

Guidelines on bank secrecy 2009

These guidelines are based on the legislation in force in 2008,
and they have not been updated thereafter.





Contents

1 PRINCIPLE OF BANK SECRECY AND THE MANNER IN WHICH IT HAS EVOLVED.....	1
2 DIFFERENCE BETWEEN BANK SECRECY AND A BANK'S BUSINESS SECRETS.....	1
3 CORPORATIONS OBLIGED TO OBSERVE BANK SECRECY	2
4 PERSONS OBLIGED TO OBSERVE BANK SECRECY	2
4.1 Persons employed by a bank.....	2
4.2 Members of bodies.....	2
4.3 Auditors.....	3
4.4 Persons employed by a service undertaking and other persons working on commission for a bank	3
4.5 Other persons working in bank premises and persons not involved in banking activities	4
5 CONFIDENTIAL INFORMATION	4
6 TIME SPAN OF BANK SECRECY	4
7 SECRECY OBLIGATION INSIDE A BANK.....	4
7.1 Examining confidential information	4
7.2 Disclosing confidential information to other bank employees	4
8 PROVIDING INFORMATION TO PRIVATE PARTIES	5
8.1 Customer consent	5
8.2 Authorisation	5
8.3 Continuing power of attorney	5
8.4 Joint credit, account or deposit	6
8.5 Access to an account.....	6
8.6 Transferred account.....	6
8.7 Bank details of persons under guardianship	6

8.7.1 General information about guardianship services	6
8.7.2 A guardian's right to obtain information	7
8.7.3 The right of minors and other persons under guardianship to obtain information	7
8.8 Spouse	8
8.9 Information concerning a decedent's estate	8
8.9.1 Shareholders in the decedent's estate	8
8.9.2 Recipient of a bequest	8
8.9.3 The person commissioning the estate inventory and a trustee	9
8.9.4 Administrator of an estate, estate distributor and executor of a testament	9
8.9.5 Information concerning the widow/ widower	9
8.10 Executor of the distribution of matrimonial property	9
8.11 A person administering the restructuring of an enterprise	10
8.12 The administrator and bailiff in a case involving the adjustment of a private individual's debts	10
8.13 Administrator of a bankruptcy estate	10
8.14 A debtor in a bankruptcy	10
8.15 Liquidator	10
8.16 Guarantor	11
8.16.1 Before the signing of a guaranty	11
8.16.2 After the signing of a guaranty	11
8.17 Pledgor	11
8.17.1 Before the signing of the undertaking on a pledge	11
8.17.2 After the signing of the undertaking on a pledge	11
8.18 Pledgeholder	12
8.19 Debtor	12
8.20 Agent managing the sale of the pledge	12
8.21 Cheque holder	12
8.22 Payee in card payments	13
8.23 Cardholders	13
8.24 Provision of information in connection with inter-bank transactions	13
8.25 Right of the payer to obtain information about a wrong payee	14
8.26 Providing the payee with information about the account holder when the payer is unknown	14
8.27 Providing the payer with information about the payee when the bank account details of the payee are out of date	14

8.28 Persons acting on behalf of a legal person.....	14
8.28.1 Persons entitled to obtain information on account of their position	14
8.28.2 Auditors and members of the supervisory board	15
8.28.3 Persons authorised to sign for a legal person.....	15
8.28.4 Non-registered corporations	15
 9. PROVIDING INFORMATION TO HOLDING COMPANIES AND CREDIT, FINANCIAL AND INSURANCE INSTITUTIONS	15
 9.1 Providing information to holding companies and credit and financial institutions belonging to the same group or the same consortium	15
9.2 Exchange of information between co-operative banks.....	16
9.3 Exchange of information between savings banks	16
9.4 Providing information to banks' guarantee funds.....	16
9.5 Providing information to the Deposit Guarantee Fund	16
9.6 Providing information to the Investors' Compensation Fund.....	16
9.7 Providing information to an insurance institution	17
 10. PROVIDING INFORMATION TO THE AUTHORITIES	17
 10.1 Supervisory authority	18
10.1.1 Right of inspection	18
10.1.2 Right to obtain information and documents from a bank	18
10.1.3 Right to obtain information and documents from a corporation belonging to a bank's consolidation group or a corporation that is otherwise under the control of a bank.....	19
10.1.4 Obligation of a bank's auditor to provide information to the Financial Supervisory Authority	19
10.1.5 Obligation to provide information in connection with market abuse	19
10.1.6 Secrecy obligation of the Financial Supervisory Authority	20
 10.2 The central organisation of the co-operative bank consortium as supervisor.....	21
10.3 Savings Bank Inspectorate.....	21
10.4 Government Guarantee Fund	21
 10.5 Tax authorities.....	21
10.5.1 General	21
10.5.2 Specifying a bank enquiry	23
10.5.3 Restrictions to the obligation to provide information	23
10.5.4 Right of the tax authorities to carry out an inspection	24
10.5.5 Referential tax audit	24
10.5.6 Taxation in a foreign country	24
10.5.7 Applicable provisions	25
 10.6 Bank of Finland	26
10.7 Police authorities	27
10.7.1 An enquiry concerning the prevention or an investigation of an offence	27



10.7.2 An offence directed at a bank	28
10.7.3 Prohibition on alienation and sequestration	28
10.7.4 Seizure	28
10.7.5 Providing information for a police investigation	28
10.7.6 Financial Intelligence Unit	29
10.7.7 International financial sanctions	29
10.8 Prosecuting, customs and border guard authorities	29
10.9 Bankruptcy Ombudsman	30
10.10 Enforcement authorities	30
10.10.1 General	30
10.10.2 Enquired property	31
10.10.3 Implementation of precautionary measures	32
10.11 The authorities responsible for supervising money collection	32
10.12 Other authorities	32
10.12.1 Data protection authorities	32
10.12.2 Consumer protection authorities	33
10.12.3 Providing information to the Finnish Competition Authority	34
10.12.4 Providing information to guardianship authorities (local register offices)	34
10.12.5 Providing information to social welfare authorities	34
10.12.6 Providing information to the Social Insurance Institution, the Social Security Appeal Board and the Insurance Court	35
10.12.7 Right of legal aid offices to obtain information	36
10.12.8 Providing information under certain acts	36
10.13 Credit data operations	37
10.14 Information in a customer default register	37
11 HEARING A BANK EMPLOYEE AS A WITNESS	37
11.1 Pre-trial investigation	37
11.1.1. Acting as a witness in a criminal case in which the bank is not the injured party	37
11.1.2 Acting as a witness in a criminal case in which the bank is the injured party	37
11.2 Court	37
11.2.1 Acting as a witness in a criminal case in which the bank is not the injured party or in a civil case between customers	37
11.2.2 Acting as a witness in a civil case in which the bank is a party or in a criminal case in which the bank is the injured party	38
12 A BANK AS A PARTY TO A CASE	38
13 SANCTIONS FOR VIOLATING THE SECRECY OBLIGATION	38
13.1 Sanctions under criminal law	39

13.2 Damages and other sanctions	39
14 LEGAL PROVISIONS CONCERNING BANK SECRECY	39
14.1 Act on Credit Institutions	39
14.2 Act on Co-operative Banks and other Credit Institutions in the form of a Co-operative	41
14.3 Act on the Operation of a Foreign Credit Institution or Financial Institution in Finland	41
14.4 Act on the Supervision of Financial and Insurance Conglomerates	41
14.5 Act on Investment Firms.....	42
14.6 Act on Common Funds	43
14.7 Penal provisions Act on Credit Institutions (section 169)	43
14.8 Provisions on damages	43
14.9 Employment Contracts Act	44
14.10 Criminal Code.....	44
14.11 Act on Preventing and Clearing Money Laundering and Terrorist Financing	46
14.12 Unfair Business Practices Act.....	46
14.13 Code of Judicial Procedure.....	47
15 DEFINITIONS	47

These guidelines have been jointly prepared by Finland's banks in the Federation of Finnish Financial Services and they replace the earlier guidelines on bank secrecy drawn up in the Finnish Banking Association. Legislative amendments up to 31 December 2008 have been followed.

In these guidelines, the words 'bank' and 'bank employee' are used as a generic reference to all corporations obliged to observe bank secrecy (such as banks, financial companies, investment firms and the management companies and custodians referred to in the Act on Common Funds) and the persons employed by them. The definitions for the most important concepts are given in section 15. Insurance companies have their own secrecy guidelines, which are not covered by this document.

1 Principle of bank secrecy and the manner in which it has evolved

Bank employees and persons holding positions of trust in banks receive, as part of their tasks (such as lending and asset management services), information about the financial and other matters of their customers and other persons. Banks also receive information about their customers in connection with such events as payment transactions.

Banks can only operate successfully if their customers can be confident that their financial and private matters are kept secret. Bank employees or members of banks' bodies may not disclose information about the customers' business to third parties. From the point of view of the customers, bank secrecy is part of the protection of privacy. Bank secrecy protects private individuals, undertakings and other corporations.

Bank secrecy has been observed as long as banking has existed. Initially, the principle was based on unwritten customary law and was supported by what was considered decent and fair. The new banking laws that came into force in Finland in 1970 were the first pieces of legislation obliging all Finnish banks to observe bank secrecy. The principle was also incorporated in the Act on Credit Institutions (1607/1993) and in the revised Act on Credit Institutions (121/2007; hereafter

Credit Institutions Act). The banking secrecy provisions of the new Credit Institutions Act that came into force in early 2007 are largely similar to the provisions of the old act. The only difference is that the provisions contained in section 94 of the old act can now be found in sections 141 and 142 of the new act.

As banking has developed, bank secrecy has assumed an ever increasing role as an instrument ensuring smooth functioning of the financial sector. Observing bank secrecy is thus in the interest of individual customers and in the public interest. However, these interests do not always converge. There are certain situations in which by law public interest takes precedence over bank secrecy. For this reason, a number of laws exist giving the authorities the right to obtain information. However, under these provisions, authorities may only obtain information in certain specific cases and, for this reason they must be interpreted in a strict sense.

In addition to the bank secrecy obligation laid down in the Credit Institutions Act, there are also provisions on secrecy obligation in such pieces of legislation as the Act on the Supervision of Financial and Insurance Conglomerates, the Securities Markets Act, the Act on Investment Firms, the Act on Common Funds and laws on book-entry securities. There are also provisions in data protection legislation, such as the Personal Data Act and the Credit Data Act, that have relevance to the content of the secrecy obligation. The authorities' right to obtain information under the acts referred to in this section is also discussed below in sections on individual agencies and bodies possessing the right.

2 Difference between bank secrecy and a bank's business secrets

A difference must be made between a bank's business secrets and the bank secrecy covering the information about its customers. Bank secrecy applies to information that can be used for identifying a bank's customer. For example, bank secrecy only prevents the disclosure of information about a specific customer group if the information can be linked with a specific customer.

All undertakings have their own business secrets that their staff members may not disclose to third parties unless authorised to do so. Banks' business secrets include their development and marketing plans, key indicators detailing their financial situation, sales of bank-owned property, matters discussed in a bank's supervisory board and the board of directors and the customer-related information and documents that are intended for bank-internal use. Unlike the information covered by bank secrecy, these matters are at a bank's own discretion. Bank employees and persons holding positions of trust in a bank may, however, not disclose the bank's business secrets to outsiders. A bank's business secrets may only be disclosed by persons who, on account of their position or on the basis of a special permit, are authorised to do so. Banks have their own guidelines on persons who may disclose business secrets.

If documents containing banking or business secrets are handed over to authorities, their confidentiality should be ensured by marking the documents as confidential. This is because under the Act on the Openness of Government Activities (621/1999) all activities of the authorities are public, unless otherwise provided. The authorities must, however, ensure the confidentiality of all documents containing business secrets or documents that are marked as confidential on other grounds. The right of a bank to disclose information covered by bank secrecy so that it can safeguard its rights is discussed in section 12 below.

3 Corporations obliged to observe bank secrecy

Holding companies, credit institutions, financial institutions and investment firms belonging to the credit institution's consolidation group, and consortiums and conglomerates of credit institutions to which the provisions of the Credit Institutions Act apply must observe bank secrecy. A financial institution belongs to a consolidation group and must thus observe bank secrecy if the institution is a subsidiary of a credit institution or its holding company. This means that financial companies belonging to the group of a credit institution must observe bank secrecy.

For definitions of a holding company and a consortium and conglomerate of credit institutions, see section 15.

4 Persons obliged to observe bank secrecy

Under section 141 of the Credit Institutions Act, members or deputy members of bodies of credit institutions, undertakings belonging to the credit institution's consolidation group, consortiums of credit institutions or other undertakings working on behalf of credit institutions or persons employed by them or working on commission for them may not disclose information covered by bank secrecy. The same applies to credit institution agents, persons employed by credit institution agents and persons working on commission for the agents.

Members and deputy members of bodies of undertakings belonging to a conglomerate or other undertakings on commission for its agent or undertakings belonging to the conglomerate or persons on commission for the other undertakings in question must also observe bank secrecy.

4.1 Persons employed by a bank

All persons employed by a bank or a bank consortium must observe bank secrecy. Persons who are not carrying out banking tasks (such as those working in the personnel and financial administration, couriers and cleaners) must also observe bank secrecy..

4.2 Members of bodies

Member of bodies obliged to observe bank secrecy include the following:

In a commercial bank

- members of the supervisory board
- members of the board of directors
- managing director
- auditors elected by the supervisory board
- branch supervisor (in a co-operative bank)
- members of the supervisory board
- members of the board of directors
- managing director
- auditors elected by the supervisory board

- branch supervisor
- committee members managing administrative duties

In the OP Pohjola Group Central Cooperative

- members of the supervisory board
- members of the board of directors
- managing director

In a savings bank and a limited liability savings bank

- trustees
- members of the supervisory board
- members of the board of directors
- managing director
- auditors elected by the supervisory board
- committee members managing administrative duties

In the Finnish Savings Bank Association

- members of the supervisory board
- members of the board of directors
- managing director

In the Finnish Local Cooperative Bank Association

- managing director
- members of the board of directors

In a branch of a foreign credit institution

- director

In a holding company

- members of the supervisory board
- members of the board of directors
- managing director

In a financial institution

- members of the supervisory board
- members of the board of directors
- managing director

In a financial company

- members of the supervisory board
- members of the board of directors
- managing director

In an investment firm

- members of the supervisory board
- members of the board of directors
- managing director

In a management company

- members of the board of directors
- managing director

In a custodian

- members of the supervisory board
- members of the board of directors
- managing director

In the Federation of Finnish Financial Services

- members of the board of directors
- managing director

In the Deposit Guarantee Fund

- members of the delegation
- members of the board of directors
- agents

In the Investors' Compensation Fund

- members of the delegation
- members of the board of directors
- agents

In the banks' guarantee funds

- members of the delegation
- members of the board of directors
- agents

Deputy members of the above bodies and other members and deputy members of the bodies who are in a similar position are also obliged to observe bank secrecy.

The confidentiality provisions do not apply and no confidential information should be made available to a general meeting of shareholders, a meeting of trustees, the delegates or a general meeting of a co-operative or the shareholders, depositors, holders of basic fund certificates or investment shares or members attending the meeting.

4.3 Auditors

The auditors of a bank or a banking consortium may not disclose any information on matters covered by bank secrecy that has come to their knowledge during the carrying out of the audit. The obligation also applies to the auditors' assistants.

4.4 Persons employed by a service undertaking and other persons working on commission for a bank

Under section 141 of the Credit Institutions Act, a person working on a commission for a bank must observe bank secrecy. For example, employees of computer service, mailing, valuable transport, cash dispenser maintenance, cleaning, guarding and accounting undertakings and employees of other service undertakings must observe secrecy when matters covered by bank secrecy have come to their knowledge during the carrying out of their duties. Banks also require that the employees of the above-mentioned service undertakings sign a confidentiality pledge and that the contracts made with the undertakings concerned contain a confidentiality clause.

4.5 Other persons working in bank premises and persons not involved in banking activities

The secrecy obligation laid down in section 141 of the Credit Institutions Act does not cover persons who do not carry out work on commission for a bank. They include employees of companies that do not belong to the conglomerate and who sell their companies' products or services in the bank's branch. For this reason a bank must require that persons working in its premises who are not involved in banking activities give a confidentiality pledge. Furthermore, the working space of these persons should be located so that they cannot access information covered by bank secrecy.

5 Confidential information

Bank secrecy covers all matters concerning the financial position of the customers of the bank or an undertaking belonging to the same consolidation group or conglomerate or other persons connected with its operations and all information concerning the private personal circumstances of an individual such as family relationships or business or trade secrets. It includes information on customer's profitability calculations, business contracts, business arrangements and new products obtained by the bank in connection with a loan application.

The secrecy obligation covers both permanent and temporary customer relationships. The obligation does not only cover the banking matters between the bank and its customers; it also covers matters outside the customer relationship if the bank has obtained information about them in connection with banking matters. The secrecy obligation also covers information about persons who are not customers of the bank. In accordance with the secrecy obligation, third parties may not even be disclosed whether a certain person is a customer of the bank. The secrecy obligation also means that unprotected e-mail messages should not contain information about matters covered by bank secrecy.

The bank secrecy covers all information that can be deemed to be of such nature that the customer wants to keep it confidential. The bank secrecy does not cover information that is gener-

ally known or information that used to be confidential but has been made public. Thus a bank may disclose that a certain person is a customer if this is generally known or if the customer in question has agreed to its publication or notified the bank of it in writing.

