

Executive Order on the Collaboration between the Danish Financial Supervisory Authority and a Guarantee Fund for Depositors and Investors

Executive Order no. 92 of 19 February 2002 **EXCLUDING MINOR AMENDMENTS**

The following shall be laid down pursuant to section 2(4) of the Guarantee Fund for Depositors and Investors Act, cf. Consolidated Act No. 119 of 23 February 2001:

1. If, according to the assessment of the Danish FSA, an institution with a duty to pay contributions is at great risk of financial difficulties, the Danish FSA shall inform the Guarantee Fund for Depositors and Investors hereof in writing.
2. If an institution is ailing, and the Danish FSA assesses that it may become necessary to involve the Guarantee Fund for Depositors and Investors, the Danish FSA shall instigate a meeting with the Guarantee Fund for Depositors and Investors regarding the ailing institution. At this meeting, the Danish FSA shall inform the Guarantee Fund for Depositors and Investors of its assessment of the ailing institution's financial status. The Danish FSA shall prepare minutes of the meeting.
- 3.-(1) The Danish FSA shall prepare an assessment of the ailing institution. The assessment shall contain a measurement of the assets etc. of the institution under the assumption that the institution continues its activities and under the assumption that the institution discontinues. This assessment shall be submitted in writing to the Guarantee Fund for Depositors and Investors, including a brief description of the Danish FSA's decision-making basis.
 - (2) The Danish FSA's data on measurement of the ailing institution's assets etc. shall be made available to the Guarantee Fund for Depositors and Investors.
 - (3) The Danish FSA shall request that the ailing institution provide an up-to-date list of covered net deposits, covered funds, and covered securities. The Danish FSA shall forward this list to the Guarantee Fund for Depositors and Investors.
- 4.-(1) The Guarantee Fund for Depositors and Investors shall request that the ailing institution provide all relevant information, so that the Guarantee Fund for Depositors and Investors can measure the institution's assets etc.
 - (2) The Guarantee Fund for Depositors and Investors shall prepare a written assessment of the maximum amount by which the Guarantee Fund for Depositors and Investors can contribute to the winding-up of the ailing institution prepared on the basis of the information submitted by the institution, the examination of the institution by the Fund's own experts, and the Danish FSA's assessment, cf. section 3(1). The assessment shall be forwarded to the Danish FSA along with a written statement as to whether the Guarantee Fund for Depositors and Investors wishes to participate in negotiations on a solution, including a solution in which the ailing institution is taken over, partly or completely, by another institution or other investors.
5. The Guarantee Fund for Depositors and Investors shall require that any offers to take over, partly or completely, be submitted in writing and sent to the ailing institution, the Guarantee Fund for Depositors and Investors, and the Danish FSA.

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6. In the event that the individual assessments of the ailing institution's negative balance by the Danish FSA, the Guarantee Fund for Depositors and Investors and a stakeholder differ, the Guarantee Fund for Depositors and Investors shall be obligated to carry out a detailed assessment hereof. In the event that the Guarantee Fund for Depositors and Investors subsequently decides to use the Fund's own assessment, the Guarantee Fund for Depositors and Investors shall motivate this in writing. This motivation shall be submitted to the Danish FSA.

7. When the assessment of the ailing institution has been completed, and if a written offer has been received, the Danish FSA shall invite the Guarantee Fund for Depositors and Investors, the ailing institution, the institution submitting the offer, as well as the remaining parties involved, to participate in negotiations on a solution. The Danish FSA shall ensure that the meetings in which the Danish FSA takes part are recorded in minutes.

8.-(1) If negotiations result in a solution involving the Guarantee Fund for Depositors and Investors, the Guarantee Fund for Depositors and Investors shall ensure the preparation of an agreement on the financial contribution of the Guarantee Fund for Depositors and Investors with the parties involved.

(2) If the Guarantee Fund for Depositors and Investors wishes not to take part in a solution, this shall be notified in writing to the Danish FSA, the ailing institution, and the remaining parties involved.

9.-(1) The Ministry of Economic and Business Affairs may, together with the Danish FSA, handle the negotiations with the Guarantee Fund for Depositors and Investors, the ailing institution, the institution submitting the offer, and the remaining parties involved. The Danish FSA and the Guarantee Fund for Depositors and Investors shall be notified of this in writing.

(2) The Danish FSA shall submit a copy of its assessments under section 1 and section 3(1), as well as a copy of the Danish FSA's minutes, to the Ministry of Economic and Business Affairs. Upon request, the Danish FSA shall also submit a copy of other information and documents under section 3(2)-(3), section 4(2), and sections 5-7 to the Ministry of Economic and Business Affairs.

10. The Danish FSA and the Guarantee Fund for Depositors and Investors shall prepare a contingency plan describing the practical procedures in more detail.

11. If the Danish FSA and the Guarantee Fund for Depositors and Investors agree, the procedure described above may be deviated from when considerations for the ailing institution and its depositors or investors, including, in particular, significant practical circumstances, dictate this. Such deviations shall be agreed in writing by the Danish FSA and the Guarantee Fund for Depositors and Investors including an explanation for the deviation.

12.-(1) This Executive Order shall enter into force on 15 March 2002.

(2) At the same time, Executive Order no. 117 of 3 February 1997 on the Collaboration between the Danish Financial Supervisory Authority and the Guarantee Fund for Depositors and Investors shall be repealed.

The Ministry of Economic and Business Affairs, 19 February 2002

Bendt Bendtsen

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/Torben Weiss Garne

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