

## Act no. 41 of 22 January 2018

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### Insurance Mediation Act<sup>1</sup>

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WE MARGRETHE THE SECOND by the grace of God Queen of Denmark, hereby make known:

Folketinget (the Danish Parliament) has adopted and We with Our consent hereby enact the following Act:

#### **Part 1**

##### Scope and definitions

Section 1. This Act applies to insurance intermediaries, reinsurance intermediaries and ancillary insurance intermediaries, cf. paragraphs 2 and 3.

Paragraph 2. The Act does not apply to ancillary insurance intermediaries that perform insurance distribution activities when the following conditions are met:

- 1) The insurance is complementary to a good or service and covers
  - a) the risk of breakdown, loss of, or damage to, the good or the non-use of the service supplied by that provider, or
  - b) damage to, or loss of, baggage and other risks linked to travel.
- 2) The insurance contract's annual premium does not exceed DKK 4,476 or, where the insurance is complementary to a service that meets the conditions in no. 1, the duration of that service does not exceed three months, and the insurance's annual premium does not exceed DKK 1,492 per person.

Paragraph 3. The Act does not apply to the following activities:

- 1) The provision of information on an incidental basis in the context of another professional activity where:
  - a) the undertaking does not take any additional steps to assist in concluding or performing an insurance contract or

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<sup>1</sup> The Act contains provisions implementing parts of Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution, Official Journal of the European Union 2016, no. L26, page 19.

- b) the purpose of that activity is not to assist the customer in concluding or performing a reinsurance contract.
- 2) The management of claims of an insurance undertaking or of a reinsurance undertaking on a professional basis, and loss adjusting and expert appraisal of claims.
- 3) The provision of data and information on potential policyholders to insurance intermediaries, reinsurance intermediaries, insurance undertakings or reinsurance undertakings where only data is provided and the provider does not take any additional steps to assist in the conclusion of an insurance or reinsurance contract.
- 4) The provision of information about insurance or reinsurance products, an insurance intermediary, a reinsurance intermediary, an insurance undertaking or a reinsurance undertaking to potential policyholders where only such information is provided and the provider does not take any additional steps to assist in the conclusion of an insurance or reinsurance contract.

Paragraph 4. Section 3, paragraph 6, and Sections 4, paragraph 4 apply to the following:

- 1) Danish insurance undertakings.
- 2) Branches in Denmark of an insurance undertaking which has been granted a licence in another Member State of the European Union or a state with which the Union has made an agreement in the financial area.
- 3) Branches in Denmark of insurance undertakings which have been granted a licence in a state outside the European Union with which the Union has not made an agreement in the financial area.

Paragraph 5. Section 3, paragraph 6, applies to reinsurance undertakings.

Paragraph 6. The Act does not apply to insurance and reinsurance distribution activities in relation to risks and commitments in a state outside the European Union unless the Union has entered into an agreement with that state in the financial area.

Section 2. For the purposes of this Act, the following definitions apply:

- 1) Insurance distribution:
  - a) The activities of advising on, proposing, or carrying out other work preparatory to the conclusion of contracts of insurance, of concluding such contracts, or of assisting in the administration and performance of such contracts.
  - b) The provision of information concerning one or more insurance contracts in accordance with criteria selected by customers through a website or other media and the compilation of an insurance product ranking list, including price and product comparison, or a discount on the price of an insurance contract, when the customer is able to directly or indirectly conclude an insurance contract via that medium.
- 2) Reinsurance distribution: the activities of advising on, proposing, or carrying out other work preparatory to the conclusion of contracts of reinsurance, of concluding

such contracts, or of assisting in the administration and performance of such contracts, including when carried out by a reinsurance undertaking without the intervention of a reinsurance intermediary.

3) Insurance intermediary: a natural or legal person, other than an insurance or reinsurance undertaking or their employees and other than an ancillary insurance intermediary, who, for remuneration, takes up or pursues the activity of insurance distribution.

4) Reinsurance intermediary: a natural or legal person, other than a reinsurance undertaking or its employees, who, for remuneration, takes up or pursues the activity of reinsurance distribution.

5) Ancillary insurance intermediary: a natural or legal person who, for remuneration, takes up or pursues the activity of insurance distribution on an ancillary basis, provided that the following conditions are met:

a) That natural or legal person is not a credit institution or an investment firm as defined in points (1) and (2) of Article 4(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms.

b) The principal professional activity of that natural or legal person is other than insurance distribution.

c) The natural or legal person only distributes insurance products that are complementary to a good or service that they supply.

d) The insurance products concerned do not cover life assurance or liability risks, unless that cover complements the good or service which the intermediary provides as its principal professional activity.

6) Remuneration: all forms of fixed and variable salary, commissions, fees, other payments and benefits given or paid to a natural or legal person in respect of insurance distribution activities.

7) Close links:

a) Direct or indirect links within a Group,

b) participating interests such that an undertaking is in direct or indirect ownership of 20% or more of the voting rights or capital of another undertaking, or

c) joint links with an undertaking of several undertakings or persons, cf. a), with an undertaking.

8) Large risks:

a) Risks under insurance classes 4-7, 11 and 12 in Appendix 7 to the Danish Financial Business Act.

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b) Risks under insurance classes 14 and 15 in Appendix 7 to the Danish Financial Business Act, where the policyholder carries out industrial, retail or professional activities, and the risks concern these activities.

c) Risks under insurance classes 3, 8-10, 13 and 16 in Appendix 7 to the Danish Financial Business Act, where the policyholder meets at least two of the following conditions:

i) The policyholder has total assets of minimum DKK 46.3 million.

ii) The policyholder has annual net sales of minimum DKK 95.5 million.

iii) The policyholder had 250 or more full-time employees in the most recent financial year.

9) Durable medium: any instrument which enables a customer to store information addressed personally to that customer in a way accessible for future reference and for a period of time adequate for the purposes of the information; and allows the unchanged reproduction of the information stored.

10) Home state:

a) Where the intermediary is a natural person: the Member State of the European Union or the state with which the Union has made an agreement in the financial area in which the intermediary has their residence.

b) Where the intermediary is a legal person: the Member State of the European Union or the state with which the Union has made an agreement in the financial area in which the legal person has its registered office, or, if under its national law it has no registered office, the state in which the legal person's head office is situated.

11) Host state: the Member State of the European Union or the state with which the Union has made an agreement in the financial area in which an insurance or reinsurance intermediary has a permanent presence or establishment or provides services, and which is not its home state.

12) Insurance-based investment product: an insurance product which offers a maturity or surrender value and where that maturity or surrender value is wholly or partially exposed, directly or indirectly, to market fluctuations, and does not include:

a) Non-life insurance products as listed in Annex I to Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II).

b) Life insurance contracts where the benefits under the contract are payable only on death or in respect of incapacity due to injury, sickness or disability.

c) Pension products which are recognised as having the primary purpose of providing the investor with an income in retirement, and which entitle the investor to certain benefits.

d) Officially recognised occupational pension schemes falling under the scope of Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision or Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II).

e) Individual pension products for which a financial contribution from the employer is required and where the employer or the employee has no choice as to the pension product or provider.

13) Insurance distributor: any insurance intermediary, ancillary insurance intermediary or insurance undertaking.

## Part 2

### Authorisation and registration

Section 3. Undertakings must be authorised by the Danish FSA to carry out insurance and reinsurance distribution activities as an insurance intermediary and reinsurance intermediary.

Paragraph 2. The Danish FSA authorises undertakings under paragraph 1 when the following conditions are met:

- 1) The undertaking's home state is Denmark.
- 2) The undertaking's board and management or, where the undertaking operates as a legal person with no board of directors or board of management, the person or persons holding managerial responsibility for the undertaking meet the conditions in Section 9.
- 3) The undertaking holds indemnity insurance or some other comparable guarantee against liability for damages.
- 4) The undertaking has taken measures to protect customers against the insolvency of the insurance intermediary or reinsurance intermediary by means of either:
  - a) a release certificate agreed between the insurance undertaking and the intermediary, under which funds paid by the customer to the intermediary are regarded as having been paid to the undertaking, while funds paid by the undertaking to the intermediary are not regarded as having been paid to the customer until the customer receives them, or
  - b) a separate account having been open for the deposit of funds entrusted, and the undertaking has established security for these funds.
- 5) There are no close links between the applicant and other undertakings or persons that could complicate performance of the tasks of the Danish FSA.
- 6) Legislation in a state outside the European Union, with which the Union has not entered into an agreement in the financial area, regarding an undertaking or person

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with which or with whom the applicant has close links will not complicate performance of the tasks of the Danish FSA.

Paragraph 3. The application for authorisation must contain the information necessary for the Danish FSA to assess whether the conditions in paragraph 2 are met, including a description of the activities the undertaking intends to carry out, and information on the identity of the natural and legal persons who hold interests of more than 10% in the intermediary, and the size of these participations. An application for authorisation must also contain the information to be contained in the registers, cf. Section 6, including whether the insurance intermediary is independent, cf. Section 16.

Paragraph 4. The Danish FSA makes a decision on authorisation no later than 3 months after the Danish FSA received all information needed to process the application. The Danish FSA immediately notifies the applicant of the decision.

Paragraph 5. The Danish FSA establishes rules on the indemnity insurance specified in paragraph 2 (3), including the sums insured of the policy, and on the security for funds entrusted that is specified in paragraph 2 (4b).

Paragraph 6. An insurance undertaking, a reinsurance undertaking, an insurance intermediary and a reinsurance intermediary may only use insurance and reinsurance distribution services from an insurance or reinsurance intermediary that is authorised, cf. paragraph 1.