The secrecy obligation also covers information that has been received from another bank or an undertaking belonging to the same conglomerate or the same consortium. Acquisition of such information may, for example, be based on payment transmission (For the handing over of customer information connected with payment transactions, see sections 8.21-8.27) or marketing measures of the conglomerate or the consortium (9.1)

6 Time span of bank secrecy

The secrecy obligation starts when a bank employee or a person holding a position of trust in a bank starts his/her employment relationship or the carrying out of his/her duties to which he/she has been elected. The secrecy obligation must be observed both during and outside working hours. The secrecy obligation must also be observed after the end of the employment relationship or after the person concerned no longer holds a position of trust in the bank.

Bank secrecy does not only cover information obtained during the customer relationship but also information acquired before and after the customer relationship. Thus, the secrecy obligation also covers information obtained by the bank during the negotiations on the start of a customer relationship even if the person or the undertaking concerned did not become a customer.

7 Secrecy obligation inside a bank

7.1 Examining confidential information

A bank employee may only obtain or examine confidential information to the extent required by his/her duties.

7.2 Disclosing confidential information to other bank employees

Confidential information may only be disclosed to other employees of the same bank to the extent required by the duties of the employees concerned.

7.3 Information obtained in connection with agency and advisory services

Information obtained in connection with agency and advisory services provided by the bank may only be used in the bank's own operations and with the consent of the customer.

Such information includes information contained in the customer register kept on behalf of a customer corporation or sensitive information obtained in connection with insurance company agency work (such as health information). The use of the information may also be restricted under other laws (such as data protection and securities markets legislation).

8 Providing information to private parties

As a rule, private individuals, companies, associations, foundations or other similar parties do not have the right to obtain information about other parties' banking matters.

The most important exceptions to this rule and instructions for the most common situations in which private enquiries are made about other parties' banking matters are detailed below. If the person's right to obtain information is based on a court decision, the authorisation document issued by the court must be presented to the bank.

As a rule, banks have the right to charge a fee for supplying the information.

8.1 Customer consent

Notwithstanding bank secrecy, the customer may allow the bank to give information about his/her banking matters to outsiders.

The consent may be given orally or in writing and may also be part of a more extensive document. For example, the spouses may, as part of an agreement made for the eventuality of a divorce, agree that their bank may disclose information about their banking matters.

It is recommended that the consent is given in writing because in a dispute, it is often difficult to prove that any oral consent has been given. The consent may for example be given by using a power of attorney. A sample power of attorney for such situations is given in section 8.2.

8.2 Authorisation

A customer may authorise another person to request information about his/her banking matters. The authorisation must be in writing and the original copy of the power of attorney must be presented to the bank. The power of attorney or its copy must also be presented to the bank when the request is made.

The power of attorney must specifically mention that the authorised person has the right to obtain information about the banking matters of the person issuing the power of attorney. General powers of attorney are not accepted. The text of the power of attorney may, for example, be as follows:

P O W E R O F A T T O R N E Y

I hereby authorise X (name and personal identity code) to obtain all information he/she requires about my accounts, loans and other banking matters in bank A.

Place and date

Signature of the person issuing the power of attorney (name in block letters and personal identity code)

If there are reasons to doubt the authenticity of the power of attorney, the matter must be checked with the person who has issued the document before any information is given.

If the power of attorney only gives the authorised person the right to withdraw money from the account, he/she does not have the right to obtain information about the account.

8.3 Continuing power of attorney

A continuing power of attorney is an authorisation granted by a person to somebody he/she trusts, which the person concerned executes should he/she become incapable.

A continuing power of attorney is halfway between an ordinary power of attorney and the appointment of a guardian. A continuing power of attorney comes into force after it has been confirmed by the local register office. The local register office enters the authorisation in the guardianship register if the authorisation also covers financial matters.

The entry into force of a continuing power of attorney does not invalidate any ordinary powers of attorney issued by the ward, which means that banks can also do business with persons presenting them. The person granted authorisation under a continuing power of attorney has, however, the right to cancel earlier authorisations issued by the ward.

The bank must, on request, provide the local register office and courts with the information and reports that are necessary for making a decision on the pending matter.

If the continuing power of attorney is of general nature, the person granted the authorisation has the same overall responsibility as a guardian to examine transactions, for example to check whether the ward has any claims.

The person granted the authorisation has the right to obtain information about the past events that are covered by the authorisation.

8.4 Joint credit, account or deposit

Joint credit

When a credit has been issued to two or more persons each of them has the right to obtain information about the credit.

Joint account or deposit

Each account holder has the right to obtain information about the account irrespective of whether he/she can only access the account jointly with other account holders or may access it independently.

The above also applies to joint deposit.

8.5 Access to an account

A person with access to an account is entitled to obtain all information about the use of the account from the period covered by the access. A person with access to an account is entitled to obtain the information even if he/she shared the access with another person.

A holder of a savings book who is not an account holder only has the right to obtain information about the account balance.

8.6 Transferred account

If the account has been transferred to another person, the transferee only has the right to obtain information about the account balance and transactions that have occurred after the transfer.

8.7 Bank details of persons under guardianship

8.7.1 General information about guardianship services

Minors and those adults who have been assigned a guardian are under guardianship. A person under guardianship is referred to as a ward.

All persons under 18 years of age are minors. Those under 18 are usually under the guardianship of their custodians. As part of a divorce settlement, a court may, however, order only one of the parents to act as the custodian and/or guardian of a minor.

A court may appoint a guardian for an adult if the person concerned is, on account of an illness, disturbed mental faculties, diminished health or other comparable reason, incapable of looking after his/her own interests or personal or financial affairs in need of management. The appointment may be of temporary duration or cover only specific matters. Usually the appointment is of general nature that remains in effect until further

notice and covers the management of financial affairs. As far as appointments of other type are concerned it must be carefully examined whether the appointment gives the guardian the right to obtain information about the ward's banking matters.

If the appointment of a guardian is not enough to safeguard the ward's interests, the competency of the ward may be restricted. For example, the ward may only be allowed to enter into certain legal transactions or administer certain property only in conjunction with the guardian or may not have the competency to enter into certain legal transactions or have the right to administer certain property or may be declared incompetent.

If the guardian is prevented from carrying out his/her duties or if the interests of the guardian and the ward do not converge, the court may appoint a substitute guardian. The provisions applying to the guardian also apply to the substitute guardian.

A bank may also submit a notification of the need to provide a customer with a guardian in a manner laid down in section 10.12.4 below.

8.7.2 A guardian's right to obtain information

Usually the guardian has the right to obtain information about all banking matters of the ward. If, however, the court has only appointed the guardian to administer specific measures or specific assets (for example, a property transaction), the guardian only has the right to obtain information about the matters pertaining to the measure or the assets concerned. If the appointment of the substitute guardian is a result of a disagreement between the guardian and the ward, the substitute guardian only has the right to administer the banking matters covered by the appointment. The guardian still has the right to obtain information about all banking matters of the ward.

The right of the guardian to obtain information is retroactive. Thus, the guardian has the right to obtain information about the ward's banking matters from the period before and after the appointment and as long as the appointment is in force. This also applies to situations in which the

guardian has been replaced. In such cases, the new guardian also has the right to obtain information about the ward's banking matters from the period of the previous guardian. After the guardianship has come to an end, the guardian has the right to obtain information about the ward's banking matters from the period during which he/she acted as the guardian.

The guardian has the right to obtain information about the banking matters of a minor, even if the minor alone had access to an account. The guardian has the right to obtain the information irrespective of who has opened the account on behalf of the minor or who has access to the account. If both parents of the minor are also his/her custodians, the bank may give information about the minor's banking matters to either of them without the consent of the other.

If a minor is not under the guardianship of his/her parents, this is stated in the court decision on the matter, the information entered in the guardianship register and often also in the extract from the population register issued for the minor concerned. In such cases, the person appointed as the guardian of the minor has the right to obtain information about his/her banking matters.

The guardian has the right to obtain all information about the banking matters of an adult under guardianship. If more than one guardian has been appointed and a court has not divided the guardianship duties between them, each guardian has the right to obtain information about his/her ward's banking matters. If the court has divided the guardianship duties, the guardian responsible for financial affairs has the right to obtain information about the ward's banking matters.

The name of the guardian of a ward aged 18 or over is given in a court decision on the matter, in the documents entered in the guardianship register kept by the local register office and often also in the extract from the population register issued for the ward.

8.7.3 The right of minors and other persons under guardianship to obtain information

A minor has the right to obtain information about all his/her banking matters. For example, he/she has the right to obtain information about all his/her accounts irrespective of whether he/she has access to them.

If a court or a guardianship authority (a local register office) and, in the Province of Åland, the provincial government has appointed a guardian for a person to manage the financial affairs of the person concerned, the ward has the right to obtain information about his/her banking matters from the period before and after the appointment. The ward has the right to obtain the information regardless of whether the competency of the ward has been restricted in connection with the appointment of the guardian.

8.8 Spouse

A party to a marriage, a domestic partnership or a registered partnership may only obtain information about his/her partner's banking matters with the consent of the partner concerned.

8.9 Information concerning a decedent's estate

Before any information about a decedent's estate can be provided to such parties as the shareholders in the decedent's estate or the estate administrator, the bank must be provided with details of the customer's death and the right of the person making the enquiry to obtain information.

8.9.1 Shareholders in the decedent's estate

The heirs, the universal beneficiaries and (in most cases) the widower/widow are the shareholders in the decedent's estate. The names of the decedent's heirs and widower/widow are given in the extracts from the population register issued for the decedent, details of the family relationships or the inventory deed confirmed by the local register office. The widower's/widow's partnership in the decedent's estate ends when the distribution of matrimonial property is complete. A separate distribution of matrimonial property is rarely carried out as it usually takes place in connection with the distribution of the estate. Thus, in most cases, the widower/widow remains a shareholder in the decedent's estate

until the distribution of the estate. If the widower/widow does not have any marital right to the decedent's property and is not an heir or a universal beneficiary, he/she is not a shareholder in the decedent's estate and has no right to obtain information.

Each of the shareholders in the decedent's estate and the estate administrator have the right to obtain information about the state of the decedent's banking matters on the day of his/her death and the banking matters after that date. Any shareholder in the decedent's estate has the right to have the safe deposit box of the decedent opened and its content recorded in the presence of witnesses (bank employees). Only the shareholders in the decedent's estate together and the court-appointed estate administrator have the right to obtain information about the decedent's banking matters from the period preceding his/her death.

If a shareholder in the decedent's estate requests information about the decedent's banking matters from the period preceding his/her death without the consent of the other shareholders, the bank employee must request the person in question to provide a document stating that he/she has the consent of the other shareholders. If the shareholders in the decedent's estate fail to agree on the matter, they must be stated that the bank will only provide information about the decedent's banking matters from the period preceding his/her death to a court-appointed estate administrator.

If procuring the order of the estate administrator would, in view of the assets of the estate, result in unreasonable costs, the bank may, on special grounds, provide information about the banking matters from the period preceding the decedent's death to any shareholder in the decedent's estate. The information may, for example, be provided on the grounds that as not all of the shareholders can be contacted, it would be particularly difficult to obtain an authorisation.

8.9.2 Recipient of a bequest

A recipient of a bequest has the right to obtain information about the assets held by the decedent in a bank that have been stipulated to him/her as a bequest.

8.9.3 The person commissioning the estate inventory and a trustee

Shareholder in the decedent's estate

The shareholder in the decedent's estate who is administering the property of the estate and commissions the estate inventory has the right to obtain information about the decedent's banking matters on the day of his/her death.

A person commissioned to take the inventory (trustee)

The estate inventory is often taken by a solicitor or another outsider who is working on commission for a shareholder in the decedent's estate or the widow/widower. In order to obtain information about the decedent's banking matters on the day of his/her death (such as the balance of the accounts), he/she must present to the bank a power of attorney signed by a shareholder in the decedent's estate.

By law, obliged to take an estate inventory

In certain cases, a person who is not a shareholder in the decedent's estate (such as the decedent's domestic partner) must by law commission the estate inventory (chapter 20, section 2 of the Code of Inheritance). This person has the right to obtain information about the decedent's banking matters on the day of his/her death and have the safe deposit box opened and its contents recorded in the presence of witnesses. If this person commissions the estate inventory, the bank must ask him/her to provide details about the conditions on the basis of which he/she considers himself/herself obliged to commission the estate inventory.

8.9.4 Administrator of an estate, estate distributor and executor of a testament

A court-appointed estate administrator has the right to obtain information about the decedent's (estate's) banking matters from the period before and after the decedent's death. The estate administrator has the right to obtain the information already before the order has legal force. The person who in the testament has been appointed as

its executor has the right to obtain the information only after the testament has gained legal force. The court-appointed estate distributor only has the right to obtain information if he/she has also been appointed as the estate administrator.

The appointment of the estate administrator or the right of the executor of the testament to obtain information does not remove the right of the shareholders of the decedent's estate to obtain information about the estate's banking matters (see 8.9.1).

8.9.5 Information concerning the widow/ widower

Information about the widow's/widower's banking matters may only be obtained with the consent of the widow/widower.

8.10 Executor of the distribution of matrimonial property

The estate administrator appointed by the court to execute the distribution of matrimonial property may only obtain information about the banking matters of either spouse with the consent of the spouse in question.

An estate distributor that has been appointed to execute the distribution of matrimonial property between a holder of a book-entry account and the spouse of the account holder or his/her estate may, however, obtain information about the book entries and other matters registered in the account (section 33 of the Act on Book-Entry Accounts). Under the Act on Book-Entry Accounts, the person who under section 60 of the Marriage Act has been appointed to represent the other spouse in the preparation of the list of assets also has this right.

If the court-appointed estate distributor requests information about the other spouse's banking matters that do not pertain to the book-entry account without the consent of the spouse in question, the bank employee must point out to the estate distributor that such consent is required. If the other spouse refuses to give his/her consent, the bank can only conclude that the other spouse can be taken to court and request the court to order the spouse in question to provide information about his/her banking matters. The same

procedure also applies to the situation in which a spouse requests information about his/her spouse's banking matters without the consent of the spouse concerned.

8.11 A person administering the restructuring of an enterprise

The court-appointed administrator and supervisor have the same right as the debtor to obtain information about the debtor's banking matters.

If the voluntary restructuring is carried out using an administrator, the administrator must be requested to produce a power of attorney issued by debtor before any information is provided.

8.12 The administrator and bailiff in a case involving the adjustment of a private individual's debts

The court-appointed administrator has the same right as the debtor to obtain information about the debtor's banking matters. A court may request the bailiff to prepare the distraint evaluation on the debtor referred to in the Enforcement Code or submit other information necessary for a decision in the matter concerning the debt-adjustment application. As part of its request, the court may also order that the bailiff has, notwithstanding secrecy provisions, the same right as the debtor to obtain information about the debtor's banking matters that are covered by bank secrecy. If the bailiff requests on above grounds from a bank employee information concerning the debtor that is covered by bank secrecy the bailiff must present a court decision containing the details of the appointment of the bailiff and the bailiff's right to obtain information concerning the debtor's banking matters that is covered by bank secrecy.

If in a case involving the voluntary adjustment of a private individual's debts a person acts as an administrator in order to adjust the debtor's debts, he/she may only be provided information if he/she produces a power of attorney issued by the debtor authorising him/her to obtain the information.

8.13 Administrator of a bankruptcy estate

A court-appointed administrator of a bankruptcy estate has the right to obtain information about

the debtor's banking matters from the period before and after the bankruptcy in the same manner as the debtor. If the debtor has given a guaranty or a third-party pledge, the right of the guarantor and the pledgor to obtain information about the debt

in question is transferred to the bankruptcy estate (see sections 8.16 and 8.17).

The estate administrator has the right to obtain information about a third-party pledge but not about the guarantor's banking matters. The estate administrator also has the right to obtain information about the third-party pledgor and the pledge but not about the pledgor's banking matters. The estate administrator may be provided information about the accounts the debtor has had access to from the period covered by the access. In such cases, the account holder must be given details of the information that has been provided.

For the right of the Bankruptcy Ombudsman to obtain information, see section 10.9.

8.14 A debtor in a bankruptcy

The debtor has the right to obtain information from the bank from the period before the bankruptcy.

The debtor does not have the right obtain from the bank information about the estate's banking matters unless this is required by tax or other specific reasons.

8.15 Liquidator

When a limited liability company, a limited partnership, an unlimited partnership, a co-operative, an association or a foundation has entered into liquidation, the liquidator has the right to obtain information about all its banking matters. The liquidator may be appointed by a court or, in the case of a limited liability company, a foundation or a co-operative, also by the National Board of Patents and Registration. The liquidator may also be elected by the general meeting of shareholders of a limited liability company, the partners of an unlimited partnership or a limited partnership, the meeting of an association or the general meeting of a co-operative.

The appointment of the liquidator does not remove the right of those who on account of their position (8.28) have the right to obtain information to access information covering their term of office and the period preceding it.

8.16 Guarantor

8.16.1 Before the signing of a guaranty

Before a guaranty is given, the bank must provide the private individual acting as the guarantor with details of the debts covered by the guaranty and the associate costs. The bank must also provide the guarantor with details of the debtor's liabilities and other matters connected with his/her paying capacity that may be assumed to be relevant to the guarantor. The bank may also, at the request of the guarantor, provide the guarantor with other information concerning the loan covered by the guaranty, such as information about the sales price of the item to be purchased or other security connected with the loan that may be assumed to influence the decisions of the guarantor. Providing the information does not require the consent of the debtor

8.16.2 After the signing of a guaranty

During the period of validity of the guaranty, the bank must on request provide the private individual who has given the guaranty with information about the debtor's liabilities and other factors affecting the debtor's paying capacity that may be assumed to be relevant to the guarantor. The obligation to provide information only applies to such matters that are known to the bank and that can be submitted to the guarantor without specific enquiries or that the bank can obtain from the credit data register. The obligation to provide information does not, however, cover what has been entered into the customer default register. The bank has the right to claim a reasonable compensation from the guarantor for the costs arising from the provision of the information.

