

## Executive Order on Risk-Labeling of Investment Products

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Executive Order no. 345 of 15 April 2011

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The following shall be laid down pursuant to section 43(3) and section 373(4) of the Financial Business Act, cf. Consolidating Act no. 342 of 8 April 2011:

### *Scope and definitions*

**1.** This Executive Order shall apply to Danish and foreign financial undertakings that arrange purchases of investment products for retail investors in Denmark, including through establishing branches, as well as to Danish and foreign investment advisors carrying out activities in Denmark, including through establishing branches.

**2.-(1)** "Investment products" shall be defined as:

- 1) Instruments, cf. Annex 5 of the Financial Business Act,
- 2) Deposits in banks, where a return depends on developments in one or more underlying assets,
- 3) Guarantor certificates,
- 4) Cooperative share certificates and
- 5) Mortgages.

**(2)** This Executive Order shall not apply to agreements on discretionary portfolio management, pooled schemes and securities trading with mortgage-credit bonds, covered mortgage-credit bonds (SDROs), covered bonds (SDOs) or mortgages when the securities transaction takes place in connection with and as a requirement of execution of investors' raising, payment or change of loans secured on immovable property.

### *Labelling*

**3.-(1)** A financial undertaking that arranges purchases of investment products for retail investors, as well as an investment advisor, shall provide information about risk-labelling of the types of investment products they facilitate or for which they provide investment advice.

**(2)** The financial undertaking and the investment advisor shall, in connection with investment advice, no later than the time of placement of order, inform a retail investor, cf. section 4(1), no. 3 of the Executive Order on Investor Protection in connection with Securities Trading, about risk-labelling of the type of investment product to which the order relates. Information about labelling shall be given on paper or another durable medium.

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**(3)** If a financial undertaking arranges purchases of investment products through an electronic trading platform, or if a retail investor takes unsolicited contact to a financial undertaking and asks the financial undertaking to execute an order, such financial undertaking shall not be obligated to provide information about risk-labelling but the undertaking shall make available to the investor information about risk-labelling of the product type.

**4.-(1)** Risk-labelling means that the type of investment product is divided into the categories green, yellow or red, respectively, cf. subsections (2)-(4).

**(2)** A type of investment product is in the category green if the risk of losing the whole amount invested is to be considered as very small, and if the product type is not difficult to understand.

**(3)** A type of investment product is in the category yellow, if there is a risk that the amount invested can be lost wholly or partly, and if the product type is not difficult to understand.

**(4)** A type of investment product is in the category red, if there is a risk of losing more than the amount invested, or if the product type is difficult to understand.

**(5)** The types of investment products in the category green, yellow and red, respectively, are shown in Annex 1.

#### *Supervision and penalties*

**5.-(1)** The Danish FSA may, cf. section 348(2) of the Financial Business Act, order correction of circumstances in conflict with the provisions laid down in this Executive Order. Failure to comply with such order may be subject to a fine.

**(2)** Any person violating section 3(2) and (3) shall be subject to a fine.

**(3)** Companies etc. (legal persons) may incur criminal liability under the rules of Part 5 of the Criminal Code.

#### *Entry into force*

**6.** This Executive Order shall enter into force on 29 April 2011. Section 3, however, shall not enter into force until 1 July 2011.

*Ministry of Economic and Business Affairs, 15 April 2011*

Brian Mikkelsen

/ Hans Høj

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**Annex 1**

**Breakdown into types of investment product by labelling category**

The table below breaks down types of investment product into the three labelling categories green, yellow and red.

Category	Description	Investment product
1: "Green"	Investment products where there the risk of losing the whole amount invested must be considered as very small, if the investment is held to maturity. This product type is not difficult to understand.	<ul style="list-style-type: none"><li>- Danish government bonds issued in DKK and EUR.</li><li>- Treasury bills.</li><li>- Government bonds issued by euro countries in EUR and DKK.</li><li>- mortgage-credit bonds issued by Danish mortgage-credit institutions.</li><li>- Covered mortgage-credit bonds (SDRO) issued by Danish mortgage-credit institutions.</li><li>- Covered bonds (SDO) issued by Danish banks and mortgage-credit institutions.</li><li>- Junior covered bonds and senior debt issued by Danish banks and mortgage-credit institutions to finance additional capital to cover SDOs and SDROs.</li><li>- Shipping mortgage-credit bonds and bearer bonds issued by a ship finance institute.</li><li>- Bonds issued by Kommune Kredit.</li></ul>
2: "Yellow"	Investment products where there is a risk of wholly or partly losing the amount invested. This product type is not difficult to understand.	<ul style="list-style-type: none"><li>- Guarantor certificates.</li><li>- Cooperative share certificates.</li><li>- Shares admitted to trading on a regulated market.</li><li>- Corporate bonds admitted to trading on a regulated market.</li><li>- Certificates where no more than the amount invested can be lost.</li><li>- Exchange Traded Notes, where no more than the amount invested can be lost.</li><li>- Government bonds issued in other currencies than DKK and EUR.</li><li>- Foreign mortgage-credit bonds.</li><li>- Investment association certificates (UCITS).</li><li>- Special-purpose association certificates.</li><li>- Structured deposits.</li><li>- Rights to subscribe for investment products in the yellow category.</li></ul>
3: "Red"	Investment products where there is a risk of losing more	<ul style="list-style-type: none"><li>- Hedge fund certificates regardless of the underlying investment product.</li></ul>

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than the amount invested,  
or product types which are  
difficult to understand.

- Mortgages.
- Shares not admitted to trading on a regulated market (including trading on multilateral trading facilities (MTF) and alternative markets).
- Corporate bonds not admitted to trading on a regulated market (including trading on multilateral trading facilities (MTF) and alternative markets).
- Certificates where more than the amount invested can be lost.
- Exchange Traded Notes, where more than the amount invested can be lost.
- Non-UCITS.
- Shares in, for instance, ships, property projects, etc.
- Structured bonds.
- Options, futures and forward transactions on for instance: currency, shares, bonds, other securities, returns, interest rates, indexes and commodities.
- Interest-rate swaps.
- Swap options.
- Share swaps and swaps on share indices.
- Currency swaps (exchange of payments in different currencies).
- Inflation swaps.
- Commodities swaps.
- Total Return Swaps.
- Contracts For Difference (CFDs).
- Credit Default Swaps (CDSs).
- Future interest-rate agreements (FRAs).
- Exchange Traded Funds (ETFs).
- Any other derivative agreement relating to climatic variables, freight rates, emissions permits or inflation rates or other economic statistics.
- Any other instrument covered by Annex 5, nos. 4-11 of the Financial Business Act.
- Rights to subscribe for investment products in the red category.