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# Insurance Mediation Act<sup>1)</sup>

Consolidating Act No. 337 of 11 March 2022

This is an Act to consolidate The Danish Insurance Mediation Act, cf. Consolidated Act No. 378 of 2 April 2020 with the amendments notified in Section 6 of Act No. 641 of 19 May 2020, Section 6 of Act No. 1940 of 15 December 2020, and Section 7 of Act No. 2382 of 14 December 2021.

## Chapter 1

### *Scope of Application and Definitions*

**Section 1.** Without prejudice to paragraphs 2 and 3, this Act shall apply to insurance intermediaries, reinsurance intermediaries and ancillary insurance intermediaries.

*Paragraph 2.* The Act does not apply to ancillary insurance intermediaries carrying out insurance distribution where the following conditions are met:

- (1) The insurance is supplementary to a product or service, and covers
  - (a) the risk of malfunction of the product, loss of or damage to the product, or non-use of the service provided by the supplier concerned; or
  - (b) loss of or damage to luggage and other risks related associated with travel.
- (2) The annual premium amount of the insurance contract does not exceed DKK 4,476, or when the insurance is a supplement to a service that meets the conditions in point 1, the duration of this service does not exceed 3 months and the annual insurance premium does not exceed DKK 1,492 per person.

*Paragraph 3.* The Act does not apply to the following activities:

- (1) Occasional supply of information in connection with other business activity, provided that
  - (a) the activity does not take further measures to assist in the conclusion or performance of an insurance contract; or
  - (b) the purpose of the business activity is not to assist in the conclusion or performance of a reinsurance contract.
- (2) Professional management of claims, claims settlement and loss adjustment by an insurance or reinsurance company.
- (3) The supply of data and information concerning potential policyholders to insurance or reinsurance intermediaries or insurance or reinsurance companies, provided that only data is supplied and the supplier does not take any further measures to assist in the conclusion of an insurance or reinsurance contract.
- (4) The supply of information on insurance or reinsurance products, on an insurance or reinsurance intermediary or on an insurance or reinsurance company to potential policyholders, provided that only this information is supplied and the supplier does not take any further action to assist in the conclusion of an insurance or reinsurance contract.

*Paragraph 4.* Sec. 3, Para. 7, Sec. 4, Para 5, and Sec. 13, Para. 3 shall apply to the following:

- (1) Danish insurance companies.

(2) Branches of an insurance company in Denmark which has authorisation in another country within the European Union or in a country with which the Union has concluded an agreement in the financial sector.

(3) Branches of insurance companies in Denmark which are authorised in a country outside the European Union with which the Union has not concluded an agreement in the financial sector.

*Paragraph 5. Sec. 3, Para. 7 shall apply to reinsurance companies.*

*Paragraph 6. The Act does not apply to insurance and reinsurance distribution in relation to risks and liabilities in a country outside the European Union, unless the Union has concluded an agreement with that country in the financial sector.*

**Section 2.** The following terms used in this Act shall have the corresponding definitions:

(1) Insurance distribution:

(a) the activity of advising on, proposing or carrying out preliminary work in connection with the conclusion of insurance contracts, of concluding such contracts, or of assisting in the administration and performance of such contracts,

(b) the activity consisting in the provision of information on one or more insurance contracts in accordance with the criteria chosen by customers via a website or other media, and the provision of a priority list of insurance products, including price and product comparisons or discount on the price of an insurance contract, where the customer is able to directly or indirectly conclude an insurance contract via that media.

(2) Reinsurance distribution: (a) the activity of advising on, proposing or carrying out preliminary work in connection with the conclusion of reinsurance contracts, of concluding such contracts, or of assisting in the administration and performance of such contracts, whether or not such activity is carried on by reinsurance companies without the involvement of a reinsurance intermediary.

(3) Insurance intermediary:

(a) a natural or legal person other than an insurance or reinsurance company or its employees, and other than an ancillary insurance intermediary, that takes up or pursues insurance distribution activities for remuneration,

(b) a credit institution or an investment firm as defined in Article 4, Para. 1 (1 and 2) of European Parliament and Council Regulation 575/2013/EU of 26 June 2013 on prudential requirements for credit institutions and investment firms which take up or pursue insurance distribution activities for remuneration.

(4) Reinsurance intermediary: A natural or legal person, other than a reinsurance company or its employees, that takes up or pursues reinsurance distribution activities for remuneration.

