

Act on Measures to Prevent Money Laundering and Financing of Terrorism

Act no. 442 of 11 May 2007

This is an Act to consolidate the Danish Act on Measures to Prevent Money Laundering and Financing of Terrorism, cf. Act no. 117 of 27 February 2006 with amendments consequential upon section 6 of Act no. 108 of 7 February 2007 and section 8 of Act no. 542 of 8 June 2006.

Part 1

Scope etc.

1.-(1) This Act shall apply to the following undertakings and persons:

- 1) Banks.
- 2) Mortgage-credit institutions.
- 3) Investment companies.
- 4) Investment management companies.
- 5) Life assurance companies and lateral pension funds (nationwide occupational pension funds).
- 6) Savings undertakings.
- 7) Electronic money institutions.
- 8) Insurance brokers, when they act in respect of life assurance or other investment-related insurance activities.
- 9) Foreign undertakings' branches in Denmark, carrying out activities under nos. 1-8.
- 10) Investment associations and special-purpose associations, collective investment schemes, restricted associations, innovation associations and hedge associations.
- 11) Undertakings and persons that commercially carry out activities involving currency exchange or transfer of money and other assets.
- 12) Other undertakings and persons that commercially carry out one or more of the activities mentioned in annex 1.
- 13) Lawyers when they participate by providing assistance in the planning or execution of transactions for their clients concerning
 - a) purchase and sale of real property or undertakings,
 - b) managing their clients' money, securities, or other assets,
 - c) opening or managing bank accounts, savings accounts, or securities accounts,
 - d) raising the necessary capital for establishment, operation, or management of undertakings,
 - e) establishing, operating, or managing undertakings, or
 - f) providing other business advice.
- 14) Lawyers when they, on behalf of their client and at said client's expense, carry out a financial transaction or a transaction concerning real property.
- 15) State-authorized public accountants and registered public accountants.
- 16) Authorized estate agents.
- 17) Undertakings and persons that otherwise commercially supply the same services as the groups of persons mentioned in nos. 13-16, including tax advisors and external accountants.
- 18) Providers of services for undertakings, cf. section 3, no. 5.

19) Danmarks Nationalbank (Denmark's central bank), insofar as it carries out activities corresponding to those of the institutions specified in no. 1.

(2) The Danish FSA may lay down regulations stipulating that this Act is not to apply to the undertakings or persons mentioned in subsection (1), nos. 1-12 in the situations where the Commission decides this pursuant to Article 40 of the Third Money Laundering Directive.

Ban against cash transactions

2. Retailers and auctioneers may not receive cash payments of DKK 100,000 or more irrespective of whether payment is effected in one instance or as several payments that seem to be mutually connected.

Part 2

Definitions

3. For the purposes of this Act:

- 1) "Companies" shall mean: Legal persons.
- 2) "Undertakings" shall mean: Companies and other similar legal arrangements.
- 3) "Regulated market" shall mean: A market as defined by Article 4(14) of Directive 2004/39/EC on markets in financial instruments. If said market is in the European Union or in a country with which the Community has entered into an agreement for the financial area, the market shall be included in the list mentioned in Article 47 of Directive 2004/39/EC on markets in financial instruments. If the market is in a country outside the European Union with which the Community has not entered into an agreement for the financial area, the market shall be a member of the World Federation of Exchanges (WFE).
- 4) "Beneficial owners" shall mean: The natural persons who ultimately own or control the customer or the natural person on whose behalf a transaction or activity is being conducted, including:
 - a) Persons who ultimately own or control a company through direct or indirect ownership or control more than 25 per cent of the ownership interests or the voting rights in the company, except companies the ownership interests of which are traded on a regulated market.
 - b) Person who otherwise exercise control over the management of a company.
 - c) Persons who, according to the articles of association of a fund or in another manner, are to receive 25 per cent or more of the distribution funds from a fund or another similar legal arrangement or other property, if the persons are known.
 - d) The group of persons, in whose main interest a fund or another similar legal arrangement has been set up or operates.
 - e) Persons who exercise control over 25 per cent or more of the distribution funds from a fund or another similar legal arrangement or other property.
- 5) "Providers of services for undertakings" shall mean: Any person, legal or natural, that is not covered by section 1(1), nos. 13-15, when said person carries out the following activities on a commercial basis:
 - a) Forming companies.
 - b) Acting as or arranging for another person to act as a member of the management of an undertaking, or as partner of a partnership, or a similar position in relation to other companies.
 - c) Provides a domicile address or another address, which is similarly suitable as

contact address and related services, for an undertaking.