The guarantor also has, irrespective of the content of the guaranty and the terms and conditions of the guaranty, the right to obtain information

about the loans and bank guaranties that are covered by his/her commitment. The guarantor thus has the right to obtain information about the outstanding capital of the loan covered by the guaranty and of any delays in loan repayments. The statutory right to claim compensation for the provision of information does not apply to the information about the principal debt.

Unless it has been agreed that the private individual who has given a general guaranty is notified of the new principal debt without delay, the bank must on its own initiative provide him/her with details of the outstanding capital of the principal debt every six months. The same applies to guaranties covering overdraft facilities.

8.17 Pledgor

8.17.1 Before the signing of the undertaking on a pledge

Before a third-party pledge is given, the bank must provide the private individual giving the pledge with details of the debts covered by the pledge and the associate costs. The bank must also provide the private individual in question with details of the debtor's liabilities and other matters connected with his/her paying capacity that may be assumed to be relevant to the pledgor. The bank may also, at the request of the pledgor, provide him/her with other information concerning the loan, such as information about the sales price of the item to be purchased or other security connected with the loan that may be assumed to influence the decisions of the pledgor. Providing the information does not require the consent of the debtor.

8.17.2 After the signing of the undertaking on a pledge

During the period of validity of the pledge, the bank must on request provide the private individual who has given the third-party pledge with information about the debtor's liabilities and other factors affecting the debtor's paying capacity that may be assumed to be relevant to the pledgor. The obligation to provide information only applies to such matters that are known to the

bank and that can be submitted to the pledgor without specific enquiries or that the bank can obtain from the credit data register. The obligation to provide information does not, however, cover what has been entered into the customer default register. The bank has the right to claim a reasonable compensation from the pledgor for the costs arising from the provision of the information.

The pledgor has also, irrespective of the content of the undertaking on the pledge and the terms and conditions of the pledge, the right to obtain information about the loans and bank guaranties that are covered by his/her undertaking. The pledgor thus has the right to obtain information about the outstanding capital of the loan encumbering the pledge and of any delays in loan repayments. The statutory right to claim compensation for the provision of information does not cover the information about the principal debt.

Unless it has been agreed that the private individual who has given a general pledge covering a debt of another person is notified of the new principal debt without delay, the bank must on its own initiative provide him/her with details of the outstanding capital of the principal debt every six months. The same applies to third-party pledges covering overdraft facilities.

If the pledgor changes during the period of validity of the pledge, the new pledgor has the same right to obtain information about the debtor and the principal debt as the original pledger.

8.18 Pledgeholder

If somebody has a right of pledge on the funds in a customer's account or the customer's assets possessed by a bank, he/she has the right to obtain information about the funds or assets in question.

A person with a secondary right of pledge on the property pledged to a bank has the right to obtain information about the property concerned, the terms and conditions of the pledge (whether it is a question of a general or other pledge) and on the amount of the debt for which the property provides principal security.

8.19 Debtor

A debtor for whose debt another person has given a guaranty or a pledge (principal debtor) may only obtain the information concerning these third-party securities that is evident from the documents detailing the guaranty or the undertaking on the pledge. In connection with the guaranty, the debtor has the right to obtain the personal details of the guarantor and the details of the type of the guaranty and of any restrictions concerning the guaranty. The debtor also has the right to obtain information about the pledged object, the pledgor and any restrictions concerning the pledge. The debtor has the right to obtain information about the existence of the secondary pledge if it limits his/her liabilities concerning the pledge.

If the third-party pledge is also used as security for a third-party debt, the debtor does not have the right to obtain information about the pledge.

8.20 Agent managing the sale of the pledge

If the pledge is sold without the contribution of the pledgor, the pledgeholder may provide the agent managing the sale of a dwelling with the information essential for the carrying out of the sale.

The property agent does not have the right to obtain information about the customer's other banking matters.

8.21 Cheque holder

The cheque holder has the right to know whether there are sufficient funds in the account in question to cover the cheque. The bank employee should ensure that the person making the enquiry is in possession of the cheque by, for example, asking him/her to present the cheque or (in telephone enquiries) give the number of the cheque and the name of the drawer.

The cheque holder does not have the right to obtain information about the account balance or transactions.

If there are not enough funds in the account to cover the cheque, the bank may, after it has concluded that the cheque bears the signature of the cheque account holder, give the person presenting the cheque the name and contact information of the account holder and the account balance.

If the information has been requested by telephone and the amount of funds in the account is insufficient, the person presenting the cheque should be asked to contact the branch of the bank.

8.22 Payee in card payments

Card authorization

The recipient of a card payment has the right to check that there are enough funds on the payer's account to cover the amount of the transaction. The payee does not have the right to obtain information about the account balance or transactions. When the enquiry is made by telephone, the bank must check the right of the payee to obtain the information by requesting him/her to give the number and period of validity of the card. The authorisation can also be made using a payment terminal.

Processing bank card payment transaction in a bank

Bank card guarantee terms and conditions apply to bank cards. In a situation where the card payment transaction has been appropriately approved by the cardholder but there are not enough funds in the account, the payment has been made using an incorrect form, the form or the details of the transaction have not submitted to the bank within the required time or there have been other factors preventing the transaction, the payee should be advised to collect the claims himself/herself. In such cases, the bank has the right to facilitate the collection by providing the payee with the name and contact information of the account holder. If the payee and the cardholder have their accounts in different banks, the payer's bank has the right to give the name and address of its customer to the payee's bank, which will then forward it to the payee.

8.23 Cardholders

If a bank account or card credit has more than one card attached to it, the account holder or the holder of the principal card has the right to obtain details of all card transactions, including those made using the parallel cards.

The holder of the parallel card attached to the bank account has access to the bank account in question. Thus, the holder of the parallel card has the right to obtain all details of the account transactions.

The holder of the parallel card attached to the card credit has the right to obtain details of all card transactions, including those made using the principal card and other parallel cards, if the holder of the parallel card in question is under the terms and conditions of the card credit responsible for the card credit. If the holder of the parallel card attached to the card credit is not responsible for the card credit, he/she only has the right to obtain details about the transactions concerning the use of his/her own card.

8.24 Provision of information in connection with inter-bank transactions

The payer's bank may provide the payee's bank with all the details required for the carrying out of the payment instruction so that the necessary checks can be made.

Banks must always provide other banks with the payer information required under the regulation on information on the payer accompanying transfers of funds [(EC) No 1781/2006, Payment information regulation]. In domestic payment transmission, at least the account number or other identifying data, such as the archive identifier, must be supplied. At least the following information must accompany foreign payments: the name of the payer, payer's account number or other identifier and one of the following pieces of information: payer's address, date and place of birth, customer number provided by the bank, personal identity code or the registration code of the undertaking or another corporation.

8.25 Right of the payer to obtain information about a wrong payee

If the payment is directed to a wrong account because of the payer's error, the payer's bank should first contact the payee's bank in order to clarify the matter. The payee's bank will then contact the payee. If the wrong payee refuses to return the payment to the payer, the payee's bank has, notwithstanding bank secrecy, the right to give the name and address of the wrong payee to the payer's bank which will then forward the information to the payer.

If somebody, for any other reason beyond a bank's control, receives a sum that does not belong to him/her, such as cash from a cash dispenser, the bank may in the same manner provide the injured party (such as the cash dispenser maintenance corporation) with information.

8.26 Providing the payee with information about the account holder when the payer is unknown

If the payer has not given the account transfer reference number or other payment identifying data when carrying out the payment transaction, the name of the payer and the nature of the payment may remain unknown to the payee. In order to clarify the matter, the payee should contact his/her own bank after which the bank employee will check the payee's right to obtain transaction related information about the customer. In such cases the bank may provide the payee with the name and address of the account holder. If the payment has been made from an account in another bank, the payee's bank may ask for information concerning the above payment from the bank in question. An authority or a corporation carrying out statutory tasks and that have a statutory right to process personal data, such as taxation authorities or the Social Insurance Institution, may also be provided with the account holder's personal identity code.

No information may be provided if it can be assumed that the payment has been made for charitable purposes and the payer does not want his/her name and address to come to the knowledge of the payee.

8.27 Providing the payer with information about the payee when the bank account details of the payee are out of date

If the payee's account number that the payer has provided to the bank in connection with the payment is out of date the payee's bank may not direct the payment to any other account held by the payee without the consent of the payee or provide the payer with information about any other accounts held by the payee. In such cases, the payment is returned to the payer's account or the payer's bank.

8.28 Persons acting on behalf of a legal person

8.28.1 Persons entitled to obtain information on account of their position

The following persons do not need any specific authorisation to obtain information about the banking matters of the legal person they represent when acting on behalf of the legal person in question:

In a limited liability company:

- managing director
- members of the board of directors

In a housing company

- managing director
- members of the board of directors

In a co-operative

- managing director
- members of the board of directors

In a foundation

- members of the board of directors

In an unlimited partnership

- partner

In a limited partnership

- liable partner

In an association

- members of the board of directors

Sole proprietorship

- owner

The above representatives of the bodies of legal persons have the right to obtain information from the period of their term of office and the preceding period. When a legal person is in liquidation, the liquidator of the legal person in question also has the right to obtain information.

8.28.2 Auditors and members of the supervisory board

A bank may only provide auditors and members of the supervisory board with information about the legal person's banking matters with the consent of the legal person in question.

8.28.3 Persons authorised to sign for a legal person

Persons authorised by a legal person to sign for the legal person in question have the right to obtain information about the legal person's banking matters from period of their term of office and the preceding period.

If the authorisation to sign for the legal person has been granted to at least two persons together and these persons do not have access to the account, the persons in question may only obtain information about the legal person's banking matters together.

8.28.4 Non-registered corporations

Non-registered limited liability company and co-operative

A person who by law may represent a non-registered corporation has the right to obtain information about the banking matters of a limited liability company or co-operative that has been established but not yet registered. The right to obtain information about the banking matters of a registered limited liability company and co-operative is in accordance with sections 8.28.1-8.28.3 above.

Non-registered association

Private individuals acting on behalf of a non-registered association have the right to obtain information about the banking matters of the association.

Non-registered limited partnerships, unlimited partnerships and sole proprietorships

Liable partners of a non-registered limited partnership, partners of an unlimited partnership and

the owner of a sole proprietorship have the right to obtain information about the banking matters of their corporations.

9. Providing information to holding companies and credit, financial and insurance institutions

9.1 Providing information to holding companies and credit and financial institutions belonging to the same group or the same consortium

Right to give information under the Credit Institutions Act

A credit institution and an undertaking belonging to the same consolidation group have the right to provide information covered by bank secrecy for the purpose of customer service, for managing other aspects of customer relations and marketing and for risk management in the group, the consolidation group or the conglomerate to a corporation belonging to the same group, consolidation group or the same financial and insurance conglomerate. The information may only be supplied to recipients who are bound by the secrecy obligation laid down in the Credit Institutions Act or a similar secrecy obligation. The right to give information does not, however, cover such sensitive information referred to in section 11 of the Personal Data Act as information about the customer's health or information that is based on the registration of payments between the customer and an undertaking outside the conglomerate.

The credit institution and an undertaking belonging to the same consolidation group may also hand over information kept in their customer registers that is necessary for marketing and customer service or for managing other aspects of customer relations to a corporation belonging to the same consortium as the credit institution if the recipient of the information is bound by the secrecy obligation laid down in the Credit Institutions Act or a similar secrecy obligation. The right to hand over information does not, however, cover the sensitive information referred to in section 11 of the Personal Data Act.

Notwithstanding the above restrictions, a bank has the right to hand over confidential information to a consortium of credit institutions in

which it is a member if the information in question is necessary for the operations of the consortium. The same also applies to the central financial organisations of savings banks and local co-operative banks.

For definitions of a holding company and a consortium and conglomerate of credit institutions, see section 15.

The similar secrecy obligation referred to in the Credit Institutions Act means the secrecy provision laid down in such pieces of legislation as the Act of Savings Banks, the Act on Co-operative Banks and other Credit Institutions in the form of a Co-operative, the Act on Investment Firms and the Act on Common Funds.

Right to provide information under the Act on Investment Firms

An investment firm and an undertaking belonging to the same consolidation group have the right to provide information covered by bank secrecy for the purpose of customer service, for managing other aspects of customer relations and marketing and for risk management in the group, the consolidation group or the conglomerate to a corporation belonging to the same group, consolidation group or the same financial and insurance conglomerate. Information kept in the customer register may also be handed over to a corporation belonging to the same consortium as the investment firm for the purpose of marketing and customer service and for managing other aspects of customer relations if the recipient of the information is bound by the secrecy obligation laid down in the Act on Investment Firms or similar secrecy obligation.

9.2 Exchange of information between co-operative banks

Banks belonging to the consortium of co-operative banks have the right to exchange confidential information and to hand over such information to the consortium's central organisation. Co-operative banks outside the consortium (local co-operative banks) may only exchange confidential information with the consent of the customer concerned. However, the bank functioning as their central financial organisation has the

right to hand over information in the manner described in section 9.1 above.

9.3 Exchange of information between savings banks

Savings banks may only exchange confidential information with the consent of the customer concerned.

However, the bank functioning as their central financial organisation has the right to hand over information in the manner described in section 9.1 above.

9.4 Providing information to banks' guarantee funds

A bank has the right to hand over confidential information to the guarantee fund in which it is a member.

9.5 Providing information to the Deposit Guarantee Fund

If the Financial Supervisory Authority has decided that the Deposit Guarantee Fund must pay the claims of the depositors, the bank must provide the Deposit Guarantee Fund with the details of the depositors and their protected claims so that the decision of the Financial Supervisory Authority can be implemented. The Deposit Guarantee Fund may only give information to the authorities that have the statutory right to obtain confidential information.

9.6 Providing information to the Investors' Compensation Fund

If the Financial Supervisory Authority has decided that the Investors' Compensation Fund must pay the claims of the investors, the investment firm or the credit institution must provide the Investors' Compensation Fund with the details of the investors and their claims so that the decision of the Financial Supervisory Authority can be implemented and the decisions concerning the claims of individual investors made.

9.7 Providing information to an insurance institution

A credit institution may hand over information to an insurance company that belongs to the same group or consolidation group, the same financial and insurance conglomerate or the same consortium in the manner described in section 9.1 above. A bank that has insured its credit and guaranty liabilities in a credit insurance institution may hand over confidential information to the extent required by the insurance operations.

10. Providing information to the authorities

General

Notwithstanding the secrecy obligation, a bank must by law provide a large number of different authorities with information covered by bank secrecy. The obligation to provide information to the authorities is based on special provisions that must be interpreted in a strict sense. The right to access information does not extend to the authorities in other countries; these have to request executive assistance from the Finnish authorities in order to obtain the information.

Furthermore, it should be noted that a bank may also hand over information with the consent or the authorisation of the customer (see sections 8.1-8.3).

Laws also give a number of different authorities the right to obtain information about book-entry accounts. The requests are submitted to Euroclear Finland Oy, whose reply depends on whether it is able to supply the required information. As to other requests (for example those concerning history data), Euroclear Finland Oy forwards the enquiries to banks. In a bank, the enquiries are handled by staff members responsible for registration.

Information may only be given on matters that are connected with the banks' own agreements, such as deposits and credits and interest on them and matters connected with the use of the bank's services. A bank does not provide information about such matters as agreements between customers and other service providers or commissions even if the bank and the other service provider in question belonged to the same group or

consortium. The authorities are directed to request the information directly from the service provider in question. Information is only provided about the banking matters of the customer concerned, unless otherwise stated below.

The official request must be in writing unless it has been specifically agreed that an electronic interface is used and the request must be signed by a person that by law is authorised to submit the request. The authorities making the request must by law give the legal provisions on which the request is based. The official deciding on the submission of the request and the need for it has official liability for his/her actions.

A written request for banking information must be time-specific and concern past business transactions. The official request must be submitted in such a manner that the bank can in response hand over a document or other report in its possession or its copy or a written description of the content of the business transaction known to the bank and specified by the authorities.

If the authorities request information about a specific bank customer and the request concerns such matters as an account or a credit relationship in which in addition to the customer in question there are also other customers as account holders or debtors, the bank should only provide the authorities with the name of the customer in question. When giving information about a specific customer, the bank must state that the customer in question has an account or a loan in the bank in conjunction with certain other customers and give the number of account holders or debtors.

The reply must be in writing and in the name of the bank and not in the name of an individual bank employee. A bank does not normally inform the customer concerned of its reply to an official request unless the customer makes an enquiry about the matter. It is specifically laid down in the Enforcement Act that only the authorities concerned may be informed of the request made by a bailiff. As to requests made by other authorities, customers are not informed if it is stated in the official request that for weighty reasons (such as a criminal investigation) they should not be informed.

Otherwise, customers enquiring whether information on them has been supplied will be informed. Before informing the customer, the bank must first notify the authorities of its intention to inform the customer. Any enquiries made by customers concerning an official request for information should be forwarded to the authorities who have submitted the request.

As a rule, a bank may not charge the authorities for the information it supplies. The bank may charge the authorities a fee for replying to the request if this is allowed under the legal provision on which the request was based.

