

Executive Order on the Rules of Procedure for the Financial Business Council

Executive Order no. 1363 of 15 December 2004 **EXCLUDING MINOR AMENDMENTS**

The following shall be laid down pursuant to section 345(8), of the Financial Business Act, cf. Consolidated Act no. 686 of 25 June 2004:

Members, substitutes and special experts of the Financial Business Council

1.-(1) The Financial Business Council shall be composed of a chairman with legal or financial knowledge, a deputy chairman with legal knowledge and six other members appointed by the Minister for Economic and Business Affairs on recommendation by the organisations and authorities mentioned in section 345(1), nos. 3-8 of the Financial Business Act.

(2) The members shall be appointed for periods of four years at a time and they may be reappointed.

2.-(1) A substitute shall be appointed for each member. In the absence of a member, the relevant substitute shall, as far as possible, participate for said member. In the absence of the chairman, the deputy chairman shall act as chairman.

(2) The substitutes shall be recommended and appointed in the same way as the relevant members.

3. The Ministry of Economic and Business Affairs shall appoint, after recommendation, 13 special experts. The special experts shall be recommended in the following manner:

- 1) 2 special experts recommended by the Danish Consumer Council.
- 2) 2 special experts recommended by the Danish Bankers Association.
- 3) 2 special experts recommended by the Danish Insurance Association.
- 4) 2 special experts recommended by the Association of Danish Mortgage Banks.
- 5) 2 special experts recommended jointly by the Confederation of Danish Industries, the Danish Shipowners' Association, HTS (a Danish interest organisation for the transport, trade and service sectors), Danish Commerce and Services, the Danish Federation of Small and Medium-Sized Enterprises and the Danish Agricultural Council.
- 6) 1 special expert recommended by the Danish Securities Brokers Association.
- 7) 1 special expert recommended jointly by the Insurance Brokers' Trade Association and the Association of Insurance Brokers.
- 8) 1 special expert recommended jointly by Arbejdsmarkedets Tillægspension and LD Pensions.

Competences

4. According to the statutory regulations by which the Financial Business Council is afforded competences, the Council may:

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- 1) Make decisions in
 - a) supervisory matters of a principle nature, except for matters pursuant to section 43 of the Financial Business Act, and except for matters regarding compliance with sections 183-193 of the Financial Business Act and regulations issued pursuant to section 196 of the Financial Business Act for financial undertakings that have issued securities admitted for listing or trading on a stock exchange, or whose securities are traded on an authorised market place, and
 - b) supervisory matters with far-reaching, significant consequences for financial undertakings and financial holding companies, except for matters pursuant to section 43 of the Financial Business Act and except for matters regarding compliance with sections 183-193 of the Financial Business Act and regulations issued pursuant to section 196 of the Financial Business Act for financial undertakings that have issued securities admitted for listing or trading on a stock exchange, or whose securities are traded on an authorised market place.
- 2) Advise the Danish Financial Supervisory Authority (Danish FSA)
 - a) in connection with regulations issued by the Danish FSA,
 - b) in connection with matters of a principle nature pursuant to section 43 of the Financial Business Act, and
 - c) in supervisory matters regarding honest business principles and good practice with far-reaching, significant consequences for financial undertakings and financial holding companies pursuant to section 43 of the Financial Business Act, and
- 3) Assist the Danish FSA in its information activities.

5.-(1) The Financial Business Council shall make decisions on the extent to which the Prosecution Service is to be referred to for charges for violation of the Financial Business Act or other Acts under which the Council has statutory authority, as well as regulations issued pursuant to these Acts.

(2) The Financial Business Council may delegate this competence to the Danish FSA in categories of matters covered by subsection (1).

6.-(1) The Financial Business Council and the Danish FSA shall work as a single authority.

(2) The Council may, at any time, demand all information necessary from the Danish FSA.

(3) The Danish FSA shall carry out the decisions of the Council.

