



DANISH FINANCIAL
SUPERVISORY AUTHORITY

Compliance with anti-money laundering rules must be improved

The Danish Financial Supervisory Authority
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Summary

Resources for the anti-money laundering supervision have been increased over the last few years, most recently with the political agreement of March this year. Increase in resources from the 2017 political agreement has enabled the Danish FSA to increase the anti-money laundering supervisory efforts significantly. In the inspections, the Danish FSA has found that there are a number of recurring themes across the sector in which compliance with the anti-money laundering rules could generally be improved. In this newsletter, the Danish FSA shares its conclusions in order to increase awareness of the rules on anti-money laundering.

Generally, it is the view of the Danish FSA that compliance with anti-money laundering rules is now much more prioritised by companies and their managements. The majority of companies and their managements have become aware that they must avoid being used for money laundering and terrorist financing. However, managements are often not aware of what to do in practice in order to ensure that their companies comply with the law. Therefore, it is a general conclusion that companies – despite their increased

awareness – often do not have sufficient managerial focus on the prevention of money laundering and terrorist financing.

The Danish FSA relatively often concludes that compliance could be improved in a number of specific areas. The issues are that:

- companies are not performing their tasks from a risk based approach
- risk assessment is insufficient
- policies are not sufficiently operational
- procedures are not sufficiently detailed
- KYC (know-your-customer) procedures are insufficient
- customers and transactions are not monitored thoroughly enough
- correspondent banks are not assessed adequately
- separation of duties is insufficient.

The Danish FSA will therefore continue to focus on these areas in its anti-money laundering supervision.



Strengthened supervisory efforts

Since mid-2017, the Danish FSA has strengthened its supervisory efforts in the anti-money laundering area significantly. More resources for the anti-money laundering supervision, especially for substantially increased supervisory efforts were part of the June 2017 political agreement (entered between the government, The Social Democratic Party, Danish People's Party, Danish Social Liberal Party and The Socialist People's Party) on strengthened efforts to combat money laundering etc. in the financial sector. In March 2019, a third political agreement was entered (between the government and The Social Democratic Party, Danish People's Party, Danish Social Liberal Party and The Socialist People's Party) allocating even more resources to the anti-money laundering supervision.

The Danish FSA carries out anti-money laundering supervision of about 1500 companies. The Danish FSA inspected 55 of these companies in the period from mid-2017 when the new Anti-Money Laundering Act (the AML Act) came into force until the end of 2018.

The Danish FSA carries out what is called a risk-based supervision. A risk-based approach means that supervision should be focused where the risk of companies being used for money laundering or terrorist financing is highest. The types of sectors and individual companies chosen for inspection follows from the risk-based supervision. In addition, the risk-based approach is reflected in the specific areas, which the Danish FSA chooses to focus on in each company subject to supervision.

The Danish FSA supervises if companies meet regulatory requirements for risk assessment, policies, internal controls and procedures. The requirements shall ensure that companies know their customers and monitor their customers' transactions. In case of suspicious transactions, companies must notify the Anti-Money Laundering Secretariat (the FIU) at the State Prosecutor for International and Serious Economic and International Crime (SØIK). The Anti-Money Laundering Secretariat will then evaluate the need for further police investigation.

Hence, the role of the Danish FSA is primarily to ensure that companies fulfil their legal obligations regarding the prevention of money laundering and terrorist financing. The actual investigation of possible cases of money laundering or terrorist financing is a matter for the police.

The Danish FSA begins its inspections by calling for written material from the company concerned. This may include risk assessments, policies, procedures, internal reporting and descriptions of money laundering monitoring, including electronic monitoring systems and customer lists. The inspection itself takes place on the company's premises and is usually carried out in the form of interviews with senior staff based on the submitted material. Most often, the Danish FSA takes samples of customer relationships from the list of customers in order to assess whether the legal requirements are being followed in practice. The inspection is concluded with a written report for the company and a brief statement to be published on the websites of the company and the Danish FSA.

