

While this translation was carried out by a professional translation agency, the text is to be regarded as an unofficial translation based on the latest official Executive Order no. 712 of 1 July 2008. Only the Danish document has legal validity.

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Executive Order stipulating which natural and legal persons as well as products can be made exempt from the Act on Measures to Prevent Money Laundering and Financing of Terrorism as well as the definition of "politically exposed persons"¹

Executive Order no. 712 of 1 July 2008

The following shall be laid down pursuant to section 1(2), section 3(2), section 20(3), section 21(4) and section 37(3) of the Act on Measures to Prevent Money Laundering and Financing of Terrorism, cf. Consolidated Act no. 442 of 11 May 2007 as amended by section 10 of Act no. 517 of 17 June 2008:

Simplified customer due diligence

1.-(1) Public authorities or public bodies shall not be covered by the due diligence measures provided for in section 12(1)-(3) of the Act on Measures to Prevent Money Laundering and Financing of Terrorism, if the following conditions have been met:

- 1) the customer has been entrusted with public functions pursuant to the Treaty on European Union, the Treaty on Communities or Community secondary legislation.
- 2) the customer's identity is publicly available, transparent and certain.
- 3) the activities of the customer, as well as its accounting practices, are transparent.
- 4) the customer is accountable to a Community institution or to the authorities of a Member State, or is subject to appropriate check and balance procedures ensuring control of the customer's activity.

(2) At all times, sufficient information shall be obtained to confirm that the customer is covered by subsection (1).

(3) Proof of identity and storage of such identity information shall always be demanded, cf. sections 12, 19 and 23 of the Act on Measures to Prevent Money Laundering and Financing of Terrorism, when there is a suspicion that the transaction is associated with money laundering or financing of terrorism covered by section 7 of that Act. If the suspicion cannot be disproved, notification in accordance with section 7 of the Act on Measures to Prevent Money Laundering and Financing of Terrorism shall be effected.

2.-(1) Products and transactions related to such products shall not be covered by the identification procedures provided for in section 12(1)-(3) and section 19(2) of the Act on Measures to Prevent Money Laundering and Financing of Terrorism, if they meet the following conditions:

- 1) the product is based on a written contract on paper or another durable medium.

¹ This Executive Order contains provisions implementing parts of Commission Directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of "politically exposed person" and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis (Official Journal 2006 L 214, p. 29).

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- 2) the related transactions are carried out through an account of the customer with
 - a. a credit institution, see section 5(1), no. 2 of the Financial Business Act,
 - b. a foreign credit institution covered by the Third Money Laundering Directive,
 - c. a credit institution in a country outside the European Union which imposes requirements equivalent to those laid down in the Directive mentioned.
- 3) the buyer of the product or the transaction related to the product may not be anonymous.
- 4) the product or transaction may not exceed a maximum amount of EUR 15,000, irrespective of whether the transaction is completed in one or more mutually related transactions. If title to the product is not transferred to the customer until termination of the contractual relationship, the maximum annual amount shall be EUR 15,000.
- 5) the benefits of the product or transaction cannot be realised for the benefit of third parties, except in the case of death, disablement, survival to a predetermined advanced age, or similar events.

(2) In the case of products or transactions related to the product allowing for the investment of funds in financial assets or mutual claims, including insurance or other kinds of contingent claims, the following requirements shall apply in addition to those set out in subsection (1):

- 1) the benefits of the product or the transaction related to such product are only realisable in the long term.
- 2) the product or the related transactions cannot be used as collateral.
- 3) it must not be possible to make accelerated payments or use surrender clauses.
- 4) it must not be possible to terminate the contractual relationship before its expiry.

(3) The threshold set out in subsection (1), no. 4 shall not apply in situations covered by section 20 of the Act on Measures to Prevent Money Laundering and Financing of Terrorism.

(4) Proof of identity and storage of such identity information shall always be demanded, see sections 12, 19 and 23 of the Act on Measures to Prevent Money Laundering and Financing of Terrorism, when there is a suspicion that the transaction is associated with money laundering or financing of terrorism covered by section 7 of that Act.

Financial activity on an occasional or very limited basis

3.-(1) Legal or natural persons shall be exempt from the Act on Measures to Prevent Money Laundering and Financing of Terrorism if they engage in financial activity which

- 1) does not exceed EUR 1,000 per customer, irrespective of whether the transaction is completed in one or more related transactions,
- 2) does not exceed 5 per cent of the total annual turnover of the legal or natural person concerned,
- 3) is an ancillary activity and directly related to the main activity,
- 4) is provided only to the customers of the main activity and is not generally offered to the public, and provided that
- 5) the main activity is not covered by section 1 of the Act on Measures to Prevent Money Laundering and Financing of Terrorism.

(2) Subsection (1) shall not apply to financial activities conducted outside Denmark.

(3) Subsection (1) shall not apply to money transmission services, cf. Annex 1, no. 4, of the Act on Measures to Prevent Money Laundering and Financing of Terrorism.

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(4) However, proof of identity and storage of such identity information shall always be demanded, cf. sections 12, 19 and 23 of the Act on Measures to Prevent Money Laundering and Financing of Terrorism, when there is a suspicion that the transaction is associated with money laundering or financing of terrorism covered by section 7 of that Act.

Definition of politically exposed persons

4.-(1) Politically exposed persons as mentioned in section 3(1), no. 6, cf. section 19(4), of the Act on Measures to Prevent Money Laundering and Financing of Terrorism, shall be interpreted in accordance with the definitions in subsections (2)-(4) below.

(2) "Politically exposed persons who are or have been entrusted with prominent public functions" shall include the following:

- 1) heads of state, heads of government, ministers and deputy or assistant ministers.
- 2) members of parliament.
- 3) members of supreme courts, of constitutional courts or of other high-level judicial bodies whose decisions are only subject to further appeal in exceptional circumstances.
- 4) members of courts of auditors or of the boards of central banks.
- 5) ambassadors, chargés d'affaires and high-ranking officers in the armed forces.
- 6) members of the administrative, management or supervisory bodies of state-owned enterprises.

(3) "Immediate family members" shall mean:

- 1) spouses,
- 2) registered partners,
- 3) the children of the persons mentioned in nos. 1 and 2,
- 4) the parents of the persons mentioned in nos. 1 and 2.

(4) Persons known to be "close associates" shall include the following:

- 1) persons who have joint beneficial ownership of legal entities or legal arrangements, or any other close business relations, with one of the persons covered by subsection (2).
- 2) persons who have sole beneficial ownership of a legal entity or legal arrangement which has been set up for the benefit of the persons covered by subsection (2).

(5) The persons mentioned in subsection (2) shall not include middle ranking or more junior officials.

(6) If a person mentioned in subsection (2) has ceased to be entrusted with a prominent public function for a period of at least a year, such person shall no longer be considered as politically exposed.

Penalties

5.-(1) Any person violating the provisions of section 1(3), section 2(4) and section 3(4) of this Executive Order shall be liable to a fine.

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

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Entry into force

6.-(1) This Executive Order shall enter into force on 15 July 2008.

(2) At the same time, Executive Order no. 1377 of 10 December 2007 stipulating which natural and legal persons as well as products can be made exempt from the Act on Measures to Prevent Money Laundering and Financing of Terrorism shall be repealed.

Danish FSA, 1 July 2008

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