

Yale University

EliScholar – A Digital Platform for Scholarly Publishing at Yale

YPFS Documents

[Browse by Media Type](#)

10-26-2008

Federal Law Gazette for the Republic of Austria

Austria: Bundesgesetzblatt fur die Republik Osterreich (BGBl) / Federal Law Gazette for the Republic of Austria

Follow this and additional works at: <https://elischolar.library.yale.edu/ypfs-documents>

Recommended Citation

Austria: Bundesgesetzblatt fur die Republik Osterreich (BGBl) / Federal Law Gazette for the Republic of Austria, "Federal Law Gazette for the Republic of Austria" (2008). *YPFS Documents*. 770.
<https://elischolar.library.yale.edu/ypfs-documents/770>

This Document is brought to you for free and open access by the Browse by Media Type at EliScholar – A Digital Platform for Scholarly Publishing at Yale. It has been accepted for inclusion in YPFS Documents by an authorized administrator of EliScholar – A Digital Platform for Scholarly Publishing at Yale. For more information, please contact elischolar@yale.edu.

TRANSLATION FROM GERMAN ORIGINAL

FEDERAL LAW GAZETTE

FOR THE REPUBLIC OF AUSTRIA

For the year 2008

Published on October 26, 2008

Part I

136th Federal Act: Interbank Market Support Act (*Interbankmarktstärkungsgesetz, "IBSG"*) and Financial Market Stability Act (*Finanzmarktstabilitätsgesetz, "FinStaG"*), as well as the amendment of the ÖIAG Act 2000 (*ÖIAG Gesetz 2000*), the Banking Act (*Bankwesengesetz, "BWG"*), the Stock Exchange Act (*Börsegesetz*), the Financial Market Authority Act (*Finanzmarktaufsichtsbehördengesetz*) and the Federal Finance Act of 2008 (*Bundesfinanzgesetz 2008*)

(No: GP XXIII RV 682 AB 683 p. 75. BR: 8030 AB 8031 p. 761.)

136th Federal Act, introducing an act of federal law on the strengthening of the interbank market (Interbank Market Support Act [*Interbankmarktstärkungsgesetz, "IBSG"*]) and an act of federal law on measures for securing the stability of the financial market (Financial Market Stability Act [*Finanzmarktstabilitätsgesetz, "FinStaG"*]), and amending the ÖIAG Act 2000 (*ÖIAG Gesetz 2000*), the Banking Act (*Bankwesengesetz, "BWG"*), the Stock Exchange Act (*Börsegesetz*), the Financial Market Authority Act (*Finanzmarktaufsichtsbehördengesetz*) and the Federal Finance Act 2008 (*Bundesfinanzgesetz 2008*).

The National Council has resolved:

Article 1

Federal Act on the Strengthening of the Interbank Market (Interbank Market Support Act [*Interbankmarktstärkungsgesetz*, "IBSG"])

Assumption of liability

Sec. 1 (1) In order to strengthen confidence in the interbank market, the Federal Minister of Finance is herewith authorized to assume liability, toward or on behalf of a company established for the exclusive purpose of borrowing funds from credit institutions or insurance companies via the interbank market in its own name and for its own account and loaning these funds to other credit institutions or insurance companies via the interbank market in its own name and for its own account, as follows:

1. limited-term liability toward this company for bad debt losses from such transactions and
2. liability on behalf of this company for certain existing obligations - especially by providing guarantees or suretyships.

Ownership of this company shall be limited to credit institutions, insurance companies or the statutory bodies set up on the professional associations level for the representation of their interests.

(2) All credit institutions within the meaning of sec. 1 para. 1 of the Banking Act (*Bankwesengesetz*, "BWG", Federal Law Gazette (*BGBI.*) No. 532/1993), and all domestic insurance companies within the meaning of the Insurance Supervision Act (*Versicherungsaufsichtsgesetz*, "VAG"), Federal Law Gazette No. 569/1978, shall be entitled to call upon the services of the company established according to para. 1 on equal terms and conditions. In transacting its business, the company shall be entitled to make use of the services of another credit institution, provided the latter holds the required licenses according to sec. 1 para. 1 of the Banking Act (*BWG*).

