

Memorandum of Understanding

1 Introduction

HvidvaskForum is a cooperation between authorities responsible for performing tasks within one or more of the following areas:

- Measures to prevent money laundering and financing of terrorism (the money laundering area).
- Measures to implement UN resolutions and Community acts on financial sanctions against countries and/or persons, groups, legal entities, bodies, and similar (the financial sanctions area).

Measures refer to one or several types of actions by authorities, including preparing and implementing acts and regulations; servicing ministers; issuing guidelines; carrying out activities pertaining to regulation and registration; taking decisions on specific cases; carrying out international work, performing analyses; carrying out investigation; and instigating proceedings.

This Memorandum of Understanding describes the objective, tasks and procedures of HvidvaskForum and outlines the participating authorities' areas of responsibility.

2. The agreeing parties

The following Danish authorities are the agreeing parties to this Memorandum of Understanding:

The Danish Financial Supervisory Authority (the FSA), the Danish Commerce and Companies Agency, the Danish Bar and Law Society, the State Prosecutor for Serious Economic Crime, the Danish Ministry of Justice, the Danish Ministry of Foreign Affairs, the National Agency for Enterprise and Construction, and the Central Customs and Tax Administration (SKAT).

3. Objective and tasks

The objective of HvidvaskForum is to perform the following tasks within the areas of money laundering and financial sanctions:

1. Coordinate and exchange information with a view to enhancing efforts by the authorities and fulfilling international commitments.
2. Clarify the division of responsibilities between the authorities.
3. Process evaluation reports about Denmark prepared by the IMF/FATF or other authorities.
4. Assess the effectiveness of measures launched.

Denmark is a member of the Financial Action Task Force (FATF), which is an inter-governmental body whose purpose is to combat money laundering and terrorist financing. The FATF has issued a series of Recommendations that its members have committed to fulfilling. This Memorandum of Understanding on HvidvaskForum is based on the following recommendations:

Recommendation 31

Countries should ensure that policy makers, the FIU, law enforcement and supervisors have effective mechanisms in place which enable them to co-operate, and where appropriate co-ordinate domestically with each other concerning the development and implementation of policies and activities to combat money laundering and terrorist financing.

Recommendation 32

Countries should ensure that their competent authorities can review the effectiveness of their systems to combat money laundering and terrorist financing systems by maintaining comprehensive statistics on matters relevant to the effectiveness and efficiency of such systems. This should include statistics on the STR received and disseminated; on money laundering and terrorist financing investigations, prosecutions and convictions; on property frozen, seized and confiscated; and on mutual legal assistance or other international requests for co-operation.

4. Areas of responsibility of the individual authorities

The FSA

- Legislation and regulation in the money laundering area.¹
- Supervision of enterprises and individuals covered by section 1(1) nos. 1-10 and no. 12 in the AML/CTF Act with regard to compliance with the Act and rules issued in pursuance of the Act, Regulation of the European Parliament and of the Council on information on the payer accompanying transfers of funds, as well as the Regulation from the European Union concerning financial restrictive measures against countries and/or persons, groups, legal persons, bodies, etc.
- Registration of and approvals for enterprises and individuals covered by section 34 of the AML/CTF Act.
- Guidelines aimed at enterprises and individuals subject to supervision in the money laundering area.
- Servicing the Minister for Economic and Business Affairs.
- International work in the money laundering area, including heading Danish delegations to the European Commission Committee for the Prevention of Money Laundering and Terrorist Financing and to the FATF.
- Assistance to the Danish Ministry of Foreign Affairs in connection with adoption of/amendments to Community acts on financial sanctions.

The Danish Commerce and Companies Agency

- Supervision of enterprises and individuals covered by section 1(1) no. 11 and nos. 15-18 in the AML/CTF Act with regard to compliance with the Act and the rules issued in pursuance of the Act, Regulation of the European Parliament and of the Council on

¹ Legislation pertaining to criminal law and criminal procedure lies with the Ministry of Justice.

information on the payer accompanying transfers of funds, as well as the Regulation from the European Union concerning financial restrictive measures against countries and/or persons, groups, legal persons, bodies, etc.

- Registration of and approvals for enterprises and individuals covered by section 31 of the AML/CTF Act.
- Guidelines aimed at enterprises and individuals subject to supervision in the money laundering area.
- Servicing the Minister for Economic and Business Affairs.