For marking documents containing bank or business secrets that are supplied to the authorities, see section 2.

10.1 Supervisory authority

The Financial Supervisory Authority is the government body responsible for supervising banks and financial and insurance conglomerates.

10.1.1 Right of inspection

The Financial Supervisory Authority has the right to obtain for inspection, at the place of business of a bank, the documents and other records relating to the bank and its customer that it considers necessary for the carrying out of its task. The Financial Supervisory Authority also has the right to obtain for inspection the bank's information systems and all cash and other monetary assets.

The Financial Supervisory Authority has the right to inspect a Finnish undertaking that belongs to the same Finnish or foreign group or consolidation group as the bank or that is the bank's affiliated undertaking. The Financial Supervisory Authority also has the right to inspect a foreign place of business of the bank and, at the request of a foreign supervisory authority, a Finnish undertaking that belongs to the consolidation group of a parent undertaking whose registered office is in the European Economic Area and a Finnish-based subsidiary undertaking of the parent undertaking of such an undertaking. In such a case the inspection may be directed at a Finnish bank or

another type of a Finnish undertaking that is engaged in unlicensed credit institution operations.

The Financial Supervisory Authority also has the right to obtain for inspection, at the office of an undertaking that acts as the bank's agent or that on commission for the bank carries out tasks pertaining to its bookkeeping, information system or risk management or other bank-internal supervision, all information necessary for supervision.

When carrying out an inspection, the Financial Supervisory Authority may use external auditors or other experts as assistants. The Financial Supervisory Authority may also appoint an agent possessing official liability for supervising the bank's operations. The agent in question has the same inspection powers as the Financial Supervisory Authority.

The Financial Supervisory Authority may prohibit those that attend an inspection carried out by the Financial Supervisory Authority for the purpose of investigating a crime or an offence or that the Financial Supervisory Authority has requested to submit information or reports for the purpose of investigating a crime or an offence from providing those targeted by the investigation or other persons with information about the inspection or about the information or reports on which the Financial Supervisory Authority has requested information. The ban must be issued in writing. Provisions on the prerequisites and period of validity of the ban are contained in section 48 of the Criminal Investigations Act (449/1987). The ban will remain in force despite an appeal unless otherwise ordered by an appeals authority or unless otherwise provided in the law.

10.1.2 Right to obtain information and documents from a bank

A bank must provide the Financial Supervisory Authority with the information and reports it has requested that the Financial Supervisory Authority considers necessary for carrying out its task. The Financial Supervisory Authority has the right to obtain all copies of documents and records pertaining to the bank and its customers that are in the possession of the bank.

The Financial Supervisory Authority has the right to obtain the information, documents and other records referred to in the first section that pertain to the status, management and operations of the bank's place of business located outside Finland.

The Financial Supervisory Authority has, for the purpose of supervising adherence to the provisions of the Securities Markets Act and provisions issued under it that pertain to market abuse and publication of information influencing the value of securities subject to public trading, the right to obtain from a bank the necessary information pertaining to the securities subject to public trading or trading referred to in chapter 3 a of the Securities Markets Act and their issuer and business transactions and commissions carried out using such securities and all other information, documents and records and copies of the documents and records that are necessary for the supervision of the provisions. The same right to obtain information also applies to standardised options and futures that come under the Act on Trading on Standardised Options and Futures, derivatives similar to standardised options and futures and other derivatives that come under the provisions of the Securities Markets Act.

The Financial Supervisory Authority also has the right to issue orders pertaining to regular submission to the Financial Supervisory Authority of information concerning the bank's financial position, owners, internal supervision, risk management, members and employees of administrative and supervisory bodies and branches that are necessary for supervision. The obligation to provide information may, for example, concern regular reporting of high customer risks.

The agents appointed by the Financial Supervisory Authority have the same right to obtain information, documents and records as the Financial Supervisory Authority.

10.1.3 Right to obtain information and documents from a corporation belonging to a bank's consolidation group or a corporation that is otherwise under the control of a bank

The Financial Supervisory Authority has the right to obtain from a bank the information and reports concerning a domestic or foreign undertaking or an affiliated undertaking belonging to the same

group or consolidation group as the bank and, for inspection, the documents and other records containing such information that are in the possession of the bank and the necessary copies of the documents and records. The Financial Supervisory Authority has the same right of inspection in a domestic or foreign undertaking belonging to a financial and insurance conglomerate if the Financial Supervisory Authority is the coordinating supervisory authority referred to in the Act on the Supervision of Financial and Insurance Conglomerates or the Financial Supervisory Authority is otherwise carrying out tasks belonging to it under the Act.

10.1.4 Obligation of a bank's auditor to provide information to the Financial Supervisory Authority

The Financial Supervisory Authority has the right to obtain from a bank's auditor all the information, documents and other records and copies pertaining to the bank that are in the possession of the auditor and that are necessary for supervision. The Financial Supervisory Authority also has the right to obtain copies of all memoranda, minutes and other documents produced in connection with audits that relate to the operations of the supervised entity.

A bank's auditor must also notify the Financial Supervisory Authority without delay of any matters or decisions concerning the bank that have come to his/her knowledge in connection with his/her duties and that can be deemed to

- 1) substantially violate against acts, decrees or administrative regulations concerning the bank or its operations containing provisions on prerequisites for a licence and that pertain to the carrying out of the bank's operations;
- 2) endanger the continuation of the operations of the supervised entity; or
- 3) result in an auditor's report containing a reprimand or an adverse opinion concerning the approval of the financial statements.

10.1.5 Obligation to provide information in connection with market abuse

Under chapter 4, section 16 of the Securities Markets Act (495/1989), a bank must without

delay notify the Financial Supervisory Authority of a business transaction if there are reasons to suspect that the transaction in question may involve illegal use of insider information or the distortion of the price of securities.

Under the Act, the bank may not inform the suspected party or any other person of the notification.

10.1.6 Secrecy obligation of the Financial Supervisory Authority

The statutory secrecy obligation of the Financial Supervisory Authority depends of whether the matter has been marked as confidential in the document or would the matter be confidential if so marked. The secrecy obligation is based on the Act on the Openness of Government Activities (621/1999). Confidentiality can only be ensured if documents containing bank and business secrets are marked as confidential before they are submitted to the authorities.

Under section 23 of the Act on the Openness of Government Activities, a person in the service of an authority or an elected official may not disclose the secret content of a document, information that would be secret if contained in the document or any other information that is covered by the duty of non-disclosure provided in an act. Documents that must be kept confidential are listed in section 24 of the Act. They include documents containing business and trade secrets.

Notwithstanding the secrecy obligation, the Financial Supervisory Authority has the right to submit information to the Ministry of Finance, the Government Guarantee Fund and other authorities supervising the financial markets and that are responsible for ensuring their functioning so that they can carry out their duties and to pre-trial investigation and prosecuting authorities for the purpose of a criminal investigation. The Financial Supervisory Authority also has the right to submit information to the authorities that are responsible for the supervision of bodies involved in the liquidation or bankruptcy proceedings concerning a bank that pertain to the liquidation or bankruptcy proceedings in question and information to the authorities responsible for the

supervision of a bank's auditors that pertain to the supervision of the auditors in question.

The Financial Supervisory Authority is responsible for supervising the financial statements of entities with a duty to keep accounts that under the Accounting Act or other acts must prepare their financial statements in accordance with the IFRS standards referred to in section 7 a of the Accounting Act (entities with a duty to observe IFRS standards). The Financial Supervisory Authority may, in connection with the opinion procedure laid down in chapter 8, section 2, subsection 3 of the Accounting Act, provide the Accounting Board with information necessary for supervision and provide the Takeover Committee of the Central Chamber of Commerce, referred to in chapter 6, section 17 of the Securities Markets Act with the necessary information.

Notwithstanding the secrecy obligation, the Financial Supervisory Authority also has the right to provide information to such foreign authorities and corporations that in their own country have the same statutory duties as the Financial Supervisory Authority and to other foreign authorities and corporations similar to the authorities referred to above provided that they are bound by the same secrecy obligation as the Financial Supervisory Authority.

The Financial Supervisory Authority may not forward confidential information that has been received from a supervisory authority of another country or in connection with an inspection carried out in another country unless the supervisory authority that has handed over the information or a similar supervisory authority in the foreign country in which the inspection has been carried out has explicitly agreed to the forwarding of the information. The information may only be used for the carrying out of the tasks laid down in the Act on the Financial Supervisory Authority or for the purposes for which the consent has been given.

The Financial Supervisory Authority has the right to notify banks if a debtor is found to have significant commitments or liabilities to them or if there are reasons to suspect that a bank customer has through his/her action caused them harm. The Financial Supervisory Authority also has the right to provide information about a bank to an organiser of public trading and a clearing organi-

sation referred to in the Securities Markets Act, to an option corporation referred to in the Act on Trading on Standardised Options and Futures, the central securities depository referred to in the Act on the Book-entry System and other information concerning the functioning of the financial markets to organisers of public trading if the handing over of the information is necessary for ensuring the reliability of the supervisory duties laid down for them or the clearing operations carried out by them. The Financial Supervisory Authority must, without delay, provide the Ministry of Finance and the Bank of Finland with the information in its possession that according to the assessment of the Financial Supervisory Authority may endanger the stability of the financial markets or cause significant harm to the functioning of the financial system.

10.2 The central organisation of the co-operative bank consortium as supervisor

Provisions on the supervisory rights of the central organisation of the co-operative bank consortium (OP-Keskus) and its representatives are contained in section 52 of the Act on Co-operative Banks and other Credit Institutions in the form of a Co-operative (1504/2001).

Member banks and undertakings belonging to their consolidation groups must provide the central organisation with all the information and reports it requires for carrying out its supervisory duties. The secrecy obligation laid down in section 141 of the Credit Institutions Act also applies to the central organisation.

OP-Keskus has the right to forward the information it has requested from a bank to the police and prosecuting authorities.

10.3 Savings Bank Inspectorate

The Savings Bank Inspectorate must keep confidential all information it has received concerning the financial position of a savings bank, its subsidiary, a customer of the savings bank or its subsidiary or other parties or concerning a business or a trade secret unless the party to whose benefit the secrecy obligation has been provided has consented to the disclosure of the information.

The Savings Bank Inspectorate has the right to forward the information it has requested from a bank to the police and prosecuting authorities for the purpose of a crime investigation. The Savings Bank Inspectorate may also provide information to the savings banks' guarantee fund, the Savings Bank Association and the central financial institution.

10.4 Government Guarantee Fund

Notwithstanding the secrecy obligation, a bank supported by the Government Guarantee Fund must provide the Fund with the information that the Fund needs for the carrying out of its tasks.

The Ministry of Finance must appoint one or more auditors to carry out a special audit in the bank receiving support or applying for support. The auditors carrying out the special audit have the same rights concerning access to confidential information as detailed in section 10.1 above on the Financial Supervisory Authority.

10.5 Tax authorities

10.5.1 General

The right of the tax authorities to obtain information about bank customers' banking matters is based on tax laws.

There is no single provision on the obligation to provide information that covers all tax laws. The laws on different types of tax have their own provisions, which differ from each other.

Information may only be provided to the extent allowed under the provision in question. The provisions on the obligation to provide information contained in the Taxation Procedure Act can be considered as general provisions.

Provisions on the obligation to provide information are contained in sections 15, 16, 17 and 19 of the Taxation Procedure Act, which concern state tax, municipal income tax, corporate income tax, church tax and the health insurance contribution, section 59 of the Act on Inheritance and Gift Tax, section 170 of the Value Added Tax Act, section 18 of the Customs Act, section 64 of the

Excise Taxation Act and section 11 of the Act on Withholding Tax on Interest Income.

Under the provisions on the general obligation of the third parties to provide information contained in sections 15 and 16 of the Taxation Procedure Act, a bank must provide tax authorities with information about the customers' interest income, assets kept in the accounts and loans granted to the customers and the necessary information about the fees charged for asset management and asset keeping. Under section 17 of the Act, a fund management company must provide the Tax Administration with the information on the number of the common fund units held by its taxpayer customers and of the redeemed units that is required for taxation.

The provision of information in accordance with the general obligation to provide information is of mass character and occurs on a regular basis and, in most cases, every year. More detailed regulations and restrictions are contained in the National Board of Taxes decision on the general obligation to provide information (1496/2007).

Under this decision, banks must provide information about the interest and accrued interest they have paid or transmitted (section 10). Fund management companies and personnel funds must submit notifications of the payments they have made (section 11). The securities intermediaries referred to in the Securities Markets Act must provide information about securities transactions and redemptions of common funds (section 14). Under the decision, a bank must also provide the Tax Administration with information about debts (section 28). Such information include the information identifying the debt, the debtor and the guarantor and the information about the amount of interest paid during the calendar year. A bank must provide the Tax Administration with information about the accrued interest it has collected (section 29).

The specific obligation of the third parties to provide information contained in section 19 of the Taxation Procedure Act is a general provision under which tax authorities may obtain information about a broad range of matters concerning the customers' banking business. The specific obligation to provide information is always based on a specific enquiry made by the tax authorities.

The tax authorities must always submit the enquiry in writing; A bank cannot reply to an oral enquiry made, for example, by telephone.

The enquiry must be appropriately signed on behalf of an authority entitled to obtain the information (such as the National Board of Taxes, a regional tax office, the National Board of Customs or a district customs office).

The authorities entitled to make an enquiry are listed in the provisions of the tax laws concerned. For example, the broad enquiry based on section 19 of the Taxation Procedure Act may only be made by a regional tax office or the National Board of Taxes.

The organisation of the Tax Administration was last changed in 1997 by amending the Tax Administration Act. The National Board of Taxes is in charge of the Tax Administration and under it there are regional tax offices. The Government decides on the number of the offices and the areas coming under them. The Large Taxpayers' Office is a tax office operating nationwide. Provincial tax offices have been abolished and provisions on provincial tax offices elsewhere in the law mean regional tax offices.

The area covered by each regional tax office is divided into tax districts each of which has a local tax office. Under the rules of procedure of the regional tax offices, individual public servants working in the offices are authorised to decide on bank enquiries. If required by law, the enquiry must, however, be made in the name of the regional tax office (or in the name of the provincial tax office, as it is still stated in a number of laws) but the enquiry may nevertheless be signed by a public servant employed by the tax office.

For a bank with nationwide operations, an enquiry directed at all its branches is costly both in terms of human and financial inputs. If necessary, the bank should discuss with the tax authorities whether all the required information is actually needed for taxation purposes. If the enquiry results in a large amount of work, the authorities must give specific reasons for including in the enquiry branches located in more than one economic region or otherwise more than 20 different branches.

Instead of carrying out enquiries resulting in a large amount of work, the tax authorities can be offered the chance of using their right to carry out an inspection (see section 10.5.4).

The authorities making the enquiry set a deadline for the submission of the reply. An extension is possible if this is required by the amount or extent of the information requested.

10.5.2 Specifying a bank enquiry

Tax authorities have the right to obtain information on the basis of specific bank enquiries. Information is only provided on matters covered by the request. The customer whose banking matters are involved should be named in the request.

Under section 19 of the Taxation Procedure Act and section 170 of the Value Added Tax Act, third parties such as banks must, however, also provide information about other taxpayers on the basis of other identifying data. If the taxpayer cannot be identified on the basis of the name, identification can be using such details as the bank account number or an account transaction. Whenever possible, identification should be using the personal identity code or the business identity code.

For example, a bank must, on request, provide account number- based information about the account holder, account transactions and those with access to the account. Identification may also be on the basis of the promissory note number in which case the bank must give the requested information connected with the promissory note in question (such as the names of the debtors, outstanding capital and the interest paid). The names of the guarantors are only given if they are specifically requested. The type of security used (mortgage, pledge, guaranty) must be given, but unless specifically requested to do so the bank does not need go into greater detail.

Under section 19 of the Taxation Procedure Act and section 170 of the Value Added Tax Act, the matter covered by the request must be specified. The tax authorities making the request must be examining a specific taxation-related matter. If

the enquiry is specified using other identifying information than a person's name, it must state that it has been impossible to determine the name of the person in question.

Under the above legal provisions no information with mass character can be supplied. An enquiry with mass character would, for example, involve a request for a list of deposits in excess of certain amounts or deposits meeting certain terms.

Under section 69 of the Customs Act, section 64 of the Excise Taxation Act and section 11 of the Act on Withholding Tax on Interest Income, the name of the taxpayer concerned must be named in the enquiry. Under these provisions, a bank is only obliged to provide information about the banking matters of the person named in the request.

Under section 19 of the Taxation Procedure Act and section 170 of the Value Added Tax Act, the information must only be provided if the requested information may be necessary for processing matters concerning the taxation or appeals of other taxpayers and it has been impossible to obtain the information by other means.

10.5.3 Restrictions to the obligation to provide information

In certain cases, a bank must refuse to provide the tax authorities with information. A bank is only obliged to provide information on a customer's business and trade secrets if there are extremely important reasons for doing so. A customer's business secrets include information about business contacts and pricing. If necessary, the authorities must give the extremely important reasons for requesting the information. Extremely important reasons include justified grounds for suspecting a tax fraud or an accounting offence.

However, under the provisions concerning the handing over of information contained in different tax acts, information about the customer's financial position must always be given to the tax authorities. Such information include account balances, account transactions, interest payments to accounts, size of credits, types of security used, other liability-related information and information about the custody of securities.