Section 4. An undertaking must be registered before it may carry out ancillary insurance mediation services.

Paragraph 2. An undertaking may be registered when the undertaking documents that it meets the conditions in Section 3, paragraph 2, nos. 1 and 3-6, and paragraph 3. The undertaking must also submit information for the Danish FSA to use in its assessment of whether the employee or employees of the undertaking responsible for distribution of ancillary insurance policies meet the conditions in Section 10, paragraph 1.

Paragraph 3. The Danish FSA makes a decision on registration no later than 3 months after the Danish FSA received all information needed to process the application. The Danish FSA immediately notifies the applicant of the decision.

Paragraph 4. An insurance undertaking or an insurance intermediary may only use insurance distribution services from an ancillary insurance intermediary subject to this Act that is registered, cf. paragraph 1.

Section 5. The Danish FSA creates and keeps a public register of undertakings that have been authorised as insurance intermediaries or reinsurance intermediaries, cf. Section 3, or that meet the conditions for registration to carry out ancillary insurance mediation activities, cf. Section 4, paragraph 2.

Section 6. The registers, cf. Section 5, must contain the following information:

1) Names of the persons within the management of the insurance intermediary, reinsurance intermediary or ancillary insurance intermediary who are responsible for

the insurance mediation, reinsurance mediation or ancillary insurance mediation activities.

2) Information on the other Member States of the European Union, other than Denmark, or states with which the Union has made an agreement in the financial area in which insurance mediation, reinsurance mediation or ancillary insurance mediation activities are provided.

Paragraph 2. The register of insurance intermediaries, cf. Section 5, must also contain information on whether the insurance intermediary is independent, cf. Section 16.

Section 7. An insurance intermediary, reinsurance intermediary or ancillary insurance intermediary that is registered, cf. Section 5, must notify the Danish FSA as soon as possible if changes arise in the information the Danish FSA has received and used as its basis when granting authorisation or registration.

Paragraph 2. Notwithstanding paragraph 1, an intermediary is under an obligation to notify the Danish FSA immediately if changes arise in the information that the Danish FSA has received in pursuance of Section 3, paragraph 2, nos. 5 and 6, and paragraph 3, first sentence.

Section 8. No later than 1 July every year, an insurance intermediary must report the undertaking's sales and number of insurance policies mediated to the Danish FSA.

#### Suitability and integrity requirements

Section 9. A member of the board of directors or management of an insurance intermediary and a reinsurance intermediary, or the owner of an insurance intermediary or a reinsurance intermediary that is a sole proprietorship:

- 1) must have sufficient knowledge, professional competence and experience to fulfil the duties or hold the position,
- 2) must have a sufficiently good reputation and be able to exhibit honesty, integrity, and sufficient independence in the performance of their duties or position,
- 3) must not be subject to criminal liability for violation of the Danish criminal code, financial legislation or other relevant legislation, if the violation involves a risk that they cannot fulfil their duties or hold their position in a satisfactory manner,
- 4) must not have requested, or be undergoing, reconstruction or bankruptcy proceedings or debt relief and
- 5) must not have demonstrated behaviour which gives reason to believe that the person in question will not fulfil their duties or hold their position in a satisfactory manner.

Paragraph 2. A member of the board of directors or management of an insurance intermediary or a reinsurance intermediary, or the owner of an insurance intermediary or a reinsurance intermediary that is a sole proprietorship must notify the Danish FSA of matters specified in paragraph 1 when they join the management of the insurance intermediary or reinsurance intermediary or, for an insurance intermediary or a

reinsurance intermediary that is a sole proprietorship, when they apply for authorisation, cf. Section 3, paragraph 2, no. 2, and of matters specified in paragraph 1, nos. 2-5, if these matters change.

Paragraph 3. Where an insurance intermediary or a reinsurance intermediary is operated as a legal person without any board or management, paragraphs 1 and 2 apply to the persons discharging managerial responsibilities for the insurance intermediary and reinsurance intermediary.

Section 10. An employee of an ancillary insurance intermediary with responsibility for distribution of ancillary insurance policies:

- 1) must not be subject to criminal liability for violation of the Danish criminal code, financial legislation or other relevant legislation, if the violation involves a risk that they cannot hold their position in a satisfactory manner,
- 2) must not have requested, or be undergoing, bankruptcy proceedings and
- 3) must have a good reputation, including not having demonstrated behaviour which gives reason to believe that the person in question will not hold their position in a satisfactory manner.

Paragraph 2. An employee of an ancillary insurance intermediary with responsibility for distribution of ancillary insurance policies must, in connection with their employment as the person responsible for distribution of ancillary insurance policies with the insurance intermediary, notify the ancillary insurance intermediary of matters specified in paragraph 1 and subsequently give notice if these matters change.

### **Part 3**

#### Qualification requirements

Section 11. An insurance intermediary and a reinsurance intermediary must ensure that all of the undertaking's employees who carry out insurance or reinsurance distribution activities have adequate qualifications.

Paragraph 2. An ancillary insurance intermediary must have appropriate knowledge of the products distributed by the intermediary.

Paragraph 3. The Minister of Industry, Business and Financial Affairs establishes rules on qualification requirements and requirements for a good reputation for employees who are directly involved in insurance or reinsurance distribution activities at an insurance intermediary or reinsurance intermediary.

### **Part 4**

#### Good practice, remuneration, etc.

##### Good practice

Section 12. An insurance intermediary and an ancillary insurance intermediary must conduct operations in accordance with honest business principles and good practice for the field of activity.

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Paragraph 2. The Minister of Industry, Business and Financial Affairs establishes rules on honest business principles and good practice for insurance intermediaries and ancillary insurance intermediaries and on the delivery of information material.

Paragraph 3. After negotiation with representatives of consumers and the relevant financial professional organisations, the Danish FSA may prepare and publish guidelines for honest business principles and good practice in specific areas that may be deemed important, in particular in relation to consumers.

#### Remuneration

Section 13. An insurance intermediary and an ancillary insurance intermediary must ensure that the intermediary's remuneration structures do not conflict with the intermediary's obligation to act in the best interests of its customers, including the good practice rules in Section 12, paragraph 1, and rules issued in pursuance of Section 12, paragraph 2. The same applies to remuneration that the intermediary receives in relation to carrying out insurance distribution.

Paragraph 2. An insurance intermediary and an ancillary insurance intermediary may not introduce any arrangement by way of remuneration or sales targets that could provide an incentive to itself or its employees to recommend a particular insurance product to a customer when the intermediary offers a different insurance product which better meets the customer's needs.

Paragraph 3. An insurance intermediary that carries out insurance distribution activities via an ancillary insurance intermediary that is exempted from this Act, cf. Section 1, paragraph 2, must ensure that the ancillary insurance intermediary has appropriate, proportionate arrangements to ensure that it complies with paragraphs 1 and 2.

Paragraph 4. Paragraphs 1-3 do not apply to conditions subject to a collective agreement that observes the principles in paragraphs 1 and 2.

#### Requirement for effective procedures

Section 14. Insurance intermediaries that manufacture insurance products must have effective procedures for approval of new products, significant changes to existing products and their distribution.

Paragraph 2. Insurance intermediaries and ancillary insurance intermediaries that advise on or propose insurance products that they have not manufactured themselves must have effective procedures for obtaining relevant information about the insurance products.

Paragraph 3. Paragraphs 1 and 2 do not apply to insurance products that insure large risks.

#### Duty of professional secrecy

Section 15. An insurance intermediary, a reinsurance intermediary and an ancillary insurance intermediary and their employees may not, without authorisation, disclose

or make use of confidential information that has come to the attention of the undertaking or its employees in the performance of their duties.

Paragraph 2. Any person receiving confidential information is subject to the duty of professional secrecy in paragraph 1.

## **Part 5**

Supplementary requirements for independent insurance intermediaries, etc.

Section 16. To be able to call itself an independent insurance intermediary or insurance broker or use other designations that give the impression that the insurance intermediary is independent, an insurance intermediary must meet the following conditions:

- 1) The insurance intermediary must only represent the customer and act in the interests of each customer and may not be influenced by their own or third party interests.
- 2) The insurance intermediary may not receive commission or other remuneration from an insurance distributor in connection with an individual customer relationship unless the commission received is forwarded in full directly to the customer.
- 3) The insurance intermediary may not, directly or indirectly, have links to an insurance distributor that may create doubt about the insurance intermediary's independence from other insurance distributors' interests that are not a consequence of the undertakings' mutual ownership structure.
- 4) The insurance intermediary's employees may not, via employment or any other form of link to other insurance distributors or associated Group companies, be dependent on the interests of insurance distributors.
- 5) The insurance intermediary must give advice based on an analysis of an adequate number of the insurance contracts available on the market to permit the intermediary advise the customer on the insurance contract that best meets the customer's needs.

Paragraph 2. The insurance intermediary may not carry out other forms of insurance distribution activity that do not meet the requirements in paragraph 1 in the same legal entity. Any such activity must be carried out in a different legal entity from the independent insurance intermediary. The activity must be designated so that it cannot be confused with the independent insurance intermediary.

Paragraph 3. An independent insurance intermediary may not place insurance contracts with undertakings to which the intermediary has close links.

## **Part 6**

Whistleblower scheme

Section 17. An insurance intermediary and a reinsurance intermediary must have an arrangement in which their employees, through a specific, independent and autonomous channel, can report breaches or potential breaches of financial

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regulations committed by the intermediary, including by employees or members of the board of directors of the intermediary. It must be possible to submit information to this arrangement anonymously.