- d) Acting as or arranging for another person to act as a trustee or administrator of a fund or another similar legal arrangement.
 - e) Acting as or arranging for another person to act as a shareholder for a third party, unless this is an undertaking the ownership interests etc. of which are traded on a regulated market.
- 6) "Politically exposed persons" shall mean: Persons who are or have been entrusted with a prominent public function, persons connected to such persons through same-sex partnership or marriage or the children or parents of such persons and persons known to be close employees of said persons.

4.-(1) For the purposes of this Act "money laundering" shall mean,

- 1) unlawfully to accept or acquire for oneself or others a share in profits, which are obtained by a punishable violation of the law,
- 2) unlawfully to conceal, keep, transport, assist in disposal or in a similar manner subsequently serve to ensure, for the benefit of another person, the profits of a punishable violation of the law, or
- 3) attempting or participating in such actions.

(2) The provision in subsection (1) shall also cover actions carried out by the person who committed the punishable violation of the law from which the profits originate.

5. For the purposes of this Act, "financing of terrorism" shall mean financing of terrorism as defined in section 114b of the Criminal Code with regard to actions covered by section 114 of that Act.

Part 3

Investigation and reporting obligations

6.-(1) The undertakings and persons covered by this Act shall pay special attention to customers' activities which, by their nature, could be regarded as being particularly likely to be associated with money laundering or financing of terrorism. This applies in particular to complex or unusually large transactions and all unusual patterns of transactions in relation to said customer.

(2) The purpose of the transactions mentioned in subsection (1) shall, as far as possible, be investigated. The results of such investigation shall be recorded and kept, cf. section 23.

7.-(1) If there is a suspicion that a customer's transaction or enquiry is or has been associated with money laundering or financing of terrorism, the undertakings and persons covered by this Act shall investigate the transaction or enquiry in more detail. If the suspicion relates to offences punishable by imprisonment of more than one year and this suspicion cannot be disproved, the State Prosecutor for Serious Economic Crime shall be informed immediately.

(2) In the event of suspicion as mentioned in subsection (1), members of the Danish Bar and Law Society may notify the secretariat of the Danish Bar and Law Society, which shall, following an assessment of whether the suspicion is subject to reporting obligations under subsection (1), immediately forward the notification to the State Prosecutor for Serious Economic Crime.

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(3) If the suspicion is related to money laundering, and the transaction has not already been carried out, the transaction shall be suspended until notification has been effected pursuant to subsection (1). If notification is effected pursuant to subsection (2), the transaction shall be suspended until the Danish Bar and Law Society has forwarded the notification to the State Prosecutor for Serious Economic Crime or has stated that, following specific assessment, the notification will not be forwarded. If effectuation of the transaction cannot be avoided, or if this is deemed to be potentially harmful for the investigation, notification shall instead be given immediately after the effectuation, cf. however subsection (4).

(4) If the suspicion is related to financing of terrorism, transactions from the account or person in question may only be carried out with the consent of the State Prosecutor for Serious Economic Crime. The State Prosecutor for Serious Economic Crime shall decide, as soon as possible and no later than at the end of the banking day following receipt of notification, whether seizure is to be effected.

(5) The Police may, under the regulations stipulated in the Administration of Justice Act, demand any information necessary for investigation of the case from the undertakings and persons covered by this Act.

8.-(1) Lawyers are exempted from the obligation in section 7 to report information they receive from or obtain about one of their clients, in the course of determining the legal position for their client or performing their task of defending or representing said client in, or concerning judicial proceedings, including advice on instituting or avoiding proceedings. This shall apply irrespective of whether the information is received before, during or after such judicial proceedings or in connection with the relevant client's legal position being ascertained.

(2) The persons and undertakings mentioned in section 1(1), nos. 13-17 shall, when assisting a lawyer before, during, and after judicial proceedings or in ascertaining a client's legal position, be exempt from the duty to submit information to the same extent as the lawyer they assist, cf. subsection (1).

(3) Subsections (1) and (2) shall also apply to cases brought before the Danish National Tax Tribunal and to cases brought before a court of arbitration. When representing clients before the Danish National Tax Tribunal, auditors shall also be exempt from the duty to submit information pursuant to this Act.

(4) Subsections (1) and (2) shall not apply if the assistance is provided with a view to money laundering or financing of terrorism, or if the undertaking or person knows that the client is seeking assistance with a view to money laundering or financing of terrorism.

9. If the Danish FSA or the Danish Commerce and Companies Agency learns of circumstances that are presumed to be associated with money laundering or financing of terrorism covered by the reporting obligation in section 7, said authority shall notify the State Prosecutor for serious economic crime in this respect.

