A m e n d m e n t

of

An act to amend the Act on Mortgage-Credit Loans and Mortgage-Credit Bonds, etc., and the Financial Business Act

(Regulation of the refinancing risk inherent in mortgage-credit bonds, covered mortgage-credit bonds and covered bonds)

By the *Minister for Business and Growth,* adopted by […]:

Amendments to Part 1

1) ***No. 1*** **shall be worded as follows:**

"1. *§ 6* shall be worded as follows:

" § 6. If the term of a mortgage-credit loan is longer than the term of the underlying mortgage-credit bonds, covered mortgage-credit bonds or covered bonds, and the underlying bonds are fixed-interest bonds with a term of up to and including 12 months at the refinancing of the loan, it shall apply to bonds which at maturity shall be replaced by new bonds to refinance the loan that, if the effective interest rate for the refinancing becomes more than 5 percentage points higher than the effective interest rate fixed at last refinancing, the term of the bonds concerned is to be extended by 12 months. At maturity of the bonds concerned after the 12-month extension, new bonds shall be issued to replace them. The first sentence of this subsection does not apply for this issuance.

Subsection (2). If the term of a mortgage-credit loan is longer than the term of the underlying mortgage-credit bonds, covered mortgage-credit bonds or covered bonds, and the underlying bonds are fixed-interest bonds with a term of up to and including 12 months at the refinancing of the loan or have been extended pursuant to subsection (1), it shall apply to bonds which at maturity shall be replaced by new bonds for refinancing that, if there is an insufficient number of buyers for all the new bonds required, the term of the bonds concerned is to be extended by 12 months at a time until refinancing can be carried out with buyers for all the new bonds required.

Subsection (3). The interest rate for bonds extended in accordance with subsection (1) or (2) is to be set at the effective interest rate for the bond fixed at the last refinancing, with the addition of 5 percentage points. The interest rate shall be fixed initially at the time of extending the term of the bonds. For additional term extensions pursuant to subsection (2), the interest rate fixed in the first sentence of this subsection shall continue to apply.

Subsection (4). If the term of a mortgage-credit loan is longer than the term of the underlying mortgage-credit bonds, covered mortgage-credit bonds or covered bonds, and the underlying bonds are fixed-rate bonds with a term of up to and including 12 months at the refinancing of the loan, the interest rate to be paid by the borrower in situations where the term of the bonds has been extended pursuant to subsection (1) or (2) shall be based on the interest rate pursuant to subsection (3).

Subsection (5). Extension pursuant to subsection (1) or (2) does not remove the right of the borrowers at the mortgage-credit institution to redeem wholly or partly loans granted on the basis of the issuance of mortgage-credit bonds, covered mortgage-credit bonds or covered bonds.

Subsection (6). Subsection (1) does not apply to mortgage-credit loans secured on real property located outside of Denmark.

Subsection (7). The Minister for Business and Growth shall lay down the specific rules for the extension of bonds covered by subsections (1) and (2), and cf. § 32."
[Clarification of the provision concerning the conditions for extension of bonds with a term up to and including 12 months]

2) *No. 2* shall be worded as follows:

"**2.** *§ 6* shall be worded as follows:

"§ 6. If the term of a mortgage-credit loan is longer than the term of the underlying mortgage-credit bonds, covered mortgage-credit bonds or covered bonds, and the underlying bonds are fixed-interest bonds with a term of up to and including 12 months at the refinancing of the loan, it shall apply to bonds which at maturity shall be replaced by new bonds at refinancing that, if the effective interest rate for the refinancing of the loan becomes more than 5 percentage points higher than the effective interest rate fixed at last refinancing, the term of the bonds concerned is to be extended by 12 months. At the maturity of the bonds concerned after the 12-month extension, new bonds shall be issued to replace them. The first sentence of this subsection does not apply to this issuance.

Subsection (2). If the term of a mortgage-credit loan is longer than the term of the underlying mortgage-credit bonds, covered mortgage-credit bonds or covered bonds, and the underlying bonds are fixed-interest bonds with a term of more than 12 months and up to and including 24 months at the refinancing of the loan, it shall apply to bonds which at maturity shall be replaced by new bonds that, if the effective interest rate for refinancing of the loan becomes more than 5 percentage points higher than the effective interest rate for a corresponding bond with the same residual maturity 11 to 14 months previously, the term of the bonds concerned shall be extended by 12 months. At the maturity of the bonds concerned after the 12-month extension, new bonds shall be issued to replace them. The first sentence of this subsection does not apply to this issuance.