(5) Ancillary insurance intermediary: A natural or legal person that takes up or pursues the ancillary activity of insurance distribution for remuneration, provided that the following conditions are met:

(a) the natural or legal person is not a credit institution or an investment firm as defined in Article 4, Para. 1 (1 and 2) of European Parliament and Council Regulation (EU) 575/2013 of 26 June 2013 on prudential requirements for credit institutions and investment firms;

(b) the natural or legal person does not pursue insurance distribution as the main business;

(c) natural or legal person only distributes insurance products that are supplementary to a product or service it provides;

(d) the insurance product does not include life or liability insurance unless this is ancillary to the product or service provided by the intermediary as its main business.

(6) Remuneration: All forms of fixed and variable wages, commissions, fees, other payments and benefits granted or paid to a natural or legal person for the exercising of insurance distribution.

(7) Close links:

- (a) direct or indirect links within a group of companies,
- (b) shareholding, which is defined as a company's direct or indirect ownership of 20 per cent or more of a company's voting rights or capital; or
- (c) a shared link between several companies or persons, as referred to in (a), and a company.

(8) Major risks:

- (a) risks listed under insurance classes 4-7, 11 and 12 in Annex 7 to the Financial Business Act.
- (b) risks listed under insurance classes 14 and 15 in Annex 7 of the Financial Business Act when the policyholder carries out activities of industrial, commercial or liberal professions and the risks relate to these activities.
- (c) risks listed under classes 3, 8-10, 13 and 16 in Annex 7 to the Financial Business Act, where the policyholder meets at least two of the following conditions:
  - (i) the policyholder has a balance sheet total of at least DKK 46.3 million;
  - (ii) the policyholder has an annual net turnover of at least DKK 95.5 million;
  - (iii) the policy holder has employed 250 or more full-time staff in the most recent financial year.

(9) Durable medium: any instrument which enables the customer to store information addressed personally to that customer in such a way that this information can be accessed for future reference for a period of time that is sufficient for the purposes of the information, and the information stored can be reproduced unchanged.

(10) Country of origin:

- (a) if the intermediary is a natural person: the country within the European Union, or country with which the Union has concluded an agreement in the financial sector, where the intermediary resides.
- (b) if the intermediary is a legal person: the country within the European Union, or country with which the Union has concluded an agreement in the financial sector, where the legal person has its registered office or, if it has no registered office under the law of that country, the country where the legal person's head office is located.

(11) Host country: The country within the European Union, or country with which the Union has concluded an agreement in the financial sector, where an insurance or reinsurance intermediary has a permanent presence or establishment, or provides services, and which is not the intermediary's country of origin.

(12) Insurance-based investment product: an insurance product that has a maturity value or surrender value that is directly or indirectly exposed, in whole or in part, to market fluctuations, and that does not include:

- (a) non-life insurance products listed in Annex I to European Parliament and Council Directive 2009/138/EC of 25 November 2009 on the taking-up and pursuit of the business of insurance and reinsurance (Solvency II);
- (b) life insurance contracts where the benefits provided for in the contract are payable only in the event of death or incapacity for work due to accident, sickness or invalidity;
- (c) pension products which are considered to have the main purpose of providing investors with a retirement income, and which entitle the investor to certain benefits;
- (d) officially recognised occupational pension schemes falling within the scope of European Parliament and Council Directive 2003/41/EC of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision or Directive 2009/138/EC of 25 November 2009 on the taking-up and pursuit of the business of insurance and reinsurance (Solvency II);

(e) individual pension products that require a financial contribution from the employer and where the employer or the employee has no choice as regards the pension product or the pension provider.

(13) Insurance distributor: An insurance intermediary, an ancillary insurance intermediary or an insurance company.

(14) Branch: an agency or branch of an intermediary located in the territory of a member state other than the country of origin.

(15) Primary place of business: the place from which the main activities are managed.

## Chapter 2

### *Authorisation and Registration*

**Section 3.** Companies shall be authorised by the Danish Financial Supervisory Authority (FSA) to engage in the distribution of insurance and reinsurance as an insurance and reinsurance intermediary.

*Paragraph 2.* The Financial Supervisory Authority grants authorisation to the companies referred to in Para. 1 when the following conditions are met:

(1) The company's country of origin is Denmark.

(2) The company's executive and management board or, in the case of an insurance or reinsurance intermediary which is a sole proprietorship, the proprietor or, where the company is run as a legal person without an executive or management board, the person or persons responsible for the company's management satisfy the conditions set forth in Sec. 9.

(3) The company has liability insurance or other equivalent guarantee against claims for damages.

(4) The company has taken measures to protect customers against the insurance or reinsurance intermediary's inability to pay, by either

(a) using a certificate of release concluded between the insurance company and the intermediary, whereby money paid by the customer to the intermediary is considered to have been paid to the company, while money paid by the company to the intermediary is not considered to have been paid to the customer until the customer receives it; or

(b) setting up a special account for the deposit of entrusted funds, and providing a security for these funds.

