Bill

for

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)

§ 1

The following amendments shall be made to the Mortgage-Credit Loans and Mortgage-Credit Bonds, etc., Act, cf. Consolidating Act no. 1261 of 15 November 2012, as amended by, *inter alia*, § 31 of Act no. 718 of 25 June 2010, § 17 of Act no. 1556 of 21 December 2010, and most recently by § 9 of Act no. 1287 of 19 December 2012:

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 14 months at issuance, it shall apply to bonds which at maturity shall be followed by a new issue to refinance the loan that, if the effective interest rate for the refinancing of the loan is more than 5 percentage points higher than the effective interest rate for the issuance of the bond, 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 in 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 up to a 14-month term at issuance or have been extended pursuant to subsection (1), it shall apply to bonds which at maturity shall be followed by a new issuance 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 is to be extended by 12 months at a time until refinancing can be carried out with a sufficient number of buyers for all the new bonds required.
Subsection (3). The effective interest rate for bonds extended in accordance with subsection (1) or (2) is to be set at the effective interest rate for the issuance of the bonds, 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 effective 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 14 months at issuance, the effective 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 equal the effective interest rate set pursuant to subsection (3).

Subsection (5). Extension pursuant to subsection (1) or (2) does not remove the right of the borrowers in 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). The Minister for Business and Growth shall lay down the specific rules for the extension of bonds covered by subsections (1) and (2), and modification, cf. § 32."

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 14 months at issuance, it shall apply to bonds which at maturity shall be followed by a new issue to refinance the loan that, if the effective interest rate for the refinancing of the loan is more than 5 percentage points higher than the effective interest rate for the issuance of the bond, 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 in 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 from 14 months up to 37 months at issuance, it shall apply to bonds which at maturity shall be followed by a new issuance to refinance the loan that, if the effective interest rate for refinancing of the loan is more than 5 percentage points higher than the effective interest rate for a corresponding bond at its issuance 11–14 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 in this subsection does not apply for 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 37 months, 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. If the interest rate ceiling takes effect, the fixed interest rate shall remain unchanged for a minimum of 12 months, unless a lower interest rate is set within these 12 months. At the first setting of the interest rate subsequent to the expiry of the minimum of 12 months, no restriction shall apply to the fixed interest rate.
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 followed by a new issuance to refinance the loan that, if there is an insufficient number of buyers for all of 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 a sufficient number of buyers for all of the new bonds required.
Subsection (5). Subsections (2) 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 have a term of more than 14 months, an attempt will be made to refinance the loan with shorter-term bonds prior to the extension pursuant to subsection (2) or (4).
Subsection (6). The effective interest rate for fixed-rate bonds with a term of up to 14 months at issuance, and which have been extended pursuant to subsection (1) or (4), shall be set at the interest rate in effect at the issuance of the bonds, 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 effective interest rate fixed pursuant to the first sentence in this subsection shall continue to apply.
Subsection (7). The effective interest rate for fixed-rate bonds with a term of more than 14 months at issuance, and which have been extended pursuant to subsection (2) or (4), is to be set at the interest rate for a corresponding bond at its issuance 11–14 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 effective interest rate fixed pursuant to the first sentence in this subsection shall continue to apply.
Subsection (8). The effective interest rate for floating-rate bonds extended pursuant to subsection (4) is to be set at the most recently set interest rate, 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 effective interest rate fixed pursuant to the first sentence in 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 effective interest rate to be paid by the borrower in situations where the term of the bonds has been extended pursuant to subsections (1), (2) and (4) shall correspond to the effective interest rate set pursuant to subsections (6)–(8).
Subsection (10). Extension pursuant to subsections (1), (2) and (4) does not take away the right of the borrowers in 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). The Minister for Business and Growth shall lay down detailed regulations for the extension of bonds covered by subsections (1), (2) and (4), and modification, cf. § 32."

3. After § 15, the following shall be inserted before the heading for § 16:

"**§ 15 a.** If bonds are extended or modified because it has been ascertained at the refinancing that there is an insufficient number of buyers for all of the new bonds required, cf. § 6 and § 32(6), the term of the loan obtained as extra collateral pursuant to § 15, which reaches ordinary maturity during the extension period and which is linked to the bonds being extended or renewed, shall be extended or modified to correspond to the term of the extended or modified bonds concerned.
Subsection (2). If the institution obtains new loans to replace in whole or in part the loans specified in subsection (1), the loans specified in subsection (1) may, however, be wholly or partly redeemed when they reach ordinary maturity.

4. The following shall be inserted in *§ 32* as *subsection (6)*:
"*Subsection (6).* § 6 shall apply correspondingly during reorganisation or bankruptcy proceedings. In this event, however, the bonds concerned shall be changed into fixed-rate convertible bonds that are amortised to correspond to the amortisation of the underlying loans."

5. The following shall be inserted in *§ 39(2)*, after "§ 2(2), first sentence,": "§ 6(1) and (2),".

6. The following shall be inserted in *§ 39(2)*, after "§ 2(2), first sentence,": "§ 6(1)–(4),".

§ 2

The following amendments shall be implemented in the Financial Business Act, cf. Consolidating Act no. 948 of 2 July 2013, as amended by, *inter alia*, § 1 of Act no. 1287 of 19 December 2012, § 1 of Act no. 615 of 12 June 2013, § 2 of Act no. 617 of 12 June 2013, and most recently by § 25 of Act no. 639 of 12 June 2013:

1. The following shall be inserted in *§ 16c* as *subsection (2)*:

"*Subsection (2).* The loan conditions shall specifically state that the lending institution may raise the interest rates as a result of changed funding conditions, cf. § 152b(4) and § 6 of the Mortgage-Credit Loans and Mortgage-Credit Bonds, etc. Act.

2. The following shall be inserted in *§ 152b* as *subsections (4)–(8)*:

"*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, the stipulations for the bonds, the prospectus or other contract documents shall state 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 interest rate, with the addition of up to 5 percentage points. The stipulations for the bonds, the prospectus or other contract document shall also state that the administrator may redeem the bonds at face value.
Subsection (5). For loan agreements entered into after the coming into force of the Act, the loan conditions shall specifically state that the administrator may increase the interest rate as a result of changed funding conditions, cf. subsection (4).
Subsection (6). If covered bonds are modified pursuant to subsection (4), the term of a loan raised as additional collateral pursuant to § 152b(1), shall be extended to correspond to the term of the modified bonds.
Subsection (7). The term of covered bonds shall be at least 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 which are used as collateral for covered bonds in countries in the European Union or in countries where the transnational activities are exercised, where the mortgage is situated and with which the European Union has entered into an agreement in the financial area."