10.5.4 Right of the tax authorities to carry out an inspection

Tax authorities can also obtain information by making use of their right to carry out an inspection. Under section 23 of the Taxation Procedure Act, the National Board of Taxes and a regional tax office have the right to inspect all the documents that may contain information referred to in the provisions in question.

A similar provision on the right of inspection is contained in section 170 of the Value Added Tax Act, section 18 of the Customs Act and section 64 of the Excise Taxation Act. Under section 11 of the Act on Withholding Tax on Interest Income, the payer of the interest must, at the request of an appropriate public servant of the regional tax office, present the documents necessary for supervising the payments of withholding tax on interest income and all other necessary reports.

Under section 32 of the Transfer Tax Act, a regional tax office must, on request, be provided with the documents necessary for the supervision of the payment of the transfer tax and all other necessary reports.

Under the provisions, tax inspectors have the right to access all documents kept in the bank that are necessary for carrying out the inspection. A bank does not make any new listings, summaries or other new material for the inspection.

Only the tax authorities referred to in the acts have the right to access and inspect the information.

Carrying out the inspection does require a prior written enquiry as the inspection can be used as the primary means of obtaining information. The authorities must prove that they are authorised to carry out an inspection and specify the target for inspection in the same manner as in a written enquiry.

10.5.5 Referential tax audit

Under section 21 of the Taxation Procedure Act and section 169 a of the Value Added Tax Act, the inspection may also be carried out with the

sole aim of collecting information that can be used in the taxation of other taxpayers (referential tax audit). A referential tax audit may, however, not be carried out in a licensed credit institution referred to in the Credit Institutions Act or in a licensed branch of a foreign credit institution. The information obtained in an inspection targeting a credit institution may, however, be used in the taxation of other taxpayers.

Information obtained in the inspection referred to in section 21 of the Taxation Procedure Act and section 169 a of the Value Added Tax Act may, however, be used in the taxation of other taxpayers.

The right to use the information only applies to information on individual taxpayers that are obtained during the inspection.

The documents requested in connection with an inspection targeting the bank's own operations must be connected with the bank's own taxation or such taxes and charges the payment and collection of which are by law the responsibility of the bank. The request may not be solely directed at documents relevant to the taxation of a customer.

10.5.6 Taxation in a foreign country

A bank is not normally obliged to provide information for taxation in a foreign country.

Under the agreement concerning executive assistance in tax matters between Nordic countries, a Finnish bank must, however, provide information for taxation in another Nordic country. Tax authorities in another Nordic country have the right to obtain information about customers' banking matters to the extent allowed by provisions concerning the supply of information in effect in Finland. A bank is thus only obliged to provide information for taxation in another Nordic country to the same extent and in the same manner as it is obliged to provide information to Finnish authorities.

The Convention on Mutual Administrative Assistance in Tax Matters between the OECD and the Council of Europe came into force at the start of April 1995. The following countries had acceded to the Convention by the end of 2008: Azerbai-

dzan, Belgium, the Netherlands, Denmark, Finland, France, Iceland, Italy, Norway, Poland, Sweden, United Kingdom and the United States. The assistance referred to in the Convention also covers the exchange of information between the tax authorities carried out as tax inspections.

The bank enquiry submitted by the tax authorities in a foreign country is always supplied through the Finnish tax authorities as a request for executive assistance. In other words, the Finnish Tax Administration submits the foreign request to a bank and the bank must also hand over the requested information to the Finnish authorities.

10.5.7 Applicable provisions

Sections 15 and 16 of the Taxation Procedure Act

Under section 15 of the Taxation Procedure Act, everyone must provide the Tax Administration with the necessary taxation information on monetary payments one has paid or transmitted and their recipients and on the grounds for the payments. Under this provision, a bank must provide all information about the taxable interest paid and about the assets on its accounts.

Under section 16 of the Taxation Procedure Act, a credit or financial institution must provide the Tax Administration with the necessary taxation information about all loans granted to taxpayers, the purpose of the loans, outstanding capital and interest on the loans.

Under these provisions, a bank is only obliged to give the information referred to in the provisions. Thus, information about such matters as loan securities or persons with access to accounts may not be provided under these provisions. The decision on the general obligation to provide information (1496/2007) issued by the National Board of Taxes contains more detailed regulations on the obligation to provide information.

Section 19 of the Taxation Procedure Act

Under section 19 of the Taxation Procedure Act, everyone must, at the request of the National Board of Taxes or a regional tax office, provide information that may be necessary for processing of matters concerning the taxation and appeals of

other taxpayers and that are detailed in documents in the person's possession or that are otherwise known to the person in question unless the person in question is by law entitled to refuse to act as a witness in the matter. The information must be based on the name of person concerned, the account number, account transactions or other similar information. One must, however, provide information on matters concerning a person's financial position that is relevant to taxation.

A bank must also provide account balances on dates other than the year's end.

The information must be provided from the period requested by the tax authorities, provided that the information is still available in the bank. A bank may not, for example, refuse to submit the information on the grounds that a reassessment can no longer be carried out.

Specifying a bank enquiry and prerequisites for obtaining information are discussed in sections 10.5.2 and 10.5.3 above.

Section 32 of the Prepayment Act

Under section 32 of the Prepayment Act, payers must, during the payment year, provide the regional tax office with a monthly tax return detailing the payments they have made and the tax withheld from them. The tax return must be using a form approved by the National Board of Taxes. Under section 42 of the National Board of Taxes decision on the general obligation to provide information, the payer must submit to the local tax office an annual tax return detailing the information referred to in section 3 of the Taxation Procedure Act by the end of the January following the payment year. The tax return must be using a form approved by the National Board of Taxes.

Section 59 of the Act on Inheritance and Gift Tax

Under section 59 of the Act on Inheritance and Gift Tax, the right of the tax authorities to obtain information in matters concerning inheritance and gift taxation is in accordance with the applicable provisions of chapter 3 of the Taxation Procedure Act.

After receiving a specified enquiry a bank is thus obliged to provide information that may be necessary for carrying inheritance and gift taxation. Information may be provided on such matters as interest income, assets on accounts and a customer's loans.

Section 11 of the Act on Withholding Tax on Interest Income

Under the Taxation Procedure Act, the duty of a taxpayer to provide information does not cover the interest income on which withholding tax is payable or the capital on which interest is paid. The payer of the interest income must, at the request of an appropriate public servant of a regional tax office, provide the documents and other reports necessary for the supervision of the payment of the withholding tax on interest income. The regional tax office must be provided with annual information about the interest covered by the withholding tax and the withholding tax paid on the interest and, at the request of the regional tax office, details of the taxpayers who have not paid any withholding tax on interest income coming under the Act on Withholding Tax on Interest Income and the interest paid to them.

Payers of interest who under section 11 of the Act on Withholding Tax on Interest Income are obliged to collect the withholding tax on interest income must, at the request of the regional tax office, provide information required for the taxation, tax inspection and taxation-related appeals of certain taxpayers that are detailed in the documents possessed by the payer of the interest or that are otherwise in the payer's possession.

The payer of the interest is not required to provide tax authorities with specific information about bank accounts or bonds coming under the withholding tax on interest income or interest paid on them unless requested to do so.

Section 170 of the Value Added Tax Act

The wording of the provision is similar to section 19 of the Taxation Procedure Act. When responding to an enquiry based on section 170 of the Value Added Tax Act, a bank may not provide information on the number of loans taken

by the customer or securities unless there are specific reasons for doing so.

Section 64 of the Excise Taxation Act

Under section 64 of the Excise Taxation Act, everyone must, at the written request of an appropriate tax authority, provide information on the taxation of others or information on others that is necessary for processing an appeal resulting from it that is detailed in a document in the possession of the person in question or is otherwise known to the person in question unless the person in question is by law entitled to refuse to act as a witness in the matter. The information must be provided within a specified time.

Section 18 of the Customs Act

Under section 18 of the Customs Act, everyone must, at the written request of an appropriate public servant of the National Board of Customs or a district customs office, provide information on the customs taxation of others or information on others that is necessary for processing an appeal resulting from it that is detailed in a document in the possession of the person in question unless the person in question is by law entitled to refuse to act as a witness in the matter. The information must be provided within a specified time. One must, however, provide information on matters concerning another person's financial position.

Section 32 of the Transfer Tax Act

A local tax office must, on request, be provided with the documents necessary for supervision and other necessary reports.

10.6 Bank of Finland

Under section 26 of the Act on the Bank of Finland, the Bank of Finland has the right to receive from a bank all the notifications, reports and other information that the Bank of Finland needs for the carrying out of its statutory duties.

Under section 6 of the Foreign Exchange Act, a bank must also, at the request of the Bank of Finland, provide the Bank of Finland with all the notifications, reports and documents that are nec-

essary for the supervision of adherence to the Foreign Exchange Act and the terms and conditions or the regulations and permits issued under it.

The Bank of Finland also has the right to obtain information on book-entry accounts from Euroclear Finland Oy.

10.7 Police authorities

10.7.1 An enquiry concerning the prevention or an investigation of an offence

Under the Credit Institutions Act and the Police Act, a bank must provide the police with information covered by bank secrecy for the prevention and investigation of an offence. The police authorities also have the right to obtain information on book-entry accounts from Euroclear Finland Oy. The requests are submitted to Euroclear Finland Oy, whose reply depends on whether it is able to supply the required information. As to other requests (for example those concerning history data), Euroclear Finland Oy forwards the enquiries to banks.

A written bank enquiry submitted to a bank by letter or by telefax must be signed by a commanding police officer (section 36 of the Police Act). The commanding police officers, which are given in section 1 of the Police Decree, are listed below.

The following police officers are authorised to sign an enquiry sent to a bank: In the Supreme Police Command, the National Police Commissioner, Deputy National Police Commissioner, Inspector General of the Police, Head of Training, Chief Police Inspector, Chief Superintendent and Chief Inspector; in a Provincial Police Command, the Provincial Police Commissioner, Inspector General of the Provincial Police, Provincial Chief Superintendent, Provincial Chief Inspector and Chief Inspector; in the National Bureau of Investigation, Chief of the National Bureau of Investigation, Deputy Chief of the National Bureau of Investigation, Head of Office, Inspector General, Chief Inspector, Detective Chief Superintendent and Detective Chief Inspec-

tor; in the Security Police, Chief of the Security Police, Deputy Chief of the Security Police, Head of Department, Inspector General, and Chief Inspector; in the National Traffic Police, Chief of the National Traffic Police, Deputy Chief of the National Traffic Police, Chief Police Inspector, Head of Administration, Chief Superintendent and Chief Inspector; in the Police College of Finland, Head of the Police College of Finland, Chief Superintendent, Chief Inspector and a teacher with the degree of a Commanding Police Officer; in a local police department, Police Chief, Deputy Police Chief, Rural Police Chief, Head of Administration, Head of the permit service office, Inspector General, Chief Inspector, Detective Chief Superintendent, Chief Superintendent, Detective Chief Inspector and Chief Inspector.

A bank enquiry may also be made by the head of the Defence Command Investigation Department and the Legal Counsel of the Defence Forces when these persons are carrying out police duties of the Defence Forces.

A written bank enquiry must detail the reasons for the enquiry and the requested information.

Under section 2 of the Police Act, police measures must be taken without causing more damage or inconvenience than is necessary for carrying out the duties. If replying to the bank enquiry within the requested time would result in special arrangements or unreasonable cost, the bank may propose to the police unit submitting the enquiry that it be made more specific or that the bank be provided compensation for the resulting costs.

A bank is not normally obliged to provide information to police authorities in other countries. A bank enquiry submitted by police authorities in a foreign country must always be sent as a request for executive assistance through Finnish police authorities. This means that a bank may not provide information directly to the police authorities of a foreign country. It must supply the information to Finnish police authorities who in turn forward the information to the police authorities in the foreign country.

10.7.2 An offence directed at a bank

If the police are investigating an offence directed at a bank that the bank has reported to the police and in which the bank is the injured party, the bank must provide the police with all the information in its possession that is necessary for investigating the crime.

If the offence directed at the bank is subject to public prosecution and the police investigation is not at the initiative of the bank, the bank must provide the police with all the information in its possession that is necessary for investigating the crime.

10.7.3 Prohibition on alienation and sequestration

The legal provisions on prohibition on alienation and sequestration are contained in chapter 3 of the Coercive Measures Act.

Property belonging to a crime suspect or property belonging to a person whose property can be ordered forfeit to the State can be sequestered or a prohibition on alienation can be imposed on it so that it can be used as security for the amount of money ordered to be paid as compensation for the damage caused and ordered forfeit. Prohibition on alienation and sequestration is ordered by a court and the order is implemented by enforcement authorities.

Interim measures may also be ordered by the prosecutor or the head of investigation who is also responsible for notifying the parties concerned of the measures. A public servant authorised to make arrests (see section 10.7.4) or, for special reasons, a Detective Sergeant or a Sergeant may act as the head of investigation.

When property possessed by a bank is sequestered or a prohibition on alienation is imposed on it, the identification of the pieces of property is in accordance with the principles detailed in section 10.10 on enforcement authorities.

10.7.4 Seizure

A seizure can be ordered by a public servant authorised to make arrests or a court. Under chapter 1, section 6 of the Coercive Measures Act, the

following public servants working in the Finnish Police are authorised to make arrests: National Police Commissioner, Deputy National Police Commissioner, Inspector General of the Police, Chief Police Inspector, Provincial Police Commissioner, Inspector General of the Provincial Police, Provincial Chief Superintendent, Provincial Chief Inspector, Police Chief, Deputy Police Chief, Rural Police Chief, Chief of the National Bureau of Investigation, Deputy Chief of the National Bureau of Investigation, Head of Office of the National Bureau of Investigation, Chief of the Security Police, Deputy Chief ordered to take part in the pre-trial investigation, Head of Department ordered to take part in the pre-trial investigation, Inspector General ordered to take part in the pre-trial investigation, Chief of the National Traffic Police, Deputy Chief of the National Traffic Police, Chief Police Inspector of the National Traffic Police, Inspector General, Chief Inspector, Detective Chief Superintendent, Chief Superintendent, Detective Chief Inspector and Chief Inspector.

If the seizure of a document in the possession of a bank has been ordered by a court or a public servant referred above in connection with a house search, the original copy of the document must be handed over to the authorities as ordered. A record of the seized property listing each item must be prepared. The police must give the bank a certificate of the carrying out of the seizure. The seized property must be so thoroughly itemised in the order and the record that there can be no doubt which items are covered by the seizure.

10.7.5 Providing information for a police investigation

Under the Police Act, the police have the right to obtain information needed in a police investigation if an important public or private interest so requires. A police investigation means an investigation which is by law to be performed by the police but does not include pre-trial investigations of an offence. Information may be provided for such purposes as ordering a prohibition to pursue a business, investigating the cause of death and investigating cases involving missing persons.

A written enquiry concerning information required for a police investigation must be signed by a public servant referred to in section 10.7.1 above.

A written enquiry must give the reasons for the enquiry and the requested information.

10.7.6 Financial Intelligence Unit

Under sections 23 and 24 of the Act on Preventing and Clearing Money Laundering and Terrorist Financing (503/2008), a bank must immediately report any suspicious business transactions or suspected terrorist financing to the Financial Intelligence Unit, which is part of the National Bureau of Investigation. The reporting should normally be made by electronic means. The Financial Intelligence Unit must also be provided free of charge all the necessary information and documents that could be significant in clearing the suspicion. Each bank has prepared instructions on submitting the reports, handing over of the information and the content of the information.

The making of the report may not be disclosed to the suspect or any other person.

Neglecting the statutory reporting obligation and disclosing information about the reports are punishable offences.

10.7.7 International financial sanctions

The decisions on international financial sanctions made in the UN and by the Council of the European Union are implemented through EU regulations, which are applicable legislation in all EU Member States. The assets of the individuals, organisations and corporations referred to in the regulations must be frozen without any separate official decision and financial institutions and other corporations must take all the measures required by the sanctions. Direct and indirect handing over of assets to the parties referred to in the regulations is prohibited.

The Financial Supervisory Authority will notify representatives of the banks of any new sanctions using electronic means. The banks must check

whether there are any assets or other financial resources in their customer registers, fund unit registers, book-entry accounts or other registers or transaction files that belong to the individuals, corporations and organisations listed in the regulations and that must be frozen. The banks must notify the Financial Intelligence Unit of the National Bureau of Investigation and the Ministry for Foreign Affairs of any funds they have discovered and that must be frozen. When comparing the information on those targeted by the financial sanctions with the information in its possession, a bank may be in contact with the National Bureau of Investigation or the Ministry for Foreign Affairs in order to check that the information it possesses is in accordance with the information on the financial sanctions.

10.8 Prosecuting, customs and border guard authorities

Under the Credit Institutions Act, a bank must provide the prosecuting and pre-trial investigation authorities with information covered by bank secrecy for the investigation of an offence.

In addition to the police, pre-trial investigation authorities also include public servants working in the Customs and the Border Guard who are authorised to make arrests (chapter 1, section 6 and chapter 4, section 5 of the Coercive Measures Act). The right of the police to obtain information is discussed in section 10.7 above.

The prosecuting, customs and border guard authorities also have the right to obtain information on book-entry accounts from Euroclear Finland Oy. The requests are submitted to Euroclear Finland Oy, whose reply depends on whether it is able to supply the required information. As to other requests (for example those concerning history data), Euroclear Finland Oy forwards the enquiries to banks.

Under section 43 of the Customs Act, an enquiry submitted to a bank must be signed by a customs officer authorised to make an arrest or, under chapter 6, section 41 of the Border Guard Act, by a public servant authorised to make an arrest or the head of the investigation.

