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**June 2005, GlobalDenmark Translations**

Executive Order on the Rules of Procedure for the Danish Securities Council

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Executive Order no. 66 of 18 January 2005

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The following shall be laid down pursuant to section 84(9) of the Securities Trading, etc. Act, cf. Consolidated Act No. 1269 of 19 December 2003, as amended by section 1 of Act no. 491 of 9 June 2004:

*Members of the Danish Securities Council and their substitutes*

**1.-(1)** The Danish Securities Council shall be composed of a chairman with financial and commercial expertise, a deputy chairman with legal and commercial expertise, one member with theoretical accounting expertise, one member with theoretical expertise on capital markets, as well as 10 other members appointed by the Minister for Economic and Business Affairs on recommendation by the organisations and authorities mentioned in section 84(1) of the Securities Trading, etc. 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. For the member recommended pursuant to section 84(1), no. 12 of the Securities Trading, etc. Act., a further three substitutes shall be appointed. The chairman of the Danish Securities Council shall decide which of these further substitutes is to attend a specific meeting.

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

**(3)** In the absence of the chairman, the deputy chairman shall act as chairman.

*Competences*

**3.** According to the statutory regulations by which the Danish Securities Council is afforded competences, the Council may:

- 1) Make decisions in
  - a) matters of a principle nature, except for matters pursuant to section 3(1) of the Securities Trading, etc. Act, and
  - b) matters with far-reaching, significant consequences for stakeholders in the securities market, except for matters pursuant to section 3(1) of the Securities Trading, etc. Act.
- 2) Advise the Danish Financial Supervisory Authority (Danish FSA) in connection with
  - a) regulations issued by the Danish FSA,

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- b) matters of a principle nature regarding good securities trading practices pursuant to section 3 of the Securities Trading, etc. Act, and
  - c) matters regarding good securities trading practices pursuant to section 3 of the Securities Trading, etc. Act with far-reaching, significant consequences for the securities market.
- 3) Assist the Danish FSA with its information activities.

**4.** The Danish Securities Council shall make decisions on the extent to which the Prosecution Service is to be referred to for charges for violation of the Securities Trading, etc. Act. or other Acts under which the Council has statutory authority, as well as regulations issued pursuant to these Acts.

**5.-(1)** The Danish Securities Council and the Danish FSA shall work as a single authority.

**(2)** The Council may, at any time, demand all information 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 3 to be made subject to proceedings by the Council at the next meeting.

**6.** 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, cf. however sections 8-12. 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.

**7.** The Danish FSA shall lead the negotiations linked to the activities of the Council 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.

*Special regulations on enforcement by the Danish Securities Council of financial information in annual reports and interim reports*

**8.-(1)** The Danish Securities Council shall enforce compliance with the regulations for financial information in annual reports and interim reports for issuers of securities admitted for listing or trading on a stock exchange, or whose securities are traded on an authorised market place, cf. section 83(2) and section 83b of the Securities Trading, etc. Act.

**(2)** The enforcement under subsection (1) shall follow the overall guidelines laid down in section 83(b) of the Securities Trading, etc. Act, and in the cooperation agreement between the secretariats approved by the Danish Securities Council.

**(3)** For decisions of important or principle significance, the matter shall be presented to the Danish Securities Council. Selection of issuers whose financial information is to be enforced; performance of enforcement; as well as reports of errors and omissions that are not significant, shall usually be carried out by the secretariat without presentation to the Danish Securities Council, cf. however section 9(4).

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**9.-(1)** The Danish FSA and the Danish Commerce and Companies Agency shall act as secretariat for the Danish Securities Council in connection with the enforcements under section 8, and act on its behalf in this connection.

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

**(3)** The secretariat shall carry out the decisions of the Council.

**(4)** The secretariat shall present matters for the Council. Furthermore, the Council may demand a matter covered by section 8 to be made subject to proceedings by the Council at the next meeting.

**(5)** In addition, the provisions of section 7 shall apply correspondingly to the secretariat with regard to the enforcements by the Danish Securities Council under section 8.

**10.-(1)** Without presenting the specific matters to the Council, the chairman may determine matters of an urgent nature because the purpose of the matter would otherwise be lost. The secretariat or the chairman respectively shall report on such decisions no later than the following meeting of the Council.