Paragraph 2. The arrangement in paragraph 1 may be set up via a collective agreement.

Paragraph 3. Paragraph 1 only applies to an insurance intermediary and a reinsurance intermediary who employ more than five employees. The arrangement mentioned in paragraphs 1 and 2 must be set up no later than three months after the intermediary has employed a sixth employee.

Paragraph 4. In exceptional circumstances the Danish FSA may grant exemption from the requirements in paragraph 1 if it deems the establishment of an arrangement to be without purpose.

Section 18. An insurance intermediary and a reinsurance intermediary may not expose employees to unfair treatment or unfair consequences because they have reported the intermediary's breach or potential breach of financial regulations to the Danish FSA or to an arrangement at the intermediary.

Paragraph 2. Employees whose rights have been infringed in a breach of paragraph 1 may be awarded compensation in accordance with the principles laid down by the Danish Equal Treatment Act. The compensation is determined with regard to the length of the employment of the employees and the other circumstances of the case.

Paragraph 3. Paragraphs 1 and 2 may not be derogated from to the detriment of the employee.

## **Part 7**

### **Cross-border activities**

#### **Cross-border services in another state**

Section 19. An insurance intermediary, a reinsurance intermediary or an ancillary insurance intermediary that has been granted authorisation in Denmark and wishes to offer cross-border services in another Member State of the European Union or a state with which the Union has made an agreement in the financial area must notify the Danish FSA, indicating:

- 1) the name, address and CVR number of the intermediary,
- 2) the state or states in which it wishes to start insurance mediation,
- 3) the activities it wishes to carry out, and the names of any insurance or reinsurance undertakings represented, and
- 4) the relevant insurance class, if possible.

Paragraph 2. The Danish FSA forwards the notification to the supervisory authorities in the host state no later than one month after receipt of the notification and also gives written notice to the intermediary that it has forwarded the notification. If the

host state has rules on the general good, including if the host state has adopted rules that are stricter than those derived from Directive 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution, the Danish FSA notifies the intermediary.

Paragraph 3. An insurance intermediary, a reinsurance intermediary and an ancillary insurance intermediary may start their activities when the notification under paragraph 2 has been sent, provided that the intermediary complies with any stricter rules in the host state, cf. paragraph 2, sentence 2.

Paragraph 4. An insurance intermediary, a reinsurance intermediary and an ancillary insurance intermediary are under an obligation to notify the Danish FSA of intended changes to the information given under paragraph 1 at least one month before the changes are made.

Paragraph 5. The Danish FSA forwards the information given under paragraph 4 to the supervisory authorities in the host state as soon as possible and no later than one month after receipt of the notification of the changes.

Cross-border activities via a branch in another state

Section 20. An insurance intermediary, a reinsurance intermediary or an ancillary insurance intermediary that has been granted authorisation in Denmark and wishes to carry out activities via a branch in another Member State of the European Union or a state with which the Union has made an agreement in the financial area must notify the Danish FSA, indicating:

- 1) the name, address and CVR number of the intermediary,
- 2) the state or states in which the insurance intermediary intends to set up a branch,
- 3) the activities it wishes to carry out, and the names of any insurance or reinsurance undertakings represented,
- 4) the relevant insurance class, if possible,
- 5) an address in the host state or states from which documents can be requested, and
- 6) the names of persons who are responsible for the administration of the branch.

Paragraph 2. The Danish FSA forwards the notification to the supervisory authorities in the host state no later than one month after receipt of the notification and also gives written notice to the intermediary that it has forwarded the notification.

Paragraph 3. The Danish FSA may refuse to forward the notification if the Danish FSA doubts the adequacy of the intermediary's organisational structure or financial situation, given the activity it wishes to carry out. The Danish FSA immediately notifies the intermediary of the decision.

Paragraph 4. No later than one month after the host state has received information under paragraph 2, the Danish FSA notifies the intermediary of any rules the host state has on the general good, including if the host state has adopted rules that are

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stricter than those derived from Directive 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution, and notifies the intermediary that it can start its activities in the host state, provided that the intermediary complies with any stricter rules in the host state.

Paragraph 5. If an insurance intermediary, a reinsurance intermediary or an ancillary insurance intermediary has not received any notification within the period stated in paragraph 4, the intermediary may start its activities in the host state.

Paragraph 6. An insurance intermediary, a reinsurance intermediary and an ancillary insurance intermediary are under an obligation to notify the Danish FSA of intended changes to the information given under paragraph 1 at least one month before the changes are made.

Paragraph 7. The Danish FSA forwards the information given under paragraph 6 to the supervisory authorities in the host state no later than one month after receipt of the notification of the changes.

#### Cross-border activities in Denmark

Section 21. When the Danish FSA receives a notification from a competent authority that an insurance intermediary, a reinsurance intermediary or an ancillary insurance intermediary that is registered in another Member State of the European Union or a state with which the Union has made an agreement in the financial area wants to carry out activities in Denmark as a provider of cross-border services, the Danish FSA must immediately confirm receipt of this notification. When the home state's competent authority has notified the intermediary that the Danish FSA has confirmed receipt, the intermediary may start its activities in Denmark.

Paragraph 2. When the Danish FSA receives a notification from a competent authority that an insurance intermediary, a reinsurance intermediary or an ancillary insurance intermediary that is registered in another Member State of the European Union or a state with which the Union has made an agreement in the financial area wants to carry out activities via a branch in Denmark, the Danish FSA must immediately confirm receipt of this notification. No later than one month after the Danish FSA has received the notification, the Danish FSA must notify the home state's competent authority of rules on the general good that apply on the Danish market. An intermediary may start its activities when it has received a notification from its home state's competent authority of the rules on the general good that apply or, if the intermediary does not receive this notification, one month after the Danish FSA has received the notification under sentence 1.

### **Part 8**

#### Supervision, etc.

##### The Danish FSA

Section 22. The Danish FSA monitors compliance with this Act, with the exception of section 18, and monitors compliance with the rules issued in pursuance of the Act. The Danish FSA also monitors compliance with regulations issued in pursuance of

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Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution.

Paragraph 2. The Danish FSA's Governing Board participates in the supervision pursuant to paragraph 1, with the authority granted to the board under section 345, paragraph 7, of the Danish Financial Business Act.

Paragraph 3. The Danish FSA may, within a specific deadline, order the natural and legal persons subject to this Act to take the necessary measures in case of violation of the provisions in this Act, rules issued in pursuance of this Act, or regulations issued in pursuance of Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution.

#### The Consumer Ombudsman

Section 23. The Consumer Ombudsman may institute legal proceedings regarding actions contrary to honest business principles and good practice, cf. section 12, including proceedings on prohibitions and orders, compensation, and claims for repayment of illegally demanded amounts. The Consumer Ombudsman may also consider cases concerning non-compliance with criminal provisions in rules issued in pursuance of Section 12, paragraph 2. Section 24, Section 25, paragraph 2, Section 28, paragraph 1, Section 32, paragraph 1, and Sections 33 and 34 of the Danish Marketing Practices Act apply accordingly to proceedings that the Consumer Ombudsman wants to initiate under sentences 1 and 2. The Consumer Ombudsman may be designated as the group representative in a collective action under Part 23 a of the Danish Administration of Justice Act.

Paragraph 2. The Danish FSA notifies the Consumer Ombudsman if it comes to the attention of the Danish FSA that customers of an insurance intermediary or an ancillary insurance intermediary may have suffered a loss as a consequence of the intermediary having violated section 12, paragraph 1, or rules issued in pursuance of section 12, paragraph 2.

Paragraph 3. Notwithstanding Section 31, the Consumer Ombudsman has access to all the information in Danish FSA cases subject to paragraph 1.

#### Supervision of cross-border activities

Section 24. If the Danish FSA finds or has reason to believe that a foreign insurance intermediary, reinsurance intermediary or ancillary insurance intermediary that supplies services in Denmark and for which Denmark is the host state is not complying with the rules in this Act, the rules issued in pursuance of this Act, or regulations issued in pursuance of Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution, the Danish FSA notifies the competent authorities in the intermediary's home state in order to clarify whether the rules have not been complied with.

Paragraph 2. The Danish FSA may take the necessary measures if a foreign insurance intermediary, reinsurance intermediary or ancillary insurance intermediary continues to fail to comply despite the measures taken in the home state or because they turn

out to be inadequate or deficient, and if the failure to comply is clearly materially harmful to consumer interests in Denmark or harms the market in Denmark for insurance mediation and reinsurance mediation. If necessary, the Danish FSA may prohibit the intermediary from carrying out activities in Denmark. The Danish FSA may also refer the case to the European Insurance and Occupational Pensions Authority (EIOPA) and request assistance in accordance with Article 19 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority).

Paragraph 3. Notwithstanding paragraph 2, in urgent cases the Danish FSA may take the necessary precautions to protect consumer interests.

Paragraph 4. The Danish FSA must notify the insurance intermediary, reinsurance intermediary or ancillary insurance intermediary in question of the measures that the Danish FSA is taking under paragraphs 1-3. The Danish FSA must also immediately notify the competent authority in the intermediary's home state, the European Insurance and Occupational Pensions Authority and the European Commission of the measures taken.

Section 25. The Danish FSA monitors compliance by a branch in Denmark of a foreign insurance intermediary and an ancillary insurance intermediary that has been granted authorisation in another Member State of the European Union or a state with which the Union has made an agreement in the financial area with the rules in Sections 12-14 and rules issued in pursuance of these Sections. The Danish FSA may order a branch in Denmark to cease any failure to comply with rules.