3. The following shall be inserted in *§ 152h* as *no. 8*:
"8) extension of bonds pursuant to § 152b(4), including as this concerns the fixing of interest-rates."

4. The following shall be inserted in *§ 247h* as *subsection (4)*:
"*Subsection (4).* If the administrator assesses that the options in subsections (1)–(3) are not adequate, and it is not possible to repay the owners of covered bonds fully and in a timely manner, the administrator may postpone the maturation date of the covered bonds pursuant to § 152b(4)–(6)."

5. In *§ 373(2), first sentence*, the following shall be inserted after "§ 152a(1), first sentence": "§ 152b(4)–(7),".

§ 3

Subsection (1). This Act shall enter into force on 31 March 2014, cf. however subsections (2)–(5).
Subsection (2). § 1, 2nd and 6th clause, shall enter into force on 1 January 2015. § 1, 1st and 5th clause, are repealed at the same time.
Subsection (3). § 1, 3rd clause, and § 2, 1st clause, shall apply to loans obtained after this Act enters into force.
Subsection (4). For existing loans this Act shall apply at the next refinancing after the Act enters into force.
Subsection (5). For bonds issued for the financing of real property located outside Denmark, this Act shall only apply to bonds for the financing of a loan obtained after the Act enters into force.

§ 4

Subsection (1). This Act shall not extend to the Faroe Islands and Greenland, cf. however subsections (2) and (3).
Subsection (2). All or any of the provisions of the Act may be brought into force by Royal Decree in Greenland subject to any variations in their operation necessitated by specific conditions prevailing in Greenland.
Subsection (3). § 2 may be brought into force by Royal Decree in the Faroe Islands subject to any variations in their operation necessitated by specific conditions prevailing in the Faroe Islands.

Explanatory memorandum

General remarks

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1. Introduction

Mortgage-credit bonds, covered mortgage-credit bonds and covered bonds are secured securities which serve an important function in the financial system. Therefore, it is essential that the bonds retain their secured status.

Loans granted by mortgage-credit institutions based on the issuance of either fixed-rate or floating-rate bonds where the term of the loan is longer than the underlying bonds, and which for this reason require ongoing adjustment of the interest-rate, are called adjustable-rate loans.

The adjustable-rate mortgage loans were introduced by mortgage-credit institutions in 1996 and have been particularly popular in recent years, presumably due to the fact that short-term interest rates have been markedly lower than long-term interest rates. This has created cheap mortgage-credit financing for borrowers who borrow against real property. For investors, short-term bonds are an important instrument for liquidity management, especially for banks.

Adjustable-rate mortgage loans are characterised by having a typical term of 30 years and by being financed by the issuance of shorter fixed-rate bonds with a term of up to 10 years. The interest rate is therefore set for one period at a time and changes at the next refinancing. The bonds can also have a floating interest rate where the interest rate is fixed on the basis of a reference interest rate, e.g. CITA (Copenhagen Interbank Tomorrow/Next Average), with an additional percentage and where the term of the underlying bond is shorter than the loan. The decisive factor, however, is whether the term of the loan is longer than the term of the bond and requires the refinancing to take place on an ongoing basis.

When the bonds mature, they are redeemed by the institution, and the institution issues new bonds to replace the redeemed bonds. The effective interest rate for the borrower for the next interest-rate period depends on the price/interest rate at which the new bonds can be sold.

As at 30 June 2013, there were mortgage-credit loans totalling DKK 2,587 bn, of which adjustable-rate mortgage loans accounted for DKK 1,402 bn, fixed-rate mortgage loans accounted for DKK 633 bn and mortgage loans with market-based interest rates accounted for DKK 481 bn.

The ongoing refinancing of the loans by bond auctions entails a risk that it will not be possible to sell a sufficient volume of new bonds on the refinancing date. This risk could arise from market fluctuations or because a specific institution has specific problems. In recent years, rating agencies have intensified their focus on this refinancing risk and have demanded that the institutions mitigate this.

If refinancing were to fail wholly or partly, it would have major consequences for the mortgage-credit institution, for the borrowers, for the bond investor and for society in general. A failed auction would generate widespread uncertainty concerning the position of investors and borrowers, and would create general uncertainty about Denmark’s mortgage-credit model. This could affect financial stability as the mortgage-credit institutions constitute an important part of Denmark’s financial sector and contribute to the financing of major segments of the national economy.

Based on the above, in September 2013 the Ministry of Business and Growth appointed a taskforce – comprising representatives from the Ministry of Business and Growth, Danmarks Nationalbank, the Danish FSA, the Ministry of Finance, the Ministry of Economic Affairs and the Interior, and the Prime Minister’s Office – charged with identifying potential risks in relation to mortgage-credit borrowing in general and with identifying possible solutions. It was ascertained that a tangible risk of mortgage-credit funding lies in the widespread use of adjustable-rate mortgage loans, and in the possibility that problems could arise when it comes to ensuring that all loans can be refinanced as intended at the time of issuing the loans.

Therefore, it is deemed necessary to explicitly regulate the situation where a refinancing auction fails or where an auction brings about a steep rise in interest rates for borrowers. The Bill amends the regulations for the issue of bonds to be used in the ongoing refinancing of mortgage-credit loans where the term of the loan is longer than the term of the underlying bonds financing the loan. The Bill mitigates the risks to mortgage-credit institutions inherent in refinancing.

The Bill implements a compulsory term extension for bonds underlying loans that are not pre-financed, if the interest rate increases by more than 5 percentage points at a refinancing auction for fixed-rate bonds with a term of up to 37 months, or if the auction fails for all types of bonds underlying loans that are not pre-financed. When the extension is triggered, the outstanding bonds are extended by one year. The bonds can be extended for one year at a time. If a mortgage-credit institution is being wound up, the bonds are to be converted into bonds with a term equivalent to the term of the underlying loan.