(5) There are no close links between the applicant and other companies or persons which could hamper the implementation of the FSA's tasks.

(6) The legislation of a country outside the European Union with which the Union has not established cooperation in the financial sector, concerning a company or person with whom the applicant has close links, will not be able to hamper the implementation of the FSA's tasks.

*Paragraph 3.* The application for authorisation shall contain the information necessary for the FSA to assess whether the conditions set forth in Para. 2 are met, including a description of the activities in which the company intends to engage, and information regarding the identity of the natural and legal persons who have holdings in the intermediary of more than 10 per cent, and the size of these holdings. An application for authorisation shall also contain the information that is to be included in the registers, cf. Sec. 6, including whether the insurance intermediary is independent, cf. Sec. 16.

*Paragraph 4.* An application for authorisation under Para. 1 shall be submitted via the FSA's self-service platform, together with the necessary information, cf. Para. 3. If, in exceptional cases, an application cannot be submitted via the self-service platform, the application and the necessary information shall be submitted to the FSA electronically by means of the FSA's notification form.

*Paragraph 5.* The FSA makes a decision on the authorisation no later than three months after the FSA receives all the information necessary to process the application. The FSA notifies the applicant of the decision immediately.

*Paragraph 6.* The FSA specifies more detailed rules on the liability insurance referred to in Para. 2 (3), including rules on the amount of the sums insured, and on the security for entrusted funds referred to in Para. 2 (4 b).

*Paragraph 7.* An insurance company, a reinsurance company, an insurance intermediary and a reinsurance intermediary may only use the insurance and reinsurance distribution services of an insurance or reinsurance intermediary that is authorised in accordance with Para. 1.

**Section 4.** A company must be registered before it may carry out ancillary insurance mediation.

*Paragraph 2.* A company can be registered when it demonstrates that it meets the conditions listed in Sec. 3, Para. 2 (1 and 3-6) and Para. 3. The company shall also submit information for the FSA's assessment of whether the company's employee or employees responsible for the distribution of ancillary insurance fulfil the conditions in Sec. 10, Para. 1.

*Paragraph 3.* An application for registration under Para. 1 shall be submitted via the FSA's self-service platform, together with the necessary information, cf. Para. 2. If, in exceptional cases, an application cannot be submitted via the self-service platform, the application and the necessary information shall be submitted to the FSA electronically by means of the FSA's notification form.

*Paragraph 4.* The FSA makes a decision on the registration no later than three months after the FSA receives all the information necessary to process the application. The FSA notifies the applicant of the decision immediately.

*Paragraph 5.* An insurance company or an insurance intermediary may only use the insurance distribution services of an ancillary insurance intermediary that is subject to this Act and registered in accordance with Para. 1.

**Section 5.** The FSA establishes and maintains a public register of companies that have been authorised as insurance or reinsurance intermediaries, cf. Sec. 3, or that meet the conditions for registration to conduct ancillary insurance mediation, cf. Sec. 4, Para. 2.

**Section 6.** Entries in the register referred to in Sec. 5 shall contain the following information:

(1) names of persons in the management of the insurance intermediary, reinsurance intermediary or ancillary insurance intermediary responsible for the insurance mediation, reinsurance mediation or ancillary insurance mediation;

(2) details of the countries within the European Union other than Denmark, or countries with which the Union has concluded agreements in the financial sector, in which insurance, reinsurance or ancillary insurance mediation is carried out.

*Paragraph 2.* The register of insurance intermediaries referred to in Sec. 5 shall also contain information on whether the insurance intermediary is independent, cf. Sec. 16.

**Section 7.** An insurance, reinsurance or ancillary insurance intermediary registered in accordance with Sec. 5 shall notify the FSA as soon as possible if there is any change in the information which the FSA has received and relied on in granting authorisation or registration.

*Paragraph 2.* Notwithstanding Para. 1, an intermediary is obliged to notify the FSA immediately if there are changes in the information received by the FSA pursuant to Sec. 3, Para. 2 (5 and 6), and Para. 3 (1).

**Section 8.** An insurance intermediary shall report its turnover and the number of insurance policies mediated to the FSA by 1 July each year.