**(2)** The secretariat may decide

- 1) matters where determination has been delegated to the secretariat by the Danish Securities Council, or where process is subject to guidelines stipulated by the Danish Securities Council,
- 2) matters that are not of important or principle significance and which can be decided in accordance with the normal practice of the Danish Securities Council, or
- 3) matters deemed by the secretariat to be routine matters.

**11.** Decisions by the Danish Securities Council pursuant to sections 8 and 10 shall be made public on the website of the Danish FSA and the Danish Commerce and Companies Agency to the extent the decisions by the Danish Securities Council are deemed to be of a principle nature or in some other way to be of relevance to the securities market. To the extent necessary, decisions shall be made anonymous.

**12.** The Danish Securities Council shall issue an annual report to the Minister for Economic and Business Affairs on the activities of the Council under section 83(2) of the Securities Trading, etc. Act, cf. section 83(6).

*Meetings of the Council and voting regulations*

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

**(2)** The Council shall meet on the days adopted by the Council and also as often as the chairman finds occasion, or when five members or the secretariat 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.

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**(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.

**14.-(1)** When the Council addresses matters on issuing regulations on good securities trading practices as well as matters covered by section 3, no. 2, b and c, 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 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 on good securities trading practices, 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 he is to participate.

**(4)** When the Council addresses the matters mentioned under subsection (1), 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.

**15.-(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. Other employees of the Danish FSA may, with the consent of the chairman, participate in the meetings.

**(2)** At meetings of the Council where matters covered by the enforcements of the Council under section 8, cf. section 83(2) and section 83b of the Securities Trading, etc. Act, the director general of the Danish Commerce and Companies Agency or any employees of the Danish Commerce and Companies Agency he so authorises, shall also participate in the processing of these matters. Other employees of the Danish Commerce and Companies Agency may, with the consent of the chairman, participate in the meetings.

**(3)** At the meetings of the Council the director general shall present a report of the ongoing supervision activities of the Danish FSA within the securities trading area, including specific matters of interest to the Council.

**(4)** Meetings of the Danish Securities Council shall not be public.

**16.-(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 84(1), nos. 1-6 of the Securities Trading, etc. 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 director general of the Danish FSA, the director general of the Commerce and Companies Agency, the secretary of the Council and other employees of the Danish FSA or the

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Commerce and Companies Agency, who participate with the consent of the chairman, shall not be entitled to vote at Council meetings.

**17.-(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, but are requested to submit objections to the secretary, in writing, as soon as possible following receipt of the minutes.

**(3)** At each meeting, all members present shall sign the minutes of the most recent meeting.

**(4)** The Consumer Ombudsman shall be sent the minutes regarding the items on the agenda in which the Consumer Ombudsman has participated.

#### *Incapacity*

**18.-(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.

**(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 Council.

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

#### *Duty of confidentiality and public access*

**19.-(1)** The members of the Danish Securities Council, their substitutes and the Consumer Ombudsman shall be subject to a duty of confidentiality pursuant to section 84a of the Securities Trading, etc. Act. Employees of the Danish Commerce and Companies Agency are, as part of the performance of the secretariat function for the Danish Securities Council, cf. section 9(1), covered by section 84a(1) of the Securities Trading, etc. Act. The 1st clause,

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however, shall not apply to its full extent in the processing of matters regarding issuing regulations on good securities trading practices, cf. subsection (2).

**(2)** In connection with Council processing of matters regarding issuing regulations on good securities trading practices, 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 Danish Securities 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, customers, or investors 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 (5)-(7).

**(4)** A member may discuss matters covered by section 3 and section 8 with his substitute and forward material linked to this to his substitute. The chairman 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)** An undertaking, which issues information regarding commercial or operational secrets to the Danish Securities Council, 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.

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

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

**20.** The decisions of the Council pursuant to section 3 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.

*Entry into force*

**21.-(1)** This Executive Order shall enter into force on 2 February 2005.

**(2)** At the same time, Executive Order no. 37 of 18 January 2003 on the rules of procedure for the Danish Securities Council shall be repealed.

Adopted at the meeting of the Danish Securities Council on 10 January 2005

*Approved by the Minister for Economic and Business Affairs on 21 January 2005*

*Danish Securities Council, 18 January 2005*

Erik Bonnerup

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/Henrik Bjerre-Nielsen