Paragraph 2. If the Danish FSA finds or has reason to believe that a branch in Denmark of a foreign insurance intermediary or reinsurance intermediary or an ancillary insurance intermediary that is domiciled in another Member State of the European Union or in a country with which the Union has made an agreement in the financial area is not complying with the other rules in this Act, cf. paragraph 1, or rules issued in pursuance of this Act, or regulations issued in pursuance of Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution, the Danish FSA notifies the competent authorities in the intermediary's home state.

Paragraph 3. The Danish FSA may take the necessary measures if a branch in Denmark of a foreign insurance intermediary, reinsurance intermediary or ancillary insurance intermediary continues to fail to comply despite the measures taken in the home state, cf. paragraph 2, or because they turn out to be inadequate or deficient, and if the failure to comply is clearly materially harmful to consumer interests in Denmark or harms the market in Denmark for insurance mediation and reinsurance mediation. If necessary, the Danish FSA may prohibit the intermediary from carrying out activities in Denmark. The Danish FSA may also refer the case to the European Insurance and Occupational Pensions Authority (EIOPA) and request assistance in accordance with Article 19 of Regulation (EU) No 1094/2010 of the European

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Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority).

Paragraph 4. Notwithstanding paragraphs 2 and 3, in urgent cases the Danish FSA may take the necessary precautions to protect consumer interests.

Paragraph 5. The Danish FSA must notify the insurance intermediary, reinsurance intermediary or ancillary insurance intermediary in question of the measures that the Danish FSA is taking under paragraphs 1-4. The Danish FSA must also immediately notify the competent authority in the intermediary's home state, the European Insurance and Occupational Pensions Authority and the European Commission of the measures taken.

#### Obtaining information

Section 26. Undertakings subject to this Act, and their suppliers and subcontractors, must give the Danish FSA the information necessary for the Danish FSA to conduct its activities. The same applies to foreign insurance intermediaries, reinsurance intermediaries and ancillary insurance intermediaries that are domiciled in a Member State of the European Union or a state with which the Union has made an agreement in the financial area and carry out activities in Denmark by establishing a branch or via an agent.

Paragraph 2. The Danish FSA may at any time, so long as adequate proof of identity is presented, without a court order, gain access to undertakings subject to this Act for the purpose of obtaining information, including at inspections.

Paragraph 3. The Danish FSA may at any time, so long as adequate proof of identity is presented, without a court order, gain access to a supplier or subcontractor to obtain information about the outsourced activity. The Danish FSA's physical access to the supplier's premises must be included as a requirement in the outsourcing contract made between the outsourcing undertaking and the supplier. Should an outsourcing contract not contain the requirement for the Danish FSA's physical access to the supplier's activity, the Danish FSA may demand that the outsourced activity either be handled by the outsourcing undertaking itself or be outsourced to another supplier within a deadline specified by the Danish FSA.

Paragraph 4. The Danish FSA may demand access to all information, including financial statements and accounting records, printouts of books, other business papers and electronically stored data, deemed necessary for the Danish FSA to make a decision on whether an undertaking or person is subject to the provisions of this Act.

Paragraph 5. The Danish FSA may obtain information under paragraphs 1-4 for use by the authorities and bodies mentioned in Section 31, paragraph 4, nos. 11-16.

Paragraph 6. Supervisory authorities in a Member State of the European Union or a state with which the Union has made an agreement in the financial area may, with the consent of the Danish FSA, verify information provided by undertakings in Denmark

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that are subject to this Act and are subject to supplementary supervision by the supervisory authority in question under rules in directives in the financial area.

Section 27. The Danish FSA may order a member of the board of directors of an insurance intermediary or a reinsurance intermediary to resign their position within a time limit specified by the Danish FSA if, under Section 9, paragraph 1, nos. 2-5, the board member may not hold the position.

Paragraph 2. The duration of a ban issued under paragraph 1 on the basis of Section 9, paragraph 1, nos. 2, 4 and 5, must be stated in the order.

Paragraph 3. The Danish FSA may order a member of the board of directors of an insurance intermediary or a reinsurance intermediary to resign their position when legal proceedings have been initiated against the board member in a criminal case concerning violation of the Criminal Code, this Act or other financial legislation until the criminal case has been concluded, if a conviction would mean that the board member does not fulfil the requirements of section 9, paragraph 1, no. 3. The Danish FSA sets a time limit for compliance with the order.

Paragraph 4. The Danish FSA may, of its own accord or based on an application, revoke an order issued to a board member under paragraphs 1 and 3. If the Danish FSA rejects an application for revocation, the applicant may demand that the rejection be brought before the courts by the Danish FSA. Such a request must be submitted to the Danish FSA no later than four weeks after the applicant was notified of the rejection. Requests for judicial review may, however, only be submitted if the order has no time limit, and no less than five years have elapsed from the date of issue of the order, or no less than two years after the revocation rejection by the Danish FSA was affirmed by a judgment.

Paragraph 5. The Danish FSA may suspend the authorisation of the intermediary, cf. Section 29, paragraph 1, no. 5, if a board member does not comply with an order issued under paragraphs 1 and 3.

Paragraph 6. The Danish FSA may order an insurance intermediary or a reinsurance intermediary to dismiss a manager of the undertaking within a time limit specified by the Danish FSA if, under Section 9, paragraph 1, nos. 2-5, the manager may not hold the position.

Paragraph 7. The Danish FSA may order an insurance intermediary or a reinsurance intermediary to dismiss a manager when legal proceedings have been initiated against the manager in a criminal case concerning violation of the Criminal Code, this Act or other relevant legislation until the criminal case has been concluded, if a conviction would mean that the manager does not fulfil the requirements of Section 9, paragraph 1, no. 3. The Danish FSA sets a time limit for compliance with the order.

Paragraph 8. An insurance intermediary or a reinsurance intermediary and the person against whom the order is made may demand that the Danish FSA bring an order issued under paragraphs 1-7 before the courts. Such a request must be submitted to the Danish FSA no later than four weeks after the order was issued to the person. The

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Danish FSA must bring the case before the courts within four weeks of receiving a request. The case must be brought through civil procedure.

Paragraph 9. If an insurance intermediary or a reinsurance intermediary has not dismissed the manager within the set time limit, cf. paragraphs 6 and 7, the Danish FSA may suspend the authorisation of the intermediary, cf. Section 29, paragraph 1, no. 5.

Paragraph 10. Where an insurance intermediary or a reinsurance intermediary is operated as a legal person without any board or management, paragraphs 1-9 apply to the persons discharging managerial responsibilities for the intermediary.

Section 28. The Danish FSA may order an ancillary insurance intermediary to dismiss an employee with responsibility for distribution of ancillary insurance policies within a time limit specified by the Danish FSA if, under Section 10, paragraph 1, the employee may not hold the position.

Paragraph 2. The Danish FSA may order an ancillary insurance intermediary dismiss an employee with responsibility for distribution of ancillary insurance policies when legal proceedings have been initiated against the employee in a criminal case concerning violation of the Criminal Code, this Act or other financial legislation until the criminal case has been concluded, if a conviction would mean that the employee does not fulfil the requirement of Section 10, paragraph 1, no. 1. The Danish FSA sets a time limit for compliance with the order.

Paragraph 3. An ancillary insurance intermediary or the person against whom the order is made may demand that the Danish FSA bring an order issued under paragraphs 1 and 2 before the courts. Such a request must be submitted to the Danish FSA no later than four weeks after the order was issued to the person. The Danish FSA must bring the case before the courts within four weeks of receiving a request. The case must be brought through civil procedure.

Section 29. The Danish FSA may revoke an insurance intermediary's and a reinsurance intermediary's authorisation under Section 3 when:

- 1) the undertaking so requests,
- 2) the undertaking does not make use of the authorisation within 12 months after the Danish FSA granted authorisation,
- 3) the undertaking has not carried out activities as an insurance intermediary or reinsurance intermediary for a total period of over six months,
- 4) the undertaking obtained the authorisation based on false or misleading information or by any other irregular means,
- 3) the undertaking no longer meets the conditions for the granting of the authorisation under Part 2,
- 6) legal proceedings have been brought against the owner of an insurance intermediary or a reinsurance intermediary which is a sole proprietorship for violation

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of the Criminal Code, this Act or other financial legislation, until the criminal case has been concluded, if a conviction would mean that the person does not meet the requirements of Section 9, paragraph 1, no. 3, or

7) the undertaking is found to be in serious or repeated breach of its obligations under this Act or rules issued in pursuance of this Act, or regulations issued in pursuance of Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution.

Paragraph 2. Revocation of authorisation, cf. paragraph 1, nos. 4 and 5, is published by the Danish FSA.

Paragraph 3. The Danish FSA deletes an undertaking from the register when authorisation has been revoked, cf. paragraph 1.

Paragraph 4. An insurance intermediary or a reinsurance intermediary that is a sole proprietorship may demand that revocation of authorisation in accordance with paragraph 1, no. 5, based on non-compliance with the requirements in Section 9, paragraph 1, nos. 2-5, and revocation in accordance with paragraph 1, no. 6, be brought before the courts. Such a request must be submitted to the Danish FSA within 4 weeks after the undertaking has been notified of revocation of authorisation. The Danish FSA must bring the case before the courts within four weeks of receiving a request. The case must be brought through civil procedure.