**Section 9.** A member of the executive or management board of an insurance intermediary and a reinsurance intermediary or the proprietor of an insurance intermediary or a reinsurance intermediary that is a sole proprietorship,

(1) shall have sufficient knowledge, professional competence and experience to perform the duties of the office or position,

(2) shall be of sufficiently good repute and able to demonstrate propriety, integrity and sufficient independence in the performance of the duties of the office or position,

(3) must not be held criminally liable for an infringement of criminal law, financial law or other relevant legislation, if the infringement entails a risk that the person may not be able to perform the duties of his or her office or position satisfactorily,

(4) must not have requested or be under pre-insolvency, bankruptcy or debt restructuring proceedings, and

(5) must not have engaged in conduct which gives reason to believe that the person will not perform the duties of the office or position properly.

*Paragraph 2.* A member of the executive or management board of an insurance or reinsurance intermediary, or the proprietor of an insurance or reinsurance intermediary that is a sole proprietorship shall notify the FSA of the circumstances referred to in Para. 1 when taking up the duties of a member of the executive or management board of the insurance or reinsurance intermediary or, in the case of an insurance or reinsurance intermediary that is a sole proprietorship, when applying for authorisation under Sec. 3, Para. 2 (2), and of the conditions referred to in Para. 1 (2-5) if these circumstances change.

*Paragraph 3.* Where an insurance or reinsurance intermediary is operated as a legal person without an executive or management board, Para. 1 and 2 shall apply to the person or persons responsible for the management of the insurance intermediary and the reinsurance intermediary.

**Section 10.** An employee of an ancillary insurance intermediary with responsibility for the distribution of ancillary insurance

(1) must not be held criminally liable for an infringement of criminal law, financial law or other relevant legislation, if the infringement entails a risk that the person may not be able to perform the duties of his or her position satisfactorily,

(2) must not have submitted a request for or be in bankruptcy, and

(3) must be of good repute and not have engaged in conduct which gives reason to believe that the person will not perform the duties of the position properly.

*Paragraph 2.* An employee of an ancillary insurance intermediary responsible for the distribution of ancillary insurance policies shall notify the ancillary insurance intermediary of the circumstances referred to in Para. 1 at the time of his or her employment as a person responsible for the distribution of ancillary insurance policies with the insurance intermediary and subsequently if these circumstances change.

### Chapter 3

#### *Competence Requirements*

**Section 11.** An insurance and reinsurance intermediary shall ensure that all of the company's employees who carry out insurance or reinsurance distribution activities have sufficient competences.

*Paragraph 2.* An ancillary insurance intermediary shall have appropriate knowledge of the products distributed by the intermediary.

*Paragraph 3.* The Minister for Industry, Business and Financial Affairs specifies detailed rules on requirements for the competence and good repute of employees directly engaged in insurance or reinsurance distribution with an insurance intermediary or reinsurance intermediary.

## Chapter 4

### *Good Practice, Remuneration, etc.*

#### *Good Practice*

**Section 12.** An insurance intermediary and an ancillary insurance intermediary shall act in accordance with honest business practices and good practice in the field of activity.

*Paragraph 2.* The Minister for Industry, Business and Financial Affairs specifies detailed rules on fair business principles and good practice for insurance intermediaries and ancillary insurance intermediaries, and on the provision of informational material.

*Paragraph 3.* The FSA may, after consultation with representatives of consumers and the relevant financial professional organisations, develop and publish guidelines on fair business principles and good practice in specified areas that may be considered essential, in particular in the interests of consumers.

**Section 12 a.** An insurance intermediary and an ancillary insurance intermediary may not be instrumental in the conclusion of insurance policies by persons resident in Denmark, Danish ships or other risks existing in Denmark with any company other than the following:

- (1) Danish insurance companies.
- (2) foreign insurance companies that meet the conditions of Sec. 30, Para. 1, or Sec. 31, Para. 1 of the Financial Business Act.
- (3) foreign insurance companies that have been authorised by the Financial Supervisory Authority.

**Section 12 b.** Insurance intermediaries and ancillary insurance intermediaries may process personal identification number data for the purpose of necessary unambiguous identification in relation to existing customer relationships in carrying out of administrative and advisory tasks.

#### *Remuneration*

**Section 13.** An insurance intermediary and an ancillary insurance intermediary shall ensure that the remuneration structures of the intermediary do not conflict with the intermediary's obligation to act in the best interests of the customer, including the rules of good practice referred to in Sec. 12, Para. 1, and the rules specified pursuant to Sec. 12, Para. 2. The same applies to remuneration received by the intermediary for the implementation of insurance distribution.

*Paragraph 2.* An insurance intermediary and an ancillary insurance intermediary must not introduce remuneration schemes or sales targets that encourage the intermediary or its employees to recommend a particular insurance product to a customer when the intermediary offers another product that better meets the customer's needs.

