

Facts on the Openness Act

The Openness Act, launched by the Minister for Economic and Business Affairs, creates greater openness regarding decisions by the Danish Securities Council and the Financial Business Council. The two Councils decide matters of principle or of far-reaching significance in the securities trading area and in the rest of the financial sector.

At the same time, the special duty of confidentiality imposed on the Danish Financial Supervisory Authority (Danish FSA) is repealed for cases involving consumer issues. The Act entered into force on 1 July 2008.

The amendment means that as a general rule all decisions by the two Councils will be made public, including the name of the undertaking subject to the decision. It is only possible to depart from the principle of making decisions public if publication will imply disproportionate damage for the undertaking or if it will obstruct a police investigation. The Act does not remove the protection of confidential information on customers or protection of information on internal aspects of financial undertakings.

With regard to Council decisions, undertakings affected will in future receive the full draft of the decision in the hearing of parties. Furthermore, the undertakings will be able to appear before the Councils in order to give a verbal presentation of their case.

The special duty of confidentiality imposed on the Danish FSA will be repealed for consumer issues. Instead, the ordinary principles of free access to public records apply, including the legal right of access. The amendment means that the Danish FSA is able to comment publicly on specific supervision cases in the consumer area and that the Danish FSA must ensure publication of decisions of public interest.

There is no change to the Danish FSA's special duty of confidentiality in respect of any other area of supervision. This means that the Danish FSA can still not divulge information to the public on specific cases within, for example, supervision of stock-exchange rules or of individual financial companies.