10. The Danish FSA may, when acting on the recommendations of the Financial Action Task Force, lay down more specific regulations on the duty applying to the undertakings and persons specified in section 1, requiring them to systematically submit information to the State Prosecutor for serious economic crime concerning financial transactions with non-cooperative countries in connection with combating money laundering or financing of terrorism. In this connection, the Danish FSA may stipulate that notification is to be carried out systematically in all cases, even though no suspicion has arisen.

Part 4

Customer due diligence, etc.

11. The undertakings and persons covered by this Act shall always require that customers identify themselves, if they suspect that a transaction is associated with financing of terrorism or money laundering covered by the reporting obligation under section 7.

Regular customer relationships

12.-(1) The undertakings and persons covered by this Act shall have knowledge of their customers in accordance with subsections (2)-(8), and they shall require that their customers provide proof of identity when establishing a business relationship with said customers, including the opening of an account or a custody account.

(2) If the customer is a natural person, proof of identity shall include name, address, national registration number (CPR number) or similar documentation if the person in question does not have a CPR number.

(3) If the customer is an undertaking, the proof of identity shall include name, address, CVR number (business registration number) or similar documentation if the undertaking does not have a CVR number. Reasonable steps shall be taken to ascertain the undertaking's ownership and control structure and the undertaking's beneficial owners shall be identified, cf. however section 21(1), no. 2.

(4) Information shall be obtained about each customer's objective regarding the business relationship and the intended extent hereof.

(5) The customer relationship shall be monitored on a regular basis. Transactions undertaken throughout the course of said relationship shall be monitored to ensure that the transactions being conducted are consistent with the undertaking's or person's knowledge of the customer and the customer's business and risk profile, including, where necessary, the source of the funds. Documents, data or other information about the customer shall be kept up to date.

(6) In the event of doubts about the veracity or adequacy of previously obtained customer identification data, new proof of identity shall be required as mentioned in subsections (2) and (3).

(7) The undertakings and persons covered by this Act may decide to carry out the identification procedure etc. in subsections (1)-(5) on the basis of a risk assessment, depending on the risk related to the individual customer or business relation, the product or the transaction. The undertaking or person shall, however, be able to prove to the authority carrying out supervision of the relevant undertaking's or person's compliance with this Act that the extent of their investigation is adequate in relation to the risk of money laundering and financing of terrorism.

(8) For customer relationships established before entry into force of this Act and where the information mentioned in subsections (1)-(5) does not exist, proof of identity and collection of information under subsections (1)-(5) shall be carried out at a suitable time and on the basis of a risk assessment.

13.-(1) The identification procedure in section 12 shall be completed in connection with the

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establishment of the customer relationship and no later than before carrying out the transaction. Provided that it is necessary in order not to interrupt the normal conduct of business, the identification procedure may, on the basis of a risk assessment, be completed in immediate continuation of the establishment of the customer relationship. In the situations mentioned in the 2nd clause, the identification procedure shall, however, be completed as soon as practicable after the initial contact with the customer.

(2) If the proof of identity of the customer cannot be carried out in accordance with section 12(1)-(4), a regular customer relationship or a business relationship may not be established, and transactions may not be carried out for said customer. At the same time, the undertaking shall check whether notification under section 7 is to be carried out.

(3) Notwithstanding subsection (1), life-assurance companies and pension funds may carry out proof of identity of the customer after establishment of the customer relationship. Proof of identity shall, however, take place at or before the time of payout or at the time the beneficiary intends to exercise rights vested under the policy.

(4) Subsection (2), 1st clause shall not apply to lawyers when ascertaining a client's legal situation or defending or representing said client during or in connection with a judicial proceedings, including giving advice about instituting or avoiding proceedings. The persons and undertakings mentioned in section 1(1), nos. 13-17, shall, when assisting a lawyer in the situations mentioned in the 1st clause, be exempt from the requirement in subsection (2), 1st clause to the same extent as the lawyer they assist.

Occasional customers

14.-(1) For customers with single transactions (occasional customers) undertakings and persons covered by this Act shall meet the requirements of section 12(1)-(4) and section 13 for each transaction of amounts corresponding to DKK 100,000 or more. The requirements concerning proof of identity shall apply irrespective of whether the transaction is completed in one or more related operations if these appear to be connected.

(2) If the value of a transaction is not known at the time of commencement of said transaction, proof of identity shall be demanded as soon as the undertaking suspects that the transaction concerned is of the type covered by subsection (1).

Transactions for a third party

15. If an undertaking or person covered by this Act has knowledge or presumption that a person other than the one they are in contact with is the beneficial customer, said undertaking or person shall also demand to be informed of the identity etc. of the beneficial customer in accordance with section 12.