The Bill implements a ceiling of 5 percentage points for the amount by which the effective interest rate may increase within one year. The ceiling applies to all loans where the term of the underlying bond is less than 37 months at issuance. The interest-rate ceiling constitutes a clear-cut and known trigger for term extension. The interest-rate ceiling protects borrowers against steep, sudden rises in interest rates. At the same time, this mitigates the institution's loss risk, i.e. the possibility of borrowers' interest-rate risk returning to the institution as a credit risk. In addition, the interest-rate ceiling makes it possible for investors to set the price for enabling the term of the bond to be extended. The interest-rate ceiling is set at 5 percentage points based on the objective that the interest-rate ceiling will only be triggered in situations which, although rare, can have enormous consequences. Interest-rate increases of this dimension have only occurred on a few occasions over the past 150 years.

The refinancing risk also exists when banks grant loans financed by the issuance of covered bonds. For banks, however, the refinancing risk will arise in a situation where the bank has had its licence revoked or where the bank is declared bankrupt. For this reason, the Bill also adjusts the Financial Business Act to extend comparable conditions to banks and mortgage-credit institutions which grant loans with collateral in registered mortgages on real property located in Denmark, regardless of whether these are financed by mortgage-credit bonds, covered mortgage-credit bonds or covered bonds. In addition, the Bill implements a requirement that banks may not issue covered bonds with a term of less than 2 years. This aims to ensure that there will not be a distortion of competition in the Danish market between various types of credit institutions.

The aim of the bill is to put mortgage-credit institutions and banks which fund their lending with mortgage-credit bonds, covered mortgage-credit bonds or covered bonds, with real property as collateral, on an equal footing to the greatest extent possible as regards the regulations governing extension in the event of failed refinancing. Thus, the Bill does not aim to change the competitive relationship between mortgage-credit institutions and banks.

The issuance of ship mortgage bonds is not covered by the Bill. This is based on an assessment of whether there is a basis for imposing similar demands on a ship financing institution, which is deemed not to be the case.

The Bill increases the certainty that investors will receive timely payment of their loans, as the refinancing risk is mitigated, and there will also be greater clarity concerning the position of investors in the event that a refinancing auction fails. Furthermore, it is crucial for Denmark's economy to uphold a broad, liquid mortgage-credit bond market so that Danish homeowners can finance their homes on conditions similar to those in force today. Greater transparency and clarity for investors can help to ensure this.

The Bill will also benefit mortgage-credit institutions as they have the assurance that their refinancing risks are mitigated. In addition, the Bill ensures that mortgage-credit institutions can be wound up under the existing liquidation scheme.

As mentioned, the Bill will give borrowers who finance their loans via bonds with a term of up to 37 months lending security by introduced a ceiling for the amount by which the effective interest rate may rise within one year. Borrowers will also benefit from having a more reliable mortgage-credit system, and the Bill will also contribute to maintaining the flexibility of institutions' product ranges for the benefit of borrowers.

Finally, the Bill contributes to supporting financial stability, as it provides certainty concerning how a failed refinancing auction should be handled, and how mortgage-credit institutions with adjustable-rate mortgage loans can be wound up. In addition, the Bill helps to address the demands of rating agencies and others that the refinancing risk should be mitigated for the benefit of the institutions' ratings. This will also benefit financial stability.

Based on the above, it is crucial that the amendments quickly become generally accepted in the market to create a market standard to which all institutions must adhere. Therefore, the amendment will extend to both new loan agreements and existing loan agreements when loans have to be refinanced.

With the existing interest-rate level, the statutory requirement is expected to result in a slight interest-rate increase for borrowers in the amount of approximately 0.1 percentage point for a one-year adjustable-rate mortgage loan. The effect is expected to be less for loans with longer financing. On the other hand, all loans where the term of the underlying bond is less than 37 months at issuance will be secured against steep rises in interest rates in the future. Therefore the change is expected to be implemented without imposing significant costs on borrowers. When the refinancing risk for adjustable-rate mortgage loans is removed from mortgage-credit institutions via the requirement for compulsory term extension, it should be expected that, all other factors being equal, the institutions will reduce the differentiation of contribution rates and markdowns based on whether an adjustable-rate or a fixed-rate mortgage loan is involved. For instance, there are institutions which have raised their contribution rates and markdowns to mitigate the refinancing risk in recent years.

The Bill does not aim to affect the competition relationship between banks and mortgage-credit institutions. The Government will closely monitor housing-loan trends, including the relationship between bank loans and mortgage-credit loans. The Government will take the initiative to create greater transparency concerning the costs of home loans in banks and mortgage-credit institutions with a view to strengthening the competition and making it easier for consumers to find the most advantageous housing loan.

The Bill does not mean that new agreements have to be concluded with borrowers whose existing loans must be refinanced by bonds with conditions stipulating compulsory term extension. Thus, amending the conditions does not change the loan's principal, repayment profile or term but solely concerns the underlying bonds and interest-rate conditions.

Given the fact that the Act directly stipulates a condition to be in effect for compulsory term extension for all future bond issuances to finance adjustable-rate mortgage loans, there will be no need to register this type of term modification. Such a change will have to be respected, also by any subordinated mortgagees.

The regulations proposed for amended general stipulations for bonds relating to refinancing will generally be compensation-free regulation. It is possible, however, that the regulations proposed could affect a borrower who, prior to the entering into force of the Act, had obtained an adjustable-rate mortgage loan of such economic intensity and atypical harshness that the effect would be tantamount to expropriation vis-à-vis the borrower concerned. This will depend on a specific assessment of whether expropriation, as defined in Article 73 of the Danish Constitution, exists in individual instances. The issue of the right to compensation pursuant to Article 73 of the Danish Constitution belongs to the courts.

2. Contents of the Bill

2.1. Provision for the issuance of bonds with a term shorter than the term of the loans financed by the bonds

2.1.1. Current law
At present, it is possible to issue mortgage-credit bonds, covered mortgage-credit bonds and covered bonds which do not have at least the same term as the underlying loans. The loans have to be refinanced on an ongoing basis by issuing new bonds to cover the bonds that mature. There is no regulation to govern how institutions should behave if they are unable to carry out the refinancing or what should take place vis-à-vis borrowers if the interest rate increases disproportionately.

2.1.2. Basis of the Bill
To reduce uncertainty in a situation where a refinancing process cannot be carried out wholly or partly, either as a result of institutional or market-related conditions, the Mortgage-Credit Loans and Mortgage-Credit Bonds, etc. Act is amended so that the Act specifies the conditions for borrowers and holders of mortgage-credit bonds, covered mortgage-credit bonds or covered bonds, in the event that a refinancing fails or if a disproportionately steep rise in the interest rate occurs.

