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GlobalDenmark Translations

Cross Border Currency Transfer Act

Act no. 237 of 21 April 1999 **EXCLUDING MINOR AMENDMENTS**

Act No. 237 of 21 April 1999

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[1]

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

The Danish Parliament (Folketinget) has passed and We have provided the following Act with Our Royal Assent:

PART 1

Scope of Act.

1. -(1) This Act shall apply to cross-border currency transfers to and from countries within the European Union and countries with which the Union has entered into agreement, upon transfer of any of these countries' currency.

(2) This Act shall only apply to transfers which are no greater than the equivalent of EUR 50,000.

(3) Cross-border currency transfers include transfers by institutions from within the European Union or countries with which the Union have entered into agreement which are performed under the unconditional orders of independent persons, with a view to making a sum of money available to the individual himself or a second party in an institution in another country within the European Union, or countries with which the Union has entered into an agreement.

(4) Institutions are natural or legal persons in a country within the European Union or countries with which the Union has entered into an agreement, which as a part of their business undertakings take part in cross-border currency transfers. A branch or place of business is regarded as an independent institution in this Act.

(5) This Act shall not apply to transfers in which the transfer is made by an institution as mentioned in subsection 4, or a(n)

- 1) credit institution,
- 2) insurance company,
- 3) investment institution (unit trust or a special fund),
- 4) investment service company (stockbroker company), or
- 5) another undertaking or institution whose activities correspond to those undertakings as are mentioned in paragraphs 1-4 hereof, or whose primary undertakings consist of acquiring holdings of financial assets or reorganisation of financial debts.

(6) Questions regarding whether an institution is included in this Act can be put to the Minister for Economic Affairs.

(7) The Minister for Economic Affairs may stipulate regulations regarding extension of the areas to which the Act applies so as to also include transfers to and from other countries than those mentioned in subsection 1, as long as legislation in the country in question subjects institutions in this country to provisions corresponding to regulations in subsections 2-5 and 8 as well as Part 3 and 4.

(8) This Act does not limit the rights of clients and institutions who have participated in cross-border currency transfers, in accordance with Danish legislation, including rules concerning compensation with or without contract.

PART 2

Duty of disclosure

2.-(1) An institution shall provide written materials with details regarding the general conditions of the institution's cross-border currency transfers. Details shall state:

- 1) How long a period passes before a transferred amount is credited to the recipient's account, when the institution completes an order for a cross-border currency transfer. The initial date for the transaction must be stated clearly.
- 2) How much time passes, after receiving a cross-border currency transfer, before the amount which is credited to the recipient's account, is made available to the recipient.
- 3) How commissions and charges which the client shall pay are calculated.
- 4) Value date.
- 5) Which exchange rates and which exchange dates are used.
- 6) The client's right to compensation, reimbursement as well as possibilities of redress.
- 7) The legal effect of a sender's explicit choice of an intermediary institution.

(2) Details shall be provided in a form which is easily understood and can be given electronically.

3.-(1) Immediately following the dispatch or receipt of a cross-border currency transfer, both the sender's institution and the recipient's institution shall provide their clients with the following information in writing:

- 1) A reference which enables the client to identify the transfer.
- 2) The amount prior to transfer.
- 3) The total sum of all charges and commissions which the client shall pay.
- 4) The value date applied.
- 5) The name and address of the institution and, for institutions which are not financial institutions, also the name of the person responsible for managing the institution.

(2) If the sender has stated that the costs of the transfer are to be defrayed in part or in total by the recipient, the recipient's institution shall inform the recipient of this.

(3) When exchanging currency, the institution responsible for the exchange shall inform its client of the exchange rate which has been used as well as the exchange date.

(4) This information mentioned in subsections 1-3 may be omitted, if clients explicitly waive their right to this.

(5) This information shall be provided in a form which is easily understood and can be given electronically.