The public servants authorised to make an arrest, who are given in chapter 1, section 6 of the Coercive Measures Act, are listed below.

An enquiry sent to a bank must be signed by

- 1) public prosecutor;
- 2) Head of the National Board of Customs supervision department and the heads of the supervision department units responsible for combating customs offences, heads of customs districts and custom district supervision, the Senior Customs Inspector that has been ordered by the National Board of Customs supervision department or the head of a customs district to act as the head of investigation and any other customs officer that has been authorised to make a bank enquiry (for information about the last mentioned, contact the customs district in question); or
- 3) Chief of the Border Guard, Deputy Chief of the Border Guard, Head of the Border and Coast Guard Division of the Border Guard, Head of the Legal Division of the Border Guard, Head of Office, Senior Inspector, Commanders and Deputy Commanders of Border Guard Districts, Commanders and Deputy Commanders of Coast Guard Districts, Heads of the Border Guard District Border Offices, Heads of the Coast Guard District Maritime Offices, Head and Deputy Head of the Border Inspection Unit and a Border Guard that has been ordered to act as the head of the investigation.

A written enquiry must give the reasons for the enquiry and the requested information.

10.9 Bankruptcy Ombudsman

Under the Act on the Supervision of the Administration of Bankrupt Estates, the Bankruptcy Ombudsman has the same right as the debtor or the bankruptcy estate (estate administrator) to obtain from a bank information about the debtor's or the estate's bank accounts, payment transactions and financial agreements and commitments. The Bankruptcy Ombudsman thus has the right to obtain from a bank information about the debtor and the estate in accordance with sections 8.13 and 8.14 above.

If the information is, at the request of the Bankruptcy Ombudsman, requested by a person other than the Bankruptcy Ombudsman or a public

servant working under the Bankruptcy Ombudsman, the person making the request must prove that he/she has the right to obtain the information.

The Bankruptcy Ombudsman also has the right to obtain information on book-entry accounts from Euroclear Finland Oy.

10.10 Enforcement authorities

What is said below on the right of a bailiff to obtain information also applies to bailiffs assisting him/her.

10.10.1 General

Under chapter 3, sections 64-66 of the Enforcement Code, a bailiff has wide powers to obtain information from a bank irrespective of bank secrecy. The information requested by the bailiff must be necessary for the enforcement of the enforcement matter concerned. The enforcement matter becomes pending when it is received by the bailiff and it remains pending until all the receivables under enforcement have been collected on or the precautionary measure is no longer in effect. The bailiff is thus entitled to obtain information even if no attachment is carried out. The enforcement matter refers to the attachment and the implementation of the precautionary measures. When making the bank enquiry, the enforcement authorities may also request interim measures (freezing of assets).

Under the Enforcement Code, the debtor must provide the bailiff with all the information necessary for the attachment. The bailiff has the right to obtain from a bank information on the customer if the information supplied by the debtor to the bailiff cannot be considered reliable (for example, the debtor is suspected of trying to evade enforcement or the debtor cannot be reached).

The bailiff may submit the enquiry to the bank by letter, by telefax or by using an electronic interface. A written enquiry must be signed by a bailiff (district bailiff or deputy bailiff) or a public servant authorised by the district bailiff. It must specify the information requested (such as the account balance or information about the safe deposit box kept in the bank). The bailiff makes the enquiry with official liability and the bank

can thus submit its reply to a written request without having to determine whether the enforcement matter is pending. The bailiff has the right to obtain the information laid down in the law even if information on the financial position of a third party would be disclosed unless the information can be obtained in some other manner. This may happen if, for example, the debtor has access to another bank account. Account holders' account details may also be disclosed in connection with a request concerning payments made using the debtor's accounts.

The bailiff only has the right to obtain information on individual enforcement matters. The written bank enquiry signed by the bailiff must specify the person concerned by giving his/her name and personal identity code and, when the request concerns a corporation, the name of the corporation and its registration number or business identity code. If the person concerned does not have a personal identity code, the bailiff must give his/her date of birth. One written bank enquiry may contain requests on several customers specified in the manner described above. A bank must submit its reply to a written enquiry sent by a bailiff in writing.

The bailiff may set a deadline for submitting the reply. If the deadline is too short, the bank must contact the bailiff so that a new deadline can be set.

The bank may not give any information about the bank enquiry made by the bailiff to the customer. The bank may, however, notify the customer of attachment that has been carried out or other enforcement measures.

10.10.2 Enquired property

Debtor's assets in the bank

The bailiff has the right to know whether the bank is in possession or otherwise in charge of assets belonging to the debtor and what kind of assets are involved. A bailiff making a bank enquiry about a customer usually requests information about the following matters.

Safe deposit box and sealed deposit

The bailiff has the right to know whether the customer has a safe deposit box or sealed deposit in the bank or access to a safe deposit box or sealed deposit. In an affirmative case, the bank must state to the bailiff that the customer has a safe deposit box or sealed deposit in the bank and give the name of the branch in question. The bank is, however, not entitled to open the safe deposit box or the sealed deposit. Acting with official liability, the bailiff has the right to open the safe deposit box or the sealed deposit.

Custody of securities (open deposit)

The bailiff has the right to know whether securities belonging to the customer are in the custody of the bank and what kind of assets are involved.

Book entries

The enforcement authorities obtain most of their information concerning book entries from Euroclear Finland Oy. If Euroclear Finland Oy is unable to provide the information, it will forward the request to the account operator's (bank's) employee responsible for registration matters (formerly manager of the book-entry register) who has the right to provide the bailiff with information about book-entry accounts. If the bailiff asks the bank to provide information about a book-entry account, the bank must forward the request to its employee responsible for registration matters.

Pledge

The bailiff has the right to know whether the bank has assets belonging to the debtor as security for a debt. If the pledge has been given by the debtor, the bank may state what kind of property is used as security (for example, the numbers of the shares of housing company x) and the amount and type of the bank's claims encumbering the pledge. If the debtor has given the pledge on a third-party debt, the bank may give the bailiff the amount of the liability encumbering the pledge but not the name of the principal debtor.

Deposit and account transactions

When the bailiff requests from a bank if the debtor has an account in the bank, the bank must, in

an affirmative case, give the grounds for the receivable (for example, deposit agreement), the account number and whether presenting the bankbook or the deposit certificate is a requirement for having access to the account and the amount of assets in the account.

Details of the debtor's own account transactions and the debtor's access to the accounts of other account holders are only given if they have been specifically requested. If the bailiff requests information about the debtor's access to the accounts of other account holders, the bank will give the numbers of the accounts and the names of the account holders in question. The balance and the transactions of the account that the debtor has access to are only given if specifically requested.

A bank is not, however, entitled to provide information about the access of other persons to the debtor's accounts.

Debtor's other receivables from a bank

A bank must supply the bailiff with information on whether the debtor has other receivables from the bank and on what grounds and their amounts.

An agreement or an arrangement between the debtor and the bank or an agreement or arrangement for the benefit of the debtor

The bailiff has the right to know whether the bank has concluded an agreement or an arrangement with the debtor or a third party that may be of significance when attachable assets belonging to the debtor are sought and the details of the agreement or the arrangement. The bailiff must specify the agreement covered by the enquiry.

In its reply, the bank must state the content of the agreement and whether the customer is entitled to receiving agreement-based assets at the time of the reply.

Enquiries concerning third parties

In certain situations, assets belonging to persons other than the debtor can also be attached and for this reason, the enquiry of the bailiff may also cover third parties. The third parties concerned must be specified in the enquiry.

This happens when there are justified reasons to suspect that the debtor is probably using artificial arrangements to avoid attachment, by for example managing his/her payment transactions through a bank account belonging to a person or an undertaking close to him/her or another third party, or to keep property beyond the reach of the creditors by, for example, keeping assets in the name of third parties. The bailiff may, if there are justified reasons for doing so, obtain the same information about the debtor and the third parties, including the third parties' access to other persons accounts. A bank is not, however, entitled to provide information about the access of other persons to the third parties' accounts.

10.10.3 Implementation of precautionary measures

If the bailiff is in the process of implementing a precautionary measure laid down in chapter 7 of the Code of Judicial Procedure (such as seizure) the bailiff may, in order to implement the measure, obtain information in the manner laid down in section 10.10.1 above.

10.11 The authorities responsible for supervising money collection

Under the Money Collection Act, the money collection permit receiver must open separate bank accounts for each collection. Notwithstanding bank secrecy, the Ministry of the Interior, the State Provincial Office of Southern Finland and the District Police have the right to obtain information directly relating to the arrangement of money collections and information needed for the supervision of the arrangement of money collections from the bank in which the money collection bank account or another bank account of the permit holder is held.

10.12 Other authorities

10.12.1 Data protection authorities

According to the data protection legislation, data protection authorities are responsible for supervising data protection in connection with the processing of personal data.

Obligation to provide information

A bank must provide the Data Protection Ombudsman with all the information about the personal data it processes and all the information that is needed for supervising the processing of personal data in accordance with the law.

The Data Protection Board has the same right in matters within its purview.

Personal data are contained in such registers as a bank's customer register. Personal data referred to in the data protection legislation mean any information on a private individual and any information on his/her personal characteristics or personal circumstances where these are identifiable as concerning him/her or the members of his/her family or household.

Right of inspection

The Data Protection Ombudsman has the right to inspect a bank's personal data files. The Ombudsman may use expert assistance in the inspection.

For carrying out the inspection, the Data Protection Ombudsman and the experts must be granted access to the bank's premises or the premises of the service undertaking used by the bank in which personal data are processed or personal data files kept.

The Data Protection Ombudsman and the experts have the right to use information and equipment necessary for carrying out the inspection. The inspection must be carried out so that it does not cause undue inconvenience or cost to the controller.

Confidentiality

The Data Protection Ombudsman, persons working in the Office of the Data Protection Ombudsman, experts, members of the Data Protection Board or the secretary of the Board may not unlawfully disclose to third parties or make private use of the information on other persons' private personal circumstances, financial position, business or trade secrets or technical protection of the data files that they have obtained in connection with their duties.

10.12.2 Consumer protection authorities

Consumer credits granted since 1 January 1994

According to the Consumer Protection Act, all credits granted to consumers by banks are basically consumer credits. As for banks, what is presented below only applies to credits granted after 1 January 1994. Notwithstanding secrecy provisions, a bank must provide the Consumer Ombudsman, the Consumer Agency and the State Provincial Office with all the documents concerning consumer credits that are needed for supervision.

The Consumer Ombudsman, the Consumer Agency, State Provincial Offices and the Financial Supervisory Authority are responsible for supervising compliance with the legal provisions concerning consumer credits. A business must submit all documents necessary for supervising matters concerning consumer credits to supervisory authorities for examination. This means that the obligation also applies to a bank when the credit it has granted is a consumer credit referred to in chapter 7 of the Consumer Protection Act.

No information covered by bank secrecy may be handed over and customers' business and trade secrets may not be disclosed. They must be removed from the documents submitted to the supervisory authorities.

A request for clarification submitted by a customer

If a customer has asked a supervisory authority to examine the operations of a bank, information on the customer in question may be provided. If, for example, a supervisory authority has been asked to examine whether the credit costs charged by the bank are as agreed, the supervisory authority may be provided with the documents and information concerning the credit relationship.

The Consumer Disputes Board

If a bank is a party to a case before the Consumer Disputes Board, it may in its answer to the Consumer Disputes Board disclose bank secrets of the customer in the opposing party without the

consent of the customer in question, to the extent required for investigating the matter.

10.12.3 Providing information to the Finnish Competition Authority

Competition restrictions and competitive conditions

Under section 10, subsection 1 of the Act on Competition Restrictions, a business or a business consortium must, at the request of the Finnish Competition Authority, provide the Authority with all the information and documents that are necessary for examining the content, purpose and impact of a competition restriction and competitive conditions.

According to the grounds for the legal provision in question, the obligation to provide information also applies to banks when the Finnish Competition Authority is examining a named customer of a bank.

If the Finnish Competition Authority or a State Provincial Office is examining competition restrictions or competitive conditions affecting a bank customer, the bank in question must provide the authorities in question with the requested information.

Dominant market position

Under section 10, subsection 2 of the Act on Competition Restrictions, a business or a business consortium must, at the request of the Finnish Competition Authority, provide information and documents so that it can be examined whether the business or the business consortium in question has a dominant market position. The subsection only lays down an information-provision obligation for a business or a business consortium that has a dominant market position. Thus, it only covers the information-provision obligation of a business that is being investigated because of a suspected dominant market position.

A bank may not provide information on its customers that is covered by bank secrecy if the

information is requested by the Finnish Competition Authority or a State Provincial Office for a investigation of a customer's dominant market position. The obligation to provide information only applies to a bank if the authorities are investigating whether the bank has a dominant market position.

10.12.4 Providing information to guardianship authorities (local register offices)

Under section 84 of the Guardianship Services Act (442/1999), local register offices act as guardianship authorities. Notwithstanding secrecy provisions, a bank must, on request, provide guardianship authorities and courts with the information that is necessary for a decision in a pending matter referred to in the Guardianship Services Act (section 90, subsection 1 of the Guardianship Services Act). Information is provided on the matters covered by the written request submitted by the guardianship authority. If the provision of information or a report causes considerable costs or significant extra work to the bank, a reasonable fee may be charged for the provision of the information (section 90, subsection 3 of the Guardianship Services Act).

The guardianship authorities also have the right to obtain information on book-entry accounts from Euroclear Finland Oy. The requests are submitted to Euroclear Finland Oy, whose reply depends on whether it is able to supply the required information. As to other requests (for example those concerning history data), Euroclear Finland Oy forwards the enquiries to banks.

Notification concerning persons in need of guardianship

If a bank has become aware that any of its customers is manifestly in need of guardianship the bank may, notwithstanding bank secrecy, notify guardianship authorities of the matter (section 91). The notification must be made to the local register office in whose district the person in question resides.

10.12.5 Providing information to social welfare authorities

Enquiries concerning the charging of client fees

A bank must, at the request of a social welfare and health care authority, provide free of charge all information and reports in its possession concerning the financial position of a customer and his/her spouse or domestic partner that are necessary for charging the client fee if the municipality or the municipal federation charging the fee has not received from the customer or his/her legal representative sufficient and reliable information for charging the fee (section 14 a of the Act on Welfare and Health Care Fees).

The written enquiry must state that attempts have been made to obtain the information from the customer. The necessary information referred to in the Act are account balances on the date of reply and interest on accounts or grounds for interest. The bank should not, however, provide information on such matters as the customer's income.

Social welfare authorities also have the right to obtain information on book-entry accounts from Euroclear Finland Oy.

Social assistance

If a social welfare authority is otherwise unable to obtain sufficient information about the assets of a social welfare client and there are justified grounds to doubt the correctness of the information supplied by the client or his/her representative, the bank must, notwithstanding secrecy provisions, supply the social welfare authorities with all the information and reports relevant to the social welfare client relationship. The information must be necessary for examining the social welfare needs of the client, for making the necessary social welfare arrangements and for implementing the measures connected with it or for checking the information already supplied to the authorities.

The social welfare authorities must direct the bank enquiry at the banking matters of the person concerned. This means that the social welfare authorities may not, for example, direct the enquiry at the banking matters of a partnership or a company even if the person concerned was a partner or a shareholder in the partnership or the company in question.

The social welfare authorities must submit the enquiry concerning the customer's banking matters in writing. The enquiry must state on what grounds the request is made (customer consent or section 20, subsection 2 of the Act on the Status and Rights of Social Welfare Clients). If it is a question of a situation described in section 20, subsection 2 of the Act on the Status and Rights of Social Welfare Clients, the enquiry must also state that the person in question has been notified of the decision concerning the obtaining of the information and that the decision has legal force. The person signing the enquiry must also affirm that the he/she has the right to make the enquiry.

The information must, in the view of the social welfare authorities, be necessary for examining the social welfare needs of the person in question, for making the necessary social welfare arrangements and for implementing the measures connected with it or for checking the information already supplied to the authorities. The authorities may, for example, request information on the accounts and account transactions of the person in question. In order to examine matters concerning the assets of the person in question, the authorities may ask whether he/she has a safe deposit box and whether the bank holds property of the person in question as security. The bank may give the type of property held as security and the amount of the bank claims encumbering the property. If the person targeted by the enquiry has given assets belonging to him/her as security for a third-party debt, the bank may give the amount of the liability but not the name of the principal debtor. The information referred to above may also be requested retroactively for the preceding years so that the actual financial position of the person in question can be examined.

Social welfare authorities also have the right to obtain information on book-entry accounts from Euroclear Finland Oy. A bank must provide information if the enquiry concerns past information on book-entry accounts.

10.12.6 Providing information to the Social Insurance Institution, the Social Security Appeal Board and the Insurance Court

Under section 86 of the National Pensions Act, section 43 of the Act on Housing Allowance for Pensioners, section 25 of the Housing Allowance Act, section 23 a of the Act on Child Home Care Allowances and Private Care Allowances and chapter 13, section 2 of the Unemployment Security Act, a bank must provide the Social Insurance Institution (Kela) free of charge information on the benefit applicant, his/her family members and the decedent's estate in which the benefit applicant or a family member has been a shareholder that is necessary concerning the matter under review. Kela may request information from a bank if

- if the necessary information cannot otherwise be obtained; or
- there are justified grounds to doubt the adequacy and reliability of the information supplied by the applicant; and
- the applicant has not given his/her consent to the obtaining of the information.

Kela must present the request for information in writing. The benefit applicant or recipient must be notified of the request before it is submitted to the bank.