In order to facilitate refinancing a loan when the bonds mature even during bankruptcy proceedings, the Mortgage-Credit Loans and Mortgage-Credit Bonds, etc. Act was amended in 2010, to the effect that if a mortgage-credit institution is declared bankrupt, there is now a specific legal basis for an administrator of the estate in bankruptcy to issue, on certain conditions, refinancing bonds to replace maturing bonds. It is doubtful whether there will be a sufficient number of investors for such bonds during bankruptcy proceedings, however.

If a mortgage-credit institution enters into bankruptcy, and there is an insufficient number of investors interested in the refinancing bonds, this amendment of the Act will ensure and establish the subsequent options for holders of mortgage-credit bonds, covered mortgage-credit bonds or covered bonds and for borrowers.

2.1.3. Contents of the Bill

The Bill means that a new provision is to be implemented in the Mortgage-Credit Loans and Mortgage-Credit Bonds, etc. Act to regulate future bond issuances where the term of the loan is longer than the term of the underlying bonds financing the loan.

With the Bill, a compulsory term extension is introduced for bonds which are not pre-financed, if the interest rate increases by more than 5 percentage points at a refinancing auction for fixed-rate bonds with a term of up to 37 months, or if the auction fails for all types of bonds that are not pre-financed. When the extension is triggered, the outstanding bonds are extended by one year. The bonds can be extended for one year at a time. If the mortgage-credit institution is being wound up, the bonds are to be changed into bonds with a term equivalent to the term of the underlying loan. The new regulations will also apply if the loan has been jointly financed via another bond-issuing institution.

A legal-basis provision is implemented into the Mortgage-Credit Loans and Mortgage-Credit Bonds Act whereby the Minister for Business and Growth shall lay down detailed regulations governing the implementation of changes to bonds.

2.2. Change in penalty provisions

2.2.1. Current law

At present, sanctions are established in the form of a penalty for the violation of provisions governing the issue of bonds and compliance with the conditions for these in the Mortgage-Credit Loans and Mortgage-Credit Bonds, etc. Act and in the Financial Business Act.

2.2.2. Basis of the Bill

Mortgage-credit bonds, covered mortgage-credit bonds or covered bonds perform a significant function for society in general and in the financial sector in particular, and it is therefore important that a violation of fundamental conditions for bond issue is subject to sanctions by law.

2.2.3. Contents of the Bill

To ensure uniform regulation, the Bill establishes that the violation of these new provisions concerning the conditions for the issue of mortgage-credit bonds, covered mortgage-credit bonds or covered bonds is subject to sanction by a penalty.

2.3. Provision concerning banks' covered bonds

2.3.1. Current law

Banks may issue covered bonds if they are licensed to this effect. The Financial Business Act establishes the options for the redemption of covered bonds if the bank's licence is revoked or the bank is declared bankrupt.

It is possible for banks and mortgage-credit institutions to finance lending by issuing bonds. Banks do not have the same relationship between loan agreements and bonds as is common for mortgage-credit institutions. Accordingly, banks cannot change a borrower's interest rate in the same way concurrent with changes to the institution's financing expenses. Therefore, it is not relevant to impose the same demands on banks and mortgage-credit institutions in conjunction with the ongoing refinancing of loans.

2.3.2. Basis of the Bill

A situation in which a bank does not have the possibility of full, timely payment to the holders of covered bonds to redeem the bonds will primarily arise in a scenario where the institution has had its licence revoked or has been declared bankrupt and for this reason there is a need to draw up regulations to handle this situation. To mitigate the emergence on the Danish market of a distortion of competition in this situation, the Financial Business Act is amended so that the conditions for covered bonds issued by banks are given conditions comparable to those for mortgage-credit bonds, covered mortgage-credit bonds and covered bonds issued by mortgage-credit institutions. In addition, the Bill implements a requirement that banks may not issue covered bonds with a term of less than 2 years. This is intended to prevent a distortion of competition between the various types of credit institutions without otherwise aiming to standardise the mortgage-credit institutions and banks, however.

2.3.3. Contents of the Bill

A provision is inserted in the Financial Business Act according to which conditions are to be implemented for covered bonds to handle the repayment of holders of covered bonds to redeem the bonds in a situation where an institution has had its licence revoked or has been declared bankrupt.

A legal-basis provision is inserted in the Financial Business Act according to which the Danish FSA shall lay down detailed regulations for the extension of bonds, including interest-rate fixing.

3. Financial and administrative consequences for the public sector

The Bill means that a number of technical conditions shall be regulated in more detail through one or more executive orders. This involves an administrative expenditure for the Minister for Business and Growth to draw up these regulations.

4. Financial and administrative consequences for the business community, etc.

The Bill handles significant risks in the financial system and provides certainty for the institutions concerning conditions in the event of disproportionately steep rises in interest rates or an insufficient number of buyers of bonds for refinancing. This is a significant financial advantage for the institutions.

The Bill establishes that undertakings which issue loans based on mortgage-credit bonds, covered mortgage-credit bonds or covered bonds shall enter new conditions into future issuances of bonds to be used in situations with insufficient refinancing. In this situation, the undertakings will experience a number of conversion costs. As it will be possible for these conditions to be incorporated according to a standard electronic form, there do not seem to be any administrative burdens associated with this requirement.

Moreover, the businesses will have to adapt their internal procedures and processes to comply with the new regulations. These adjustments are also expected to bring about a number of conversion costs.

