

## Executive Order on Conditions for Admission of Securities to Official Listing<sup>1)</sup>

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### Executive Order no. 1069 of 4 September 2007

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The following shall be laid down pursuant to section 22(2), and section 93(3) of the Securities Trading, etc. Act, cf. Consolidated Act no. 479 of 1 June 2006, as amended by Act no. 108 of 7 February 2007:

#### Part 1

##### *Conditions for admission of securities to official listing*

**1.-(1)** The Danish FSA shall, upon request from an issuer, make a decision about official listing of shares, certificates representing shares and bonds, if said securities fulfil the conditions of this Executive Order, and if the securities have been admitted or will be admitted to trading on a regulated market in Denmark.

**(2)** The Danish FSA may reject an application for official listing if the Danish FSA deems that the issuer's situation is such that the official listing would be detrimental to investors' interests.

**(3)** The Danish FSA may make any condition for official listing of a security considered necessary in order to protect investors. An issuer shall be notified of any conditions.

**2.** The Danish FSA may refuse to admit to official listing a security already officially listed in a country within the European Union or in a country with which the Community has entered into an agreement for the financial area where the issuer fails to comply with the obligations resulting from official listing in that country.

**3.-(1)** The Danish FSA shall notify the issuer of a decision within six months of receipt of the application. If the Danish FSA requires any further information within that period, the time limit shall not apply until from the date on which the issuer has submitted all the information necessary for making this decision.

**(2)** Failure to give a decision within the time limit specified in subsection (1) shall be deemed a rejection of the application.

**4.-(1)** Shares may be officially listed if the foreseeable market capitalisation of the shares represents at least EUR 1mill. If this market capitalisation cannot be assessed, the company's capital and reserves, including profit or loss, from the last financial year, must be at least EUR 1 mill.

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<sup>1)</sup> This Executive Order contains provisions implementing parts of Directive 2001/34/EC of the European Parliament and of the Council of 28 May 2001 on the admission of securities to official stock exchange listing and on information to be published on those securities (Official Journal 2001, no. L 184, p 1), as subsequently amended by Directive 2005/1/EC of the European Parliament and of the Council of 9 March 2005 amending Council Directives 73/239/EEC, 85/611/EEC, 91/675/EEC, 92/49/EEC and 93/6/EEC and Directives 94/19/EC, 98/78/EC, 2000/12/EC, 2001/34/EC, 2002/83/EC and 2002/87/EC in order to establish a new organisational structure for financial services committees (Text with EEA relevance) (Official Journal 2005, no. L 079, p 9).

**(2)** The company and its shares shall meet the conditions in annex 1.

**(3)** The Danish FSA may make a decision as mentioned in annex 1, point 2.5.

**(4)** Subsection (1) shall not apply to decisions in connection with the admission to official listing of a further block of shares of the same class as those already admitted.

**5.-(1)** Bonds issued by undertakings may be officially listed, if the loan accounts for at least EUR 200,000. This, however, shall not be applicable in the case of tap issues where the amount of the loan is not fixed.

**(2)** The undertakings and the bonds shall meet the conditions in annex 2, points 1.1 and 1.2.

**6.-(1)** Convertible bonds, exchangeable bonds and bonds with warrants shall meet the conditions in annex 2, point 1.3.

**(2)** The Danish FSA may make a decision as mentioned in annex 2, point. 1.3.

**7.-(1)** Notwithstanding section 5, bonds from the following issuers shall be officially listed when the conditions in annex 2, point 2 are met:

- 1) A state or its regional or local authorities, including regional and local authorities.
- 2) A public international body.
- 3) Companies and other legal persons which are nationals of a country within the European Union or a country with which the Community has entered into an agreement for the financial area or one of their federal states, and which are set up by, governed by or managed pursuant to a special law where repayments and interest payments in respect of the bonds are guaranteed by the countries or federal states concerned.

**8.-(1)** Certificates representing shares may be admitted to official listing, if the company whose shares provide a basis for the certificate fulfils the conditions set out in section 4 and the obligations set out in section 10 and if the certificates fulfil the conditions for shares set out in annex 1, point. 2.

**(2)** Furthermore, the certificates mentioned in subsection (1) shall only be admitted to official listing, if the Danish FSA is satisfied that the issuer of the certificates is offering adequate safeguards for the protection of investors.

#### *Official listing in several countries*

**9.** Where applications are to be made simultaneously or within short intervals for admission of the same securities to official listing in other countries within the European Union or in countries with which the Community has entered into an agreement for the financial area, or applications for official listing of securities which have already been admitted to official listing in another country within the European Union or in a country with which the Community has entered into an agreement for the financial area, this shall be stated in the application.

