

Statutory Order on Speculative Transactions

Statutory Order No. 868 of 25/11/1997. **NO LONGER IN FORCE**

The following shall be laid down pursuant to Section 19 (3) of the Commercial Banks and Savings Banks, etc., Act, cf. Consolidated Act No. 730 of 6 August 1996, as amended by Act No. 475 of 10 June 1997; Section 18 a (3) of the Mortgage Credit Act, cf. Act No. 708 of 8 September 1997; Section 90 (3) of the Insurance Business Act, cf. Consolidated Act No. 746 of 6 August 1996, as amended by Act No. 475 of 10 June 1997, Section 12 (5) of the Securities Trading, etc., Act, cf. Act No. 1072 of 20 December 1995, as amended by Act No. 475 of 10 June 1997; Section 12 (3) of the Investment Companies Act, cf. Act No. 1071 of 20 December 1995, as amended by Act No. 475 of 10 June 1997, Section 5 a (3) of the LD Pensions Act, cf. Consolidated Act No. 281 of 1 May 1995, as amended by Act No. 475 of 10 June 1997; Section 24 c (3) of the Danish Labour Market Supplementary Pension Scheme Act, cf. Consolidated Act No. 4 of 8 January 1996, as amended by Act No. 475 of 10 June 1997; and Section 23 (3) of the Investment Associations and Special-Purpose Associations Act, cf. Act No. 476 of 10 June 1997:

Scope

1.-(1) This Statutory Order shall apply to managing directors, deputy directors, assistant directors and persons of equal status, internal controllers and deputy controllers and other management staff with particular responsibility for fund or currency activities in commercial banks, savings banks, mortgage-credit institutions, insurance companies, lateral pension funds (nationwide occupational pension funds), FIH (Finance for Danish Industry), limited companies included in the scope of Section 7 of the Securities Trading, etc., Act, investment companies, LD Pensions, the Danish Labour Market Supplementary Pension Scheme (ATP), investment associations and special-purpose associations, cf., however, Section 8 below.

(2) The enterprises specified in subsection (1) hereof shall hereinafter be referred to as "institutions".

Speculative Transactions

2.-(1) Acquisition of assets and liabilities, including deposits and loans, in foreign currencies (taking of positions) shall be considered to be speculative transactions, cf., however, subsection (3) hereof.

(2) "Foreign currencies" shall not mean the currency used to pay the salary of a given person, nor the currency of the country of residence of such person.

(3) The taking of positions specified in subsection (1) hereof shall not include:

- 1) positions taken in securities, cf. Section 2 (1), Nos. 1-5 and No. 11 of the Securities Trading, etc., Act,
- 2) acquisition or sale of real property abroad and all appurtenances rightly belonging to such property,
- 3) loans taken in the currency of the relevant person's country of residence for the acquisition of real property and appurtenances rightly belonging to such property in that country,

- 4) acquisition and sales of travellers' cheques and other forms of travellers' currency,
- 5) acquisition of goods and services paid for in a foreign currency through payment in cash or by means of banker's cheques, charge cards, credit cards, or electronic transfers of payment (on the Internet, etc.),
- 6) positions where the equivalent value in DKK at the time of establishment does not exceed DKK 50,000.

3.-(1) Trading in financial instruments, cf. Section 2 (1), Nos. 6-10, and No. 12, of the Securities Trading, etc., Act and forward transactions shall be considered to be speculative transactions, cf., however, subsection (2) hereof.

(2) The transactions specified in subsection (1) hereof shall not include trading in financial instruments and forward transactions where such transactions are made with a view to risk coverage.

4.-(1) Trading in precious metals, cf. Section (1) of the Control of Objects Made from Precious Metals, etc., Act [*lov om kontrol med arbejder af adle metaller m.v.*], and precious stones shall be considered to be speculative transactions, cf., however, subsection (2) hereof.

(2) The transactions specified in subsection (1) hereof shall not include trading in jewellery, objets d'art, silver tableware, coins, etc.

5.-(1) Acquisitions of securities made with borrowed funds, cf. subsection (2) hereof, shall be considered to be speculative transactions, cf., however, subsection (3) hereof.

(2) For the purposes of this Order, "acquisition of securities made with borrowed funds" shall mean the taking of loans, including drafts made on previously established credits, within a period of 6 months after the acquisition of securities, or acquisitions of securities made within a period of 6 months after the taking of a loan.

(3) The transactions specified in subsection (1) hereof shall not include:

- 1) loans for acquisitions of mortgages, government bonds, mortgage-credit bonds, etc., which are held for a period of 5 years or more or drawn at par,
- 2) loans for acquisitions of employee shares,
- 3) loans for acquisitions of securities where full collateral is provided in the form of assets which are not securities,
- 4) loans for the investments in pension schemes specified in Section 6 (3), Nos. 1-2 below,
- 5) loans for acquisitions of mortgage-credit bonds with a view to redeeming mortgage-credit loans granted on the basis of the same bond series,
- 6) loans or drafts on previously established credit to be used for acquisitions of securities to an amount of DKK 50,000 or less.