(4) The Danish FSA shall present matters for the Council. Furthermore, the Council may demand a matter covered by section 4 to be made subject to proceedings by the Council at the next meeting.

7. Without presenting the specific matters to the Council, the Danish FSA may determine matters of an urgent nature because the purpose of the matter would otherwise be lost. As far as possible, the Danish FSA shall discuss the matter with the chairman of the Council prior to its decision. The Danish FSA and the chairman respectively shall report on such decisions no later than at the subsequent meeting of the Council.

8. The Danish FSA shall lead the negotiations linked to the activities of the Danish FSA with public authorities, organisations, undertakings subject to supervision, and private individuals. The same shall apply for cooperation with international organisations or authorities from other countries.

Meetings of the Council and voting regulations

9.-(1) The chairman of the Council shall chair the Council meetings.

(2) The Council shall meet on the dates adopted by the Council and also as often as the chairman finds occasion, or when three members or the Danish FSA submit requests to hold a meeting, specifying in more detail issues to be addressed. The individual members of the Council may request a matter be made subject to proceedings by the Council.

(3) Meetings shall be convened with no less than seven days' notice unless the chairman decides otherwise.

(4) The notice convening the meeting shall be accompanied by an agenda containing a description of the matters to be processed. The material necessary to process the matters shall, as far as possible, be enclosed with the agenda.

(5) Members who are unable to attend meetings shall notify the Council secretary as soon as possible. Members shall personally ensure that their substitutes are provided with notice of the meeting and the materials.

10.-(1) The special experts may, at the discretion of the chairman, take part in Council meetings. Requests in this regard shall be submitted to the chairman of the Council by the member for whom the special experts are appointed.

(2) No more than two special experts for each member may participate in processing of the individual matters at Council meetings.

(3) The Danish FSA shall send the necessary material to the special experts. The special experts may only receive material for use in processing the matter in which they are to participate.

11.-(1) When the Council addresses matters regarding honest business principles and good practice, cf. section 345(2), no. 2 of the Financial Business Act, the Consumer Ombudsman shall be invited to participate in the relevant item on the agenda. The Consumer Ombudsman shall appoint a permanent substitute who shall, as far as possible, attend on behalf of the Consumer Ombudsman in the event of his absence and who shall have the same authority as the Consumer Ombudsman.

(2) In matters regarding honest business principles and good practice, the Consumer Ombudsman shall have the same authority as the members of the Council.

(3) The Danish FSA shall send the necessary material to the Consumer Ombudsman. The Consumer Ombudsman may only receive material for use in processing the matter in which the Consumer Ombudsman is to participate.

(4) When the Council addresses matters regarding honest business principles and good practice, cf. section 43(2) of the Financial Business Act, the members of the Council and the Consumer Ombudsman shall issue their comments on the brief together. Any differing opinions on the brief shall be reflected in these comments.

12.-(1) The director general of the Danish FSA, or any employees of the Danish FSA so authorised, and the secretary of the Council shall participate in the meetings of the Council.

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Other employees of the Danish FSA may, with the consent of the chairman, participate in the meetings.

(2) At the meetings of the Council, the director general shall present a report of the ongoing supervision activities of the Danish FSA, including specific matters of interest to the Council.

(3) The Danish FSA shall, on its own initiative, ensure that employees attending Council meetings observe the capacity requirements.

(4) Meetings of the Financial Business Council shall not be public.

13.-(1) The Council shall form a quorum when no less than half of the members are present during the processing of a matter. No less than half of the members present shall be independent members, cf. section 345(1), nos. 1-5, of the Financial Business Act.

(2) The Council shall make decisions by a simple majority of the members present. In the event of parity of votes, the chairman shall have the casting vote.

(3) The special experts, the director general of the Danish FSA, the secretary of the Council and other employees of the Danish FSA, who participate with the consent of the chairman, shall not be entitled to vote at Council meetings.