(3) The company established in accordance with the provisions of sec. 1 shall provide its services for a fee and at a lending interest rate, which shall be in conformity with market conditions and shall also take into account the fee ("*Haftungsentgelt*") that the company owes

the Federal Government for the assumption of liability. The provision of security may be agreed.

(4) Furthermore, the Federal Minister of Finance shall have authority to assume, in the name of the Federal Government, pursuant to sec. 66 of the Federal Budget Act (*Bundeshaushaltsgesetz, "BHG"*), Federal Law Gazette No. 213/1986, liability as a surety (*Bürge*) or as a surety and payer (*Bürge und Zahler*) or by way of guarantees for securities issued pursuant to sec. 1 para. 1 sub-para. 10 of the Banking Act (*BWG*) by other credit institutions. In such cases, the provisions governing assumption of liability of sec. 2 para. 5 of the Financial Market Stability Act (*FinStaG*), Federal Law Gazette I No. 136/2008, shall apply.

(5) There is no legal claim to the measures as provided in the present Federal Act.

Issuing of Securities

Sec. 2 The Federal Minister of Finance shall only be entitled to avail himself of the authority granted under sec. 1 para. 4 if

1. the securities are issued by a credit institution entitled to carry out other securities issuing business under a license pursuant to sec. 1 para. 1 sub-para. 10 of the Banking Act (*BWG*);
2. the maturities of the securities issued do not exceed five years.

Financing volume

Sec. 3 Measures taken in accordance with the provisions of this Federal Act shall not exceed a total amount of EUR 75 billion in outstanding funds. Interest and costs shall not be included in this maximum amount. The budget funds required for these measures shall be provided by way of powers for the approval of overruns (Article VII para. 1 subparagraphs 13 and 15 of the Federal Finance Act 2008 [*Bundesfinanzgesetz 2008*]) and may also be covered by additional income from credit operations; in such a case, sec. 41 para. 6 of the Federal Budget Act (*BHG*) as amended by Federal Law Gazette I No. 20/2008 shall not apply.

Rights to information and fee

Sec. 4 Agreements pursuant to sec. 1 shall provide, among other things, reporting duties on the company's part, rights to information on the part of the Federal Government and an appropriate fee for the assumption of liability; the provision of security may be agreed. Such agreements may contain regulations deviating from the provisions of sec. 66 of the Federal

Budget Act (*BHG*); in any case, rights within the meaning of sec. 66 para. 2 sub-para. 1 of the Federal Budget Act (*BHG*) shall be provided for.

Restriction on disposal and attachment

Sec. 5 To the extent that the company may have claims against the Federal Government according to sec. 1 para. 1 sub-para. 1, such claims cannot be transferred to third parties by legal transaction, including, but not limited to, assignment or pledging, without the consent of the Federal Government, nor are they subject to attachment.

Taxes, charges, fees and duties

Sec. 6 The legal transactions, documents and official acts required in connection with the implementation of the present Federal Act shall be exempted from the taxes, charges and duties imposed by federal law, from the federal administrative charges, and from the fees and charges regulated in the Court Fees Act (*Gerichts- und Justizverwaltungsgebührengesetz, "GGG 1984"*), Federal Law Gazette No. 501/1984.

Reporting duty

Sec. 7 Within one month of the expiration of each calendar quarter, the Federal Minister of Finance shall submit to the Main Committee a report in which all measures taken pursuant to this Federal Act are described in detail. In particular, the report shall disclose the financial consequences of the measures taken.

Equal Treatment in Language

Sec. 8 Insofar as designations referring to persons are given in this Federal Act only in their masculine form, they shall relate equally to both women and men. When applying such designations to specific persons, the respective gender form shall be used.

References

Sec. 9 Insofar as this Federal Act makes reference to other Federal Acts, these shall, unless provided otherwise, be applicable as amended from time to time.

