

## Executive Order on the Bookkeeping and Separation of Customer Funds by Investment Companies and Investment Management Companies <sup>1)</sup>

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Executive Order no. 732 of 1 July 2004 **EXCLUDING MINOR AMENDMENTS**

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The following shall be laid down pursuant to sections 97(3) and 373(2) of the Financial Business Act, cf. Consolidated Act no. 686 of 25 June 2004:

### *Scope*

1. This Executive Order shall apply to

- 1) investment companies that have been licensed to carry out investment business in accordance with section 14, cf. section 9(2), of the Financial Business Act,
- 2) investment management companies, that have been licensed to carry out investment management activities in accordance with section 14, cf. section 10(2), of the Financial Business Act, and
- 3) branches of investment companies and investment management companies which have been licensed in a country outside the European Union with which the Community has not entered into an agreement for the financial area, cf. section 33 of the Financial Business Act.

### *Recording customer payments and control*

**2.-(1)** Investment companies and investment management companies shall, without delay, pay advances and deposits received from customers into a designated customer account in a credit institution. Said customer account shall be separate from the funds of the investment company or investment management company.

**(2)** Investment companies and investment management companies shall, internally, record the payments from the customers on designated customer accounts from which the balance of the individual customer in the investment company or investment management company respectively shall appear.

**(3)** Said customer account in the credit institution shall be named "NN Fondsmæglerselskab A/S for kunder" (NN Investment Company A/S for customers) or "NN Investeringsforvaltningsselskab A/S for kunder" (NN Investment Management Company A/S for customers).

**3.** Investment companies and investment management companies shall, on a daily basis, ensure that the balance on the customer account in the credit institution is in accordance with the company's total customer funds carried.

### *Procedures*

While this translation was carried out by a professional translation agency, the text is to be regarded as an unofficial translation based on the latest official Executive Order no. 732 of 1 July 2004. Only the Danish document has legal validity.

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4.-(1) The board of management of investment companies and investment management companies shall lay down procedures for daily bookkeeping and control. Said procedures shall ensure that, at any given time, the customer funds carried by the company are in accordance with the balance on the customer account in the credit institution.

(2) The board of directors shall ensure compliance with subsection (1).

*Penalties*

5.-(1) Gross or repeated violations of sections 2-4 shall be subject to a fine.

(2) Companies, etc. (legal persons) may incur criminal liability under the regulations stipulated in chapter 5 of the Criminal Code.

*Entry into force*

6. This Executive Order shall enter into force on 1 August 2004. At the same time, Executive Order no. 394 of 24 May 2000 on the Bookkeeping and Separation of Customer Funds by Investment Companies and Investment Management Companies shall be repealed.

*The Danish Financial Supervisory Authority, 1 July 2004*

Henrik Bjerre-Nielsen

/Marianne Knudsen

**Official notes**

<sup>1)</sup> This Executive Order contains provisions that implement Council Directive no. 93/22/EEC of 10 May 1993 (Official Journal 1993 L 141, p. 27) (Investment Services Directive) and Directive 2001/107/EC of the European Parliament and of the Council of 21 January 2002 (Official Journal 2002 L 041, p. 20) (directive on regulation of management companies and simplified prospectuses).

**Links to EEC and EC directives, cf. note 1**

[Directive 1993/22/EEC](#) Celex no. 31993L0022

[Directive 2001/107/EC](#) Celex no. 32001L0107