## Part 2

### *Obligations for issuers of securities officially listed*

**10.-(1)** In the case of a new public issue of shares of the same class as those already officially listed, the company shall be required, where the new shares are not automatically admitted, to apply for their admission to the same listing, either no more than a year after their issue or when they become freely negotiable. This shall apply without prejudice to the provisions of annex 1, point 2.5., second paragraph.

**(2)** The general meetings of the company shall be open to the press.

**11.-(1)** In order to protect investors or to ensure the smooth operation of the market, issuers of securities shall publish the information required by the Danish FSA in such a form and within such time limits as the Danish FSA considers appropriate.

**(2)** If an issuer fails to comply with the requirement mentioned in subsection (1), the Danish FSA may itself cause the required information to be published after the issuer has had the opportunity to give his opinion.

## Part 3

### *Suspension and withdrawal of official listing*

**12.** In the event of failure of the issuer to comply with the obligations resulting from admission to official listing, the Danish FSA may, in addition to implementing any action and penalties mentioned in section 11(2), section 13 and section 14, make public the fact that the issuer is failing to comply with those obligations.

**13.** The Danish FSA may decide on a suspension where the smooth operation of the market is, or will be jeopardised or where protection of investors so requires.

**14.-(1)** The Danish FSA may decide that the official listing of a security be withdrawn, if the Danish FSA deems that, owing to special circumstances, normal regular dealings in a security are no longer possible.

**(2)** Where an issuer of securities requests withdrawal of an official listing, the request shall be complied with, unless the Danish FSA considers the discontinuation not to be in the interest of the investors, the borrowers or the securities market.

## Part 4

### *Exemptions, penalties and entry into force*

**15.** The Danish FSA may grant exemptions from the requirements of section 4(1), and section 5(1), 1st clause, if the Danish FSA deems that there will be an adequate market for the shares or bonds concerned.

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**16.-(1)** Violation of section 9, section 10 and section 11(1) shall be subject to a fine.

**(2)** Enterprises etc. (legal persons) may incur criminal liability under the rules of chapter 5 of the Criminal Code.

**17.** This Executive Order shall enter into force on 1 November 2007. At the same time, Executive Order no. 172 of 23 February 2007 on conditions for admission of securities to official listing on any stock exchange etc. shall be repealed.

*Ministry of Economics and Business Affairs, 4 September 2007*

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## **Conditions for admission of shares to official listing**

1. Conditions relating to the company for the shares of which admission to official listing is sought

### **1.1. Legal position of the company**

The legal position of the company must be in conformity with the legislation to which it is subject, as regards both its formation and its operation under its articles of association.

### **1.2. A company's period of existence**

The company must have published or filed its financial statements in accordance with national law for the three accounting years preceding the application for listing. By way of exception, the Danish FSA may derogate from this condition where such derogation is desirable in the interests of the company or of investors and where the Danish FSA is satisfied that investors have the necessary information available to be able to arrive at an informed judgment on the company and the shares for which admission to official listing is sought.

2. Conditions relating to the shares for which admission to official listing is sought

### **2.1. Legal position of the shares**

The legal position of the shares must be in conformity with the acts and regulations to which they are subject.

### **2.2. Negotiability of the shares**

The shares must be freely negotiable.

The Danish FSA may treat shares which are not fully paid up as freely negotiable, if arrangements have been made to ensure that the negotiability of such shares is not restricted and that dealing is made open and proper by providing the public with all appropriate information.

The Danish FSA may, in the case of the admission to official listing of shares which may be acquired only subject to approval, derogate from the provisions in the first paragraph only if the use of the approval clause does not disturb the market.

### **2.3. Public issue preceding admission to official listing**

Where public issue precedes admission to official listing, the first listing may be made only after the end of the period during which subscription applications may be submitted.

### **2.4. Distribution of shares**

A sufficient number of shares must be distributed to the public in one or more countries within the European Union or in countries with which the Community has entered into an agreement for the financial area no later than the time of admission.

This condition shall not apply where shares are to be distributed to the public through the regulated market. In that event, admission to official listing may be granted only if the Danish FSA is satisfied that a sufficient number of shares will be distributed through the regulated market within a short period.

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Where admission to official listing is sought for a further block of shares of the same class, the Danish FSA may assess whether a sufficient number of shares has been distributed to the public in relation to all the shares issued and not only in relation to this further block.

If the shares are admitted to official listing in one or more countries outside the European Union with which the Community has not entered into an agreement for the financial area, the Danish FSA may, notwithstanding the provision in first paragraph, provide for their admission to official listing if a sufficient number of shares is distributed to the public in the relevant countries where they are listed.

A sufficient number of shares shall be deemed to have been distributed either when the shares in respect of which application for admission has been made are in the hands of the public to the extent of at least 25 per cent of the subscribed capital represented by the class of shares concerned or when, in view of the large number of shares of the same class and the extent of their distribution to the public, the market will operate properly with a lower percentage.

