Community has entered into an agreement for the financial area, or corresponding markets in other countries."

8. Section 20(1) shall be drafted as follows:

"Funds raised by the issue of mortgage bonds or covered mortgage bonds or other securities may solely be used for lending against mortgages on real estate or lending to public authorities or against a guarantee from a public authority to undertake primary liability, but see subsections (2) and (3) hereof. However, additional collateral may be provided for covered mortgage bonds pursuant to section 33d(1) hereof."

9. Section 21 shall be drafted as follows:

"21. The FSA shall lay down detailed rules on limitation of risks in connection with the issue of mortgage bonds, covered mortgage bonds, covered bonds and other securities, including interest rate risks, currency risks and option risks."

10. The following shall be inserted in *section 26* as a new subsection after subsection (3):

"(4) Financial instruments may be included as assets or liabilities in a series or group of series with a series reserve fund only if they are used for hedging risks between the assets relating to the series on the one side and the mortgage bonds, covered mortgage bonds and covered bonds issued on the other side, where the agreement on the financial instrument specifies that the mortgage bank's suspension of payments, bankruptcy or failure to observe the obligation to provide additional collateral according to section 33d(1) does not constitute a breach."

Subsection (4) shall then become subsection (5).

11. In section 27(1), first sentence, section 29(1), section 31, second sentence, section 32(1), first sentence, and section 32(2), first and third sentences, the following shall be inserted after "mortgage bonds": ", covered mortgage bonds, covered bonds".

12. In section 27(1), the following shall be inserted after the second sentence:

"Then the debt incurred by the mortgage bank for the purpose of providing additional collateral, see section 33e hereof, shall be covered."

13. The following shall be inserted in section 27 as subsection (3):

"(3) If a mortgage bank is declared bankrupt, counterparties on the financial instruments concluded to hedge risks in a series or group of series of mortgage bonds, covered mortgage bonds or covered bonds, see section 26(4) hereof, shall rank equally with the holders of mortgage bonds, covered mortgage bonds or covered bonds in the said series or group of series according to Danish insolvency law, see subsection (1), first sentence, and sections 31 and 32 hereof."

14. The following shall be inserted after section 27:

"**27a.** Holders of bonds having lost the designation covered mortgage bonds or covered bonds, see section 33d(2) hereof, and counterparties on the financial instruments shall retain the position assigned to holders of covered mortgage bonds, covered bonds and financial counterparties according to insolvency law. The same shall apply to cover of debt incurred by the mortgage bank for the purpose of providing additional collateral, see section 33e hereof.

(2) The provisions of sections 27b and 28-33 shall apply correspondingly to bonds having lost the designation covered mortgage bonds or covered bonds and the related financial instruments.

27b. If the mortgage bank is declared bankrupt, proceeds from loans raised by the bank for the purpose of satisfying the requirement for provision of additional collateral, see section 33d(1) hereof, and not included in a series or group of series, shall serve to cover the holders of covered bonds or covered mortgage bonds and counterparties on the financial instruments in the series or group of series for the purpose of which the loan was raised to provide additional collateral. Any excess funds shall be disbursed to the lender."

15. Section 28 shall be drafted as follows:

If a mortgage bank is declared bankrupt, holders of mortgage bonds, covered mortgage bonds, covered bonds and other securities or lenders under section 33e(1) cannot submit such bankruptcy as a cause for early repayment of payment obligations. Nor shall the mortgage bank's borrowers forfeit their right to repay mortgage loans or loans granted on the basis of issue of covered mortgage bonds or covered bonds in full or in part, in accordance with the special repayment terms that apply to the loan.

(2) In the event that a mortgage bank fails to observe the obligation to provide additional collateral under section 33d(1) hereof, holders of the covered mortgage bonds or covered bonds or lenders

under section 33e(1) cannot submit such failure as a cause for early repayment of payment obligations.."

16. The following shall be inserted in section 32(1), second sentence, after "With the consent of the appointed supervisory authority, the mortgage-credit institution": "conclude agreements on financial instruments"

17. The following shall be inserted in section 32(3), third sentence, after "The liquidator may": "conclude agreements on financial instruments"

18. The following shall be inserted after section 33:

"Part 4a

Covered mortgage bonds and covered bonds

33a. Mortgage banks shall be entitled to fund lending, see section 2(1) hereof, by issuing covered mortgage bonds, provided that the bank is licensed to do so under section 16a(1) of the Financial Business Act.

(2) Loans funded by covered mortgage bonds shall be granted in separate series with a series reserve fund.

(3) The value of the assets covering the covered mortgage bonds issued shall always correspond at least to the value of the covered mortgage bonds issued, and the mortgage collateral of the individual loan shall comply with the relevant lending limit at all times.

33b. Mortgage banks may fund lending secured by the asset types listed in section 152c(1), nos. 1 and 3-7, of the Financial Business Act by issuing covered bonds, provided that the bank is licensed to do so under section 16a(1) of the Financial Business Act. Section 152c(3) of the Financial Business Act shall apply correspondingly.

(2) Loans funded by covered bonds shall be granted in separate series with a series reserve fund.

(3) The value of the assets covering the covered bonds issued shall always correspond at least to the value of the covered bonds issued, and the mortgage collateral of the individual loan shall comply with the relevant lending limit at all times.

33c. For loans funded by covered mortgage bonds or covered bonds, the terms, repayment profiles and lending limits stipulated in sections 3-5 hereof shall apply.