Under section 41 b of the Student Financial Aid Act, Kela also has the right to obtain from a bank, free of charge and in the manner determined by Kela, information on each borrower concerning the amounts of and interest on State-guaranteed student loans taken out.

The written enquiry submitted to a bank by Kela must state that the enquiry is in accordance with the legal provisions referred to above and give the legal provision on which the enquiry is based. If Kela also requests information about a decedent's estate, the enquiry must state that Kela has examined the shareholding of the person in question in the decedent's estate. The enquiry must also state that the person in question has been notified of the enquiry.

10.12.7 Right of legal aid offices to obtain information

A person applying for legal aid must in his/her application provide the legal aid office with details of his/her financial situation. However, un-

der section 10 of the Legal Aid Act, a legal aid office has, notwithstanding secrecy provisions, the right to obtain from a bank the information necessary for the performance of the statutory duties of the legal aid office if the information cannot be obtained from other authorities or insurance institutions and the legal aid office has justified reasons to doubt the adequacy or reliability of the information supplied by the applicant. The enquiry to the bank must be in writing and the applicant of the legal aid must be notified of it in advance.

10.12.8 Providing information under certain acts

A number of acts contain provisions under which a bank must provide the authorities with information covered by bank secrecy. Such provisions include:

- section 11 of the Act on Bonus for Home Savers
- section 12 of the Act on Interest Subsidy for Loans Granted for Home Purchase
- section 12 of the Act on Interest Subsidy for Owner-Occupied Housing Loans
- section 48 of the Act on Rural Industries (section 43 of the Act on Rural Industries Financing)
- section 13 of the Act on Financial Support for Retail Trade in Rural Areas
- section 14 of the Act on Interest Subsidy for Right-of-Occupancy Housing Loans
- section 10 of the Act on Interest Subsidy Granted to Debtors with Housing Loans facing Payment Difficulties
- section 16 of the Act on Interest Subsidy Loans for the Fisheries Sector
- section 7 of the Act on Interest Subsidy Loans granted using Credit Institution Assets
- section 13 of the Act on Interest Subsidy for Rental Housing Loans
- section 10 of the Act on Interest Subsidy Granted to Municipalities for the Purchasing of Residential Areas
- section 36 of the Act on State-subsidized Housing Loans (ARAVA Act)
- section 3 of the Act on the Right of the Parliamentary Auditors and the National Audit Office to audit Certain Credit Transfers between Finland and the European Communities
- section 4 of the Act on Police Operations within the Armed Forces

10.13 Credit data operations

Notwithstanding bank secrecy provisions, banks have the right to carry out credit data operations that they normally carry out as part of banking operations. Banks usually collect and store credit data for their own use. The amount of credit data collected and stored by banks has decreased as credit data operations have been outsourced to credit data companies.

Credit data can be handed over to other credit institutions under public supervision and to other corporations referred to in section 143 of the Credit Institutions Act and to corporations engaged in professional credit data operations.

Data supplied to a private individual giving a pledge covering the debt of another person and a private individual acting as a guarantor are discussed in sections 8.16 and 8.17.

10.14 Information in a customer default register

A bank may, with the permission of the Data Protection Board, collect and store and hand over to other permit holders information on such malpractices directed at banking operations that have been reported to the police and in which the bank is the injured party.

Under no circumstances should any of the information obtained from a customer default register be handed over to corporations other than those covered by the permit. Banks have their own internal guidelines on the use of the information contained in the customer default registers. Suomen Asiakastieto Oy acts as the technical keeper of the register.

11 Hearing a bank employee as a witness

11.1 Pre-trial investigation

11.1.1. Acting as a witness in a criminal case in which the bank is not the injured party

If the police want to hear a bank employee as a witness in a pre-trial investigation, the bank employee in question must comply with the request. The bank employee must state to the person

questioning him/her that he/she is bound by bank secrecy if the matters coming to light during the questioning concern a person that has not given his/her consent to the disclosure of his/her banking matters. If the person questioning the bank employee wants to question him/her about matters covered by bank secrecy, the bank employee in question must request that a public servant referred to in section 10.7.1 makes a decision under which the bank employee in question must disclose a matter covered by bank secrecy during the pre-trial investigation. The public servant making the decision must enter the bank employee's comment that the matters in question come under bank secrecy and the decision under which the bank employee in question must disclose a matter coming under bank secrecy in the pre-trial investigation in the pre-trial investigation record. The public servant in question must sign this part of the pre-trial investigation record.

11.1.2 Acting as a witness in a criminal case in which the bank is the injured party

In a case involving an offence that is directed at a bank, the bank has the right to present evidence in support of its case. In the pre-trial investigation, a bank employee may disclose matters covered by bank secrecy to the extent necessary for investigating the offence.

11.2 Court

11.2.1 Acting as a witness in a criminal case in which the bank is not the injured party or in a civil case between customers

After being summoned as a witness, the bank employee must comply with the request and, when before the court, take the oath or give the affirmation normally required of a witness. Before giving his/her testimony, the bank employee must state that, under the Credit Institutions Act, he/she must, under the threat of penalty, keep all matters coming under the customers' bank secrecy confidential. The witness may disclose matters coming under bank secrecy if authorised to do so by the customer or if extremely important reasons require the witness to disclose such matters. The court must, at the request of the witness, decide whether there are any such extremely important

reasons requiring the witness to disclose matters coming under the secrecy obligation.

Before giving his/her testimony, the bank employee must state that under the secrecy provision of the Credit Institutions Act, he/she also has the right not to disclose matters concerning the bank's business secrets (such as its information of security systems or product development). The witness may disclose matters coming under business secrecy if authorised to do so by the bank or if extremely important reasons require the witness to disclose confidential matters.

The court may oblige the witness to disclose confidential matters for example when a case concerning an aggravated offence could be solved on the basis of the witness's testimony or if an evidently innocent person would otherwise be sentenced.

If the court decides that the witness must disclose confidential matters the court sessions considering this part of the case may be held behind closed doors. The witness may ask the court to hear his/her testimony behind closed doors. If the witness gives his/her testimony behind closed doors, the court may decide that these sections of the trial documents are kept secret for a specific period.

The above is also applied when a confidential document must be presented before the court or when the court hears the bank employee as an expert.

11.2.2 Acting as a witness in a civil case in which the bank is a party or in a criminal case in which the bank is the injured party

If the bank is a party to a case and the opposing party is a customer of the bank, the bank employee may, without the consent of the customer, in his/her testimony disclose matters concerning the opposing party that are covered by bank secrecy. The bank employee may also disclose other matters covered by bank secrecy if this is necessary for investigating the case.

Notwithstanding bank secrecy provisions, a bank may investigate a financial matter that is not lim-

ited to single customer if the trial and its preparations require the investigation of the matter.

12 A bank as a party to a case

If a bank is a party to a case, it may (for example, in the application for a summons) disclose matters coming under bank secrecy that are necessary for the court process. Only matters coming under bank secrecy that are necessary for safeguarding the rights of the bank may be disclosed during the trial. If a debtor presents claims against the bank during the trial, the bank may in its answer disclose matters coming under bank secrecy. If, for example, the bank's customer states before a court that he/she has no assets, the bank may disclose that the customer in question has deposits in the bank.

Notwithstanding bank secrecy provisions, a bank may investigate a financial matter that is not limited to single customer if the trial and its preparations require the investigation of the matter.

If the bank is requested to give a statement of a debt adjustment carried out in accordance with the Act on the Adjustment of the Debts of a Private Individual and the material provided to the bank shows that the debtor is hiding his/her assets the bank may provide the court with all the information about the debtor's assets, the validity of the deposit and the total amount deposited (in euros).

13 Sanctions for violating the secrecy obligation

Both intentional and negligent disclosure of information are considered violations of the secrecy obligation.

A person may be guilty of a violation of the secrecy obligation even if he/she does not intentionally disclose information to a third party. A third party may, for example, obtain the information from a carelessly kept credit or other document. Likewise, a noisy discussion or sending documents to a wrong person may result in a violation of the secrecy obligation. A bank must locate its customer service and use such equipment as telephones, fax machines, email and

computers in such a manner that third parties cannot hear or see confidential information

The secrecy obligation must also be observed outside working hours and after the end of the employment relationship. Those bound by the secrecy obligation may not, for example, discuss matters coming under the secrecy obligation with their family members or friends.

13.1 Sanctions under criminal law

Violating the secrecy obligation

Under the Credit Institutions Act, a person violating the secrecy obligation may be punished under chapter 38, section 1 or 2 of the Criminal Code. A person who has disclosed bank secrets may be sentenced for a secrecy offence to a fine or to maximum imprisonment of one year. If the offence is petty when assessed as a whole, the offender must be sentenced for a secrecy violation to a fine.

Illegal processing of personal data

A bank employee may only examine personal data of the customers or matters concerning their banking business as part of his/her work. Under chapter 38, section 9 of the Criminal Code, processing personal data in violation of the Personal Data Act is a punishable offence and the offender may be sentenced for a data protection offence to a fine or to maximum imprisonment of one year.

Disclosing a bank's business secrets

Provisions on disclosing a bank's business secrets are contained in the Criminal Code. Under the provisions, those who unlawfully disclose or utilise a business secret that they have obtained while in the service of another must be sentenced to a fine or to maximum imprisonment of two years. If the offender has disclosed the business secret in order to obtain financial benefit for himself/herself or others, the act is punishable even if it had occurred after the end of the employment relationship (chapter 30, sections 5 and 6 of the Criminal Code).

13.2 Damages and other sanctions

Disclosing a bank secret

A disclosure of a bank secret may mean that the bank is liable to compensate for the resulting damage. The bank employee who has disclosed the bank secret may have to compensate to the bank the amount of the compensation paid to the customer that is deemed reasonable unless the act has been caused by slight negligence. If the bank secret has been disclosed intentionally, the bank employee must usually compensate the whole amount of the damages to the bank (chapter 3, section 1 and chapter 4, section 1 of the Tort Liability Act).

Disclosing a bank's business secrets

A bank employee who has disclosed or made use of a bank's business secret may be obliged to compensate for the damage he/she has caused to the bank. The amount of the damages is in accordance with the principles applying to the disclosure of a bank secret. In aggravated cases, the bank may also have the right to cancel the employee's employment contract with immediate effect (chapter 8, section 1 of the Employments Contracts Act).

14 Legal provisions concerning bank secrecy

14.1 Act on Credit Institutions

Secrecy obligation (section 141)

Under section 141 of the Act on Credit Institutions, members or deputy members of a body of a credit institution, an undertaking belonging to the credit institution's consolidation group, a consortium of credit institutions, an agent of the credit institution or other undertaking working on behalf of the credit institution or persons employed by them or working on commission for them that have obtained information on matters concerning the financial position of a customer of the credit institution or an undertaking belonging to its consolidation group or an undertaking belonging to conglomerate referred to in the Act on the Supervision of Financial and Insurance Conglomerates or other persons connected with its operations or matters concerning private personal circumstances of a private individual or a business or a trade secret must keep the matter secret

unless the party to whose benefit the secrecy obligation has been provided has consented to the disclosure of the information. Likewise, confidential information should not be made available to a general meeting of shareholders, a meeting of trustees, the delegates or a general meeting of a co-operative, a meeting of a mortgage society or the shareholders or members attending the meeting.

A credit institution and an undertaking belonging to the same consolidation group must provide the information referred to in subsection 1 to prosecuting and pre-trial investigation authorities for the purpose of investigating a crime and to the other authorities that by law have the right to obtain such information.

A credit institution may provide an organiser of public trading referred to in the Securities Markets Act and an option corporation referred to in the Act on Trading on Standardised Options and Futures (772/1988) with information referred to in subsection 1 if the information is necessary for ensuring the supervisory duties laid down for them. A credit institution may also provide information in the same manner to a corporation operating in an EEA state organising trading similar to public trading and a corporation based in an EEA state that is similar to an option corporation.

Notwithstanding subsection 1, a credit institution has the right to carry out credit data operations that it normally carries out as part of its business operations.

Provisions in chapter 7, section 6 of the Act on Co-operatives shall not apply to a credit institution or an undertaking belonging to the same consolidation group.

Providing information to an undertaking belonging to the same consolidation group, financial and insurance conglomerate or consortium (section 142)

A credit institution and an undertaking belonging to the same consolidation group may provide information referred to in section 141 to a corporation belonging to the same group, consolidation group or a financial and insurance conglomerate referred to in the Act on the Supervision of Fi-

nancial and Insurance Conglomerates for the purpose of customer service and for managing other aspects of customer relations, marketing and risk management in the financial and insurance conglomerate if the recipient of the information is bound by the secrecy obligation laid down in the Act or a similar secrecy obligation. The provisions of the subsection above on the handing over of information do not apply to the handing over of sensitive information referred to in section 11 of the Personal Data Act (523/1999) or information that is based on the registration of payment information between a customer and an undertaking outside the conglomerate.

In addition to what is provided in subsection 1, a credit institution and an undertaking belonging to the same consolidation group may also hand over information kept in their customer registers that is necessary for marketing and customer service and for managing other aspects of customer relations to a corporation belonging to the same consortium as the credit institution if the recipient of the information is bound by the secrecy obligation laid down in this Act or a similar secrecy obligation. The provisions of the subsection above on the handing over of information do not apply to the handing over of sensitive information referred to in section 11 of the Personal Data Act.

Notwithstanding what is provided in this section above, a credit institution may provide a consortium of credit institutions referred to in section 141, subsection 1 in which the credit institution is a member with information necessary for the operations of the consortium.

What is provided in subsection 2 and this subsection on a consortium of credit institutions also applies to the central financial organisations of savings banks and co-operative banks.

Handing over information to a keeper of registers engaged in credit data operations (section 143)

Notwithstanding section 141, a credit institution and a financial institution belonging to the same consolidation group may, for the purpose of entry in the credit data register, provide a keeper of registers engaged in credit data operations with information necessary for identifying the valid

credit agreements and guaranties of the customer and information on the outstanding credit.

Section 144 Handing over information for research purposes A document containing information referred to in section 141 above may be made available for research purposes if at least 60 years have passed since the compilation of the document and the recipient of the document gives written assurances that he/she will not use the document for damaging or defaming the person whom the document concerns or persons close to him/her or for violating the interests of those for the protection of whom the secrecy obligation has been introduced.

14.2 Act on Co-operative Banks and other Credit Institutions in the form of a Co-operative

Section 53

What is provided in sections 141 and 142 of the Act on Credit Institutions on a credit institution, also applies to the central organisation. Notwithstanding the provision in question, the undertakings belonging to the consortium, the guarantee fund in which the credit institutions of the central organisation are members and the mutual insurance company of the member credit institutions may also exchange information. Information referred to in this section may, however, only be made available to persons who are bound by the secrecy obligation laid down in the section above or a similar secrecy obligation.

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

Secrecy obligation (section 24)

The secrecy obligation, the right to given information and the breach of the secrecy obligation by an employee of a branch and an agency as well as the operation of credit reference services by an agency shall, when appropriate, be governed by the provisions of sections 141-144 and 169 of the Act on Credit Institutions.

Notwithstanding provisions in subsection 1, a branch and an agency have the right to give an authority or a supervisory corporation of the

home State of the credit institution or the financial institution that they represent as well as to an auditor of the credit institution or the financial institution that they represent the information provided to be disclosed by the law or by duly issued provisions.

14.4 Act on the Supervision of Financial and Insurance Conglomerates

Section 33

Anyone who, in the capacity of a member or a deputy member of a body of an undertaking belonging to a conglomerate, or of a representative of such an undertaking operating on behalf of an undertaking belonging to a conglomerate, or as their employee or agent has, in performing his/her duties, obtained information on the financial position or private personal circumstances of a customer of an undertaking belonging to the conglomerate or of another person connected with its operation or on a trade or business secret shall be liable to keep it confidential unless the person to whose benefit the secrecy obligation has been provided has consented to the disclosure of the information. Likewise, confidential information should not be made available to a general meeting of shareholders, the delegates or a general meeting of a co-operative or the shareholders or members attending the meeting. The secrecy obligation of a credit institution belonging to a conglomerate and of an undertaking belonging to its consolidation group, an investment firm and an undertaking belonging to its consolidation group, a management company, an insurance company, an insurance holding company and an ancillary services undertaking referred to in chapter 1, section 5 b of the Act on Insurance Companies shall be provided for separately.

An undertaking belonging to a conglomerate and referred to in subsection 1 shall be liable to disclose the information referred to in subsection 1 to prosecuting and pre-trial investigation authorities for the investigation of a crime as well as to other authorities entitled to this information under the law.

An undertaking belonging to a conglomerate and referred to in subsection 1 may disclose the information referred to in subsection 1 to a corpo-

ration belonging to the same conglomerate for the purpose of customer service and other customer-relationship management, marketing as well as risk management of the conglomerate. The provisions of this subsection on the disclosure of information shall not apply to the disclosure of sensitive information referred to in section 11 of the Personal Data Act (523/1999).

14.5 Act on Investment Firms

Secrecy obligation (section 67)

Members or deputy members of a body of an investment firm, an undertaking belonging to the same consolidation group, a consortium of investment firms, an agent of the investment firm or other undertaking working on behalf of the investment firm or persons employed by them or working on commission for them that have obtained information on matters concerning the financial position of a customer of the investment firm or an undertaking belonging to its consolidation group or an undertaking belonging to a conglomerate referred to in the Act on the Supervision of Financial and Insurance Conglomerates or other persons connected with its operations or matters concerning private personal circumstances of a private individual or a business or a trade secret must keep the matter confidential unless the party to whose benefit the secrecy obligation has been provided has consented to the disclosure of the information. Likewise, confidential information should not be made available to the general meeting of shareholders of an investment firm or to the shareholders attending the meeting.