*Paragraph 3.* An insurance intermediary or an insurance company that carries out insurance distribution through an ancillary insurance intermediary exempted from this Act pursuant to Sec. 1, Para. 2 shall ensure that ancillary insurance intermediary has appropriate and proportionate arrangements in place to comply with Paragraphs 1 and 2.

*Paragraph 4.* Paragraphs 1-3 shall not apply to matters covered by a collective agreement which observes the principles set out in Para. 1 and 2.

#### *Requirements for Effective Procedures*

**Section 14.** Insurance intermediaries that create insurance products shall have effective procedures for the approval of new products, significant modifications to existing products, and the distribution of these.

*Paragraph 2.* Insurance intermediaries and ancillary insurance intermediaries that advise on or propose insurance products they have not designed themselves shall have effective procedures for obtaining relevant information on the insurance products.

*Paragraph 3.* Paragraphs 1 and 2 shall not apply to insurance products that involve the insurance of major risks.

#### *Confidentiality*

**Section 15.** An insurance intermediary, a reinsurance intermediary and an ancillary insurance intermediary and their employees must not disclose or make unauthorised use of confidential information acquired by the company or its employees in the performance of their duties.

*Paragraph 2.* The recipient of confidential information shall be bound by the duty of confidentiality described in Para. 1.

### Chapter 5

#### *Additional Requirements for Independent Insurance Intermediaries, etc.*

**Section 16.** In order to qualify as an independent insurance intermediary or insurance broker, or to use any other designation which gives the impression that the insurance intermediary is independent, the insurance intermediary shall meet the following conditions:

(1) The insurance intermediary must solely represent the customer and act in the customer's interest, and may not be influenced by its own interests or those of third parties.

(2) The insurance intermediary may not receive commission or other remuneration from an insurance distributor in connection with the customer relationship unless the commission received is passed on directly to the customer in full.

(3) The insurance intermediary may not have any direct or indirect relationship with an insurance distributor which is liable to cast doubt on the insurance intermediary's independence from the interests of other insurance distributors which do not arise from shareholdings between the companies.

(4) The insurance intermediary's employees must not be dependent, through employment or any other form of association with other insurance distributors or related group companies, on the interests of insurance distributors.

(5) The insurance intermediary shall provide advice based on an analysis of a sufficient number of insurance contracts available on the market to enable the intermediary to advise the customer on which insurance contract best meets the customer's needs.

*Paragraph 2.* The insurance intermediary may not carry out other forms of insurance distribution that do not meet the requirements set forth in Para. 1 within the same legal entity. Such activity must be carried out in a legal entity other than the independent insurance intermediary. The activity shall be described in such a way that it cannot be confused with the independent insurance intermediary.



*Paragraph 3.* An independent insurance intermediary may not place insurance contracts or customer savings in companies with which the intermediary has close links.

## Chapter 6

### *Whistleblower Scheme*

**Section 17.** An insurance and reinsurance intermediary shall have a scheme in place that enables their employees to report breaches or potential breaches of financial regulation committed by the intermediary, including the intermediary's employees or members of the executive board, through a dedicated, independent and autonomous channel. It must be possible for reports to be made anonymously under the scheme. The insurance and reinsurance intermediary shall follow up on reports through the scheme, and be able to document in writing how the intermediary has followed up on the reports. The Act on the Protection of Whistleblowers applies to the scheme mentioned in Para. 1, but see Sec. 2 of the Act on the Protection of Whistleblowers.

*Paragraph 2.* The scheme referred to in Para. 1 may be established by collective agreement.

*Paragraph 3.* Para. 1 shall only apply to an insurance intermediary and a reinsurance intermediary employing more than five employees. The scheme referred to in Para. 1 and 2 shall be established no later than 3 months after the intermediary has employed the sixth employee.

*Paragraph 4.* The FSA may in special cases grant an exemption from the requirement in Para. 1 if the FSA considers that the establishment of a scheme would be pointless.

**Section 18.** An insurance and reinsurance intermediary shall not subject employees or former employees to unfavourable treatment or unfavourable consequences as a result of the employee's or former employee's reporting of the intermediary's breach or potential breach of financial regulation to the FSA or via a scheme of the intermediary. The same applies to the determination, award and payment of variable remuneration to employees or former employees.

*Paragraph 2.* Employees or former employees may be awarded compensation in accordance with the principles of the Equal Treatment Act if their rights have been infringed by a breach of Para. 1. The compensation amount is determined on the basis of the employee's or former employee's length of service, and the circumstances of the case in general.

*Paragraph 3.* Paragraphs 1 and 2 may not be derogated from to the detriment of the employee or former employee.