Subsection (3). If the term of a mortgage-credit loan is longer than the term of the underlying mortgage-credit bonds, covered mortgage-credit bonds or covered bonds, and the underlying bonds are floating-rate bonds with a term of up to and including 24 months at the refinancing the loan, it shall apply that the interest rate for the interest-rate fixing may not be more than 5 percentage points higher than the last fixed interest rate and shall remain unchanged for 12 months or up until the next refinancing, unless a lower interest rate is fixed within these 12 months or before the next refinancing. If the interest rate at the time of the refinancing becomes more than 5 percentage points higher than the last interest rate set for the previous bonds, the term of the bonds concerned shall be extended by 12 months. At the maturity of the bonds concerned after the 12-month extension, new bonds shall be issued to replace them. The first sentence of this subsection does not apply to this issuance.

Subsection (4). If the term of a mortgage-credit loan is longer than the term of the underlying mortgage-credit bonds, covered mortgage-credit bonds or covered bonds, it shall apply to bonds which upon maturity shall be replaced by new bonds to refinance the loan that, if there is an insufficient number of buyers for all the new bonds required, the term of the bonds concerned shall be extended by 12 months at a time until refinancing can be carried out with buyers for all the new bonds required.

Subsection (5). Subsections (2), (3) and (4) notwithstanding, the stipulations for the bond may specify that, in the event of a failure to refinance a loan, where the underlying bonds for the refinancing of the loan have a term of more than 12 months, an attempt will be made to refinance the loan with shorter-termed bonds prior to the extension pursuant to subsection (2), (3) or (4).

Subsection (6). The interest rate for fixed-rate bonds with a term of up to and including 12 months at the refinancing of the loan, and which have been extended pursuant to subsection (1) or (4), shall be set at the effective interest rate fixed at the last refinancing, with the addition of 5 percentage points. The interest rate shall be fixed initially at the time of extending the term of the bonds. For additional term extensions pursuant to subsection (4), the interest rate fixed pursuant to the first sentence of this subsection shall continue to apply.

Subsection (7). The interest rate for fixed-rate bonds with a term within the interval from 12 months up to and including 24 months at the refinancing of the loan, and which have been extended pursuant to subsection (2) or (4), is to be set at the effective interest rate for a corresponding bond with the same residual maturity 11 to 14 months previously, with the addition of 5 percentage points. The interest rate for fixed-rate bonds with a term of more than 24 months at the refinancing of the loan, and which have been extended pursuant to subsection (4), is to be set at the effective interest rate for a bond with a residual maturity of 11 to 14 months fixed 11 to 14 months previously, with the addition of 5 percentage points. The interest rate shall be fixed initially at the time of extending the term of the bonds. For additional term extensions pursuant to subsection (4), the interest rate fixed pursuant to the first or second sentence of this subsection shall continue to apply.

Subsection (8). The interest rate for floating-rate bonds extended pursuant to subsection (3) or (4) is to be set at the most recently set interest rate, with the addition of 5 percentage points. The interest rate fixed pursuant to the first sentence of this subsection shall remain unchanged for the 12 months during which the extension applies. The interest rate shall be fixed initially at the time of extending the term of the bonds. For additional term extensions pursuant to subsection (4), the interest rate fixed pursuant to the first sentence of this subsection shall continue to apply.

Subsection (9). If the term of a mortgage-credit loan is longer than the term of the underlying mortgage-credit bonds, covered mortgage-credit bonds or covered bonds, and the underlying bonds are floating-rate or fixed-rate bonds, the interest rate to be paid by the borrower in situations where the term of the bonds has been extended pursuant to subsections (1)–(4) shall be based on the interest rate set pursuant to subsections (6)–(8).

Subsection (10). Extension pursuant to subsections (1)–(4) does not take away the right of the borrowers at the mortgage-credit institution to redeem wholly or partly loans granted on the basis of the issuance of mortgage-credit bonds, covered mortgage-credit bonds or covered bonds.

Subsection (11). Subsections (1)–(3) do not apply to mortgage-credit loans secured on real property located outside Denmark.

Subsection (12). The Minister for Business and Growth shall lay down detailed regulations for the extension of bonds covered by subsections (1)–(3), and § 32."

[Clarification of the provision concerning the conditions for extending bonds for loans that are not pre-financed, regardless of the term of the bonds]

3) In the proposed *§ 15a* under *no. 3*, the following is omitted in *subsection (1)*: "and *§ 32(6)*"; and "or has raised" shall be inserted in *subsection 2* after "raises".