Enforcement

Sec. 10 The enforcement of this Federal Act shall fall within the responsibility of the Federal Minister of Justice as far as the company's exemption from the fees and charges regulated in the Court Fees Act (*GGG 1984*) is concerned; the enforcement of the remaining provisions hereof shall be the responsibility of the Federal Minister of Finance.

Expiration

Sec. 11 This Federal Act shall cease to be in force upon the expiration of December 31, 2009. Any assumption of liability still operative at that time shall remain unaffected.

Article 2

Federal Act on Measures for Securing the Stability of the Financial Market (Financial Market Stability Act [*Finanzmarktstabilitätsgesetz, "FinStaG"*])

Bases for stabilization measures

Sec. 1 The Federal Minister of Finance shall have authority, in order to remedy a considerable economic disruption in Austria, secure the macroeconomic balance and protect the Austrian national economy, to take measures to recapitalize affected legal entities. Affected legal entities within the meaning of the present Act shall be:

1. credit institutions within the meaning of sec. 1 para. 1 of the Banking Act (*Bankwesengesetz, "BWG"*), Federal Law Gazette, No. 532/1993, and
2. domestic insurance companies within the meaning of the Insurance Supervision Act (*Versicherungsaufsichtsgesetz, "VAG"*), Federal Act Gazette No. 569/1978.

There is no legal claim to the measures provided in the present Federal Act.

Instruments

Sec. 2 (1) The following instruments shall be available to the Federal Minister of Finance for purposes of recapitalization:

1. assumption of liability (including, but not limited to, guarantees, suretyships, collateral promises) for obligations of the affected legal entity;
2. assumption of liability (including, but not limited to, guarantees, suretyships, collateral promises) for obligations to the affected legal entity;
3. granting of loans and supply of own funds to credit institutions pursuant to sections 23 and 24 of the Banking Act (*BWG*) and to insurance companies pursuant to sec. 73b of the Insurance Supervision Act (*VAG*);
4. acquisition of shares or partnership interests or convertible bonds in connection with capital increases;
5. acquisition of existing shares or partnership interests by legal transaction;

6. acquisition of partnership or company assets by way of a merger according to sec. 235 of the Stock Corporation Act (*Aktiengesetz, "AktG"*), Federal Law Gazette No. 98/1965.

On measures according to sub-paragraphs 1 to 6, a fee and interest in conformity with market conditions shall be charged. In case of an acquisition of shares or partnership interests, particularly in cases where the instruments according to sub-paragraphs 4 to 6 are applied, agreement with the Federal Chancellor shall be sought.

(2) In cases where a credit institution or insurance company finds itself in danger of being unable to fulfill its obligations to its creditors, and provided that the instruments according to sec. 1 are insufficient or cannot be used or cannot be used in time, the Federal Minister of Finance, acting in agreement with the Federal Chancellor, shall further, if this should be necessary for the prevention of serious damage to the national economy, be entitled to take over ownership rights of the affected legal entity. Such a takeover of ownership rights shall require an ordinance enacted by the Federal Minister of Finance. Upon the coming into force of such an ordinance, any securities embodying the ownership rights shall become obsolete. The ordinance shall determine the details of the enforcement of claims for compensation. For the holders of shares or partnership interests, adequate compensation shall be determined upon request by a decree issued by the Federal Minister of Finance. There will be no appeal against such a decree. However, it shall cease to be in force if an application for reassessment of the compensation is filed with the competent court within four weeks of its service. The reassessment proceedings shall be governed, *mutatis mutandis*, by the relevant procedural provisions of the Railway Expropriation Compensation Act (*Eisenbahn-Enteignungsentschädigungsgesetz, EisbEG*), Federal Law Gazette No. 71/1954.

(3) The shares and partnership interests acquired pursuant to the provisions of this Federal Act shall be privatized after the purpose of the measure according to sec. 1 has been achieved; in doing so, the situation on the capital market shall be taken into account. Privatizations by ÖIAG (the Austrian holding company for state-owned enterprises) or by any other company established pursuant to sec. 3 para. 5 shall be governed by sections 7 and 8 of the ÖIAG Act 2000 (*ÖIAG Gesetz 2000*), Federal Law Gazette I No. 24/2000; as far as the proceeds of privatization are concerned, sec. 13 of the ÖIAG Act 2000 shall apply to ÖIAG. For any other company established in accordance with sec. 3 para. 5, provisions concerning the

proceeds of privatization shall be included in the privatization mandate issued by the Federal Government.