5. Administrative consequences for citizens
The Bill has no administrative consequences for citizens.

6. Environmental consequences
The Bill has no environmental consequences.

7. Relation to Community Law
The Bill does not include aspects relating to Community Law.

8. Undertakings, organisations, etc., consulted
A draft of the bill has been issued for consultation to the following authorities and organisations:

The Danish Bar and Law Society, the Economic Council of the Labour Movement, ATP (labour market supplementary pension scheme), the Danish Securities Dealers Association, Danish Venture Capital and Private Equity Association, Danmarks Nationalbank, Danish Shipowners' Association, Danish Ship Finance A/S, Dansk Aktionærforening (Danish shareholders association), Danish Employers Association, Danish Construction Association, Assocation of Danish Law Firms, Danish Maritime, Regional Governments of Denmark, Danish Chamber of Commerce, Confederation of Danish Industry, Danish Investor Relations Society (DIRF), Danish Metalworkers' Union, Data Protection Agency, Den Danske Aktuarforening (Danish actuary association), CFA Society Denmark (Den Danske Finansanalytikerforening), Den danske Fondsmæglerforening (Danish stockbrokers' association), Danish Property Federation, the Financial Services Union, Finanshuset i Fredensborg A/S, Finansiel Stabilitet A/S, Finance and Leasing, the Association of Danish Finance Houses, the Danish Bankers Association, Employers' Association for the Financial Sector, Consumer Ombudsman, Danish Consumer Council, the Institute of Internal Auditors – Denmark, Association of J.A.K. Banks, Danish Insurance Association, FSR – Danish Auditors, Garantifonden for indskydere og investorer (guarantee fund for investors), Danish Federation of Small and Medium-Sized Enterprises, Federation of Danish Investment Associations, KommuneKredit, Local Government Denmark, Danish Agriculture and Food Council, Association of Local Banks in Denmark, Lønmodtagernes Dyrtidsfond (LD), Parcelhusejernes Landsforening (association of Danish homeowners), Realkreditforeningen (association of Danish mortgage-credit institutions), Association of Danish Mortgage Banks, Danish Regional Bankers' Association, Home Rule of the Faroe Islands, Government of Greenland, Ministry of Employment, Ministry of Finance, Ministry of Defence, Ministry of Justice, Ministry of Climate, Energy and Building, Ministry of Culture, Ministry of Environment, Ministry of Housing, Urban and Rural Affairs**,** Ministry of Science, Innovation and Higher Education, Ministry of Food, Agriculture and Fisheries, Ministry of Health and Prevention, Ministry of Taxation, Ministry of Social Affairs, Children and Integration, Prime Minister's Office, Ministry of Transport, Ministry of Foreign Affairs, Ministry of Economic Affairs and the Interior, Danish Competition and Consumer Authority, Danish Business Agency, Danish Maritime Agency and Rigsrevisionen (independent government auditors).

9. Schematic summary

Assessment of the consequences of the Bill

	Positive consequences/minor expenses (if yes, indicate the scope)	Negative consequences/added expenses (if yes, indicate the scope)
Financial consequences for the state, municipalities and regions	None	A series of technical circumstances require further regulation through one or more executive orders, which involves a minor administrative expenditure for drawing up these regulations
Administrative consequences for the state, municipalities and regions	None	None
Financial consequences for the business community	The Bill mitigates significant risks in the financial system and provides certainty for the institutions concerning conditions in the event of disproportionately steep rises in interest rates or an insufficient number of buyers of bonds for refinancing. This is a significant financial advantage for the institutions.	None
Administrative consequences for the business community	None	The undertakings affected will experience a number of conversion costs that will be able to be incorporated, however, according to a standard electronic form and for this reason there do not seem to be any ongoing administrative burdens associated with this requirement. Moreover, the undertakings will have to adapt their internal procedures and processes to comply with the new regulations. These adjustments are also expected to bring about a number of minor conversion costs.

Environmental consequences	None	None
Administrative consequences for citizens	None	None
Relationship to Community Law	The Bill includes no aspects relating to Community Law.	

Remarks on the individual provisions of the Bill

Remarks on § 1

Remarks on no. 1
This provision shall enter into force on 31 March 2014 and remains in force until 31 December 2014, after which it will be replaced by the provision below in § 2.

The provision applies solely in situations where 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 where the loan is based on a fixed rate of interest and where refinancing must take place at no more than 14 month intervals.

The provision solely concerns future bond issuances. Bonds issued at the entry into force of the Act are therefore not affected by the amendment. This means that loan offers given before the Act enters into force, but for which bonds have not yet been issued, are also covered by the amendment. Loan offers given before the Act enters into force and for which bonds have been issued (e.g. by fixed-rate hedging), are not covered by the amendment.

Floating-rate bonds are not covered by the provision.

The extension specified in subsections (1) and (2) covers bonds with conditions that specify that they can be extended pursuant to the provision, and bonds with conditions that specify that they have been extended pursuant to the provision. The latter will be the case if an institution chooses to exchange bonds that are extended pursuant to section 6(1).

The Bill does not mean that new agreements have to be concluded with borrowers whose existing loans must be refinanced with bonds under conditions for compulsory term extension. Subsequent modification of the parties' agreement concerning interest-rate conditions for the loan is a direct consequence of the Act. The amendment does not affect the loan's principal, repayment profile or term. Thus, the amendment of the conditions solely concerns the underlying bonds and the interest-rate conditions.

In relation to the fact that the Act directly stipulates that a condition will be in effect for compulsory term extension for all future bond issues to finance adjustable-rate mortgage loans, there will be no need to register a change of conditions of this nature. Such a change will have to be respected, also by any subordinated mortgagees.

Subsection (1) states that if the effective interest rate for refinancing the loan is more than 5 percentage points higher than the effective interest rate at the issuance of the bond concerned, the bonds shall be extended by 12 months. Once these 12 months have passed and the loans are to be refinanced again, this shall take place at an interest rate which ensures that the required number of new bonds can be sold. This could cause an increase in the interest rate of more than 5 percentage points. Refinancing on this date at the same interest rate or a higher interest rate does not trigger a new extension of these bonds. Thus, an extension may solely take place once on the basis of a disproportionately steep rise in the interest rate for a bond. If this refinancing succeeds, new bonds will have been issued. If the effective interest rate at a subsequent refinancing date is more than 5 percentage points higher than the effective interest rate at the issuance of the bond concerned, a 12-month extension of these bonds will take effect.

Subsection (2) specifies that if there are not enough buyers for all the new bonds required on the refinancing date, the non-redeemed bonds are to be extended by 12 months. If there are not enough buyers for all the new bonds required, the extension may be repeated for as long as refinancing cannot take place. If at refinancing, where the loan is financed by bonds extended as a result of a disproportionately steep rise in interest rates, it is ascertained that there is an insufficient number of buyers for all of the new bonds required, the non-redeemed bonds will be extended by 12 months. Extension resulting from an insufficient number of buyers for all the new bonds required will thus take place on the same conditions, regardless of whether the bonds were extended as a result of a disproportionately steep rise in interest rates, as a result of an insufficient number of buyers or if the bonds have not been extended previously. Some of the existing bonds may not have to be replaced by new bonds at the time of refinancing of the loan, as instalments may have been paid on the loan.