[Loans raised as supplementary collateral]

4) *§ 4* shall be worded as follows:

"The following shall be inserted in *§ 32* as *subsections (6)* and *(7):*

"*Subsection (6).* If the reorganiser or bankruptcy trustee may not issue refinancing bonds, cf. subsection (4), or if there is an insufficient number of buyers for the new bonds required, the term of the bonds concerned shall be extended by one year at a time. The reorganiser or bankruptcy trustee shall set the interest rate for the extended bonds at a floating reference rate, with the addition of up to 5 percentage points.

Subsection (7). If bonds are extended because it has been ascertained at the refinancing that there is an insufficient number of buyers for all the new bonds required, cf. § 32(6), the term of the loan raised as supplementary collateral pursuant to § 15, which reaches ordinary maturity during the extension period and which is linked to the bonds being extended, shall be extended or modified to correspond to the term of the extended bonds concerned."

[Clarification of the provision concerning the extension of bonds for reorganisation or bankruptcy proceedings]

Amendments to Part 2

5) *No. 2* shall be worded as follows:

»2. The following shall be inserted in *§ 152b* as *subsections (4)–(9):*

"*Subsection (4).* For loans financed by the issuance of covered bonds where the term of the bonds is shorter than the term of the underlying loans, it shall be stipulated in the bond conditions, the prospectus or other contract documents that the administrator may extend the bonds by one year at a time in situations covered by § 247a and pursuant to the provisions of § 247h(4). The nominal interest rate for the extended bonds shall be set at a floating reference rate, with the addition of up to 5 percentage points. The bond conditions, the prospectus or other contract document shall also stipulate that the administrator may redeem the bonds at face value.

Subsection (5). For loan agreements entered into after 1 April 2014, it shall be separately apparent from the terms of the loan that the administrator may raise the interest rate as a result of changed financing conditions, cf. subsection (4).

Subsection (6). If covered bonds are extended pursuant to subsection (4), the term of a loan raised as supplementary collateral pursuant to subsection (1) shall be extended to correspond to the term of the modified bonds.

Subsection (7). The term of covered bonds shall be more than 24 months on the date of issuance.

Subsection (8). Subsections (4)–(7) do not apply to covered bonds issued from a separate register and based on assets that do not comply with Danish regulations in every respect, but which on the contrary, in the derogating areas, comply with regulations for assets used as collateral for covered bonds in countries outside the European Union or in countries with which the European Union has entered into an agreement in the financial area where the transnational activities are exercised and where the mortgage is situated.

Subsection (9). The Minister for Business and Growth shall lay down detailed regulations for the extension of bonds pursuant to subsection (4), including as concerns interest rate fixing."

[Clarification of the provision concerning the conditions for an administrator's extension of covered bonds]

6) *No. 3* is omitted.

[Consequential amendment resulting from the authorisation for the Minister for Business and Growth being inserted into § 152b(9)]

Amendments to Part 3

7) In subsection (1), *"31 March"* is changed to: *"1 April"*.

[Postponement of the law’s entry into force]

8) In *subsection (2)*, the referral to “and 6th clause” is deleted after “no. 2”.
[Technical legislative adjustment]

9) The following new subsections are inserted after subsection (2):
“Subsection (3). Part 2 shall enter into force on 1 January 2015.
Subsection (4). § 152b(7) of the Financial Business Act, as worded by § 2(2) of this Act, shall enter into force on 1 April 2014.”
[Subsequently, subsections (3)–(5) become subsections (5)–(7).

[Postponed entry into force]

R e m a r k s

Remarks on Part 1

Remarks on no. 1

In § 6, “to 14 months at issuance” is amended to “up to and including 12 months at the refinancing of the loan”. The amendment aims to provide mortgage credit institutions with the requisite flexibility at the sale of bonds to be refinanced and to ensure that the refinancing of the shortest variable-rate mortgage loans is covered regardless of the date on which the bonds are issued. The term “at the refinancing of the loan” is defined as the date of maturity, i.e. the date on which the financing of the loan changes from the matured bond to the newly issued bond. The term “followed by a new issue” is amended to “replaced by new bonds”. This is a revision of the wording to clarify that this does not necessarily involve a new bond issuance, but can also involve selling from a bond series that is already open or the reuse of bonds. The term “interest rate set at the issuance of the bond” is amended to “interest rate set at the time of the last refinancing”. This is a revision of the wording to clarify the date on which the interest rate is set, as a consequential change resulting from the fact that the statutory provisions no longer use the term “issuance of the bond” but “refinancing of the loan” instead.