(4) Measures taken in accordance with the provisions of this Federal Act shall not exceed a total amount of EUR 15 billion in outstanding funds. Interest and costs shall not be included in this maximum amount. The amount of EUR 15 billion may be exceeded insofar as measures according to para. 1 are required and the authorization granted in accordance with sec. 3 of the Interbank Market Support Act (*IBSG*), Federal Law Gazette I No. 136/2008, has not yet been fully exhausted. The budget funds required for these measures shall be provided by way of powers for the approval of overruns (Article VII para. 1 sub-paragraphs 13 and 15 of the Federal Finance Act 2008 [*Bundesfinanzgesetz 2008*]) and may also be covered by additional income from credit operations; in such a case, sec. 41 para. 6 of the Federal Budget Act (*Bundeshaushaltsgesetz, "BHG"*) published in the Federal Law Gazette No. 213/1986 as amended by Federal Law Gazette I No. 20/2008 shall not apply.

(5) The Federal Minister of Finance, acting in agreement with the Federal Chancellor, shall have the authority to enact an ordinance determining the details of the conditions and obligations imposed for measures taken pursuant to this Federal Act. Such details may include, without limitation, provisions regulating

1. the orientation of the business policy – in the case of credit institutions, with particular emphasis on how small and medium-sized enterprises are provided with loans – and the sustainability of the business model that is being implemented;
2. the use of the funds supplied;
3. the remuneration paid to the members of its executive bodies, employees and principal vicarious agents;
4. the degree to which the entity in question is provided with own funds;
5. the distribution of dividends;
6. measures taken in order to safeguard the jobs of the employees of the legal entity benefiting;
7. the period within which these requirements must be fulfilled;
8. measures for the prevention of distortions of competition;
9. the manner in which the legal entity benefiting is to render accounts;

10. the contents and extent of the declaration to be published by the bodies authorized to represent the entity and by the supervisory board, which shall contain an undertaking to the effect that the conditions determined will be complied with.

Furthermore, this ordinance may also contain provisions stating the legal consequences of non-compliance with conditions and obligations imposed.

Procedure

Sec. 3 (1) Any assumption of liability pursuant to sec. 2 para. 1 sub-paragraphs 1 and 2 shall require a written agreement.

(2) The Federal Minister of Finance is herewith authorized to delegate the carrying out of specific measures according to sec. 2 para. 1 sub-paragraphs 1 to 3 and 6 to ÖIAG, as the authorized representative of the Federal Government according to sections 1002 et seq. of the General Civil Code (*Allgemeines Bürgerliches Gesetzbuch, ABGB*). More detailed dispositions concerning the actual arrangement of such measures, including, but not limited to, provisions regarding a fee, shall be determined by the Federal Minister of Finance upon issuing the order for carrying out each measure. Such agreements may contain regulations deviating from the provisions of sec. 66 of the Federal Budget Act (*BHG*); in any case, rights within the meaning of sec. 66 para. 2 sub-para. 1 of the Federal Budget Act (*BHG*) shall be provided for.

(3) In the same way, measures according to sec. 2 para. 1 sub-paragraphs 4 and 5 may be implemented by issuing the relevant orders to ÖIAG; in such cases, ÖIAG shall acquire the shares or partnership interests in its own name and for its own account.

(4) The shares or partnerships interests taken over by the Federal Government pursuant to sec. 2 para. 2 may be transferred to ÖIAG.

(5) If ordered to do so by the Federal Minister of Finance, ÖIAG shall found and establish a company in accordance with the provisions of the Stock Corporation Act (*AktG*), the share capital of which shall be owned wholly by ÖIAG. The purpose of the enterprise shall be limited exclusively to carrying out measures that can be delegated to ÖIAG pursuant to paragraphs 2 to 4. This company shall establish a supervisory board. Those members of the supervisory board who are not appointed by the workforce, as well as the managing board members, shall be appointed upon proposal by the Federal Government. Any reference to ÖIAG in this Federal Act shall be understood to include this subsidiary.