Money transmission services

16.-(1) The regulations on the information which is to accompany money transmission services shall be regulated in the Council Regulation on information on the payer accompanying transfers of funds, cf. however, subsections (2) and (3).

(2) The Regulation shall not apply to transfer of funds services in connection with purchases of goods and services when:

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- 1) the amount does not exceed EUR 1,000,
- 2) the payment service provider of the payee is covered by this Act, and
- 3) the payment service provider of the payee, using a unique reference number, can identify the legal or natural person with whom the recipient of the payment has an agreement to deliver goods or services.

(3) The requirements for the information which is to accompany transfer of funds, cf. article 5 of the Regulation, shall not apply to transfer of funds for organisations with charitable objects which do not exceed an amount of EUR 150, when the transfer is carried out within the Danish borders and the organisation is subject to financial reporting requirements and is either subject to an external audit, to be carried out by a state-authorized public accountant or a registered public accountant, or subject to supervision by a public authority.

(4) Exemption pursuant to subsection (3) shall be subject to the organisation being registered with the Danish FSA and documenting compliance with either the requirement for financial reporting, and either external audit or supervision by a public authority. The organisation shall also provide information on the natural persons who comprise the senior management of the organisation or who otherwise exercise control of the organisation. Changes in the conditions mentioned in the 1st and 2nd clauses shall be notified to the Danish FSA.

Information from a third party

17.-(1) The undertakings and persons covered by this Act may omit to obtain the information about a customer's identity etc. pursuant to section 12(1)-(4) when this information is provided by an insurance broker, cf. section 2, no. 1 of the Insurance Mediation Act; a financial undertaking, cf. section 5, no. 1 of the Financial Business Act; or by a foreign undertaking that has been granted a license to carry out the activities mentioned in sections 7-11 of the Financial Business Act in a country within the European Union or in a country with which the Community has entered into an agreement for the financial area. Notwithstanding the 1st clause, the recipient undertaking or person shall be responsible for meeting the requirements of section 12(1)-(4).

(2) If the undertaking providing the information mentioned in subsection (1) has been granted a license to carry out the activities mentioned in sections 7-11 of the Financial Business Act in a country outside the European Union with which the Community has not entered into an agreement for the financial area, undertakings and persons covered by this Act may apply information obtained by the relevant undertaking as a basis if said undertaking is subject to requirements about the fight against money laundering and financing of terrorism similar to the requirements of the Third Money Laundering Directive, and if compliance with said requirements is being checked.

(3) Subsection (1) shall not apply to matters in the undertakings mentioned in subsection (2) if the European Commission decides under Article 40(4) of the Third Money Laundering Directive to exempt the country where the relevant undertaking has its registered office.

18. The undertaking providing information about a customer's identity etc. pursuant to section 17 shall immediately make this information available to the recipient undertaking or person covered by this Act. Moreover, the undertaking shall, at the request of the recipient undertaking or person, immediately send relevant proof of identity and control information as well as other relevant documentation on the identity of the customer or the beneficial owner.

Enhanced customer due diligence etc.

19.-(1) The undertakings and persons covered by this Act shall, on the basis of a risk assessment, make further requirements for proof of identity by a customer than mentioned in section 12 in situations which by their nature can present a higher risk of money laundering and financing of terrorism. This means that they, as a minimum, shall meet the requirements in subsections (2)-(4).

(2) When the customer has not been physically present for identification purposes, the undertaking or person shall take further measures to ascertain the customer's identity. This may be effected, for example, by taking one or more of the following measures:

- 1) Ensuring that the customer's identity is established by additional documentation.
- 2) Checking or verifying the documents supplied, or requiring confirmatory certification by one of the undertakings or persons mentioned in section 1(1), nos. 1-11.
- 3) Requiring that the first payment in connection with the transactions is carried out through an account opened in the customer's name with a bank.

(3) For cross-frontier correspondent banking relationships with banks and institutions from countries outside the European Union with which the Community has not entered into an agreement for the financial area, the banks, mortgage-credit institutions and electronic money institutions covered by this Act shall, before establishing new correspondent banking relationships,

- 1) gather sufficient information about a respondent institution to understand fully the nature of the respondent's business and to determine from publicly available information the reputation of the institution and the quality of supervision,
- 2) assess the counterparty's anti-money-laundering and anti-terrorist-financing controls,
- 3) obtain approval from senior daily management, and
- 4) ensure that the respondent bank has checked the identity of the customers and is regularly assessing relevant information about the customers having direct access to the account of the correspondent bank with a person or undertaking covered by this Act, and ensure that the respondent bank is able to supply relevant customer information at the request of the account holder.