Section 30. The Danish FSA may delete the registration of an ancillary insurance intermediary that is registered in the Danish FSA's register, cf. Section 5, when the undertaking:

1) so requests,

2) does not carry out ancillary insurance mediation within 12 months after the Danish FSA registered the undertaking,

3) has not carried out activities as an ancillary insurance intermediary for a total period of over six months,

4) is registered based on false or misleading information or by any other irregular means,

3) no longer meets the conditions to be registered under Section 4, paragraph 2, or

6) is found to be in serious or repeated breach of its obligations under this Act or rules issued in pursuance of this Act, or regulations issued in pursuance of Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution.

Section 31. In pursuance of Sections 152–152e of the Criminal Code, employees of the Danish FSA are under an obligation to keep secret any confidential information they receive in the course of their supervisory duties. The same applies to persons who perform service tasks as part of the operations of the Danish FSA, as well as

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experts acting on behalf of the Authority. This also applies after the termination of the employment contract or any other contract.

Paragraph 2. Consent from the individual the duty of confidentiality is intended to protect does not entitle the persons mentioned in paragraph 1 to disclose confidential information.

Paragraph 3. Confidential information may be disclosed during civil legal proceedings, where an undertaking subject to this Act has been declared bankrupt or is in liquidation, provided such information does not concern customer relationships or third parties which are or have been involved in attempts to save the undertaking.

Section 4, paragraph 1, does not prevent confidential information from being disclosed to:

- 1) Other public authorities, including the prosecution service and the police, in connection with investigations and legal prosecution of possible criminal offences covered by the Criminal Code or the supervision legislation.
- 2) The Minister concerned as part of their overall supervision, cf. Section 9.
- 3) Administrative authorities and courts considering decisions made by the Danish FSA.
- 4) The Danish Parliamentary Ombudsman.
- 5) A parliamentary commission set up by the Danish Parliament, cf. paragraphs 8 and 9.
- 6) Commissions of inquiry set up by law or under the Danish Commissions of Inquiry Act, cf. paragraphs 8 and 9.
- 7) The government auditors and the National Audit Office of Denmark.
- 8) The bankruptcy court, cf. paragraph 8, other authorities participating in liquidation, bankruptcy proceedings or similar procedures for an undertaking subject to this Act, and the trustee, as well as persons responsible for the statutory audit of the financial statements of an undertaking subject to this Act, provided that the recipients of the information need the information to perform their duties.
- 9) The Danish Business Authority in its capacity as supervisory authority for compliance with company law when disclosure takes place to strengthen the stability and integrity of the financial system, cf. paragraph 8, and the Danish Business Authority and Revisornævnet (the disciplinary board for state-authorized public accountants and registered public accountants) in their capacity as supervisory authority for the statutory audit of the financial statements of undertakings subject to this Act, cf. paragraph 8. Disclosure under the first sentence may only take place provided that the recipient needs the information to perform its duties.
- 10) Experts who assist the Danish FSA, the Danish Business Authority, Revisornævnet (the disciplinary board for state-authorized public accountants and registered public accountants) and institutions which manage depositor's guarantee schemes, investor

compensation schemes or insurance guarantee schemes with the performance of their supervisory functions provided that the recipient needs the information to perform their duties, cf. paragraphs 8 and 9.

11) Supervisory authorities in other Member States of the European Union or states with which the Union has made an agreement in the financial area that are responsible for supervising undertakings subject to this Act, authorities and bodies participating in liquidation, bankruptcy proceedings or similar procedures for undertakings subject to this Act, as well as persons responsible for the statutory audit of the financial statements of undertakings subject to this Act, provided that the recipients of the information need the information to perform their duties.

12) Bodies in other Member States of the European Union or in states with which the Union has made an agreement in the financial area that are responsible for demonstrating violations of company law, provided that the recipient of the information needs it to perform their duties and that disclosure takes place to strengthen the stability and integrity of the financial system, cf. paragraph 8.

13) Experts that assist authorities in other Member States of the European Union or states with which the Union has made an agreement in the financial area that supervise bodies participating in liquidation or bankruptcy proceedings for undertakings subject to this Act or similar procedures, and authorities that supervise persons responsible for the statutory audit of the financial statements of undertakings subject to this Act, provided that the recipient of the information needs the information to perform their duties, cf. paragraph 8.

14) Committees of inquiry established by the European Parliament in accordance with Article 226 of the Treaty on the Functioning of the European Union.

15) The European Banking Authority, the European Systemic Risk Board, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority, as well as bodies established by these authorities, provided that recipients of the information need the information to perform their duties.

16) Faroese supervisory authorities in the financial area, provided that the recipients are subject to a statutory duty of confidentiality at least equal to the duty of confidentiality under paragraph 1 and that the recipients need the information to perform their tasks, cf. paragraph 8.

Paragraph 5. All those receiving confidential information from the Danish FSA under paragraphs 3 and 4 are subject to the duty of confidentiality mentioned in paragraph 1 with regard to this information.

Paragraph 6. Confidential information received in pursuance of paragraph 4, no. 15, may, notwithstanding the duty of confidentiality mentioned in paragraph 5, directly be exchanged between the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority and bodies established by these authorities on the one hand and the European Systemic Risk Board on the other hand.

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Paragraph 7. Confidential information received by the Danish FSA may only be used in the course of its supervisory duties to impose sanctions, or where appeals are made against the decision of the Danish FSA to a higher administrative authority or where such a decision is brought before the courts.

Paragraph 8. Confidential information from Member States of the European Union or states with which the Union has made an agreement in the financial area may only be disclosed under paragraph 4, nos. 5, 6, 8-13 and 16 where the authorities submitting the information have granted their explicit consent, and the information may only be used for the purposes specified by the consent. On disclosure of information under paragraph 4, nos. 10 and 13, the Danish FSA notifies the authorities or bodies that have disclosed the information of the experts to which the information will be disclosed, specifying the authority of the experts.

Paragraph 9. Confidential information may only be disclosed under paragraph 4, nos. 2, 5, 6 and 10, if the authorities or bodies which have issued the information, or the authorities of the Member State in which the inspection visit or on-site inspection has been carried out have given their explicit consent, and if the information received is from the European Banking Authority, the European Systemic Risk Board, the European Insurance and Occupational Pensions Authority or the European Securities and Markets Authority and bodies established under these, as well as in pursuance of this Act, regulations issued in pursuance of this Act, Article 15 of Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board, Articles 31, 35 and 36 of Regulation (EU) no 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), and Articles 31 and 36 of Regulation (EU) no. 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), or from authorities which are responsible for supervision of undertakings subject to this Act, authorities and bodies which are responsible for maintaining the stability of the financial system through the use of macroprudential regulations, authorities or bodies the purpose of which is to ensure financial stability, bodies participating in liquidation or bankruptcy proceedings of undertakings subject to this Act or similar procedures, and persons responsible for the statutory audit of the financial statements of undertakings subject to this Act.

Section 32. Employees of the Danish FSA may not disclose information regarding a person if the person has reported an undertaking or a person to the Danish FSA for violation or potential violation of financial regulations supervised by the Danish FSA, cf. paragraph 2.

Paragraph 2. Paragraph 1 does not prevent personal data from being disclosed in pursuance of Section 31, paragraph 4.

Paragraph 3. Paragraph 1 also does not prevent personal data concerning a customer from being disclosed to a financial undertaking in connection with cases subject to Sections 11, 12, 15 and 16 where the customer has consented to disclosure.

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Paragraph 4. All those receiving personal data under paragraph 3 are subject to the duty of confidentiality mentioned in paragraph 1 with regard to this information.

Section 33. Supervisory reactions issued under Section 22, paragraph 2, cf. Section 345, paragraph 7, no. 4, of the Danish Financial Business Act, and supervisory reactions issued by delegation from the Governing Board of the Danish FSA to an undertaking subject to this Act must be published, specifying the name of the undertaking, cf. paragraph 4. The undertaking must publish this information on its website, if it has one, in a place where it logically belongs without delay and no later than three business days after the undertaking has received notification of the reaction, or no later than the time of publication required under the Danish Capital Markets Act. At the time of publication, the undertaking must insert a link which provides direct access to the reaction, on the home page of the undertaking's website in a visible manner, and the link and any attached text must clearly state that this is a reaction from the Danish FSA. If the undertaking comments on the reaction, this must be done in continuation of it, and the comments must be clearly separated from the reaction. Removal of the information and the link from the home page of the undertaking's website, if it has one, must follow the same principles used by the undertaking for other announcements, but cannot take place before the link and the information have been on the website for three months, and not before the next general meeting or meeting of the board of representatives. The duty of the undertaking to publish the information on the website of the undertaking only applies to information about legal persons. The Danish FSA must publish the information on the website of the Danish FSA. Reactions issued in pursuance of Section 22, paragraph 2, cf. Section 345, paragraph 7, no. 6, of the Danish Financial Business Act, and the Danish FSA's decisions to pass cases under this Act or rules issued in pursuance of the Act or regulations issued in pursuance of Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution to the police for investigation must be published in summary on the website of the Danish FSA, indicating the name of the undertaking, cf. paragraph 4. If the reaction published under the first sentence is brought before the Danish Company Appeals Board or the courts, this must be stated in the publication by the Danish FSA, and the subsequent result of the Danish Company Appeals Board's or the courts' decision must also be published on the Danish FSA's website as soon as possible.