**Section 18 a.** Where an employee or former employee and an insurance or reinsurance intermediary enter into a confidentiality agreement, the agreement shall state that the employee or former employee is not prevented from reporting information on breaches or potential breaches of financial regulation to public authorities.

*Paragraph 2.* Notwithstanding Para. 1, the employee or former employee shall not be prevented from reporting information on breaches or potential breaches of financial regulation to public authorities, even if a prohibition to do so is included in an agreement between the employee or former employee and the insurance or reinsurance intermediary. The same applies to reports via schemes under Sec. 17.

## Chapter 7

### *Cross-border Activity*

#### *Cross-border Provision of Services in Another Country*

**Section 19.** An insurance, reinsurance or ancillary insurance intermediary who has authorisation in this country and wishes to provide cross-border services in another country within the European Union, or in a country with which the Union has concluded an agreement in the financial sector, shall notify the FSA of this, giving details of

- (1) the intermediary's name, address and VAT number,
- (2) the country or countries in which the insurance mediation is to commence,
- (3) the activities to be carried on and the names of any insurance or reinsurance companies represented, and
- (4) the relevant insurance class, if possible.

*Paragraph 2.* The FSA forwards the notification to the supervisory authorities of the host country within one month of receipt of the notification, and at the same time informs the intermediary in writing of the forwarding. If the host country has rules relating to public interest, including stricter rules than those set forth in European Parliament and Council Directive 2016/97 of 20 January 2016 on insurance distribution, the FSA shall inform the intermediary of this.

*Paragraph 3.* An insurance, reinsurance and ancillary insurance intermediary may commence its business activity after the notification referred to in Para. 2 has been given, provided that the intermediary complies with any stricter rules of the host country, cf. Para 2 (2).

*Paragraph 4.* An insurance, reinsurance and ancillary insurance intermediary is obliged to notify the FSA of any intended changes to the information provided under Para. 1 at least one month before the changes are made.

*Paragraph 5.* The FSA forwards the information communicated in accordance with Para. 4 to the supervisory authorities of the host country as soon as possible, but no later than one month after receipt of the notification of the changes.

#### *Cross-border Activity through a Branch in Another Country*

**Section 20.** An insurance, reinsurance or ancillary insurance intermediary who has authorisation in this country and wishes to carry on business activity through a branch in another country within the European Union, or in a country with which the Union has concluded an agreement in the financial sector, shall notify the FSA of this, giving details of

- (1) the intermediary's name, address and VAT number,
- (2) the country or countries in which the insurance intermediary intends to establish a branch,
- (3) the activities to be carried on and the names of any insurance or reinsurance companies represented,
- (4) the relevant insurance class, if possible,
- (5) an address in the host country or countries from which documents can be obtained, and
- (6) the names of persons responsible for the administration of the branch.

*Paragraph 2.* The FSA forwards the notification to the supervisory authorities of the host country within one month of receipt of the notification, and at the same time informs the intermediary in writing of the forwarding.

*Paragraph 3.* The FSA may refuse to forward the notification if it has doubts about the adequacy of the intermediary's organisational structure or financial situation as regards the intended activity. The FSA notifies the intermediary of the decision immediately.

*Paragraph 4.* The FSA informs the intermediary of any rules the host country has adopted in regard to public interest, including any stricter rules than those set forth in European Parliament and Council Directive 2016/97 of 20 January 2016 on insurance distribution, no later than one month of receiving the information referred to in Para. 2, and informs the intermediary that it may commence its activities in the host country, provided that the intermediary complies with any stricter rules of the host country.

*Paragraph 5.* If an insurance, reinsurance or ancillary insurance intermediary has not received a notification within the time scale specified in Para. 4, the intermediary may commence its activity in the host country.

*Paragraph 6.* An insurance, reinsurance and ancillary insurance intermediary is obliged to notify the FSA of any intended changes to the information provided under Para. 1 at least one month before the changes are made.

*Paragraph 7.* The FSA forwards the information communicated in accordance with Para. 6 to the supervisory authorities of the host country no later than one month after receipt of the notification of the changes.

### *Cross-border Activity in Denmark*

**Section 21.** Where the FSA receives notification from a competent authority that an insurance, reinsurance or ancillary insurance intermediary registered in another country within the European Union, or in a country with which the Union has concluded an agreement in the financial sector, wishes to operate in this country as a cross-border service provider, the FSA shall immediately acknowledge receipt of this notification. Once the competent authority of the country of origin has informed the intermediary that the FSA has acknowledged receipt, the intermediary may commence its activities in this country.