Subsection (3) specifies that the effective interest rate is set both by means of an extension resulting from an interest-rate increase of 5 percentage points and, due to a failed refinancing process, at the effective interest rate at the issuance of the bonds, with the addition of 5 percentage points. For any additional term extensions resulting from the failure of the refinancing auction 12 months later, the effective interest rate at the issuance of the bonds with the addition of 5 percentage points shall continue to apply.

Subsection (4) specifies that 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 14 months at issuance, the effective 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 correspond to the effective interest rate set pursuant to subsection (3). Thus, the amendment does not change other conditions for borrowers in relation to existing loan agreements, i.e. borrowers shall pay instalments and contributions pursuant to the loan agreement.

According to subsection (5), after the extension, it will still be possible for borrowers to redeem their loan wholly or partly, whereupon the underlying bonds are cashed in.

The legal-basis provision in subsection (6) is implemented for the purpose of stipulating that the Minister for Business and Growth shall specify detailed regulations for implementation of the Act in an executive order. This includes a possible exemption for specific types of loan or the facility to subject them to specific regulation due to their special characteristics, e.g. bonds which already have a built-in interest-rate ceiling. The Minister for Business and Growth may also lay down regulations on ascertaining, for instance, that a disproportionately steep rise in the interest rate has occurred (triggering the interest-rate provision) and in respect of the specific interest-rate fixing, which could *inter alia* be in relation to a rounding off of the interest rate of the extended or modified bonds, cf. § 32. The Minister for Business and Growth shall also be able to establish regulations relating to the ascertainment that a refinancing auction has failed. It shall also be possible for the Minister for Business and Growth to establish regulations concerning the date as from which the bonds are to be extended or modified; concerning the consequences for the series from which some bonds have been extended; concerning the notification of the Danish FSA that the interest rate has increased so that the bonds shall be extended or modified; and concerning the fact that an auction could not proceed as planned, notification of borrowers and holders of bonds regarding changed amended conditions, etc.

Remarks on no. 2
The provision shall enter into force on 1 January 2015 and replaces the provision above in no. 1, which is repealed on 31 December 2014.

The provision shall apply in situations where 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.

The provision solely concerns future bond issuances. Bonds already issued when the Act enters into force are therefore not affected by the amendment. This means that loan offers given before the Act enters into force, but for which bonds have not yet been issued, are also covered by the amendment. Loan offers given before the Act enters into force and for which bonds have been issued (e.g. by fixed-rate hedging), are not covered by the amendment.

The Bill does not mean that new agreements have to be concluded with borrowers whose existing loans must be refinanced with bonds under conditions for compulsory term extension. The Act directly specifies the subsequently resulting modification of the parties' agreement concerning interest-rate conditions for the loan. The amendment does not affect the loan's principal, repayment profile or term. Thus, the amendment of the conditions solely concerns the underlying bonds and the interest-rate conditions.

Given the fact that the Act directly stipulates a condition to be in effect for compulsory term extension for all future bond issues to finance adjustable-rate mortgage loans and the interest rate at time of refinancing should be fixed according to this Act, there will be no need to register changes of this type of condition. Such a change will have to be respected, including by any subordinated mortgagees.

Subsection (1) applies solely in situations where 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 where the mortgage-credit loan is based on a fixed interest rate bond and where refinancing must take place at no more than 14-month intervals. According to the provision, the bonds are to be extended by 12 months if the effective interest rate on the date of refinancing the loan increases by more than 5 percentage points in relation to the effective interest rate at the issuance of the bond concerned.

Subsection (2) solely applies in situations where 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 where the mortgage-credit loan is based on a fixed interest rate bonds and where the term of the bonds is from 14 months up to 37 months. According to the provision, the bonds are to be extended by 12 months if the effective interest rate at the time of refinancing the loan is more than 5 percentage points higher than the effective interest rate for a corresponding bond with the same term issued 11–14 months earlier than the bond that shall be issued for the purpose of refinancing the loan.

It applies to the extension pursuant to both subsections (1) and (2) that once these 12 months have passed and the loans are to be refinanced again, this will take place at an interest rate which ensures that the required number of new bonds can be sold. This could cause an increase in the interest rate of more than 5 percentage points. Refinancing on this date at the same interest rate or at a higher interest rate does not trigger a new extension of these bonds. Thus, an extension may occur only once on the basis of a disproportionately steep rise in the interest rate for a bond. If this refinancing succeeds, new bonds will have been issued. If the effective interest rate at a subsequent refinancing date is more than 5 percentage points higher than the effective interest rate at the issuance of the bond concerned, a 12-month extension of these bonds will have to be carried out.

Subsection (3) solely applies to loans where 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 that are based on a floating interest rate and have a term of up to 37 months. The provision specifies that the interest rate at the time of fixing the interest rate cannot be more than 5 percentage points higher than the last fixing of the interest rate. If this interest-rate ceiling takes effect, the fixed interest rate shall remain unchanged for a minimum of 12 months, unless a lower interest rate is set within these 12 months. At the first setting of the interest rate subsequent to the expiry of the 12-month minimum, no restriction shall apply to the fixed interest rate.

Subsection (4) concerns situations in which 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, regardless of how often refinancing takes place and regardless of whether the bonds are fixed-rate or floating-rate bonds. The provision specifies that if there is an insufficient number of buyers for all of the new bonds required on the refinancing date, the non-redeemed bonds are to be extended by 12 months. If there is an insufficient number of buyers for all of the new bonds required, the extension may be repeated for as long as refinancing cannot take place.

If, at refinancing of bonds extended as a result of a disproportionately steep rise in the interest rate, it is ascertained that there is an insufficient number of buyers for all of the new bonds required, the non-redeemed bonds will be extended by 12 months, cf. subsection 4. Extension resulting from an insufficient number of buyers for all of the new bonds required will thus take place on the same conditions, regardless of whether the bonds were extended as a result of a disproportionately steep increase in the interest rate, cf. subsections (1) and (2), were extended due to an insufficient number of buyers, cf. subsection (4), or if the bonds have not been extended previously.