(2) For loans funded by covered mortgage bonds or covered bonds secured on real estate covered by section 5(1) hereof, sections 3 and 4 shall not apply if the lending limit does not exceed 75%.

(3) For loans funded by covered mortgage bonds or covered bonds for commercial properties encompassed by section 5(3), nos. 2 and 3 hereof, the lending limit of 60% may be raised to 70%, if additional collateral of not less than 10% is provided for the part of the loan that exceeds 60% of the

value of the property. For loans funded by covered mortgage bonds or covered bonds for properties encompassed by section 5(2) hereof, the lending limit of 70% may be used only if additional collateral of not less than 10% is provided for the part of the loan that exceeds 60% of the value of the property.

(4) Fixtures and fittings encompassed by section 38 of the Danish Registration of Property Act (*tinglysningsloven*) may be included in the valuation of real estate.

(5) Fittings installed in a commercial property for the purpose of its operation may be included in the valuation. The livestock belonging to an agricultural property may also be included in the valuation to the extent that the livestock forms part of the continuous production. With regard to the mortgaging of agricultural properties, the value of the livestock forming part of the continuous production may be included in the value of land and buildings by not more than 30%.

(6) Loans secured by mortgages on real estate and granted on the basis of the issue of covered mortgage bonds or covered bonds shall be secured by a separate mortgage and may not be granted against collateral provided in the form of mortgages registered to the mortgagor and letters of indemnity, but see subsections (7) and (8) hereof. The mortgage shall state that it may serve as security for a loan funded by the issue of covered mortgage bonds or covered bonds.

(7) Mortgages on real estate registered before 1 July 2007 may serve as security for loans funded by the issue of covered mortgage bonds or covered bonds. Notwithstanding the first sentence hereof, mortgages registered to the mortgagor and letters of indemnity may not serve as security for loans funded by the issue of covered mortgage bonds.

(8) For loans funded by the issue of covered bonds, exemptions may be granted from the requirement of section 11(1), first sentence, that the borrower shall own the real estate and from the requirement of section 23(1) that the borrower shall be personally liable for the loan.

(9) The FSA may grant exemptions from subsection (6) hereof for loans granted for real estate located outside Denmark, the Faeroe Islands and Greenland.

33d. If the value of the assets referred to in sections 33a(3) and 33b(3) hereof no longer corresponds at least to the value of the covered mortgage bonds or covered bonds issued or does not comply with the relevant lending limits, the mortgage bank shall promptly provide additional collateral to satisfy the requirement and shall notify the FSA thereof. Additional collateral shall be provided in the form of the types of assets listed in section 152c(1), nos. 1 and 3-7, of the Financial Business Act. Section 152c(3) of the Financial Business Act shall apply correspondingly. For loans offered in Denmark, the obligation to provide additional collateral and the related expenses cannot be imposed on the borrowers whose decreasing property values prompted the requirement for additional collateral.

(2) In the event that the mortgage bank fails to provide additional collateral pursuant to subsection (1), first sentence, hereof, all bonds issued in the relevant series with a series reserve fund shall lose the designation covered mortgage bonds or covered bonds. Bonds having lost the designation covered mortgage bonds may be designated mortgage bonds, provided that they comply with the statutory requirements for mortgage bonds.

(3) If subsequently the bonds again satisfy the requirements for covered mortgage bonds or covered bonds, the FSA may allow such bonds to be re-designated covered mortgage bonds or covered bonds.

(4) The provision of collateral under subsection (1) hereof cannot be avoided pursuant to section 70 or 72 of the Insolvency Act. However, avoidance may be effected pursuant to the said provisions if the provision of collateral did not specifically appear to be ordinary.

33e. Mortgage banks licensed to issue covered bonds may raise loans to satisfy the requirement for the provision of additional collateral.

(2) The loan agreement shall state the series or group of series with a series reserve fund to which the loan funds raised according to subsection (1) hereof may be allocated.

(3) Loan funds raised according to subsection (1) hereof shall be placed in the asset types referred to in section 152c(1), nos. 1 and 3-7, of the Financial Business Act. As from the time when the loan is raised, the assets shall be placed in a separate account, a separate custody account or otherwise be marked as deriving from the relevant loan. When the assets are used as additional collateral, they shall be included in the relevant series or group of series with a series reserve fund.

33f. The FSA shall lay down detailed rules on the

- 1) valuation of the issued covered mortgage bonds or covered bonds and the ongoing calculation of the value of the assets relative to the covered mortgage bonds or the covered bonds, and
- 2) valuation of the assets securing the issue of covered mortgage bonds or covered bonds."

19. The following shall be inserted after section 36:

"**36a.** The Minister for Economic and Business Affairs shall lay down detailed rules on the use of digital communication, including electronic signatures, in connection with the exchange of information pursuant to this Act between citizens and undertakings on the one side and the public authorities on the other as well as on storage of information."

20. In section 39(1), "section 2(1) and (2), first sentence" shall be amended to "section 2(1)".

21. The following shall be inserted in section 39 as a new subsection after subsection (1):

"(2) Violation of section 2(2), first sentence, section 26(4), section 33a(2), section 33b(2) and section 33c(6) hereof shall be punishable by fine. Similar punishment shall apply to any violation of the duty to notify under section 33d(1), first sentence, hereof."

Subsections (2)-(4) shall then become subsections (3)-(5).