What is provided in subsection 1 on the secrecy obligation also applies to persons who, when carrying out tasks referred to in chapter 6, have obtained non-published information concerning the financial position or private personal circumstances of an investment firm or its customer or business or trade secrets.

Handing over confidential information (section 68)

An investment firm, its holding company and a financial institution belonging to the investment firm's consolidation group and a consortium of investment firms must provide information re-

ferred to in section 67, subsection 1 above to prosecuting and pre-trial investigation authorities for the purpose of investigating a crime and to the other authorities that by law have the right to obtain such information.

An investment firm and an undertaking belonging to the same consolidation group may provide information referred to in subsection 1 to a corporation belonging to the same group, consolidation group or a financial and insurance conglomerate referred to in the Act on the Supervision of Financial and Insurance Conglomerates for the purpose of customer service and for managing other aspects of customer relations, marketing and risk management in the financial and insurance conglomerate if the recipient of the information is bound by the secrecy obligation laid down in the Act or a similar secrecy obligation. Provisions of this subsection on the handing over of information does not apply to the handing over of sensitive information referred to in section 11 of the Personal Data Act or information that is based on the registration of payment information between a customer and an undertaking outside the conglomerate.

In addition to what is provided in subsection 2, an investment firm and an undertaking belonging to the same consolidation group may also hand over information kept in their customer registers that is necessary for marketing and customer service and for managing other aspects of customer relations to an undertaking belonging to the same consortium as the investment firm if the recipient of the information is bound by the secrecy obligation laid down in this Act or a similar secrecy obligation. The above provisions of this subsection do not apply to the handing over of sensitive information referred to in section 11 of the Personal Data Act.

An investment firm may provide an organiser of public trading referred to in the Securities Markets Act and an option corporation referred to in the Act on Trading on Standardised Options and Futures with information referred to in section 67, subsection 1 if the information is necessary for ensuring the carrying out of the supervisory duties laid down for them. An investment firm may also provide information in the same manner to a corporation operating in an EEA state organising trading similar to public trading and a cor-

poration based in an EEA state that is similar to an option corporation.

14.6 Act on Common Funds

Section 133

A member of the Board of Directors, the Managing Director, an auditor as well as an employee of the management company are liable to keep secret any information acquired by him/her in the course of his/her duty on the financial position or business or trade secret of a unitholder or another person.

A management company and a custodian are liable to give the information referred to in subsection 1 only to the prosecuting or pre-trial investigation authorities for the investigation of a crime as well as to the authorities otherwise entitled to receive such information under the law.

Section 133 a

Notwithstanding the provisions of section 133, a management company is entitled to convey the information referred to in section 133 to a corporation belonging to the same group, consolidation group and financial and insurance conglomerate referred to in the Act on the Supervision of Financial and Insurance Conglomerates for the purpose of customer service or other management of a customer relationship, marketing as well as for the risk management of the group, consolidation group or financial and insurance conglomerate. The above provisions of this subsection do not apply to the handing over of sensitive information referred to in section 11 of the Personal Data Act.

In addition to what is provided in subsection 1, a common fund may also hand over information kept in its customer register that is necessary for marketing and customer service and for managing other aspects of customer relations to an undertaking belonging to the same consortium as the common fund if the recipient of the information is bound by the secrecy obligation laid down in this Act or a similar secrecy obligation. The above provisions of this subsection do not apply to the handing over of sensitive infor-

mation referred to in section 11 of the Personal Data Act.

14.7 Penal provisions

Act on Credit Institutions (section 169)

Violating the secrecy obligation

Punishment for violations of the secrecy obligation provided in section 141 and of the pledge laid down in section 144 is in accordance with chapter 38, section 1 or 2 of the Criminal Code unless a more severe penalty for the act is laid down elsewhere in the law.

Personal Data Act (section 48, subsection 1)

Data protection offence and violation of the secrecy obligation

Punishment for a data protection offence is in accordance with chapter 38, section 9 of the Criminal Code. Punishment for violations of the secrecy obligation laid down in section 33 of the Personal Data Act is in accordance with chapter 38, section 1 or 2 of the Criminal Code unless the act is punishable under chapter 40, section 5 of the Criminal Code or a more severe penalty for the act is laid down elsewhere in the law.

14.8 Provisions on damages

Act on Credit Institutions (section 167)

Liability to pay damages

The founder of the credit institution, a member of its supervisory board or board of directors and its managing director are liable to compensate for the damage that they have, as part of their duties, intentionally or negligently, caused to the credit institution.

The founder of the credit institution, a member of its supervisory board or board of directors and its managing director are also liable to compensate for the damage that they have, as part of their duties, intentionally or negligently caused to a shareholder, a member, a holder of an investment share or a basic fund certificate or another person by violating this Act, the Act on Commercial Banks and other Credit Institutions in the Form

of a Limited Company, the Savings Bank Act, the Act on Co-operative Banks and other Credit Institutions in the form of a Co-operative, the Act on Mortgage Credit Banks, the Act on Mortgage Societies, the Act on the Temporary Interruption of the Operations of a Deposit Bank or this Act or a decree issued under it or a regulation of the Financial Supervision Authority (Financial Supervisory Authority) or the articles of association or rules of the credit institution. Provisions on the liability of an auditor to pay compensation are contained in the Auditing Act.

If the damage has been caused by violating the provisions referred to in subsection 2 or a regulation of the articles of association or the rules, the damage is deemed to have been caused by negligence unless the party responsible for the action shows that he/she has acted with care. The same applies to the damage that has been caused through action carried out for the benefit of a party belonging to the close circle of the credit institution referred to in section 140.

A shareholder of a credit institution, a trustee of a savings bank and a member of a co-operative bank and the delegates are liable to compensate for the damage that they have intentionally or negligently caused to the credit institution, a shareholder or a member or a holder of an investment share or a basic fund certificate or another person by contributing to a violation of the provisions referred to in subsection 2 or the articles of association or rules of the credit institution. The damage that has been caused through action carried out for the benefit of a party belonging to the close circle of the credit institution referred to in section 140, is deemed to have been caused by negligence unless a shareholder, a trustee or a member of the co-operative bank or the delegates shows that he/she has acted with care.

What is provided in chapters 2 and 6 of the Tort Liability Act (412/1974), applies to the adjustment of the damages and the allocation of liability to two or more parties liable to pay compensation.

Provisions on the bringing of an action for damages on behalf of a credit institution in the form of a limited company, a savings bank or a credit institution in the form of a co-operative are con-

tained in the Act on Commercial Banks and other Credit Institutions in the form of a Limited Company, in the Savings Bank Act and in the Act on Co-operative Banks and other Credit Institutions in the form of a Co-operative.

What is laid down in this section, also applies to an undertaking belonging to the same consolidation group as the credit institution if the damage has been caused through violations of this Act or a decree issued under it or a regulation of the Financial Supervision Authority.

14.9 Employment Contracts Act

Chapter 3, section 4

Business and trade secrets

During the term of employment, the employee may neither utilize nor divulge to third parties the employer's trade or business secrets. If the employee has obtained such information unlawfully, the prohibition continues after termination of the employment relationship.

Liability for any loss incurred by the employer is extended not only to the employee divulging confidential information but also to the recipient of this information if the latter knew or should have known that the employee had acted unlawfully.

14.10 Criminal Code

Chapter 30, section 5

Violation of a business secret

A person who, in order to obtain financial benefit for himself or herself or another or to injure another, unlawfully discloses the business secret of another or unlawfully utilises such a business secret, having gained knowledge of the secret

- 1) while in the service of another,
- 2) while acting as the member of the administrative board or the board of directors, the managing director, auditor or receiver of a corporation or a foundation or in comparable duties,

- 3) while performing a duty on behalf of another or otherwise in a fiduciary business relationship, or
- 4) in connection with company restructuring proceedings,

shall be sentenced, unless a more severe penalty for the act is provided elsewhere in the law, for violation of a business secret to a fine or to imprisonment for at most two years.

This section does not apply to an act that a person referred in subsection 1, paragraph 1 has undertaken after two years have passed since his or her period of service has ended.

An attempt is punishable.

Chapter 30, section 6

Misuse of a business secret

A person who unlawfully

- 1) uses in business a business secret that has been obtained or revealed through an act punishable under this Code or
 - 2) in order to obtain financial benefit for himself or herself or another reveals such a secret,
- shall be sentenced for misuse of a business secret to a fine or to imprisonment for at most two years.

Chapter 38, section 1

Secrecy offence

A person who in violation of a secrecy duty provided by an act or decree or specifically ordered by an authority pursuant to an act

- 1) discloses information which should be kept secret and of which he or she has learnt by virtue of his or her position or task or in the performance of a duty, or
 - 2) makes use of such a secret for the gain of himself or herself or another,
- shall be sentenced, unless the act is punishable under chapter 40, section 5, for a secrecy offence to a fine or to imprisonment for at most one year.

Chapter 38, section 2

Secrecy violation

If the secrecy offence, in view of the significance of the act as concerns the protection of privacy or confidentiality, or the other relevant circumstances is petty when assessed as a whole, the offender shall be sentenced for a secrecy violation to a fine.

Also a person who has violated a secrecy duty referred to in section 1 and it is specifically provided that such violation is punishable as a secrecy violation, shall also be sentenced for a secrecy violation.

Chapter 38, section 9

Data protection offence

A person who intentionally or grossly negligently

- 1) processes personal data in violation of the provisions of the Personal Data Act (523/1999) on the exclusivity of purpose, the general prerequisites for processing, the necessity and integrity of data, sensitive data, identification codes or the processing of personal data for specific purposes, or violates a specific provision on the processing of personal data, (480/2001)
- 2) by giving false or misleading information prevents or attempts to prevent a data subject from using his or her right of inspection or
- 3) conveys personal data to states outside the European Union or the European Economic Area in violation of chapter 5 of the Personal Data Act, and thereby violates the privacy of the data subject or causes him or her other damage or significant inconvenience, shall be sentenced for a data protection offence to a fine or to imprisonment of at most one year.

Chapter 40, section 5

Breach and negligent breach of official secrecy

If a public official intentionally, while in service or thereafter, unlawfully

- 1) discloses a document or information which pursuant to the Act on the Openness of Government Activities (621/1999) or another act is to be kept secret or not disclosed, or
- 2) makes use of the document or information referred to in paragraph 1 to the benefit of himself or herself or to the loss of another,

he or she shall be sentenced, unless a more severe penalty for the act has been laid down elsewhere, for breach of official secrecy to a fine or to imprisonment for at most two years.

A public official may also be sentenced to dismissal if the offence demonstrates that he or she is manifestly unfit for his or her duties.

If a public official commits the offence referred to in subsection 1 through negligence and the act, in view of its harmful and damaging effects and the other relevant circumstances, is not of minor significance, he or she shall be sentenced, unless a more severe penalty for the act is provided elsewhere in the law, for negligent breach of official secrecy to a fine or to imprisonment of at most six months.

14.11 Act on Preventing and Clearing Money Laundering and Terrorist Financing

Reporting obligation (section 23)

If, after having fulfilled its obligation to obtain information referred to in section 9 or otherwise, the party subject to the reporting obligation has reasons to doubt the legal origin of the assets or other property involved in the transaction or to suspect that they will be used for committing an offence or a punishable attempt of an offence, it must without delay notify the Financial Intelligence Unit of the matter and provide, on request, all the information and documents that may be relevant for the investigation of the suspicions.

Secrecy obligation (section 25)

The making of the report may not be disclosed to the suspect or any other person.

Obtaining, storage, use and handover of information (sections 36 and 37)

Notwithstanding the provisions on the secrecy of information subject to business and professional secrecy or the financial circumstances or financial status of an individual, corporation or foundation, the Financial Intelligence Unit has the right to obtain, free of charge, any information and documents necessary to prevent and clear money laundering and terrorist financing from an

authority and a body assigned to perform a public function.

A decision on obtaining non-public information referred to in subsection 1 shall be made by a commanding police officer working at the Financial Intelligence Unit.

The Financial Intelligence Unit has the right to obtain, at the written request of a commanding police officer working at the Financial Intelligence Unit, any information necessary to prevent and clear money laundering and terrorist financing from a private corporation and person, notwithstanding the obligation of secrecy binding a member, auditor, auditor of the savings fund operations, board member or employee of the corporation.

The Financial Intelligence Unit has the right to store information and documents that it has obtained and received for carrying out tasks laid down in section 35 and important information and documents that it has received under section 37. The information may only be used and disclosed for the purpose of preventing and clearing money laundering and terrorist financing.

14.12 Unfair Business Practices Act

Section 4

No one may unjustifiably obtain or seek to obtain information regarding a business secret or use or reveal information obtained in such a manner.

Whoever obtains information regarding a business secret while in the service of an entrepreneur may not unjustifiably use or reveal it while still in service in order to obtain personal benefit of benefit for another or in order to harm another.

Whoever receives information regarding a business secret while performing a function on behalf of an entrepreneur, or who has been entrusted with a technical model or technical instructions so that he or she can carry out work or a function or otherwise for business purposes, may not unjustifiably use or reveal this.

Whoever has been informed by another of a business secret, a technical model or technical

instructions in the knowledge that the said person has unjustifiably obtained or revealed the information may not use or reveal this.

Section 10, subsection 2

Whoever otherwise in violation of the provisions of section 4 deliberately commits an offence referred to in chapter 30, sections 4-6 of the Criminal Code, shall be sentenced for industrial espionage or for breach or disclosure of a business secret in accordance with the Criminal Code.

14.13 Code of Judicial Procedure

Chapter 17, section 20

A person may not refuse to testify. However, the following need not testify against their will:

- 1) a person who is or has been married or is engaged to one of the parties;
- 2) a person who is a direct ascendant or descendant of a party or who is or has been married to a person related to a party in said manner; and
- 3) the siblings or the spouses of the siblings of a party or the adoptive parents or adopted children of a party.

Section 24, subsection 1

A witness may refuse to reveal a fact or answer a question if he or she cannot do so without incriminating himself or herself or a person who is related to him or her in the manner referred to in section 20. In addition, a witness may refuse to give a statement which would reveal a business or professional secret unless very important reasons require that the witness be heard thereon.

15 Definitions

A *holding company* means a Finnish or foreign financial institution most of whose subsidiary undertakings are credit or financial institutions and which has at least one credit institution as subsidiary undertaking (section 15 of the Act on Credit Institutions).

A *credit institution* means a deposit bank engaged in operations referred to in the Credit Institutions Act and a limited liability company engaged in

other credit institution operations and a mortgage society or a payment institution (section 8, subsection 1 of the Act on Credit Institutions). Credit institutions include commercial banks, savings banks, limited liability savings banks, co-operative banks, limited liability co-operative banks, financial companies and certain credit card companies.

A *foreign credit institution* means a foreign undertaking that is mainly engaged in credit institution operations and that is supervised in the same manner as the credit institutions referred to above (section 8, subsection 2 of the Act on Credit Institutions).

A *financial company* means a Finnish or foreign corporation that is not a credit institution and that, as its main line of business, provides its customers with the same services as credit institutions, excluding reception of deposits and other repayable assets from the public, credit data operations and property agency operations connected with home saving (section 13 of the Act on Credit Institutions).

A *conglomerate* means a financial and insurance conglomerate referred to in the Act on the Supervision of Financial and Insurance Conglomerates. A conglomerate comprises, in addition to the parent undertaking, financial and insurance undertakings over which the parent undertaking exercises control in the manner referred to in the Accounting Act or which have joint administration or joint management with the parent undertaking (section 3 of the Act on the Supervision of Financial and Insurance Conglomerates).

The *parent undertaking of a conglomerate* means a Finnish credit institution or insurance institution that exercises the control referred to in the paragraph above over at least one Finnish credit institution, insurance company or investment firm (section 2 of the Act on the Supervision of Financial and Insurance Conglomerates).

The *holding company of a conglomerate* means a Finnish parent undertaking of whose subsidiary undertakings referred to in the Accounting Act at least one is a Finnish credit institution or investment firm and one a Finnish insurance company and which has financial and investment undertakings as subsidiary undertakings referred to in the

Accounting Act whose latest aggregate balance sheet total was more than half of the latest aggregate balance sheet total of the holding company and all its subsidiary undertakings (section 2 of the Act on the Supervision of Financial and Insurance Conglomerates).

A *consortium* means a consortium of undertakings which have, for example, mutual ownership or which are dependent on each other in their business operations. The definition of a consortium is not yet well-established.

A *consortium of credit institutions* means the Deposit Guarantee Fund, the Investors' Compensation Fund, banks' guarantee funds and such entities as the Federation of Finnish Financial Services, the consortium of co-operative banks, the Finnish Savings Bank Association and the Finnish Local Cooperative Bank Association.

i means a Finnish or foreign undertaking which has the provision of services to one or more credit institutions as its main line of business. The undertaking does this by owning, exercising control over or managing property or by providing data-processing services (section 14 of the Act on Credit Institutions).

The supervisory authority means the Financial Supervisory Authority.

The consortium of co-operative banks means the consortium of co-operative banks belonging to the central organisation, the credit and financial institutions and service undertakings belonging to the central organisation's consolidation group and the central financial organisation of the co-operative banks, as provided in section 3 of the Act on Co-operative Banks and other Credit Institutions in the form of a Co-operative.



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