Paragraph 2. Reactions issued in pursuance of Section 22, paragraph 2, cf. Section 345, paragraph 7, nos. 4 and 6, of the Danish Financial Business Act, or by the Danish FSA by delegation from the Governing Board of the Danish FSA to an undertaking not under supervision must be published on the Danish FSA's website, indicating the name of the undertaking, cf. paragraph 4.

Paragraph 3. If the Danish FSA has passed a case to the police for investigation and a conviction has been made in full or in part or a fine has been decided on, the judgment or the fine decision or a summary of it must be published, cf. paragraph 4. If the judgment is not final, or if it has been appealed against or the case has been reopened, this must be stated in the publication. Publication by the undertaking must be on the website of the undertaking in a place where such publication logically

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belongs, as soon as possible and no later than ten business days after a judgment has been delivered or a fine has been decided on, or no later than the time required for publication laid down in the Danish Capital Markets Act. At the same time as publication, the undertaking must insert a visible link providing direct access to the judgment, the fine decision or the summary, on the home page of the undertaking's website, and the link and any attached text must clearly state that this relates to a judgment or a fine decision. If the undertaking comments on the judgment, the fine decision or the summary, this must be in continuation of the link, and the comments must be clearly separated from the judgment, the fine decision or the summary. Removal of the information from the website of the undertaking must follow the same principles as the undertaking applies to other notifications. However, the information may not be removed before the link and information have been available on the website for three months, and not before the next general meeting or meeting of the board of representatives. The undertaking must notify the Danish FSA about the publication, and forward a copy of the judgment or fine decision. The Danish FSA must subsequently publish the judgment or fine decision or a summary of it on its website. The duty of the undertaking to publish the information on the website of the undertaking only applies to information about legal persons.

Paragraph 4. Publication under paragraphs 1-3 may not take place if it will mean disproportionate damage to the undertaking, or issues relating to investigations make publication inadvisable. Publication may not contain information covered by section 30 of the Danish Access to Public Administration Files Act. Publication may not contain confidential information which originates from supervisory authorities in other countries within or outside the European Union unless the authorities which have issued the information have given their express consent.

Paragraph 5. If publication is omitted under paragraph 4, first sentence, publication under paragraph 1 or 2 must take place when the considerations necessitating omission no longer apply. However, this applies only for up to two years after the date of the reaction or the decision to pass the case to the police for investigation. However, publication must only take place if the charge has not been withdrawn or dismissed under the rules of the Danish Administration of Justice Act.

Paragraph 6. In cases where the Danish FSA has published a decision to pass a case to the police for investigation under paragraph 1, sentence 8, and paragraph 3, and a decision is made to withdraw or dismiss the charge or the defendant is acquitted, the Danish FSA must publish information to this effect. The undertaking must submit a copy of the decision to withdraw or dismiss the charge or a copy of the judgment to the Danish FSA together with a request for publication. If the decision to withdraw or dismiss the case or the judgment is not final, this must be stated in the publication. If the Danish FSA receives documentation that the case is closed by a final decision to withdraw or dismiss the charge or a final judgment to acquit the defendant, the Danish FSA must remove all information on the decision to pass the case to the police for investigation and any consequent judgments in the case from the website of the Danish FSA.

Section 34. The Danish FSA must inform the public about cases dealt with by the Danish FSA, the prosecution service or the courts which are of public interest or of significance for interpretation of the provisions in this Act, except for cases subject to Part 2, Sections 13-15, and Parts 6 and 7.

Paragraph 2. The Danish FSA must also inform the public of the name of an undertaking that fails to observe a ban on carrying out activities as an insurance intermediary or reinsurance intermediary without authorisation, cf. Section 3, or fails to observe a ban on carrying out activities as an ancillary insurance intermediary without registration, cf. Section 4.

Section 35. The Danish FSA may establish rules for the duty of insurance intermediaries, reinsurance intermediaries and ancillary insurance intermediaries to publish information about the Danish FSA's assessment of the undertaking, and to the effect that the Danish FSA has the opportunity to publish this information before the undertaking.

Section 36. Parties in relation to the Danish FSA are deemed to be undertakings or persons subject to this Act in relation to which the Danish FSA has or will make decisions in pursuance of this Act or regulations established in pursuance of this Act, cf. paragraph 2.

Paragraph 2. The following are also deemed to be parties in relation to the Danish FSA in respect of the part of the case which concerns the person in question:

- 1) An undertaking or person that carries out insurance mediation or reinsurance mediation activities without authorisation, cf. Section 3, or carries out ancillary insurance mediation activities without being registered, cf. Section 4.
- 2) An undertaking or person that applies for authorisation to carry out insurance mediation or reinsurance mediation activities, cf. Section 3, or applies for registration as an ancillary insurance intermediary, cf. Section 4.
- 3) A member of an undertaking's board of directors or management or a person discharging managerial responsibilities when the Danish FSA refuses an undertaking authorisation or revokes it, cf. Section 29, or when the Danish FSA refuses to register an undertaking as an ancillary insurance intermediary.
- 4) An undertaking or person from which or whom the Danish FSA requires information to determine whether the undertaking or person is subject to the provisions of this Act.
- 5) An undertaking or person subject to a decision by the Danish FSA concerning the suitability or honesty of the undertaking or person in pursuance of Sections 9 and 10.

Paragraph 3. The Danish FSA may, when the Danish FSA considers a case concerning disclosure of confidential information, cf. Section 15, grant certain powers as a party to natural or legal persons other than those mentioned in paragraphs 1 and 2. Powers as a party may only be granted for the part of the case that is of direct, material importance to the person in question. The powers as a party must be granted with

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regard for the protection of confidential information about the undertakings that are subject to supervision.

Section 37. Decisions made by the Danish FSA under this Act, rules issued in pursuance of it or regulations issued in pursuance of Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution may be brought before the Danish Company Appeals Board by the person to which or whom the decision is addressed no later than four weeks after the person has been notified of the decision.

Section 38. Undertakings under supervision under this Act pay a fee to the Danish FSA under Part 22 of the Danish Financial Business Act.

#### Time limits

Section 39. The time limits fixed in or in pursuance of this Act take effect from the day following the day when the event triggering the time limit occurred. This applies to the calculation of time limits involving days, weeks, months and years.

Paragraph 2. Where the time limit is indicated in weeks, cf. paragraph 1, the time limit expires on the day in the week when the event occasioning the time limit occurred.

Paragraph 3. Where the time limit is indicated in months, cf. paragraph 1, it expires on the day in the month when the event occasioning the time limit occurred. If the day on which the event occasioning the time limit occurred is the last day of a month or if the time limit expires on a day of the month which does not exist, the time limit always expires on the last day of the month, irrespective of its length.

Paragraph 4. Where the time limit is indicated in years, cf. paragraph 1, the time limit expires on the day in the year when the event occasioning the time limit occurred.

Paragraph 5. If a time limit expires during a weekend, on a holiday, on 5 June, 24 December or 31 December, the time limit is extended to the next weekday.

#### Communication

Section 40. A digital message is considered to have arrived when it is available to the addressee of the message.

Paragraph 2. The Minister of Industry, Business and Financial Affairs may lay down rules which require written communications to and from the FSA on matters covered by this Act or regulations issued in pursuance of this Act to be digital.

Paragraph 3. The Minister for Industry, Business and Financial Affairs may establish rules for digital communication, including the use of certain IT systems, particular digital formats and digital signature or the like.

Section 41. Should it be a requirement of this Act or regulations issued in pursuance of this Act that a document issued by someone other than the Danish FSA be signed, this requirement may be met by using a technique ensuring unequivocal identification

of the issuer of the document, cf. paragraph 2. Such documents are considered equivalent to documents with a personal signature.

Paragraph 2. The Minister for Industry, Business and Financial Affairs may establish rules on dispensing with signature requirements. In connection with this, it may be decided that the personal signature requirement cannot be departed from for particular types of documents.

## **Part 9**

### Penalties, etc.

Section 42. Unless a more severe penalty is warranted under other legislation, any violation of Section 3, paragraph 1, Section 4, paragraph 1, Section 7, Section 9, paragraphs 2 and 3, cf. Section 9, paragraph 1, nos. 3 and 4, Section 10, paragraph 2, cf. Section 10, paragraph 1, nos. 1 and 2, Section 15, paragraph 1, and Section 16, paragraph 1, nos. 2 and 3, is punished by a fine or imprisonment of up to four months.

Paragraph 2. Violation of Section 8, Section 13, paragraphs 1 and 2, Section 17, paragraph 1, Section 19, paragraph 3, cf. Section 19, paragraphs 1 and 2, Section 19, paragraph 4, cf. Section 19, paragraph 1, Section 20, paragraph 5, cf. Section 20, paragraphs 1-4, and Section 20, paragraph 6, cf. Section 20, paragraph 1, is punished by a fine.

Paragraph 3. An insurance intermediary, a reinsurance intermediary or an ancillary insurance intermediary that does not comply with an order or a ban issued in pursuance of Sections 22-25, 27 and 28, or fails to supply information under Section 26, paragraph 1, is punished by a fine.

Paragraph 4. A board member of an insurance intermediary or a reinsurance intermediary who does not comply with an order issued in pursuance of Section 27, paragraphs 1 and 3, is punished by a fine.

Paragraph 5. Companies, etc. (legal persons) may incur criminal liability according to the rules in Part 5 of the Criminal Code.

Paragraph 6. The period of limitation for violation of the provisions in this Act or regulations issued in pursuance of this Act is five years.

Paragraph 7. In regulations issued in pursuance of this Act, penalties in the form of fines may be prescribed for violation of the provisions in regulations.