PART 3

Obligations of Institutions

4. If an institution agrees to perform a cross-border currency transfer, the institution shall enter into a binding agreement upon the client's request, regarding the time limit and the size of fees and commissions in connection to the transfer. However, this does not include commissions and fees which are determined by the exchange rate applied.

Transfer time

5.-(1) The sender's institution shall complete the transfer within the set time limit which the institution has agreed on with the client.

(2) If no time limit has been agreed upon, the amount should be credited to the recipient's account before expiry of the fifth banking day succeeding the day when the requirements made by the sender's institution of sufficient financial coverage and necessary information have been met.

6.-(1) If the amount is not credited to the account of the recipient before expiry of the time limit laid down in section 5, the sender's institution shall provide the sender with compensation.

(2) Compensation shall consist of payment of interest of the transferred amount. Interest is determined by the interest rate laid down in section 5, subsection 1, in the Interest Act. Interest is calculated from the day following expiry to the day the amount is credited to the account of the recipient.

(3) If the sender's institution can prove that the sender alone is responsible for the delay, the sender cannot claim any compensation.

7.-(1) If an intermediary institution is responsible for not completing a transfer before expiry of the time limit laid down in section 5, the institution shall provide the sender's institution with compensation.

(2) Compensation consists of payment of an amount equivalent to the amount the sender's institution is obliged to pay the sender in pursuance of legislation in the country in which the sender's institution is located.

8.-(1) The recipient's institution shall make the transferred amount available to the recipient within the time limit which has been agreed on by the institution and the recipient.

(2) If no time limit has been agreed upon, the amount shall be made available to the recipient before the end of that banking day which succeeds the day the amount has been credited to the recipient's account.

9.-(1) If the amount is not made available to the recipient before expiry of the time limit laid down in section 8, the recipient's institution shall provide the recipient with compensation.

(2) Compensation shall consist of payment of interest of the transferred amount. Interest is determined by the interest rate laid down in section 5, subsection 1, in the Interest Act. Interest is calculated from the day following expiry to the day the amount is made available to the recipient.

(3) If the recipient's institution can prove that the recipient alone is responsible for the delay, the recipient cannot claim any compensation.

Expenses

10.-(1) The sender's institution, the recipient's institution and any intermediary institution may not deduct expenses from a transferred amount.

(2) Provisions in subsection 1 do not apply if the sender has made explicit arrangements with his institution that expenses connected to the transfer are to be covered in part or in full by the recipient.

(3) The provisions in subsection 1 do not affect the general fees the recipient's institution may charge the recipient for administering his account in pursuance of existing regulations or agreements.

11.-(1) If a sender's institution or an intermediary institution has made deductions in violation of section 10, the sender's institution shall transfer the deducted amount to the recipient without any form of deduction and be responsible for all costs. However this does not apply if the sender requires that the amount be made available to the sender.

(2) An intermediary institution which has made deductions in violation of section 10 shall transfer the deducted amount to the sender's institution, or, if the sender's institution so requires, to the recipient, without any form of deduction and be responsible for all expenses.

12. If the recipient's institution has made a deduction in violation of section 10, the institution shall make the deducted amount available to the recipient without any form of deduction and be responsible for all expenses.

Duty of reimbursement

13.-(1) If the sender's institution has accepted an order regarding a currency transfer and the transferred amount is not credited to the recipient's account, the sender's institution shall reimburse to the sender the following

1) the transferred amount, however no more than the equivalent of EUR 12,500,

2) accumulated interest on the transferred amount, calculated in accordance with 5,-(1) of the Interest Act as interest is calculated from that day where the demands made to the sender by his institution regarding sufficient financial coverage and necessary information to complete the transaction are met, to the date where the transferred amount is made available to the sender, and

3) all charges which the sender has paid in connection with the transfer.

(2) The amounts mentioned in subsection 1 shall be made available to the sender no later than 14 banking days following the date on which the sender has made demands for reimbursement.