(6) In cases where shares or partnership interests in credit institutions or insurance companies are acquired under the provisions of this Federal Act, the requirements concerning owners and their duties according to sec. 20 of the Banking Act (*BWG*) and sec. 11b of the Insurance Supervision Act (*VAG*) shall be deemed to have been fulfilled.

Restriction on disposal and attachment

Sec. 4 To the extent that there are claims against the Federal Government according to sec. 2 para. 1 sub-paragraphs 1 to 3, such claims cannot be transferred to third parties by legal transaction, including, but not limited to, assignment or pledging, without the consent of the Federal Government, nor are they subject to attachment.

Taxes, charges, fees and duties

Sec. 5 The legal transactions, documents and official acts required in connection with the implementation of the present Federal Act shall be exempted from the taxes, charges and duties imposed by federal law, from the federal administrative charges, and from the fees and charges regulated in the Court Fees Act (*Gerichts- und Justizverwaltungsgebührengesetz, "GGG 1984"*), Federal Law Gazette No. 501/1984.

Reporting duty

Sec. 6 Within one month of the expiration of each calendar quarter, the Federal Minister of Finance shall submit to the Main Committee a report in which all measures taken pursuant to this Federal Act are described in detail. In particular, the report shall disclose the financial consequences of the measures taken.

Equal Treatment in Language

Sec. 7 Insofar as designations referring to persons are given in this Federal Act only in their masculine form, they shall relate equally to both women and men. When applying such designations to specific persons, the respective gender form shall be used.

References

Sec. 8 Insofar as this Federal Act makes reference to other Federal Acts, these shall, unless provided otherwise, be applicable as amended from time to time.

Enforcement

Sec. 9 The enforcement of this Federal Act shall fall within the responsibility of the Federal Minister of Justice as far as the company's exemption from the fees and charges according to the Court Fees Act (*GGG 1984*) and the provisions of sec. 2 para. 2 regarding

the judicial reassessment procedure are concerned; the enactment of the ordinance according to sec. 2 para. 2 shall fall within the scope of responsibility of the Federal Minister of Finance acting in agreement with the Federal Chancellor; the enforcement of the remaining provisions hereof shall be the responsibility of the Federal Minister of Finance.

Article 3

Amendment of the ÖIAG Act 2000

(ÖIAG-Gesetz 2000)

The Federal Act on the restructuring of the legal framework pertaining to Österreichische Industrieholding Aktiengesellschaft (ÖIAG, the Austrian holding company for state-owned enterprises) and to Post und Telekombeteiligungs-Verwaltungsgesellschaft (the Austrian post office and telecom holdings management company) (ÖIAG Act 2000 [*ÖIAG Gesetz 2000*]), Federal Law Gazette I No. 24/2000, last amended by the Federal Act published in the Federal Law Gazette I No. 73/2006, shall be amended as follows:

1. The following provisions shall be added to sec. 1 para. 2:

- "d) the implementation of measures pursuant to sec. 2 para. 1 sub-paragraphs 1 to 3 and 6 of the Financial Market Stability Act (*Finanzmarktstabilitätsgesetz, "FinStaG"*), Federal Law Gazette I No. 136/2008, as the authorized representative of the Federal Government;
- e) the acquisition of participations in legal entities as defined in sec. 1 of the Financial Market Stability Act (*FinStaG*) pursuant to sec. 2 para. 1 sub-paragraphs 4 and 5 of the Financial Market Stability Act (*FinStaG*)."

2. The following para. 2a shall be inserted following sec. 1 para. 2:

"(2a) The tasks listed in para. 1 lit. d and lit. e shall be delegated to the subsidiary to be established pursuant to sec. 3 para. 5 of the Financial Market Stability Act (*FinStaG*)."