For practical and administrative reasons, it is possible that the interest rate could increase by more than 5 percentage points. However, the institution must organise its sale of bonds so that any overrun can only affect a limited segment of the bonds issued to replace the bonds maturing. The institution may only carry out an auction or similar if, immediately prior to the auction, it has a legitimate expectation that the sale at the auction can be carried out without leading to an increase in the interest rate of more than 5 percentage points. If an auction or similar leads to an interest rate increase of more than 5 percentage points, the institution shall stop the sale and may not resume the sale until the institution legitimately expects that the sale can be carried out without leading to an interest rate increase of 5 percentage points.

The term “the effective interest rate” is amended to “the interest rate” in subsections (3) and (4). This is a revision of the wording to illustrate which parts of the interest rate are constituted by surcharge.

A new subsection (6) is to be added. The provision exempts foreign mortgage-credit loans, defined as mortgage-credit loans secured on real property located outside Denmark, from the regulations governing interest-rate triggers. The exemption of foreign loans is based on the fact that it is not deemed expedient to have a rule governing an interest-rate trigger that could potentially not be fully enforced in other legal systems.

After this, the current subsection (6) becomes subsection (7). In subsection (7), “and modification, cf. § 32” is amended to “cf. § 32”. This is a clarification of the wording.

Remarks on no. 2

In § 6, “14 months at issuance” is amended to “up to and including 12 months at the refinancing of the loan”. The amendment aims to provide mortgage-credit institutions with the requisite flexibility for the sale of bonds for refinancing and to ensure that the refinancing of the shortest variable-rate mortgage loans is covered regardless of the date on which the bonds were issued. The term “at the refinancing of the loan” is defined as the date of maturity, i.e. the date on which the financing of the loan changes from the maturing bond to the newly issued bonds. The term “followed by a new issue” is amended to “replaced by new bonds”. This involves a revision of the wording to clarify that this does not necessarily involve the new issuance of bonds, but that it can also involve sale from a bond series that is already open or the reuse of bonds. The term “interest rate set at the issuance of the bond” is to be amended to “interest rate set at the time of the last refinancing”. This is a revision of the wording to clarify the date on which the interest rate is set, as a consequential change resulting from the fact that the statutory provisions no longer use the term “issuance of the bond” but “refinancing of the loan” instead. The term “the effective interest rate” is amended to “the interest rate” in subsections (3) and (4). This is a revision of the wording to illustrate which parts of the interest rate are constituted by surcharge.

For practical and administrative reasons, it is possible that the interest rate could increase by more than 5 percentage points. However, the institution must organise its sale of bonds so that any overrun can only affect a limited segment of the bonds issued to replace the bonds maturing. The institution may only carry out an auction or similar if, immediately prior to the auction, it has a legitimate expectation that the sale at the auction can be carried out without leading to an increase of the interest rate by more than 5 percentage points. If an auction or similar leads to an interest rate increase of more than 5 percentage points, the institution shall stop the sale and may not resume the sale until the institution legitimately expects that the sale can be carried out without leading to an interest rate increase of 5 percentage points.

In subsection (2), “from 14 months and up to” is to be amended to “more than 12 months and up to”. The reason for the amendment is to correct subsection (2) to be consistent with the amendment of subsection (1). In addition, “up to 37 months” is to be amended to “up to and including 24 months”. This means that an interest-rate trigger applies only to the shortest variable-rate loans. At the same time, the provision introduces a prohibition against banks issuing covered bonds with a term of 24 months and less, cf. the § 2(2) of the bill. This ensures uniform terms of competition for banks and mortgage-credit institutions. Finally, “a corresponding bond at its issuance 11 to 14 months previously” is to be amended to “a corresponding bond with the same residual maturity 11 to 14 months previously”. This ensures that in the 11 to 14 months prior to refinancing, the effective bond yield for a corresponding bond with a residual maturity with the same refinancing interval triggered by a specific loan interest-rate will be observed.

Subsection (3) is to be amended so that subsection (3) covers only mortgage-credit loans where the term of the loan is longer than the term of the underlying mortgage-credit bonds, covered mortgage-credit bonds or covered bonds, and the underlying bonds are floating-rate bonds with a term of up to and including 24 months at the refinancing of the loan. Subsection (3) is also amended so that, if on the date of setting the interest rate the interest rate turns out to be more than 5 percentage points higher than the last set interest rate, the fixing of the interest rate means that the interest rate must remain unchanged for 12 months or up until the next refinancing, unless a lower interest rate is set within the 12 months or before the next refinancing. Subsection (3) is also amended so that the previous bonds are to be extended for 12 months if the interest rate, at the time of the refinancing, turns out to be more than 5 percentage points higher than the last interest rate set for the bonds concerned. This mechanism will not be applied when new bonds have to be issued to replace the extended bonds after 12 months.