(3) Subsection 1 does not apply if the transferred amount has been credited to the recipient's account in the mean time, or if an intermediary institution, which has been appointed by the recipient's institution or the sender, is responsible for not crediting the cross-border currency transfer to the recipient's account.

(4) Demands for reimbursement in accordance with subsection 1 can not be made before expiry of the time limit laid down in section 5.

(5) The provision of subsection 1 shall not prevent the sender's institution from reimbursing the sender the entire amount.

14.-(1) If an intermediary institution has accepted to pass on a cross-border currency transfer, and the transferred amount is not credited to the recipient's account, the intermediary institution shall, at its own expense reimburse to the institution which ordered the transfer

1) the transferred amount, however no more than the equivalent of EUR 12,500,

- 2) accumulated interest calculated in accordance with the regulations in 7 (2), and
- 3) fees charged.

(2) Subsection 1 shall not apply if the transferred amount has already been credited to the recipient's account.

(3) If a missing or incomplete transfer is due to false or insufficient information given by the institution which requested the transfer, section 1 does not apply. The intermediary institution shall then, to the extent possible, endeavour to procure the transferred amount and subsequently reimburse the institution which ordered the transfer.

(4) The provisions of subsection 1 hereof shall not prevent the intermediary institution from reimbursing the full amount.

15.-(1) If a missing or incomplete transfer is due to the intermediary institution not carrying out the transfer, and the intermediary institution has been appointed by the recipient's institution, the recipient's institution shall make the amount missing available to the recipient, though no more than the equivalent of EUR 12,500.

(2) The amount mentioned in subsection 1 shall be made available to the recipient no later than 14 banking days following the date the recipient has stated his claim.

(3) An intermediary institution is regarded as having been chosen by the recipient's institution if the latter institution has specifically required that the intermediary institution be used.

(4) The provision of subsection 1 shall not prevent the recipient's institution from making the whole amount available to the recipient.

16.-(1) Sections 13-15 shall not apply if a missing or incomplete currency transfer is due to the sender supplying his institution with false or insufficient instructions, or due to the intermediary institution's neglect to complete the transfer, in cases where the intermediary institution has been chosen by the sender.

(2) An intermediary institution is regarded as having been chosen by the sender when this is indicated in writing in the agreement made between the sender and his institution.

(3) The sender's institution and other institutions which take part in the transaction, shall, to the extent possible, endeavour to procure the transferred amount and subsequently reimburse the transferred amount in the situations mentioned in subsection 1.

(4) When the amount is reimbursed to the sender's institution, the institution shall make the amount available to the sender. The institutions which have taken part in the cross-border currency transfer are not obliged to reimburse charges and accumulated interest. Furthermore the institutions may deduct documented costs which reimbursement entails.

PART 4

Force majeure

17. Institutions which carry out a cross-border currency transfer are exempted from their obligations under this Act in the event of unusual or unpredictable incidents on which the institution has no influence and which the institution cannot possibly prevent, despite exhibiting the greatest possible caution. Insolvency of an institution which has taken part in the transfer shall not be regarded as a force majeure.

PART 5

Penalties

18.-(1) In cases where legislation does not dictate more severe penalties, wilful or repeated violation of section 2, section 3 (1)-(4), and section 10 shall be subject to a fine.

(2) Criminal liability may be imposed on companies, etc. (legal persons) in accordance with the regulations stipulated in Part 5 in the Penal Code.

PART 6

Entry into force

19.- This Act shall enter into force 14 August 1999.

20.- This Act shall not apply to the Faeroe Islands or Greenland but may, by royal decree, enter into force in these countries with such deviations dictated by the special conditions in these countries.

Given at Christiansborg Palace on 21 April 1999

Under Our Royal Hand and Seal

Margrethe R.

/Marianne Jelved

¹ This Act implements directive 97/5/EU of the European Parliament and the European Council on cross-border credit transfers. Official Journal of the European Communities no. L 43 of 14.2.97, p.25.