3. The following provisions shall be inserted following sec. 9:

**Acquisition and administration of shares in legal entities as defined in sec. 1 of the
Financial Market Stability Act (*FinStaG*)**

Sec. 9a (1) ÖIAG or a company established pursuant to sec. 3 para. 5 of the Financial Market Stability Act (*FinStaG*) shall, if ordered to do so by the Federal Minister of Finance, acquire shares issued by way of a capital increase in legal entities as defined in sec. 1 of the Financial Market Stability Act (*FinStaG*) or convertible bonds issued by the same, purchase existing shares and take over shares taken over by the Federal Government pursuant to sec. 2 para. 2 of the Financial Market Stability Act (*FinStaG*). The restrictions of sec. 9 paragraphs 2 and 4 shall not apply to such participations.

(2) The transfer of shares in legal entities as defined in sec. 1 of the Financial Market Stability Act (*FinStaG*) that were taken over by the Federal Government pursuant to sec. 2 para. 2 of the Financial Market Stability Act (*FinStaG*) shall take place in exchange for repayment to the Federal Government by ÖIAG, or by a company established pursuant to sec. 3 para. 5 of the Financial Market Stability Act (*FinStaG*), of the compensation received.

(3) The Federal Government shall secure the financing of measures according to paragraphs 1 and 2. In allocating the proceeds from the privatization of legal entities as defined in sec. 1 of the Financial Market Stability Act (*FinStaG*), the repayment of the funds contributed, if any, shall be given priority.

(4) The shares acquired shall be shown separately in the annual financial statements of ÖIAG, or of a company established according to sec. 3 para. 5 of the Financial Market Stability Act (*FinStaG*), in accordance with sec. 223 para. 4 of the Commercial Code (*Unternehmensgesetzbuch, "UGB"*), Law Gazette of the German Reich (*DRGBl.*) 1897, p. 219. The nominal amount shall be deemed to be the acquisition costs of the transferred share rights within the meaning of the Commercial Code (*UGB*); for the same amount, an untied capital reserve shall be set aside.

Article 4

Amendment of the Banking Act

(Bankwesengesetz, "BWG")

The Banking Act (*BWG*), Federal Law Gazette No. 532/1993, last amended by the Federal Act published in the Federal Law Gazette I No. 70/2008, shall be amended as follows:

1. sec. 70 para. 4a shall read as follows:

"(4a) The provisions of para. 4 notwithstanding, the Financial Market Authority shall prescribe an own funds requirement exceeding the minimum own funds requirement according to sec. 22 para. 1, in the amount adequate and necessary for the limitation of the risks inherent in banking transactions and in the operation of a bank, to be met by a credit institution or a group of credit institutions if the credit institution or group of credit institutions in question has not made adequate provision for a limitation of the risks inherent in banking transactions and in the operation of a bank (sections 39 and 39a), and there is no reason to expect that the relevant risks will be adequately identified and limited by the credit institution or group of credit institutions in question in the short term. The Financial Market Authority shall immediately prescribe additional own funds requirements pursuant to this paragraph in those cases where other measures according to this Federal Act do not, in view of the circumstances of the case, appear sufficient to ensure the adequate identification and limitation of the risks or the creation of a situation in accordance with the law within a reasonable period; it being understood that the Financial Market Authority shall not be obliged to proceed first according to para. 4 sub-para. 1 in prescribing additional own funds."

2. In sec. 93 para. 3, the text following sub-para. 4, i.e., "the deposits up to a maximum amount of EUR 20,000 or its equivalent in a foreign currency per depositor (shall be) paid out within three months upon the depositor's request and proof of identity; multiple payouts shall only be permitted in cases where there are secured deposits on joint accounts in respect of which identification requirements have been met or where the depositors entitled to dispose of amounts held on an account in respect of which identification requirements have been met provide evidence supporting their claim. In cases where there are deposits on a fiduciary account for the account of third persons, payouts shall be guaranteed according to the rules applicable to multiple payouts.", shall be replaced by the following text:

"the deposits (shall be) paid out within three months upon the depositor's request and proof of identity. In cases where there are deposits on a fiduciary account for the account of third persons, such persons shall prove their identity and provide evidence supporting their claim."