*Paragraph 2.* Where the FSA receives notification from a competent authority that an insurance, reinsurance or ancillary insurance intermediary registered in another country within the European Union, or in a country with which the Union has concluded an agreement in the financial sector, wishes to carry on its business activity through a branch in this country, the FSA shall immediately acknowledge receipt of this notification. The FSA shall inform the competent authority in the country of origin of the regulations regarding public interest applicable to the Danish market no later than one month of receiving the notification. An intermediary may commence its activity when it has received notification of the applicable regulations on public interest from the competent authority in its country of origin or, in the event that the intermediary does not receive such notification, one month after the FSA receives the notification referred to in Para. 1.

## Chapter 8

### *Supervision, etc.*

#### *The Danish Financial Supervisory Authority*

**Section 22.** The Danish Financial Supervisory Authority (FSA) monitors compliance with the provisions of this Act, apart from Sec. 18, and the rules issued pursuant to this Act. The FSA also supervises compliance with European Parliament and Council Regulation 1286/2014/EU of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs), European Parliament and Council Regulation 2019/1238/EU of 20 June 2019 on a pan-European personal pension product (PEPP) and rules issued pursuant thereto, and regulations issued pursuant to European Parliament and Council Directive (EU) 2016/97 of 20 January 2016 on insurance distribution.

*Paragraph 2.* The FSA's executive board participates in the supervision mentioned in Para. 1 with the powers conferred on the executive board pursuant to Sec. 345, Para. 12 of the Financial Business Act.

*Paragraph 3.* The FSA may order the natural and legal persons bound by this Act to take the necessary measures in the event of breach of the provisions of the Act, rules issued pursuant

thereto, or regulations issued pursuant to European Parliament and Council Directive (EU) 2016/97 of 20 January 2016 on insurance distribution, by a specified deadline.

### *The Consumer Ombudsman*

**Section 23.** The Consumer Ombudsman may bring proceedings in respect of acts that contravene fair business principles and good practice, cf. Sec. 12, including proceedings for prohibition, injunctions, damages, and the recovery of wrongly charged amounts. The Consumer Ombudsman may also deal with cases of breach of the penal provisions in rules issued pursuant to Sec. 12, Para. 2. The relevant parts of Sections 24, 25, Para. 2, 28, Para. 1, 32, Para. 1, 33 and 34 of the Marketing Act shall apply to cases which the Consumer Ombudsman wishes to bring pursuant to Para. 1 and 2. The Consumer Ombudsman may be appointed as group representative in a class action pursuant to Chapter 23a of the Civil Procedure Code.

*Paragraph 2.* The FSA notifies the Consumer Ombudsman if the FSA becomes aware that the customers of an insurance intermediary or an ancillary insurance intermediary may have suffered a loss as a result of a breach by the intermediary of Sec. 12, Para. 1, or rules issued pursuant to Sec. 12, Para. 2.

*Paragraph 3.* Notwithstanding Sec. 31, the Consumer Ombudsman shall have access to all information in the FSA's cases covered by Para. 1.

### *Supervision of Cross-border Activity*

**Section 24.** If the FSA finds or has reason to believe that a foreign insurance intermediary, reinsurance intermediary or ancillary insurance intermediary that provides services in Denmark, and for which Denmark is the host country, does not comply with the rules of this Act, the rules issued pursuant thereto, or regulations issued under European Parliament and Council Directive (EU) 2016/97 of 20 January 2016 on insurance distribution, the FSA shall inform the competent authorities in the intermediary's country of origin in order to clarify whether there is a breach of the rules.

*Paragraph 2.* The FSA may take the necessary measures if a foreign insurance, reinsurance or ancillary insurance intermediary continues the unlawful conduct despite the measures taken in the country of origin, or because these prove to be insufficient or inadequate, and if the unlawful conduct is clearly detrimental to the interests of consumers to a significant extent in Denmark or detrimental to the Danish market for insurance and reinsurance mediation. If necessary, the FSA may prohibit the intermediary from operating in Denmark. The FSA may also refer the matter to the European Insurance and Occupational Pensions Authority, and request assistance in accordance with Article 19 of European Parliament and Council Regulation No 1094/2010 of 24 November 2010 on the establishment of a European Insurance and Occupational Pensions Authority.

*Paragraph 3.* Notwithstanding Para. 2, the FSA may, in cases of urgency, take the necessary measures to protect the interests of consumers.

*Paragraph 4.* The FSA shall communicate to the insurance, reinsurance or ancillary insurance intermediary concerned the measures taken by the FSA pursuant to Paragraphs 1 to 3. The FSA must also immediately inform the competent authority in the intermediary's country of origin, the European Insurance and Occupational Pensions Authority and the European Commission of the actions taken.