14.-(1) The chairman shall ensure that a minute book is kept and that it contains minutes of the Council's negotiations and decisions. The Consumer Ombudsman or members who do not agree with a decision have the right to have their opinions entered in the minutes.

(2) The secretary of the Council shall prepare the minutes as soon as possible after the meeting and, after approval by the chairman, send them to the members. The members may submit objections to the minutes at the subsequent meeting. Members shall submit any objections to the secretary, in writing, as soon as possible after receiving the minutes.

(3) At each meeting, all members present shall sign the minutes of the most recent meeting. After signing the minutes, no objections to the minutes may be submitted.

(4) The special experts and the Consumer Ombudsman shall be sent the minutes regarding the items on the agenda in which they have participated.

Incapacity

15.-(1) A member may not be present during processing of a matter, if there are circumstances that may compromise confidence in the impartiality of the member in the matter.

(2) Prior to commencement of the process regarding a matter, a member shall have a duty to notify the chairman that said member may not participate in the processing of the matter, or describe the circumstances which may raise doubts as to the capacity of said member. In this connection the member shall answer the questions placed by the chairman or other members.

(3) The Council shall itself, without the participation of the relevant member, decide whether the member may participate in the processing of the matter. The Council may delegate this competence to the chairman.

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(4) If the Council deems that the material regarding a matter should not be delivered to a disqualified member, the Council may decide that said material is not to be delivered to the relevant member or the material is to be delivered at a later date. The Council may delegate this competence to the chairman.

(5) The issue of incapacity shall be included as a permanent item on the agenda of the Financial Business Council.

(6) Subsections (1)-(5) shall apply correspondingly to substitutes, the special experts and the Consumer Ombudsman.

Duty of confidentiality and public access

16.-(1) The members of the Financial Business Council, substitutes, the special experts and the Consumer Ombudsman shall be subject to a duty of confidentiality pursuant to section 354 of the Financial Business Act. The 1st clause shall, however, not apply to its full extent in the processing of matters regarding issuing regulations on honest business principles and good practice, cf. subsection (2)

(2) In connection with Council processing of matters on issuing regulations on honest business principles and good practice, the persons mentioned in subsection (1) may, even though they are subject to a special duty of confidentiality, discuss the issues in confidence with a wider circle prior to the meeting. After the Financial Business Council has issued its statement regarding the matter, the persons mentioned in subsection (1) may make public statements on their own opinions. In connection with the previous discussions and the subsequent statements, no information may be given on the commercial conditions or customers of an undertaking, nor information of a confidential nature.

(3) The regulation in subsection (2) shall not change the regulations that apply regarding processing the material delivered, cf. subsections (4)-(7).

(4) A member may discuss matters covered by section 4 with his substitute and forward material linked to this to his substitute. If the special experts have received material, cf. section 10(3), a member may discuss this with the special experts. The chairman and the director general of the Danish FSA may, in special circumstances, decide that Council material may only be discussed by members of the Council. This shall be stated on the material issued.

(5) The chairman and the director general of the Danish FSA may jointly decide that the material covered by section 4, nos. 2 and 3, is to be made publicly available. This shall be stated on the material issued.

(6) An undertaking, which issues information regarding commercial or operational secrets to the Danish FSA, may request of the Council chairman that said information is not to be received by the full Council. Taking into account the nature of the matter, the chairman shall decide hereafter the extent and form in which the information should be given.

(7) The chairman may decide that written material should not be distributed until the meeting and returned at the end of the meeting.

17. The decisions of the Council shall be made public on the website of the Danish FSA, if they are principle in nature. To the extent necessary, decisions shall be made anonymous.

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Entry into force

18.-(1) This Executive Order shall enter into force on 1 January 2005.

(2) At the same time, Executive Order no. 986 of 5 December 2002 on the rules of procedure for the Financial Business Council shall be repealed.

The Ministry of Economic and Business Affairs, 15 December 2004

Bendt Bendtsen

/Henrik Bjerre-Nielsen

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