

Standard RA1.4

Reporting of fitness and propriety to the Financial Supervision Authority

Regulations and guidelines



RAHOITUSTARKASTUS
FINANSINSPEKTIONEN
FINANCIAL SUPERVISION



How to read a standard

A standard is a collection of subject-specific regulations and guidelines which both obliges and guides supervised entities and other financial market participants, indicates the quality level expected by the supervisor, sets out the supervisor's key principles of good practice and provides justification for regulation.

Issued on:
FIN-FSA decision on issuance of the paragraph.
Valid from:
Entry into force of the paragraph.

THE FINANCIAL SUPERVISION AUTHORITY Issued on 1 January 2006
1 Sample Valid from 1 January 2006
1.1 Margin notes 1 No. 1/120/2006

Each paragraph in a standard is furnished with a particular margin note:

- **Norm:** A reference to a current legal or regulatory provision.
- **Binding:** A FIN-FSA regulation that is legally binding on supervised entities or other financial market participants, issued by the FIN-FSA by virtue of its regulatory power based in Finnish law.
- **Recommendation:** FIN-FSA recommendatory guidance to supervised entities or other financial market participants.
- **Application guideline/example:** A practical application guideline or example related to a norm, binding regulation or recommendation. A reference to a FIN-FSA standard or a particular point in the standard. See the attached example.
- **Justifications:** An explanation of the background, purpose and objectives of a regulation or standard.

Norm
Issued on 27 February 2007
Valid from 1 April 2007

Binding
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Justification
Issued on 28 April 2006
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Binding
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Recommendation
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Binding
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Recommendation
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Application guideline/example
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(1) An appropriate fit & proper survey must be appended to respect of all members and alternate members of the board, managing director and the possible deputy managing director.

(2) The fit & proper notification must be prepared using the FIN-FSA standard RA 1.4 on the disclosure of information on eligibility and professional competence.

(3) The FIN-FSA has the right to obtain from the Legal Register extract from the criminal records¹, as referred to in the Act on Registers (770/1993), and an extract from the register of financial management's credit register details as part of the procedure.

(4) More detailed provisions on the reliability, eligibility and competence of management are laid down in standard 1.4 (Eligibility, reliability, eligibility and professional competence).

1.1.2 Staff and its competence

(5) Management must make sure that the number of staff is that staff members are professionally competent, eligible for have good reputation. Explicit demands for the number of staff placed, as it is dependent on the nature and scope of the business.

(6) Further provisions concerning the staff and their competence down in the FIN-FSA standard 4.4b on operational risk.

(7) The managing director must allocate sufficient time for the organisation's daily activities. This is why the managing director secured even when the managing director is unable to exercise. That is why it is important that a competent deputy managing director is appointed.

(8) An exception can be made to the provision concerning the employment of the managing director if the organisation is so small that its business is limited and the type of business is simple. The FIN-FSA on such exceptions on a case-by-case basis. In its evaluation pay attention to whether the administration has been arranged.

¹ Section 6, subsection 2 of the credit institutions decree, section 24 of the insurance companies decree, section 13 of the management companies decree.
² Section 4a of the decree on criminal records.
³ See section 15, subsection 6 of the FSA Act.

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Sample standard only

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1 APPLICATION

Issued on 20 March 2007
Valid from 1 July 2007

(1) This standard applies to the following corporations, which are referred to with the general expression 'supervised entities':

- credit institutions and their foreign branches
- investment firms and their foreign branches
- fund management companies and their foreign branches
- custodians
- stock exchanges
- clearing corporations
- options corporations
- the central securities depository
- holding companies of credit institutions and investment firms
- the central body referred to in the Act on Cooperative Banks and Other Cooperative Credit Institutions
- holding companies of financial and insurance conglomerates primarily engaged in financial activities
- pawnshops.

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(2) In line with the principle of home country supervision, the supervisory authorities of the home member state have responsibility for the fit and proper assessment of the management of a Finnish branch of a credit institution, investment firm and fund management company domiciled in the European Economic Area (EEA).

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(3) Information on the manager and deputy manager of a branch is reported to the Financial Supervision Authority (FIN-FSA) in accordance with the notification procedure (see standard 1.1 on market entry, section 8.1)

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(4) Information on the manager and deputy manager of a Finnish branch of a credit institution, investment firm or fund management company domiciled outside the European Economic Area (EEA) is reported to the FIN-FSA in

accordance with the provisions of this standard.

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OBJECTIVES

Issued on 20 March 2007
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(1) This standard defines the requirements of reporting to the FIN-FSA in respect of the assessment of fitness and propriety of persons responsible for a supervised entity's management, and in respect of the assessment of competent management.

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(2) The standard is related to standard 1.4 on the assessment of fitness and propriety, issued within section 1 Corporate governance and business activity, of the FIN-FSA's set of regulations.

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LEGAL BASIS

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The FIN-FSA regulation on the reporting of matters relating to the assessment of fitness and propriety of persons responsible for management is based on the following legal provisions:

- section 22 subsection 4, section 40 subsection 4, subsection 49 and subsection 93 of the Credit Institutions Act (121/2007)
- section 12b subsections 4 and 5 of the Investment Firms Act (579/1996)
- section 5e subsection 4 and section 9d subsection 4 of the Mutual Funds Act (48/1999)
- section 12 of the Act on Cooperative Banks and Other Cooperative Credit Institutions (1504/2001)
- section 14 subsection 4 of the Act on the Supervision of Financial and Insurance Conglomerates (699/2004)
- sections 6, 18 and 19 of the Ministry of Finance Decree on the Accounts to be Appended to the Application for Authorisation of a Credit Institution (659/2003)
- sections 13–16 of the Ministry of Finance Decree on the Accounts to be Appended to the Application for Authorisation of an Investment Firm (658/2003)
- sections 12–15 of the Ministry of Finance Decree on the Accounts to be Appended to the Application for Authorisation of a fund management company and a Custodian (234/2004), and
- section 15 subsection 2 of the Act on the Financial Supervision Authority (587/2003).