(4) All loans and securities, cf. subsection (3) hereof, shall be in the same currency.

6.-(1) A reduction in the nominal value of a holding of a specific security in connection with sales within a period of 6 months after an increase in the holding of the same security shall be considered to be a speculative transaction, cf., however, subsection (3) hereof.

(2) An increase in the nominal value of a holding of a specific security in connection with acquisitions within a period of 6 months after a reduction in the holding of the same security shall be considered to be a speculative transaction, cf., however, subsection (3) hereof.

(3) The transactions specified in subsections (1) and (2) hereof shall not include:

- 1) investments concerning pool deposits, cf. Part 9 a of the Commercial Banks and Savings Banks, etc., Act in connection with capital pensions, instalment pensions, and private pensions,
- 2) investments concerning pension schemes, cf. the Insurance Business Act and the Supervision of Company Pension Funds Act, where individual persons do not have a direct influence on investment decisions made regarding their pension funds,
- 3) investments in interests issued by investment associations or special-purpose associations,
- 4) sales of securities received through inheritance, as a gift, through division of the community property, compensation, etc.,
- 5) sales of securities, except those specified in Section 5 (3), No. 1 above, in situations of dire need,
- 6) acquisitions and sales of bonds in connection with loans taken out against a mortgage on real property,
- 7) acquisitions following drawing or redemption of the same security,
- 8) reductions in connection with a capital reduction, or
- 9) acquisitions or sales of securities where the total market value of the relevant holding of securities does not exceed DKK 50,000 immediately after the acquisition/immediately before the sale.

(4) For the purposes of this Statutory Order, “situation of dire need” shall mean an acute need for funds or losses arising due to a reduction in market prices in relation to the market price at the time of acquisition.

7.-(1) Acquisitions of shares or equity interests in companies where trading in securities and financial instruments constitutes a significant activity shall be considered to be speculative transactions, cf., however, subsection (2) hereof.

(2) Acquisitions of shares and equity interests in commercial banks, savings banks, insurance companies, mortgage-credit companies, investment companies, and holdings in investment associations and special-purpose associations, etc., shall not be considered to be speculative transactions.

Reporting

8. The board of directors shall stipulate guidelines on reporting, cf. Sections 9-12 below, for managing directors, deputy directors, and persons of equal status.

9. Loans taken out in foreign currency for the acquisition of real property or appurtenances rightly belonging to such property in the relevant country, cf. Section 2 (3) No. 3 above, shall be reported to the institution and shall be accompanied by documentation proving that the loan has been used for acquisition of the relevant real property or appurtenances rightly belonging thereto.

10. Trading in financial instruments and forward transactions, cf. Section 3 (2) above, shall be reported to the institution and shall be accompanied by documentation proving that the relevant transaction serves to cover risk and has occasioned a quantifiable reduction in the relevant risk. Such reporting shall not, however, be carried out as regards normal fixed-price agreements in connection with taking out or redemption of mortgage-credit loans.

11.-(1) Acquisitions of the securities specified in Section 5 (3), Nos. 1 and 3 above made with borrowed funds shall be reported to the institution. Reports to the institution shall also be made once a year for the securities specified in Section 5 (3), No. 1 above, and such reports shall be accompanied by documentation proving that the holding has not been diminished through sales.

(2) Loans taken out, cf. Section 5 (2) above, within a period of 6 months after the acquisition of securities shall be reported to the institution and shall be accompanied by documentation proving that such loans have been used for acquisitions of assets other than securities, cf., however, subsection (4) hereof.

(3) Acquisitions of securities made within a period of 6 months or less from the taking out of a loan shall be reported to the institution, and shall be accompanied by documentation proving that these securities were acquired with funds other than the proceeds of the relevant loan, or that the loan was used to acquire assets other than securities, cf., however, subsection (4) hereof.

(4) Reporting pursuant to subsections (2) and (3) hereof shall only be carried out if the amount loaned is greater than DKK 50,000.

12. Sales of securities within 6 months, cf. Section 6 (3), Nos. 4 and 5, shall be reported to the institution and shall be accompanied by documentation proving that a situation of dire need has arisen or that the securities were acquired through inheritance, as a gift, through division of the community property, compensation, etc.

Penalties

13. Any person violating the provisions laid down in Section 2 (1), Section 3 (1), Section 4 (1), Section 5 (1), Section 6 (1) and (2), and Section 7 (1) shall be liable to a fine.

Entry into force

14. Sections 1-7 and 13 of this Order shall enter into force on 1 January 1998. Sections 8-12 shall enter into force on 1 March 1998.

The Danish Financial Supervisory Authority, 25 November 1997

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/ Morten Harpøth Johansen