Subsection (5) specifies that, regardless of whether there is a legal basis for extending the bonds pursuant to either subsection (2) or (4), the institution may choose to have the conditions for the bonds specify that in the event of a failure to refinance a loan, where the underlying bonds have a term of more than 14 months, refinancing of the loan can be attempted based on bonds with a shorter term prior to the extension pursuant to subsection (2) or (4). It must not be possible for the effective interest rate for refinancing with bonds with a shorter term to be higher than the effective interest rate that the borrower would have obtained by extending the bonds pursuant to subsection (2) or (4).

Subsection (6) specifies that the effective interest rate for fixed-rate bonds with a term of up to 14 months at issuance and which have been extended is to be set at the interest rate in effect at the issue of the bonds, 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, the corresponding effective interest rate shall apply.

According to subsection (7), the effective interest rate for fixed-rate bonds with a term of more than 14 months at issuance and which have been extended, is to be set at the effective interest rate for a corresponding bond at its issuance 11 to 14 months previously, with the addition of 5 percentage points. For any additional term extensions resulting from the failure of the refinancing auction 12 months later, the effective interest rate pursuant to the first sentence shall continue to apply.

Subsection (8) states that for an extension resulting from a failed refinancing auction, cf. subsection (4), the effective interest rate for loans based on underlying floating-rate bonds shall be set at the most recently fixed interest rate with the addition of 5 percentage points. For any additional term extensions resulting from the failure of the refinancing auction 12 months later, the effective interest rate laid down in the first sentence shall continue to apply.

According to 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 effective interest rate to be paid by the borrower in situations where the term of the bonds has been extended pursuant to subsections (1), (2) and (4) shall correspond to the effective interest rate set pursuant to subsections (6)–(8). Also according to subsection (9), borrowers shall pay instalments and contributions pursuant to the loan agreement, in addition to the interest rate set for the extension. Thus, the amendment does not change other conditions for borrowers in relation to existing loan agreements.

According to subsection (10), it is still possible for borrowers to redeem their loan wholly or partly after the extension, whereupon the underlying bonds are cashed in.

The legal-basis provision in subsection (11) is implemented for the purpose of stipulating that the Minister for Business and Growth shall lay down detailed regulations for the implementation of the Act in an executive order. This includes that it will be possible for specific types of loan to be exempted or to be subject to specific regulation due to their special characteristics, e.g. bonds which already have a built-in interest-rate ceiling. The Minister for Business and Growth may also lay down regulations on ascertaining, for instance, that a disproportionately steep rise in the interest rate has taken place (triggering the interest-rate provision) and in respect of the specific interest-rate fixing, which could *inter alia* be in relation to a rounding off of the interest rate of the extended or modified bonds, cf. section 32. The Minister for Business and Growth shall also be able to establish regulations relating to the ascertainment that a refinancing auction has failed. It shall also be possible for the Minister for Business and Growth to lay down regulations concerning the date from which the bonds are to be extended or modified; concerning the consequences for the series from which some bonds have been not been able to be refinanced; concerning the notification of the Danish FSA that the interest rate has increased whereby the bonds shall be extended or modified; and concerning the fact that an auction could not be carried out as planned, notification of borrowers and holders of bonds regarding changed conditions, etc.

Remarks on no. 3

It applies to mortgage-credit bonds, covered mortgage-credit bonds and covered bonds that the mortgage-credit institution may raise loans to provide additional collateral. Loans raised to provide additional collateral are to be granted special preferential status in the event of an institution's bankruptcy in relation to simple creditors, subordinate loan capital and hybrid core capital, but are subordinate to claims from holders of mortgage-credit bonds, covered mortgage-credit bonds and covered bonds. Therefore, it is significant that claims which are subordinate to bond holders are not redeemed in a situation where the institution cannot refinance the loan when the bonds mature and therefore cannot cover the bond holders. Therefore, this situation shall be taken into account in the conditions for the loan agreement for providing additional collateral.

It is proposed that if bonds are extended or modified as a result of ascertaining at the time of refinancing that there is an insufficient number of buyers for all of the new bonds required, the term of a loan raised as additional collateral for the bonds which should have been replaced by new bonds is to be extended or modified to correspond to the term of the extended or modified bonds concerned. This shall not apply if the extension occurs because the effective interest rate at the time of refinancing of the loan is more than 5 percentage points higher than the nominal interest rate for the bond maturing or the most recently fixed interest rate for the bond that shall be replaced by new bonds. The regulation shall solely apply to loans which reach ordinary maturity in the period up the next successful refinancing, so that loans which mature after the end of the bonds' extension are not to be extended. During the extension period, interest is added and can be paid according to the previous interest-rate conditions. Thus, this solely involves an extension.

The provision solely concerns loans raised after the Act has entered into force to provide additional collateral, and this shall be specified in the conditions for the loan agreement. This will solely cover loans raised as additional collateral in the capital centre where refinancing has not been possible. If the institution replaces the loan to provide additional collateral with a new loan with a term that extends beyond the next refinancing auction, the loan may, however, be redeemed when it reaches ordinary maturity.

Remarks on no. 4

The winding up of an insolvent mortgage-credit institution through bankruptcy or reconstruction proceedings takes place pursuant to the provisions of Part 15 of the Financial Business Act and pursuant to the Mortgage-Credit Loans and Mortgage-Credit Bonds, etc. Act. This amendment does not modify the implementation of the insolvent liquidation but solely regulates the modification of bonds in situations where a disproportionately steep rise in interest rates has occurred at the time of refinancing bonds with a term of less than 37 months, or where there was an insufficient number of buyers for all of the new bonds required.

The pronouncement of a bankruptcy order or the entering into of reconstruction does not *per se* cause the bonds to be modified. The first time the bonds concerned are to be modified as specified in the provision is after the pronouncement of the bankruptcy order or the entering into of reconstruction where the conditions in § 6 have been met. This shall also apply in situations where the bonds have been extended before the pronouncement of the bankruptcy order or the entering into of reconstruction proceedings. The bonds modified will be included in the reconstruction or the estate in bankruptcy on an equal footing with other bonds, including in relation to payment of interest and default interest. The reason for this is that if during bankruptcy or reconstruction proceedings it turns out that refinancing could not be carried out, it is expected that this circumstance will not cease during the bankruptcy or reconstruction proceedings.

Remarks on no. 5

The penalty clause is adjusted so that violation of the new § 6(1) and (2) is subject to sanctions.