Paragraph 8. The Danish FSA may establish rules on penalties in the form of fines for violation of provisions contained in regulations issued in pursuance of Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution.

Section 43. If an intermediary or person fails to fulfil the duties and obligations imposed on them by the Act in pursuance of Section 26, paragraphs 1 and 4, the

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Danish FSA may, as a means of coercion, impose daily or weekly default fines on the person, the intermediary or the persons responsible for the intermediary.

Paragraph 2. If an insurance intermediary or a reinsurance intermediary fails to comply with an order issued under Section 27, paragraphs 6 and 7, daily or weekly default fines may be imposed on the intermediary or the persons responsible for the intermediary.

Paragraph 3. If an ancillary insurance intermediary fails to comply with an order issued under Section 28, paragraphs 1 and 2, daily or weekly default fines may be imposed on the intermediary or the persons responsible for the intermediary.

## **Part 10**

Commencement, etc.

Section 44. The Minister for Industry, Business and Financial Affairs lays down the date of entry into force of this Act. The Minister for Industry, Business and Financial Affairs may also decide that different parts of this Act are to enter into force on different dates. The Minister for Industry, Business and Financial Affairs may also establish transitional rules.

## **Part 11**

Amendments to other legislation

Section 45. The following amendments are made to the Danish Financial Business Act, cf. Consolidating Act no. 1140 of 26 September 2017, as amended by, among others, Section 82 of Act no. 651 of 8 June 2017, Section 157 of Act no. 652 of 8 June 2017, Section 1 of Act no. 665 of 8 June 2017 and Section 1 of Act no. 1547 of 19 December 2017 and most recently by Section 34 of Act no. 1555 of 19 December 2017:

1. The footnote to the title of the Act is replaced by the following:

'1) The Act contains provisions implementing parts of the fourth Council Directive 78/660/EEC of 25 July 1978 (4th Company Law Directive), Official Journal of the European Communities 1978, no. L 222, page 11, parts of the seventh Council Directive 83/349/EEC of 13 June 1983 (7th Company Law Directive), Official Journal of the European Communities 1983, no. L 193, page 1, parts of the eighth Council Directive 84/253/EEC of 10 April 1984 (8th Company Law Directive), Official Journal of the European Communities 1984, no. L 126, page 20, Council Directive 86/635/EEC of 8 December 1986 (Bank Accounts Directive), Official Journal of the European Communities 1986, no. L 372, page 1, Council Directive 89/117/EEC of 13 February 1989 (publication of annual accounting documents for branches from third countries), Official Journal of the European Communities 1989, no. L 44, page 40, Council Directive 91/674/EEC of 19 December 1991 (Insurance Accounts Directive), Official Journal of the European Communities 1991, no. L 374, page 7, European Parliament and Council Directive 95/26/EC of 29 June 1995 (BCCI Directive), Official Journal of the European Communities 1995, no. L 168, page 7, parts of European Parliament and Council Directive 2000/26/EC of 16 May 2000 (4th Motor Insurance Directive), Official Journal of the European Communities 2000, no. L 181, page 65, European Parliament

and Council Directive 2000/64/EC of 7 November 2000 (exchange of information), Official Journal of the European Communities 2000, no. L 290, page 27, European Parliament and Council Directive 2001/24/EC of 4 April 2001 (Liquidation Directive for Credit Institutions), Official Journal of the European Communities 2001, no. L 125, page 15, European Parliament and Council Directive 2002/13/EC of 5 March 2002 (Solvency I Directive), Official Journal of the European Communities 2002, no. L 77, page 17, European Parliament and Council Directive 2002/87/EC of 16 December 2002 (Conglomerates Directive), Official Journal of the European Union 2003, no. L 35, page 1, parts of European Parliament and Council Directive 2005/14/EC of 11 May 2005 (5th Motor Insurance Directive), Official Journal of the European Union 2005, no. L 149, page 14, parts of European Parliament and Council Directive 2006/31/EC of 5 April 2006 amending Directive 2004/39/EC on markets in financial instruments, as regards certain deadlines (Postponement Directive), Official Journal of the European Union 2006, no. L 114, page 60, European Parliament and Council Directive 2007/44/EC of 5 September 2007 amending Council Directive 92/49/EEC and Directives 2002/83/EC, 2004/39/EC, 2005/68/EC and 2006/48/EC as regards procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector (Holdings Directive), Official Journal of the European Union 2007, no. L 247, page 1, parts of European Parliament and Council Directive 2007/64/EC of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC (Payment Services Directive), Official Journal of the European Union 2007, no. L 319, page 1, parts of European Parliament and Council Directive 2009/65/EC of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (UCITS Directive), Official Journal of the European Union 2009, no. L 302, page 32, parts of European Parliament and Council Directive 2009/138/EC of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II), Official Journal of the European Union 2009, no. L 335, page 1, Commission Directive 2010/43/EU of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards organisational requirements, conflicts of interest, conduct of business, risk management and content of the agreement between a depositary and a management company, Official Journal of the European Union 2010, no. L 176, page 42, parts of European Parliament and Council Directive 2011/61/EU of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010, Official Journal of the European Union 2011, no. L 174, page 1, European Parliament and Council Directive 2011/89/EU of 16 November 2011 amending Directives 98/78/EC, 2002/87/EC, 2006/48/EC and 2009/138/EC as regards the supplementary supervision of financial entities in a financial conglomerate, Official Journal of the European Union 2011, no. L 326, page 113, parts of European Parliament and Council Directive 2013/36/EU of 26 June 2013 (CRD IV), Official Journal of the European Union 2013, no. L 176, page 338, European Parliament and Council Directive 2013/58/EU of 11 December 2013 amending Directive 2009/138/EC (Solvency II) as regards the date for its transposition and the date of its application, and the date of repeal of certain

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Directives (Solvency I), Official Journal of the European Union 2013, no. L 341, page 1, parts of European Parliament and Council Directive 2014/17/EU of 4 February 2014 on credit agreements for consumers relating to repagential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 (Mortgage Credit Directive), Official Journal of the European Union 2014, no. L 60, page 34, parts of European Parliament and Council Directive 2014/50/EU of 16 April 2014 on minimum requirements for enhancing worker mobility between Member States by improving the acquisition and preservation of supplementary pension rights, Official Journal of the European Union 2014, no. L 128, page 1, parts of European Parliament and Council Directive 2014/51/EU of 16 April 2014 amending Directives 2003/71/EC and 2009/138/EC and Regulations (EC) No 1060/2009, (EU) No 1094/2010 and (EU) No 1095/2010 in respect of the powers of the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority), Official Journal of the European Union 2014, no. L 153, page 1, parts of European Parliament and Council Directive 2014/49/EU of 16 April 2014 on deposit guarantee schemes (DGSD), Official Journal of the European Union 2014, no. L 173, page 149, parts of European Parliament and Council Directive 2014/59/EU of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms (BRRD), Official Journal of the European Union 2014, no. L 173, page 190, parts of European Parliament and Council Directive 2014/65/EU of 15 May 2014 on markets in financial instruments (MiFID II), Official Journal of the European Union 2014, no. L 173, page 349, parts of European Parliament and Council Directive 2014/91/EU of 23 July 2014 amending Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) as regards depositary functions, remuneration policies and sanctions (UCITS V Directive), Official Journal of the European Union 2014, no. L 257, page 186, parts of European Parliament and Council Directive 2015/849/EU of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (4th Money Laundering Directive), Official Journal of the European Union 2015, no. L 141, page 73, and parts of European Parliament and Council Directive 2016/97 of 20 January 2016 on insurance distribution, Official Journal of the European Union 2016, no. L 26, page 19. The Act also includes certain provisions from Commission Regulation (EU) No 584/2010 of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards the form and content of the standard notification letter and UCITS attestation, the use of electronic communication between competent authorities for the purpose of notification, and procedures for on-the-spot verifications and investigations and the exchange of information between competent authorities, Official Journal of the European Union 2010, no. L 176, page 16, European Parliament and Council Regulation (EU) No 1092/2010 of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board, Official Journal of the European Union 2010, no. L 331, page 1, European

Parliament and Council Regulation (EU) No 1093/2010 of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC, Official Journal of the European Union 2010, no. L 331, page 12, European Parliament and Council Regulation (EU) No 1094/2010 of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC, Official Journal of the European Union 2010, no. L 331, page 48, European Parliament and Council Regulation (EU) No 1095/2010 of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC, Official Journal of the European Union 2010, no. L 331, page 84, European Parliament and Council Regulation (EU) No 346/2013 of 17 April 2013 on European social entrepreneurship funds, Official Journal of the European Union 2013, no. L 115, page 18, European Parliament and Council Regulation (EU) No 345/2013 of 17 April 2013 on European venture capital funds, Official Journal of the European Union 2013, no. L 115, page 1, European Parliament and Council Regulation (EU) No 575/2013 of 26 June 2013 (CRR), Official Journal of the European Union 2013, no. L 176, page 1, European Parliament and Council Regulation (EU) No 600/2014 of 15 May 2014 on markets in financial instruments (MiFIR), Official Journal of the European Union 2014, no. L 173, page 84, and European Parliament and Council Regulation (EU) No 1286/2014 of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs), Official Journal of the European Union 2014, no. L 352, page 1. Under Article 288 of the Treaty on the Functioning of the European Union, a Regulation applies immediately in each Member State. The reproduction of these provisions in this Act is therefore exclusively due to practical considerations and does not affect the direct applicability of the Regulations in Denmark.'