(4) The undertakings and persons covered by this Act shall

- 1) have adequate procedures to determine whether the customer is a politically exposed person who is a resident of another country,
- 2) have senior daily management approval for establishing business relationships with such customers,
- 3) take reasonable measures to gather information about the sources of income and funds that are involved in the business relationship or transaction, and
- 4) continuously monitor the business relationship.

(5) Banks, mortgage-credit institutions and electronic money institutions may not enter into or continue a correspondent banking relationship with a shell bank and they shall take reasonable measures to avoid a connection with a credit institution which is known to permit shell banks to use its accounts.

(6) Undertakings and persons covered by this Act shall be particularly aware of any money laundering and financing of terrorism threats that may arise from products or transactions that

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might favour anonymity, and take measures, if needed, to prevent that the products or transactions are used for money laundering and financing of terrorism purposes.

Simplified customer due diligence, etc.

20-(1) The requirement concerning proof of identity in sections 12 and 19(2) may be omitted with regard to the following products and transactions:

- 1) Life-assurance and pension contracts if the amount of the annual premium is equivalent to EUR 1,000 or less or, in the case of a single premium, if the amount of the single premium is equivalent to EUR 2,500 or less.
- 2) Life-assurance and pension contracts entered into in pursuance of a contract of employment or the business of the insured party, provided the agreement does not feature a buy-back clause and cannot be used as collateral for a loan.
- 3) Life-assurance and pension contracts where the premium or the contribution is to be debited to the customer's bank account.
- 4) Life-assurance and pension contracts entered into in pursuance of a contract of employment or the business of the insured party with a limited buy-back clause, when proof of identity is given pursuant to section 12 if the customer makes use of the buy-back clause.
- 5) Electronic money, as defined in section 308(1), 2nd and 3rd clauses of the Financial Business Act
 - a) where the maximum amount stored on non-rechargeable cards cannot exceed EUR 150, or
 - b) where the maximum amount stored on rechargeable cards cannot exceed EUR 2,500 within one calendar year, and where a maximum of EUR 1,000 can be withdrawn within one calendar year.

(2) Irrespective of the size of the transaction or the nature of the product, undertakings shall demand proof of identity if they suspect that the transaction is associated with money laundering or financing of terrorism covered by the reporting obligations under section 7.

(3) The Danish FSA may, on the basis of decisions from the European Commission, lay down regulations allowing other products or transactions to be exempted.

21.-(1) The requirements concerning proof of identity in section 12 shall not apply when the customer is

- 1) one of the undertakings mentioned in section 1(1), nos. 1-11 and 19 or a similar undertaking with its registered office in a country within the European Union or a country with which the Community has entered into an agreement for the financial area covered by the Third Money Laundering Directive, or a similar undertaking established in a country outside the European Union with which the Community has not entered into an agreement for the financial area, subject to requirements to combat money laundering and financing of terrorism corresponding to the requirements stipulated in the Third Money Laundering Directive, and if compliance with these requirements is supervised,
- 2) an undertaking the securities of which have been admitted to trading on a regulated market, or
- 3) a Danish public authority.

(2) The requirements concerning proof of identity in section 12 shall not apply when the beneficial owner has funds in a client's account of a notary or a lawyer, if the notary or the lawyer is subject to regulations corresponding to this Act. It is a condition that information

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about the identity of the beneficial owner etc. is made available to the account-holding institution when said institution requests this.

(3) At all events, sufficient information shall be obtained to ascertain that the customer is covered by one of the exemptions mentioned in subsections (1) and (2).

(4) The Danish FSA may, on the basis of decisions by the European Commission, lay down regulations allowing other undertakings and persons to be exempted.

22. If the European Commission so decides, the Danish FSA may decide that persons and undertakings covered by this Act are not to apply the exemption in section 21 in relation to credit institutions and finance institutions or listed undertakings or other units from a country outside the European Union with which the Community has not entered into an agreement for the financial area.

Record-keeping, etc.

23.-(1) The undertakings and persons covered by this Act shall store identity information for no less than five years after the customer relationship has ceased. Copies of the identification documents obtained pursuant to sections 12, 14, 18 and 19 may be stored.

(2) Documents and records concerning transactions shall be stored so that they can be located together for at least five years after the performance of the transactions. This shall also apply to the information recorded pursuant to section 6(2).

(3) If the undertaking ceases activities, the last acting management shall ensure that identity information etc. continues to be stored in accordance with subsections (1) and (2). If an undertaking is dissolved through the intervention of the bankruptcy court, the bankruptcy court may decide that persons other than the last acting management are to store the identity information etc.