3. Sec. 93 para. 4, first sentence, shall read as follows:

"In the case of deposits according to para. 2 made by creditors who are not natural persons, the payment obligation of the deposit guarantee scheme, shall, in derogation from the provisions of para. 3, be limited to a maximum amount of EUR 20,000 and to 90% of the secured deposit per depositor; in the case of partnerships and companies that meet the criteria set out in sec. 221 para. 1 of the Commercial Code (*Unternehmensgesetzbuch, "UGB"*), the maximum amount shall be increased to EUR 50,000 in each case; furthermore, in the case of securities services according to para. 2a involving creditors who are not natural persons, the payment obligation of the deposit guarantee scheme shall, the maximum amount set out in para. 3a notwithstanding, be limited to a maximum amount of EUR 20,000 and to 90% of the claims from securities transactions per investor."

4. In sec. 93 para. 4, second sentence, the words "of para. 3" shall be replaced by the words "of this paragraph".

4a. Sec. 93a para. 1, first sentence, shall read as follows:

"The deposit guarantee facilities shall oblige their member institutions to immediately pay pro-rata contributions in respect of the event of any payout of secured deposits or of compensation for guaranteed securities services; the amount of the contributions to be made for deposits secured according to sections 93 to 93c shall be limited to a maximum of EUR 50,000 per depositor."

5. In sec. 93a para. 1, sixth sentence, the percentage shall be increased from "0.93%" to "1.5%".

6. Sec. 93a para. 2, last sentence, shall read as follows:

"These deposit guarantee facilities shall be entitled to raise recourse claims, in the amount of the contributions made against a secured amount of up to EUR 20,000 per secured claim and of the demonstrated costs, against the deposit guarantee facility first affected."

7. Sec. 93a para. 3 shall read as follows:

"(3) The deposit guarantee facilities shall immediately inform the Federal Minister of Finance of the amount resulting from the total of the amounts constituting the difference between EUR 50,000 and the relevant deposit. The Federal Minister of Finance shall provide the amount of the difference to the deposit guarantee facility in such good time as to ensure that the deadline for the payout according to sec. 93 para. 3 may be met. Should the deposit guarantee facilities find themselves altogether unable to pay out the full amount of the secured deposits up to an amount of EUR 50,000 or of the secured claims from securities services up to an amount of 20,000 Euro, the deposit guarantee facility first affected shall take out loans or issue bonds in order to be able to meet the remaining payment obligations. The Federal Minister of Finance may assume liability for these obligations on behalf of the Federal Government, subject to special statutory authorization. In case of a drawdown under such Federal Government guarantees, the Federal Government shall be entitled to exercise its right of recourse not more than twice within a period of five years against one and the same guarantee facility. This recourse claim shall be limited to the amount calculated on the basis of the claim to the yearly contributions of the member institutions of the deposit guarantee facility first affected according to para. 1 at the time of the recourse."

7a. Sec. 103h shall read as follows:

"**Sec. 103h.** As of January 1, 2010, sec. 93 para. 3 shall apply subject to the proviso that deposits made by natural persons shall be secured up to an amount of EUR 100,000. Moreover, as of January 1, 2010, sec. 93a para. 3 shall apply subject to the proviso that the deposit guarantee facilities shall disclose the total of the amounts constituting the difference between EUR 50,000 and EUR 100,000, and that the Federal Minister of Finance shall provide the amount of such difference. The budget funds required for the purposes of sec. 93a para. 3 shall be provided by way of powers for the approval of overruns (Article VII para. 1

sub-paragraphs 14 and 15 of the Federal Finance Act 2008 [*Bundesfinanzgesetz 2008*]) and may also be covered by additional income from credit operations; in such a case, sec. 41 para. 6 of the Federal Budget Act (*Bundeshaushaltsgesetz, "BHG"*) as amended by Federal Law Gazette I No. 20/2008 shall not apply."

8. *The following para. 60 shall be added to sec. 107:*

"(60) Sec. 93 paragraphs. 3 and 4, and sec. 93a paragraphs. 1, 2 and 3 as amended by the Federal Act published in the Federal Law Gazette I No. 136/2008, shall come into force as of October 1, 2008."