Inspection processes usually last three or four months, from the moment when documentation is called for, through the period during which the inspection is carried out on-site, until reporting is done. If particularly difficult issues arise, which must be resolved or if additional material is required, the inspection process may take longer.

The Danish FSA chose to postpone the reporting of a number of inspections in late 2017 and the first half of 2018. The intention behind this was to ensure that reactions would be given at a uniform level after the new law came into force in mid-2017. Since October 2018, the Danish FSA has continuously published statements on its inspections. However, final reports of certain inspections remain to be finalised.

Based on a number of observations from the anti-money laundering inspections, the Danish FSA is able to draw some general conclusions on compliance with the anti-money laundering rules. Because of the time span between inspections and the sending of reports and publication of statements, companies may already have corrected what is addressed in the reactions in the records and reports — specifically concerning inspections conducted in late 2017 and the first half of 2018.

In this newsletter the Danish FSA provides a number of conclusions in order to increase awareness of the rules in the anti-money laundering area.





Management must play a greater role

The Danish FSA concludes that companies often do not have sufficient managerial focus on money laundering and terrorist financing. Most companies are aware that they must avoid being used for money laundering and terrorist financing, but managements are often unaware of what to do to comply with the law.

Managements must make a thorough assessment of how the company might risk being used for money laundering and terrorist financing. It is not a question of whether they could be used for money laundering and terrorist financing, but of how. This realisation appears to have been lacking in many companies. The Danish FSA believes, however, that the learning from recent major money laundering cases have changed this.

Based on the risk assessment, managements must also consider how their companies should be structured in terms of organisation, staffing, systems and procedures. At the same time, managements should ensure that there are effective checks of whether companies' procedures and rules are complied with and that the management is provided with thorough reporting on this.

If managements are not aware of this companies risk not being compliant with the law and therefore could be used for money laundering and terrorist financing.



The most frequent breaches

The Danish FSA concludes that there are large differences in how well companies comply with the law. This is reflected in the reactions. So far, there has been no clear pattern concerning the types of companies, which receive either many or few reactions.

On the other hand, there is a tendency concerning the types of deficiencies, which cause reactions from the Danish FSA.

The Danish FSA most frequently finds the following types of breach:

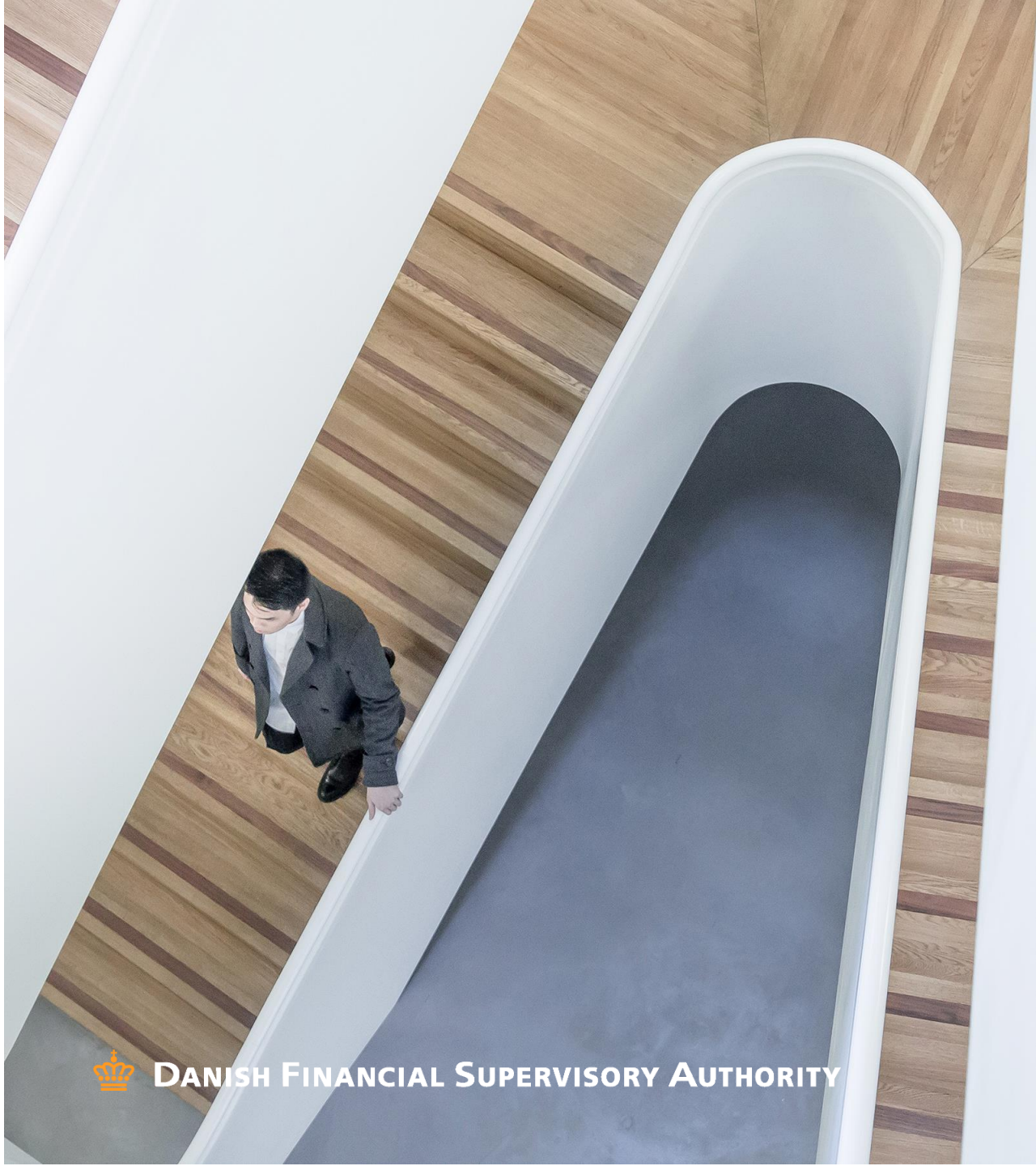
1. *Companies are not performing their anti-money laundering obligations from a risk-based approach*

Companies' duties with respect to the prevention of money laundering and terrorist financing must be performed from a so-called risk-based approach. This means that companies should focus their preventive measures in business areas, which involve a higher risk of money laundering and terrorist financing, and can in turn focus efforts less where the risk is lower. In some cases, the

Danish FSA has found that duties are performed using a standardized template, which does not fit the character of the company and its business model. In such cases, companies are not in a position to address what must be done in specific cases.

2. *Risk assessment is insufficient*

The managements of companies must identify and assess the companies' risk of being used for not only money laundering but also terrorist financing. The managements must do this based on their types of customer, products and the geographical locations in which they operate. The Danish FSA notes that companies' risk assessments are often too perfunctory and do not address all types of risks. Often, companies have not identified and assessed their risk of being used for terrorist financing. This implies a risk of companies being unaware of how to take action in order to comply with legislation and thereby prevent money laundering and terrorist financing.



3. Policies are not sufficiently operational

Based on the risk assessments, companies must establish their policies. In these policies, managements must decide how their companies should be organised in order to address the risk of money laundering and terrorist financing and thus comply with legislation. The Danish FSA finds, that policies are often too broad and are not sufficiently operational. This makes it difficult for companies to implement their policies, and they risk making the wrong decisions about how policies should be organised — eg. concerning which procedures to adopt. In cases where risk assessments are inadequate policies are often also inadequate.

4. Procedures are not carried out in sufficient detail

Procedures must be sufficiently comprehensive and precise in order to enable employees to follow them in their daily work. In several cases, the Danish FSA has concluded that procedures are inadequate. For example, a number of companies used a set of standard procedures not prepared by themselves and which did not reflect the actual workflow of the company. If procedures are insufficient, there is an increased risk of employees making mistakes. Internal controls also become more difficult to implement without a sufficient foundation.