Branches and subsidiary undertakings in third countries

24.-(1) The undertakings covered by section 1(1), nos. 1-7 and 10-12 shall ensure that their branches and subsidiary undertakings established in countries outside the European Union with which the Community has not entered into an agreement for the financial area have customer due diligence measures and storage of identity information etc. corresponding to the requirement of the Third Money Laundering Directive, to the extent that the legislation of said country allows this.

(2) If the legislation in the country mentioned in subsection (1) does not permit the use of measures similar to those mentioned in subsection (1), the undertaking shall inform the authority supervising the undertaking's compliance with this Act, cf. part 8 of this Act. The undertaking shall also ensure that the threat of money laundering and financing of terrorism in the branch or the subsidiary undertaking is countered in another manner.

(3) The undertakings mentioned in subsection (1) shall ensure that their branches and subsidiary undertakings established in countries outside the European Union with which the Community has not entered into an agreement for the financial area have written internal rules regarding customer due diligence and record-keeping corresponding to the requirements in section 25(1) to the extent that the legislation of said country allows this.

Part 5

Internal rules and training etc.

- 25.-(1)** The undertakings and persons covered by this Act shall prepare adequate written internal rules about customer due diligence, reporting, record-keeping, internal control, risk assessment, risk management, management controls and communication as well as training and instruction programmes for their employees in order to forestall and prevent money laundering and financing of terrorism.
- (2)** Undertakings and persons covered by section 1(1), nos. 1-10 shall appoint a person at management level to ensure that the undertaking complies with its obligations under this Act.
- (3)** Undertakings and persons covered by section 1 shall ensure that their employees know of the obligations stipulated in this Act.
- (4)** In employment relationships, the obligations mentioned in subsections (1) and (2) shall rest on the employer.
- (5)** The Danish FSA may lay down more detailed regulations on the requirements mentioned in subsection (1).

Part 6

Duty of confidentiality and liability

- 26.** The notifications and information that undertakings and persons covered by this Act disclose in good faith pursuant to section 7 and suspension of transactions pursuant to section 7(4) shall not incur any liability on the undertaking or person, its employees or management. Disclosure of information in connection with this shall not be considered a breach of any duty of confidentiality.
- 27.-(1)** Undertakings and persons covered by this Act, management and employees in said undertakings and employees of said persons as well as auditors or other persons carrying out or having carried out special tasks for the undertaking or person shall be obliged to keep secret the fact that notification has been effected under section 7, that this is being considered, or that an investigation of whether this is a case of money laundering or financing of terrorism has been or will be instigated, cf. however subsections (2)-(6).
- (2)** Information that notification has been effected under section 7, that this is being considered, or that an investigation of whether this is a case of money laundering or financing of terrorism has been or will be instigated may be divulged to the authorities and organisations that supervise compliance with this Act.
- (3)** The prohibition laid down in subsection (1) shall not prevent lawyers, auditors, external accountants and tax advisors from discouraging their client from carrying out illegal activities.
- (4)** Information that notification has been effected under section 7, that this is being considered, or that an investigation of whether this is a case of money laundering or financing of terrorism has been or will be instigated may be divulged to undertakings belonging to the same group as defined by Article 2(12) of Directive 2002/87/EC.

(5) Information that notification has been effected under section 7, that this is being considered, or that an investigation of whether this is a case of money laundering or financing of terrorism has been or will be instigated may be divulged between persons as mentioned in section 1(1), nos. 13-15 if both the person divulging the information and the person receiving the information carry out their activities within the same legal unit or network.

(6) Information that notification has been effected under section 7, that this is being considered, or that an investigation of whether this is a case of money laundering or financing of terrorism has been or will be instigated may be divulged between persons or undertakings covered by section 1(1), nos. 1-14 provided

- 1) that the information relates to an undertaking or person that is a customer of both the undertaking or person divulging the information and the undertaking or person receiving the information, and that the information relates to a transaction involving both parties,
- 2) that the undertaking or person divulging the information and the undertaking or person receiving the information have the same occupation,
- 3) that the undertaking or person divulging the information and the undertaking or person receiving the information are subject to uniform requirements as regards duty of confidentiality and protection of personal data, and
- 4) that the information exchanged is only applied for prevention of money laundering and financing of terrorism.

(7) Information as mentioned in subsections (4)-(6) may only be divulged to undertakings and persons that have their registered offices or are domiciled in a country outside the European Union with which the Community has not entered into an agreement for the financial area, if the undertaking or person is subject to requirements to combat money laundering and financing of terrorism corresponding to the requirements stipulated in the Third Money Laundering Directive and that compliance with these requirements is being supervised.

28. The Danish FSA shall inform the other Member States and the European Commission of matters where it decides that a country outside the European Union with which the Community has not entered into an agreement for the financial area does have requirements to combat money laundering and financing of terrorism corresponding to the requirements stipulated in the Third Money Laundering Directive and that compliance with these requirements is being supervised.