Remarks on no. 6

The penalty clause is adjusted so that violation of the new § 6(1)–(4) is subject to sanctions.

Remarks on § 2

Remarks on no. 1

The provision is implemented to ensure that banks or mortgage-credit institutions – which raise their loans against a mortgage on real property financed by another institution which issues mortgage-credit bonds, covered mortgage-credit bonds or covered bonds – stipulate in the conditions of the loan agreement that the lending institution may increase the interest rate for the loan if the financing conditions change as a result of circumstances at the bond-issuing institution. If the bond-issuing institution is a mortgage-credit institution, this will be necessitated by the fact that the interest rate for the underlying bond has been changed as a result of a failed refinancing auction or because an interest-rate increase triggered an extension of the bond. If the bond-issuing institution is a bank, this will be necessitated by the fact that an administrator chooses to extend the term of the bonds issued.

Remarks on no. 2

The provision is inserted to ensure consistent treatment of banks and mortgage-credit institutions with respect for the business models of the two different types of financial business and does not aim to otherwise standardise mortgage-credit institutions and banks, however. For banks it is only relevant to separately handle the redemption of holders of covered bonds in a situation covered by § 247a of the Financial Business Act.

The provision in subsection (4) establishes that a bank shall amend the bond stipulations, the prospectus or other contract document to specify that in instances covered by § 247a, the bonds’ term can be extended to correspond to the term of the underlying assets. The provision further establishes how the interest rate is to be fixed if the bonds are extended. As banks generally lend in return for a floating interest rate, it is deemed natural that the interest rate should continue to be floating, even after any extension. The reference interest rate to be used for extension will be described in more detail in an executive order issued by the Danish FSA.

The bank is responsible for determining whether the possibility of extending the term and the interest rate for this shall be apparent in the bond conditions, the prospectus or elsewhere. It is crucial for an investor to be duly informed of this.

For loans granted after the Act has entered into force, the conditions for the loan agreement, pursuant to subsection (5), shall specify that an administrator may increase the interest rate if the term of the bonds is extended. For loans granted before the Act enters into force, an administrator may only raise the interest rate in accordance with the conditions for the loan agreement.

Banks do not have the same relationship between loans and bonds as is common for mortgage-credit institutions. Accordingly, banks cannot change a borrower's interest rate in the same way concurrent with changes to the institution's financing expenses. Therefore, the banks must specify in the conditions for the loan agreement that the bank may increase the interest rate equivalent to the financing conditions in a situation where full and timely redemption of the bonds does not occur. The provision does not bring about any other change to the bank's right to change the interest rates vis-à-vis a borrower, in accordance with the general loan conditions.

It applies to covered bonds that the bank may raise loans to meet the requirement for providing additional collateral. Loans raised to provide additional collateral are to be granted special preferential status in the event of an institution's bankruptcy in relation to ordinary creditors, subordinate loan capital and hybrid core capital, but are subordinate to claims from holders of covered bonds. Therefore, it is proposed in subsection (6) that the term of such loans shall follow the extended bonds used as collateral to prevent a situation in which a lending institution in relation to any loans raised to provide additional collateral is paid in full before holders of covered bonds whose bonds are extended.

To ensure that loans with uniform characteristics are treated uniformly, a provision is implemented in subsection (7) whereby banks may not issue covered bonds with a term of less than 24 months.

According to subsection (8), subsections (4)–(7) do not apply if the underlying loan does not comply with Danish regulations but with the regulations of another EU Member State, etc., instead. Banks may only depart from the Danish regulations for covered bonds and follow local regulations for covered bonds instead according to a specific exemption notified by the Danish FSA within the framework of Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and investment firms and of Regulation (EU) No 575/2013 of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms.

Remarks on no. 3

The legal-basis provision is implemented for the purpose of stipulating that the Danish FSA shall establish detailed rules for the specific fixing of the interest rate which, for example, could be in relation to a setting of a reference interest rate or for rounding off the interest rate for any bonds modified. It must also be possible for the Danish FSA to lay down detailed regulations concerning the ascertainment that it is not deemed possible to achieve full redemption of the bonds; concerning the date from which the bonds are to be modified; concerning the consequences for the register from which the bonds are issued; concerning the notification of the Danish FSA of the modification of bonds, notifying of borrowers and bond holders of changed conditions, etc.

Remarks on no. 4

A provision is implemented in § 247h that establishes the conditions under which an administrator may extend covered bonds. This is a consequential amendment resulting from the implementation of the provision in § 152b (4).

Remarks on no. 5

The penalty clause is amended so that violation of the new § 152b (4)–(7) is subject to sanctions.

Remarks on § 3

It is proposed in (1) that the Act enters into force on 31 March 2014.

It is proposed in (2) that from 31 March 2014, the Act will apply to mortgage-credit loans where the underlying bonds were issued with a term of less than 14 months and for loans granted by banks and financed by the issuance of covered bonds. For mortgage-credit loans whose underlying bonds were issued with a term of more than 14 months, the Act will not enter into force until 1 January 2015.

It is proposed in (3) that § 1, no 3 and § 2 no 1 will apply to loans obtained after this Act enters into force.

It is proposed in (4) that for existing loans this Act shall apply at the next refinancing after the Act enters into force.

It is proposed in (5) that for bonds issued for the financing of real property located outside Denmark, this Act shall only apply to bonds for the financing of a loan obtained after the Act enters into force. The reason for this that it is possible that the registration of the mortgage outside of Denmark would require new loan agreements to be entered into.

Remarks on § 4

The provision concerns the territorial limitation of the Bill.

It is proposed in *subsection (1)* that the Act does not basically extend to the Faroe Islands and Greenland, cf. subsections (2) and (3), however.

It is proposed in *subsection (2)* that all or any of the provisions of the Act may be brought into force in Greenland by Royal Decree subject to any variations in their operation necessitated by specific conditions prevailing in Greenland.

It is proposed in *subsection (3)* that all or any of the provisions of the Act may be brought into force in the Faroe Islands by Royal Decree, subject to any variations in their operation necessitated by specific conditions prevailing in the Faroe Islands. It is particularly worth mentioning that the mortgage-credit sector is a special business of the Faroe Islands. However, the Act applies to mortgage-credit loans secured on real property in the Faroe Islands if the lending is financed by the issuance of mortgage-credit bonds in Denmark or granted by mortgage-credit institutions with authorisation in Denmark.