In subsection (5), the phrase “where the underlying bonds at the refinancing have a term of more than 14 months” is to be amended to “where the underlying bonds at the refinancing have a term of more than 12 months”. The reason for the amendment is to correct subsection (2) to be consistent with the amendment of subsection (1).

Subsection 7 is to be changed so that the interest rate based on an extension of bonds for financing loans with refinancing at intervals greater than every 24 months is to be set at the effective interest-rate for a bond with a residual maturity of 11 to 14 months set 11 to 14 months previously, with the addition of 5 percentage points. The aim of the amendment is to prevent mortgage-credit institutions from issuing an excessive number of bond series, which could impair the liquidity of the bond series.

Subsection (8) concerning the setting of the interest rate for extended bonds is to be revised to be consistent with the amendment of subsection (3). This means that if the interest rate at the time of refinancing turns out to be more than 5 percentage points higher than the last interest rate set, the term of the underlying bonds will be extended by 12 months. The interest rate is to be set by extending the bonds at the last interest rate set with the addition of 5 percentage points. The interest rate must remain unchanged during the 12 months of the extension.

A new subsection (11) is to be added. The provision exempts foreign mortgage-credit loans, defined as mortgage-credit loans secured on real property located outside Denmark, from the regulations governing interest-rate triggers. The exemption of foreign loans is based on the fact that it is not deemed expedient to have a rule governing an interest-rate trigger that could possibly not be fully enforced in other legal systems.

After this, the current subsection (11) becomes subsection (12). In subsection (11), “and modification, cf. § 32” is amended to “cf. § 32”. This is a clarification of the wording.

Remarks on no. 3

In § 15a, “the extension” is to be amended to “the extension period” and “raises” is to be amended to “raises or has raised”. This is a clarification of the wording.

The reference to § 32 is deleted. The reason for this is that a new subsection (7) has been added to § 32 to deal with the extension of bonds in a bankruptcy situation.

Remarks on no. 4

Pronouncement of a bankruptcy order or entering into reorganisation does not *per se* mean the bonds are to be extended. Thus, the provision is amended so that bonds are extended by 12 months at a time in instances where a bankruptcy trustee or reorganiser assesses that he would not be able to fulfil his obligations vis-à-vis all the existing bond investors, if refinancing bonds are issued or if there is an insufficient number of buyers for the bonds. Thus, the bonds are not changed into fixed-rate bonds with the same maturity as the underlying loans. The bankruptcy trustee or reorganiser sets the interest rate for the extended bonds at a floating reference rate, with the addition of up to 5 percentage points. This can continue for the entire residual maturity of the loan. The bankruptcy trustee or reorganiser may redeem the bonds at face value. The reason for the amendment is to adapt the rules proposed for a bankruptcy situation in relation to covered bonds issued by banks.

A new subsection (7) is to be added. The provision describes the handling of supplementary collateral in events where mortgage-credit bonds, covered mortgage-credit bonds, covered bonds, or refinancing bonds are extended in a bankruptcy situation.

The penalty provision is deleted. The adapted bill no longer stipulates specific rules that must be complied with by the mortgage-credit institutions, but instead stipulates rules that directly apply to mortgage-credit bonds, covered mortgage-credit bonds and covered bonds, as well as mortgage-credit loans.

Remarks on Part 2

Remarks on no. 5

In subsection (5), the phrase “after the entry into force of the act” is amended to “1 April 2014”. This is a clarification of the wording.

In subsection (6), “modified” is amended to “extended”. This is a clarification of the wording.

In subsection (7), “at least” is amended to “more than”. The purpose of this amendment is to ensure identical terms of competition for banks and mortgage-credit institutions, cf. the remarks above on § 1(2).

Remarks on no. 6

This is amendment is made as a result of the authorisation of the Minister for Business and Growth to lay down detailed regulations governing the extension of bonds, including the setting of interest rates, being inserted in § 152b(9).

Remarks on Part 3

Remarks on no. 7

In subsection (1), the date of entry into force for the part of the law that enters into force in 2014 is postponed by one day so that the date of entry into force does not impede the carrying out of refinancing loans at 1 April 2014.

Remarks on no. 8

This is a technical legislative adjustment.

Remarks on no. 9

The amendment delays the date of entry into force of the provisions concerning covered bonds issued by banks. The reason for the amendment is to ensure that it is possible for banks to revise prospectuses, loan terms, etc., before the entry into force of the act. The date of entry into force for the prohibition against the issuance of covered bonds with a term of up to and including 24 months is retained, as there are no considerations in respect of the revision of prospectuses, loan terms, etc., in this context.