29. If the European Commission so decides, the Danish FSA may decide that undertakings and persons covered by this Act are not to divulge information to countries outside the European Union with which the Community has not entered into an agreement for the financial area pursuant to section 27.

Part 7

Counterfeit money

30. Undertakings and persons that, as part of their activities, take part in handling and delivery of notes and coins to the general public, including persons and undertakings the activity of which consists of exchanging notes and coins of various currencies, shall remove from circulation all notes and coins that they know or have reason to believe are counterfeit. Counterfeit banknotes and coins shall be submitted to the Police immediately.

Part 8

Registration and supervision etc.

31.-(1) Persons and undertakings covered by section 1(1), nos. 11 and 18 shall be registered with the Danish Commerce and Companies Agency in order to carry out such activities.

(2) The Danish Commerce and Companies Agency shall refuse to register the persons and undertakings mentioned in subsection (1) if the persons or members of management mentioned or the beneficial owners of the undertaking have been convicted of a criminal offence and such offence gives reason to believe that there is an immediate danger that the position or business may be abused, cf. section 78(2) of the Criminal Code.

(3) The Danish Commerce and Companies Agency shall deregister a person or undertaking mentioned in subsection (1) if a registered person or a member of management or the beneficial owners of a registered undertaking do not comply with the requirement in subsection (2).

32.-(1) The Danish Commerce and Companies Agency shall ensure that undertakings and persons covered by section 1(1), nos. 11 and 15-18 comply with this Act and the regulations issued pursuant hereto. The Danish Commerce and Companies Agency shall also ensure that undertakings and persons covered by section 1(1), no. 11 comply with the Regulation on information on the payer accompanying transfers of funds.

(2) Supervision under subsection (1) of undertakings and persons covered by section 1(1), nos. 15-18 shall be carried out on the basis of an assessment of the risk of money laundering and financing of terrorism.

(3) The undertakings and persons mentioned in subsection (1) shall provide the Danish Commerce and Companies Agency with all information necessary for supervision of compliance with this Act or regulations issued pursuant hereto as well as compliance with the Regulation on information on the payer accompanying transfers of funds.

(4) The Danish Commerce and Companies Agency may at all times, on proof of identity and without a court order, gain access to undertakings and persons covered by section 1(1), no. 11 with a view to obtaining information, including during inspections.

(5) The Danish Commerce and Companies Agency may use external assistance in supervision under subsection (1).

33. The Danish Commerce and Companies Agency may, for the undertakings and persons mentioned in section 31, lay down more detailed regulations regarding notification, registration and public disclosure, including regulations stipulating which information is to be registered and which matters applicants or others may submit and register electronically themselves in the Agency's computer system by using a digital or similar electronic signature, and regarding the use of such a system.

34.-(1) The Danish FSA shall ensure that undertakings and persons covered by section 1(1), nos. 1-10 and 12 of this Act comply with this Act and the regulations issued pursuant hereto. The Danish FSA shall also ensure that undertakings and persons covered by section 1(1), nos. 1-10 and 12 comply with the Regulation on information on the payer accompanying transfers of funds, if these undertakings and persons carry out transfer of funds.

(2) Persons and undertakings covered by section 1(1), no. 12 shall be registered with the

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Danish FSA.

(3) The undertakings and persons mentioned in subsection (1) shall provide the Danish FSA with the information necessary for supervision of compliance with this Act or regulations issued pursuant hereto as well as compliance with the Regulation on information the payer accompanying transfers of funds.

(4) The Danish FSA may at all times, on proof of identity and without a court order, gain access to undertakings and persons covered by subsection (1) with a view to gathering information, including during inspections.

(5) The Danish FSA may order that proof of identity and collection of information be effected in accordance with section 12(8).

Feedback

35.-(1) The State Prosecutor for Serious Economic Crime may, if investigative considerations do not contradict this, inform the notifying person about the status of the matter, including whether a charge has been made, and may inform about deletion from the money laundering register at the State Prosecutor for Serious Economic Crime, and about a final decision, on conviction possibly in the form of a judgment or a transcript of a judgment.

(2) The notifications mentioned in subsection (1) may not unlawfully be divulged to others.

Part 10

Provisions regarding appeals

36. Decisions made by the Danish FSA or the Danish Commerce and Companies Agency under this Act or regulations issued pursuant to this Act as well as pursuant to the Regulation on information on the payer accompanying transfers of funds may be brought before the Company Appeals Board by the person against whom said decision is directed no later than four weeks after the person concerned has been notified about the decision.