## **2.5. Official listing of shares of the same class**

The application for admission to official listing must cover all the shares of the same class already issued.

However, the Danish FSA may provide that this condition is not to apply to applications for admission not covering all the shares of the same class already issued where the shares of that class for which admission is not sought belong to blocks serving to maintain control of the company or are not negotiable for a certain time under agreements, provided that the public is informed of such situations and that there is no danger of such situations prejudicing the interests of the holders of the shares for which admission to official listing is sought.

## **2.6. Physical form of shares**

For admission to official listing of shares issued by companies which are nationals of another country with which the Community has entered into an agreement for the financial area and which have a physical form it is necessary and sufficient that their physical form comply with the standards laid down in that other country with which the Community has entered into and agreement for the financial area.

The physical form of shares issued by companies which are nationals of countries outside the European Union with which the Community has not entered into an agreement for the financial area, must afford sufficient safeguard for the protection of the investors.

## **2.7 Shares issued by companies in a country outside the European Union with which the Community has not entered into an agreement for the financial area**

If the shares issued by a company which is a national of in a country outside the European Union with which the Community has not entered into an agreement for the financial area are not officially listed in either the country of origin or in the country in which the major proportion of shares is held, they may only be admitted to official listing if the Danish FSA is satisfied that the absence of an official listing in the country of origin or in the country in which the major proportion is held is not due to the need to protect investors.

## **Conditions for admission of bonds to official listing**

### **1. Official listing of bonds issued by an undertaking**

#### **1.1. Conditions relating to the undertaking for whose bonds admission to listing is sought**

##### **1.1.1. Legal position of the undertaking**

The legal position of the undertaking must be in conformity with the laws and regulations to which it is subject, as regards both its formation and its operation under its articles of association.

#### **1.2. Conditions relating to the bonds for which admission to official listing is sought**

##### **1.2.1. Legal position of the bonds**

The legal position of the bonds must be in conformity with the laws and regulations to which they are subject.

##### **1.2.2. Negotiability of the bonds**

The bonds must be freely negotiable.

The Danish FSA may treat bonds which are not fully paid up as freely negotiable if arrangements have been made to ensure that the negotiability of these bonds is not restricted and that dealing is made open and proper by providing the public with all appropriate information.

##### **1.2.3. Public issue preceding admission to official listing**

Where public issue precedes admission to official listing, the first listing may be made only after the end of the period during which subscription applications may be submitted. This provision shall not apply in the case of tap issues of bonds when the closing date for subscription is not fixed.

##### **1.2.4. Official listing of bonds ranking *pari passu***

The application for admission to official listing must cover all the bonds ranking *pari passu*.

##### **1.2.5. Physical form of bonds**

For admission to official listing of bonds issued by undertakings which are nationals of another country with which the Community has entered into an agreement for the financial area, and which have a physical form it is necessary and sufficient that their physical form comply with the standards laid down in that other country with which the Community has entered into an agreement for the financial area.

The physical form of bonds only issued in a single country with which the Community has entered into an agreement for the financial area, must, however, conform to the standards in force in that country.

The physical form of bonds issued by undertakings which are nationals of countries outside the European Union with which the Community has not entered into an agreement for the financial area, must afford sufficient safeguard for the protection of the investors.

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### **1.3. Other conditions**

#### **1.3.1. Convertible or exchangeable bonds, and bonds with warrants**

Convertible or exchangeable bonds and bonds with warrants may be admitted to official listing only if the related shares are already listed on the same regulated market or on another regulated, regularly operating, recognised open market or are so admitted simultaneously.

The Danish FSA may, however, by way of derogation from the provisions in paragraph 1, provide for the admission to official listing of convertible, exchangeable bonds and bonds with warrants, if the Danish FSA is satisfied that the holders have at their disposal all the information necessary to form an opinion concerning the value of the shares to which these bonds relate.

### **2. Official listing of bonds issued by a state or its regional or local authorities or by a public international body**

#### **2.1. Negotiability of the bonds**

The bonds must be freely negotiable.

#### **2.2. Public issue preceding admission to official listing**

Where public issue precedes admission to official listing, the first listing may be made only after the end of the period during which subscription applications may be submitted. This provision shall not apply where the closing date for subscription is not fixed.

#### **2.3 Official listing of bonds ranking pari passu**

The application for admission to official listing must cover all the bonds ranking pari passu.

#### **2.4. Physical form of bonds**

For admission to official listing of bonds issued by a country with which the Community has entered into an agreement for the financial area, or its local public bodies, in a physical form, it is necessary and sufficient that such physical form comply with the standards in force in that other country with which the Community has entered into an agreement for the financial area.

The physical form of bonds issued by countries outside the European Union with which the Community has not entered into an agreement for the financial area or their local public bodies, or issued by public international bodies must afford sufficient safeguard for the protection of the investors.