5. *KYC procedures are insufficient*

Companies must know their customers. Customer due diligence must be carried out on a risk-based basis in order for companies to have more thorough knowledge of high-risk customers than of low-risk customers. Customer due diligence also implies that companies are obliged to know the beneficial owners of their corporate clients. The Danish FSA regularly finds that KYC procedures are inadequate. This particularly applies to a lack of updating of documents, data and information about customers and a failure to obtain information about the purposes and intended natures of business relationships, especially about which and how many transactions customers intend to make. If a company does not know its customers well enough monitoring unusual transactions cannot be done effectively. This increases the risk of companies being used for money laundering and terrorist financing considerably.

6. *Customers and transactions are not monitored sufficiently*

Companies must monitor their customers' transactions. Monitoring can be carried out from a risk-based approach meaning that companies focus more on high-risk customers than on low-risk customers. The Danish FSA concludes that there are transactions, which are not monitored sufficiently and which are therefore not selected for closer examination. There are also cases of "alarms",

which are not adequately investigated. If monitoring is inadequate, there is a risk that suspicious transactions will not be detected. Companies must also be aware that criminals constantly develop their methods. This means that monitoring, which is adequate today may not be adequate tomorrow.

7. *Correspondent banks are not adequately assessed*

Companies must obtain information about their correspondent banks in order to ensure that it is safe for the companies to do business with them. This also applies to correspondent banks within the EU. In some cases, companies do not obtain enough information about their correspondent banks. They also often fail to conduct a sufficiently thorough assessment of the information they have obtained prior to establishing a relationship with correspondent banks or as part of their ongoing monitoring. This implies a risk that companies will enter transactions with correspondent banks, which do not meet the requirements. Companies can thus become involved in money laundering or terrorist financing through their correspondent banks.

8. *Separation of duties is insufficient*

If the company has a compliance function, it is a requirement for the compliance function to check the anti-money laundering activities including the duties of the anti-money laundering officer. These two functions must as a general rule be separate. In some companies, the anti-money laundering function is organized as a unit under the compliance function. This entails a risk that the control of the anti-money laundering unit is not independent and therefore not effective. The larger the company the more separate the units must be. In practice, having an effective separation is often not possible in small companies. In such cases, the companies must assess how to compensate for this, for example through other forms of controls.

If you want to know more

Legislation in the money laundering area

[Prevention of money laundering and terrorist financing is governed by the Anti-Money Laundering Act, the AML Act](#). Denmark has implemented the EU anti-money laundering directives in the AML Act. The fifth anti-money laundering directive. [The fifth anti-money laundering directive](#) will come into force 10 January 2020. The

Danish parliament adopted the bill implementing the fifth anti-money laundering directive on 2 May 2019.

The Danish FSA's guidance of the companies

The Danish FSA has created a guidance to the AML Act. The purpose of this guidance is to support companies in their efforts to comply with legislation and thereby to avoid being used for money laundering and terrorist financing. The guidance is available in Danish on [the website of the Danish FSA](#) in the section on money laundering.

The website also provides [links to other useful information](#), which companies can use in their work.

In addition, the Danish FSA guides companies directly in connection with inspections.

Available reactions of the Danish FSA

The Danish FSA may order a company, which does not comply with the legislation on anti-money laundering to remedy the situation. In less significant cases, the Danish FSA may give companies a so-called immediate response. This will usually not appear in a public report. In case of breaches, which have been resolved the Danish FSA may give companies a reprimand.

In very severe cases, the Danish FSA may report companies to the police and in extremely severe cases; the Danish FSA may revoke a company's authorisation to conduct business. The political agreement of March 2019 includes an initiative to create a legal basis for the Danish FSA to issue administrative fines, pause on-boarding of customers and to insert a representative into a company in case of serious non-compliance with the AML Act.

Statements

The website of the Danish FSA provides further information of the conclusions of the anti-money laundering inspections completed by the Danish FSA.

The Danish FSA plans to visit 35 financial institutions as part of its anti-money laundering efforts in 2019, as well as following up on the inspections conducted in 2018. The Danish FSA is also planning a biennial newsletter, which will include major features and conclusions from the inspections of the previous period.