Part 11

Penalties

37.-(1) Intentional or grossly negligent violation of section 2; section 6(2), 2nd clause; section 7(1), 2nd clause, (3) and (4), 1st clause; section 11; section 12(1)-(6); section 13(1), 1st and 3rd clauses, (2) and (3), 2nd clause; section 14; section 15; section 19(1), (2), 1st clause and (3)-(5); section 23(1), 1st clause, (2) and (3), 1st clause; section 24; section 25(1)-(3); section 27(1); section 30, 2nd clause; section 31(1); section 32(3); and section 34(2) and (3) shall be subject to a fine. Intentional or grossly negligent violation of section 35(2) shall be subject to a fine, unless more severe punishment is incurred under the regulations of the Criminal Code.

(2) In the event of particularly gross or extensive intentional violations of section 2; section 7(1), 2nd clause, (3) and (4), 1st clause; section 12(1)-(6); sections 14 and 15; and section

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23(1), 1st clause, (2) and (3), 1st clause, the penalty may be increased to imprisonment of up to six months.

(3) In regulations issued pursuant to this Act, fines may be stipulated for violation of the provisions of said regulations.

(4) If a person or undertaking omits to fulfil the duties and obligations imposed on them pursuant to section 32(3) and section 34(3), the Danish Commerce and Companies Agency and the Danish FSA respectively may, as a coercive measure, impose daily or weekly fines on the person, or undertaking or on the persons responsible for said undertaking.

(5) Any person or undertaking failing to comply with an order issued pursuant to section 34(5) shall be liable to a fine.

(6) Intentional or grossly negligent violation of article 5 and article 6(2), article 7(1), articles 8, 9, 11 and 12 and article 13(4) of the Council Regulation on information on the payer accompanying transfers of funds shall be liable to a fine. In the event of particularly gross or extensive intentional violations the penalty may be increased to imprisonment of up to six months.¹⁾

(7) Companies, etc. (legal persons) may incur criminal liability according to the regulations in chapter 5 of the Criminal Code.

Part 12

Entry into force and transitional provisions, etc.

38.-(1) This Act shall enter into force on 1 March 2006, cf. however subsection (3).

(2) At the same time, the Act on Measures to Prevent Money Laundering and Financing of Terrorism, cf. Consolidated Act no. 132 of 1 March 2005 shall be repealed.

(3) Section 6(2), section 12(5) and section 19 shall enter into force on 1 January 2007.

39. The provisions of section 31(2) and (3) shall not apply to undertakings and persons carrying out activities covered by section 1(1), nos. 11 and 18 on the date of entry into force of this Act.

40. The "lov om visse betalingsmidler" (act on certain means of payment), cf. Consolidated Act no. 1501 of 20 December 2004, as amended most recently by Act no. 603 of 24 June 2005 shall be amended as follows:

1. In section 10, the following shall be inserted as subsection (2):

"**(2)** The obligation to receive cash payment under subsection (1) shall not apply to retailers and auctioneers in the event of cash payments of DKK 100,000 or more and payment is effected in one instance or as several payments that seem to be mutually connected."

41. This Act shall not extend to Greenland and the Faeroe Islands, but may be brought into force by Royal Decree for these parts of the Realm subject to any variations in their operation necessitated by the specific conditions prevailing in Greenland and the Faeroe Islands respectively

Annex 1

- 1) Acceptance of deposits and other repayable funds.
- 2) Lending, including
 - consumer credit,
 - mortgage-credit loans,
 - factoring and discounting,
 - financing of commercial transactions (including forfeiting).
- 3) Financial leasing.
- 4) Payment services (money transmission services).
- 5) Issue and administration of means of payment (e.g. credit cards, travellers' cheques, and bankers' drafts).
- 6) Guarantees and collateralisation.
- 7) Trading for own account or for account of customers in:
 - a) money market instruments (cheques, bills, certificates of deposit, etc.)
 - b) the foreign exchange market
 - c) financial futures and options
 - d) currency and interest rate instruments, and
 - e) securities.
- 8) Participation in issuing securities and provision of related services.
- 9) Advice to undertakings on capital structure, industrial strategy and related questions and advice, and services relating to mergers and the acquisition of undertakings.
- 10) Money broking.
- 11) Portfolio management and advice.
- 12) Safekeeping and administration of securities.
- 13) Safe custody services.

Christiansborg Slot, 27 February 2006

Under Our Royal Hand and Seal

In the Name of the Queen:
FREDERIK
Crown Prince

/Bendt Bendtsen

Official notes

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¹⁾ Pursuant to section 21(5) of Act no. 108 of 7 February 2007, this provision shall enter into force on 15 December 2007.