The Danish Bar and Law Society

- Supervision of lawyers with regard to compliance with the AML/CTF Act and the rules issued in pursuance of the Act, Regulation of the European Parliament and of the Council on information on the payer accompanying transfers of funds, as well as the Regulation from the European Union concerning financial restrictive measures against countries and/or persons, groups, legal persons, bodies, etc.
- Guidelines aimed at lawyers in the AMF/CTF area.
- Assistance to the Danish Ministry of Foreign Affairs in connection with adoption of/amendments to Community acts on financial sanctions.

The State Prosecutor for Serious Economic Crime, the Danish Money Laundering Secretariat

- The Financial Intelligence Unit².
- Cases concerning money laundering, financing of terrorism and sanctions.
- International work, including participating in the European Commission Committee for the Prevention of Money Laundering and Terrorist Financing, the EU Financial Intelligence Units' Platform, the FATF, Interpol, Europol and the Egmont Group.
- Assistance to the Danish Ministry of Foreign Affairs in connection with adoption of/amendments to Community acts on financial sanctions.

The Ministry of Justice

- Legislation pertaining to criminal law and criminal procedure.
- Legislation pertaining to casinos and fundraising campaigns.
- Servicing the Minister for Justice.
- Assistance to the Danish Ministry of Foreign Affairs in connection with adoption of/amendments to Community acts on financial sanctions.

The Ministry of Foreign Affairs

- Communication of information in connection with international debates and adoption of new or revised financial sanctions (European Union joint positions and acts, UN Resolutions).
- International cooperation, including eg, participation in the European Union EU/Relex, CP 931 WP and the UN General Assembly.
- Coordination of Danish reporting to relevant UN sanctions committees regarding Denmark's implementation of international commitments.

² The tasks of the Financial Intelligence Unit (FIU) include collecting, registering, passing on, coordinating and processing information about possible money laundering of profits from criminal offences and, in cooperation with The Danish Security and Intelligence Service (PET), information about terrorist financing, as well as analysing, providing advice and carrying out research.

- Notifications to the European Commission concerning various sanctions.
- Coordination in connection with the clarification of matters of dispute in relation to sanctions, including especially matters concerning identical names and identification of listed persons and units.
- Servicing the Minister of Foreign Affairs.

The National Agency for Enterprise and Construction

- Assistance to the Danish Ministry of Foreign Affairs in connection with adoption of/amendments to Community acts on financial sanctions.
- Information and guidance to authorities and enterprises about the adoption of new financial sanctions and amendments to existing financial sanctions.
- Processing of reports about identical names in lists with relation to financial sanctions not pertaining to terrorism.³
- Processing of applications for exemption from freezing of funds relative to the exemption provisions in the regulations.
- Servicing the Minister for Economic and Business Affairs.

The Central Customs and Tax Administration (SKAT)

- Administration of legislation on the import and export of cash etc.
- Guidelines and international cooperation in the field.
- Legislation on enterprises, non-profit organisations and similar.
- Servicing the Minister for Taxation.

5. Chairmanship

The FSA has the chairmanship of HvidvaskForum and also serves as the Secretariat.

6. Meetings and exchange of information

HvidvaskForum meets four times annually, but may arrange to meet more frequently in special circumstances.

The agenda for the individual meeting contains the following items, unless otherwise decided:

1. Introduction
2. Report of the Chairmanship (the FSA).⁴
3. Reports from other authorities.⁵
4. Topics of mutual interest which one or more participants wish to address, including topics listed under items 2 and 3.
5. Evaluation reports about Denmark prepared by the IMF/FATF or other international forums.

³ As a rule, identical names in lists with relation to financial sanctions pertaining to terrorism are reported directly to SØK.

⁴ The FSA report will include information about new regulations in the money laundering area, international work (in the EU and the FATF), implemented and planned inspections and substantial interpretation issues occasioning debate; new initiatives; etc.

⁵ Reports will be on the basis of a brief memorandum covering the most important activities in the area since the last meeting. The memorandum should preferably be submitted to the participants before the meeting.

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6. Assessment of the effectiveness of measures.
7. Cooperation in HvidvaskForum, including new initiatives.
8. Any other business.

A record of the decisions from the meetings will be prepared and submitted to the participants.

Procedures for information exchange and coordination between meetings are agreed separately from this Memorandum of Understanding.

6. Duty of confidentiality

The exchange of information between authorities is subject to current rules on the duty of confidentiality.

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Approved at the meeting in HvidvaskForum on 8 January 2009.