2. The following is inserted as paragraph 7 in Section 43:

'Paragraph 7. The Minister of Industry, Business and Financial Affairs establishes rules on qualification requirements and requirements for a good reputation for employees who are directly involved in insurance or reinsurance distribution activities at an insurance undertaking or a reinsurance undertaking.'

3. Section 57 a is repealed.

4. The following is inserted as paragraph 4 in Section 77:

'Paragraph 4. The Minister for Business and Growth may establish rules for insurance companies on remuneration that is awarded or paid in respect of the performance of insurance distribution activities.'

5. Section 344, paragraph 1, sentence 1, is replaced by the following:

'The Danish FSA monitors compliance with Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms, regulations and rules issued in pursuance

of regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms, regulations issued in pursuance Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, regulations issued in pursuance of Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II), regulations issued in pursuance of Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms, Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs), Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments, regulations issued in pursuance of Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution and this Act and with the rules issued in pursuance of this Act, with the exception of Section 75 b and Section 77, paragraphs 1 and 2. However, the Danish Business Authority monitors compliance with Section 15, paragraphs 1, 2 and 4, and Sections 83, 87, 91 and 112.'

6. Section 361 is replaced by the following:

'Section 361. The following natural and legal persons subject to the Danish Financial Business Act pay an annual basic fee to the Danish FSA:

- 1) Labour Market Insurance pays DKK 27,000.
- 2) Arbejdsmarkedets Tillægspension (ATP) pays DKK 4,922,000.
- 3) CO2 allowance bidders pay DKK 18,400.
- 4) A shared data centre pays DKK 119,000. However, if a shared data centre has an average of fewer than 25 full-time employees during a financial year, the shared data centre pays DKK 2,200.
- 5) The Guarantee Fund for Non-Life Insurance Companies pays DKK 111,000.
- 6) Each financial holding company and insurance holding company pays DKK 11,000.
- 7) Each issuer of collateralised mortgage obligations, ISPV bonds and similar undertakings pays DKK 22,500 per series.
- 8) Banks, mortgage-credit institutions and investment firms I pay a total of DKK 3,350,000. The fee is distributed in relation to the individual undertaking's share of the total book balance sheet totals of the undertakings covered. A minimum fee of DKK 4,400 is always imposed.

Paragraph 2. The following natural and legal persons subject to the Danish Capital Markets Act pay an annual basic fee to the Danish FSA:

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- 1) An operator of a regulated market pays DKK 216,000 and DKK 1,300 per financial instrument admitted for trading at the year-end. However, the fee may not exceed DKK 5,415,000.
- 2) A company that operates a multilateral trading facility pays DKK 162,000 and DKK 1,300 per financial instrument admitted for trading at the year-end. However, the fee may not exceed DKK 1,462,000.
- 3) A company that operates an organised trading facility pays DKK 108,000 and DKK 1,300 per financial instrument admitted for trading at the year-end. However, the fee may not exceed DKK 758,000.
- 4) An operator of a regulated market that is authorised to run a CO2 auction platform pays DKK 54,000 in addition to the fee under 1).
- 5) A systematic internaliser pays DKK 54,000 and DKK 1,300 per financial instrument for which the systematic internaliser was in charge of trading at the year-end. However, the fee may not exceed DKK 325,000.
- 6) Central Securities Depositories (CSDs) with authorisation under Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories, cf. Section 211, paragraph 2, no. 7, of the Danish Capital Markets Act, pay DKK 4,110,000.
- 7) Providers of data reporting services with authorisation under Part 26 of the Danish Capital Markets Act pay DKK 725,000 per type of data reporting service provided.
- 8) Central counterparties (CCPs) with authorisation under Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories, cf. Section 211, paragraph 2, no. 4, of the Danish Capital Markets Act, pay DKK 725,000.
- 9) Financial undertakings, financial holding companies and insurance holding companies, the negotiable securities of which are admitted for trading on a regulated market and of which the market value of the traded negotiable securities is DKK 1 billion or more at the year-end, pay DKK 89,000. If the market value of the traded negotiable securities is DKK 250 million or more, but less than DKK 1 billion at the year-end, they pay DKK 44,500. If the market value of the traded negotiable securities is less than DKK 250 million at the year-end, they pay DKK 22,250. Departments of Danish UCITS which have issued units that are admitted for trading on a regulated market pay DKK 11,125.
- 10) Natural or legal persons that request approval by the Danish FSA of a prospectus in accordance with Part 6 of the Danish Capital Markets Act pay a fee of DKK 55,800 per request.
- 11) Issuers that, following their own request, have been authorised to have their financial instruments admitted for trading on a regulated market, a multilateral trading facility or an organised trading facility in Denmark pay DKK 15,200.

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12) Issuers that request official listing by the Danish FSA of shares, share certificates or bonds pay a fee of DKK 27,500 per request. After this, the relevant issuers pay DKK 3,700 annually for as long as the financial instrument is officially listed.

13) Securities traders that are under an obligation to report transactions involving financial instruments to the Danish FSA under Article 26 of Regulation (EU) No 600/2014 of 15 May 2014 of the European Parliament and of the Council on markets in financial instruments pay the following.

- a) DKK 3,700 for up to 10,000 transactions.
- b) DKK 18,400 for between 10,000 and 100,000 transactions.
- c) DKK 120,000 for between 100,000 and 1 million transactions.
- d) DKK 508,000 for more than 1 million transactions.

Paragraph 3. The following natural and legal persons subject to the Danish Payment Services and Electronic Money Act pay an annual basic fee to the Danish FSA:

- 1) Payment institutions pay DKK 91,400.
- 2) E-money institutions pay DKK 134,000.
- 3) Undertakings with restricted authorisation to provide payment services pay DKK 9,200.
- 4) Undertakings with restricted authorisation to issue electronic money pay DKK 13,000.

Paragraph 4. Mortgage credit companies subject to the Danish Mortgage Credit Companies Act pay an annual basic fee of DKK 30,300 to the Danish FSA.

Paragraph 5. The following natural and legal persons subject to the Danish Financial Advisers, Investment Advisers and Mortgage Credit Intermediaries Act pay an annual basic fee to the Danish FSA:

- 1) Mortgage credit intermediaries pay DKK 16,700.
- 2) Undertakings which provide advice on financial products to consumers pay DKK 26,800.
- 3) Investment advisers pay DKK 18,400.

Paragraph 6. The following natural and legal persons subject to the Danish Money Laundering Act pay an annual basic fee to the Danish FSA:

- 1) Undertakings and persons subject to Section 1, paragraph 1, no. 8, of the Danish Money Laundering Act pay DKK 4,400.
- 2) Currency exchange undertakings pay DKK 28,100.

Paragraph 7. The following natural and legal persons subject to the Danish Alternative Investment Fund Managers Act pay an annual basic fee to the Danish FSA:

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1) Foreign alternative investment fund managers subject to Part 17 of the Danish Alternative Investment Fund Managers Act which have been granted authorisation to place on the market a foreign alternative investment fund in Denmark pay DKK 4,400 per alternative investment fund plus DKK 4,400 per sub-fund in the fund.

2) Foreign alternative investment fund managers from a Member State of the European Union or a state with which the Union has made an agreement in the financial area, and foreign alternative investment fund managers from a third country for which Denmark is the reference country which have been granted authorisation to manage Danish alternative investment funds pay DKK 44,500.

Paragraph 8. The following natural and legal persons subject to the Danish UCITS Act pay an annual basic fee to the Danish FSA:

1) For every notification of or application for cross-border marketing of units in collective investment undertakings, cf. Section 27 of the Danish UCITS Act, foreign collective investment undertakings pay DKK 5,500.

2) Foreign collective investment undertakings subject to Section 27 of the Danish UCITS Act pay DKK 17,500.

Paragraph 9. The Danish Employees' Capital Pension Fund (LD) pays an annual basic fee of DKK 314,000 to the Danish FSA.

Paragraph 10. The basic amounts, cf. paragraphs 1-9, have been stated at the 2016 level and are adjusted annually according to developments in appropriations to the Danish FSA in each year's Finance Act.'

7. Section 362, paragraph 3, is repealed.

Paragraph 4 consequently becomes paragraph 3.

8. The following is inserted as paragraphs 4-7 in Section 362:

'Paragraph 4. Reinsurance intermediaries, cf. the Danish Insurance Mediation Act, pay an annual fee of DKK 33,500 to the Danish FSA.

Paragraph 5. Insurance intermediaries, cf. the Danish Insurance Mediation Act, pay an annual fee of 3.0 per mille of their commission and other remuneration, cf. paragraphs 6 and 7. A minimum fee of DKK 2,000 is always paid.

Paragraph 6. An insurance intermediary, cf. the Danish Insurance Mediation Act, that pays a fee under Section 363 or 363 a is not required to pay a fee under paragraph 5.

Paragraph 7. An insurance intermediary, cf. the Danish Insurance Mediation Act, that is an administration company in a mutual insurance administration undertaking is not required to pay a fee under paragraph 5.'

9. 'Insurance brokers' is changed to 'insurance intermediaries' in Section 368, paragraph 1, sentence 2.

10. 'Section 57, paragraph 1' is omitted from Section 373, paragraph 2.

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## **Part 12**

### Territorial provisions

Section 46. This Act does not apply to the Faeroe Islands and Greenland. However, the Act may, by royal decree, be put into effect fully or partially for Greenland, with any amendments which the circumstances warrant in Greenland.

Issued at Christiansborg Palace, 22 January 2018

Under Our Royal Hand and Seal

MARGRETHE R.

/ Brian Mikkelsen