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PERSONS SUBJECT TO REPORTING REQUIREMENT

Binding

Issued on 20 March 2007
Valid from 1 July 2007

(1) A report shall be submitted to the FIN-FSA on the following persons responsible for the management of a supervised entity:

- member and deputy member of the board of directors
- managing director and deputy managing director

and on the following persons responsible for key business functions:

- manager and deputy manager of a foreign branch of a Finnish credit institution, investment firm and fund management company
- manager and deputy manager of a Finnish branch of a foreign credit institution, investment firm and fund management company domiciled outside the European Economic Area (EEA).

Recommendation

Issued on 20 March 2007
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(2) It is recommended that a report is submitted to the FIN-FSA on persons responsible for the compliance function and internal audit in accordance with this standard.

Binding

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(3) A report shall also be submitted on non-Finnish citizens.

Binding

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(4) The FIN-FSA may, at its discretion, require the reporting of information on other persons in a supervised entity's organisation than those referred to in paragraph (1) above.

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REPORTING REQUIREMENT

5.1 Regular reporting

Binding

Issued on 20 March 2007
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(1) A report shall always be submitted to the FIN-FSA when

- a new person is appointed to be responsible for a supervised entity's management or to be responsible for a key business function on which a report must be submitted to the FIN-FSA
- a person is appointed to a position more significant than the one held previously or a person's responsibilities increase substantially (for example as a result of merger or other business restructuring or organisational changes).

Recommendation

Issued on 20 March 2007
Valid from 1 July 2007

(2) It is recommended that a report be submitted well in advance, prior to the appointment decision or before the person takes up the new position.

Justifications

Issued on 20 March 2007
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(3) For the legal protection of a person, the FIN-FSA considers it important that it receives the report well in advance, before the person takes up the position or before the appointment decision is made.

Application guideline

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(4) This notwithstanding, a report must always be submitted without delay after an appointment decision is made or a person's responsibilities have changed, no later than two weeks from the decision or the date at which the person has taken up the new position.

Application guideline

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(5) The report to the FIN-FSA must be made by using the forms of this standard.

Application guideline

Issued on 20 March 2007
Valid from 1 July 2007

(6) Information on other persons responsible for key business functions than those referred to in chapter 4 paragraph (1) is not subject to regular

reporting.

Application guideline
Issued on 20 March 2007
Valid from 1 July 2007

(7) Fit and proper assessment information concerning members of the supervisory board is not subject to regular reporting.

Recommendation
Issued on 20 March 2007
Valid from 1 July 2007

(8) It is recommended that information on persons a supervised entity itself has defined as persons responsible for key business functions is kept and made available to the FIN-FSA.

5.1.1 Members and deputy members of the board of directors

Binding
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Valid from 1 July 2007

(9) A report shall always be submitted when a new person is appointed as a member or a deputy member of the board of directors.

Application guideline
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Valid from 1 July 2007

(10) When the same person is reappointed as a member or a deputy member of the board of directors for the following period of office a report need not be submitted to the FIN-FSA unless there is a material change in the information relating to the person which requires the conduct of a new assessment.

Application guideline
Issued on 20 March 2007
Valid from 1 July 2007

(11) However, the FIN-FSA must always be informed of the reappointment of a person referred to in paragraph (9), the length of the period of office and of the fact that there is no material change in the information regarding the person. The information can be submitted for example with an extract from minutes or with another comparable document.

5.2 Reporting in exceptional circumstances

Binding
Issued on 20 March 2007
Valid from 1 July 2007

(12) A supervised entity shall report to the FIN-FSA immediately if the fitness and propriety of a person responsible for the management of the supervised entity or of such a person responsible for a key business function on which a report must be submitted to the FIN-FSA is compromised in accordance with standard 1.4 on the assessment of fitness and propriety.

Binding
Issued on 20 March 2007
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(13) A written report shall comprise an account of the assessment conducted and measures the supervised entity has taken on the matter.

Binding
Issued on 20 March 2007
Valid from 1 July 2007

(14) The report shall be submitted by the board of directors when it concerns members and deputy members of the board of directors and managing director and deputy managing director. The managing director is responsible for submitting the report on his or her subordinates.

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REPORTING FORMS

Issued on 20 March 2007
Valid from 1 July 2007

(1) Form L3 shall be used by persons subject to reporting requirement of the following supervised entities:

- credit institutions and their foreign branches
- holding companies of credit institutions
- the central body referred to in the Act on Cooperative Banks and Other Cooperative Credit Institutions
- holding companies of financial and insurance conglomerates primarily engaged in financial activities
- pawnshops
- Finnish branches of credit institutions domiciled outside the European Economic Area (EEA).

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(2) Form S3 shall be used by persons subject to reporting requirement of the following supervised entities:

- investment firms and their foreign branches
- holding companies of investment firms
- stock exchanges
- clearing corporations
- options corporations
- the central securities depository
- Finnish branches of investment firms domiciled outside the European Economic Area (EEA).

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(3) Form R3 shall be used by persons subject to reporting requirement of the following supervised entities:

- fund management companies and their foreign branches
- custodians
- Finnish branches of fund management companies domiciled outside the European Economic Area (EEA).

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FURTHER DETAILS

Please find the necessary contact information in the list of [Persons in charge](#) of standards provided on the FSA website. For further information, please contact:

- Institutional Supervision, tel. +358 10 831 5207
- Conduct of Business, tel. +358 10 831 5336