**Section 25.** The FSA ensures that a branch in Denmark of a foreign insurance and ancillary insurance intermediary authorised in another country within the European Union, or in a country with which the Union has concluded an agreement in the financial sector, complies with the rules

in Sec. 12-14 and the rules issued pursuant thereto. The FSA may order a branch in Denmark to cease unlawful conduct.

*Paragraph 2.* If the FSA finds or has reason to assume that a branch in Denmark of a foreign insurance, reinsurance or ancillary insurance intermediary based in another country within the European Union, or in a country with which the Union has concluded an agreement in the financial sector, does not comply with the other rules of this Act, cf. Para. 1, or the rules issued pursuant to the Act, or regulations issued pursuant to European Parliament and Council Directive (EU) 2016/97 of 20 January 2016 on insurance distribution, the FSA shall notify the competent authorities in the intermediary's country of origin.

*Paragraph 3.* The FSA may take the necessary measures if a branch of a foreign insurance, reinsurance or ancillary insurance intermediary continues the unlawful conduct despite the measures taken in the country of origin, cf. Para. 2, or because these prove to be insufficient or inadequate, and if the unlawful conduct is clearly detrimental to the interests of consumers to a significant extent in Denmark or detrimental to the Danish market for insurance and reinsurance mediation. If necessary, the FSA may prohibit the intermediary from operating in Denmark. The FSA may also refer the matter to the European Insurance and Occupational Pensions Authority, and request assistance in accordance with Article 19 of European Parliament and Council Regulation No 1094/2010 of 24 November 2010 on the establishment of a European Insurance and Occupational Pensions Authority.

*Paragraph 4.* Notwithstanding Para. 2 and 3, the FSA may, in cases of urgency, take the necessary measures to protect the interests of consumers.

*Paragraph 5.* The FSA shall communicate to the insurance, reinsurance or ancillary insurance intermediary concerned the measures taken by the FSA pursuant to Paragraphs 1 to 4. The FSA must also immediately inform the competent authority in the intermediary's country of origin, the European Insurance and Occupational Pensions Authority and the European Commission of the actions taken.

**Section 25 a.** For foreign insurance or reinsurance intermediaries and ancillary insurance intermediaries whose primary place of business is located in Denmark, the FSA may enter into agreements with the competent authority of the country of origin concerned to the effect that the FSA acts as the competent authority in relation to the obligations that are specified in Chapters 4 to 7 of European Parliament and Council Directive (EU) 2016/97 of 20 January 2016 on insurance distribution, and implemented under the provisions of this Act and rules issued pursuant thereto. The competent authority in the country of origin concerned shall immediately inform the insurance or reinsurance intermediary or the ancillary insurance intermediary and EIOPA of this. The FSA is responsible for ensuring that the services provided in Denmark comply with Chapter 4 of this Act and rules issued pursuant thereto. The FSA also has the right to review establishment arrangements, and to require the changes that are necessary to enable the FSA to enforce obligations relating to the services or activities provided or carried out in Denmark.

#### *Collection of information*

**Section 26.** Companies bound by this Act and their suppliers and subcontractors shall provide the FSA with the information necessary for the FSA's activities. The same applies to foreign insurance, reinsurance and ancillary insurance intermediaries that are established in a country of the European Union, or in a country with which the Union has concluded an agreement in the financial sector, and carry on business in this country through the establishment of a branch or through an agent.

*Paragraph 2.* Companies and suppliers and their subcontractors which have provided information in accordance with Para. 1 are obliged to notify the FSA of corrections to the information

as soon as possible if the company or supplier or its subcontractor subsequently finds the following:

(1) The information was not correct at the time of submission.

(2) The information has subsequently become misleading.

*Paragraph 3.* The FSA may gain access to companies bound by this Act at any time, by presenting due identification and without a court order, for the purpose of obtaining information, including through inspections.

*Paragraph 4.* The FSA may gain access to a supplier or subcontractor at any time, by presenting due identification and without a court order, in order to obtain information on the outsourced activity. The FSA's need to physically access the supplier's premises shall be included as a requirement in the outsourcing contract concluded between the outsourcing company and the supplier. If an outsourcing contract does not include the requirement for the FSA to have physical access to the supplier's premises, the FSA may require that the outsourced activity is either carried out by the outsourcing company itself or outsourced to another supplier within a time limit set by the FSA.

*Paragraph 5.* The FSA may require access to any information, including accounts and accounting records, transcripts of books, other business records and electronically stored data, that is deemed necessary for the FSA to determine whether a company or person is bound by the provisions of this Act.

*Paragraph 6.* The FSA may obtain information under Para. 1-5 for use by the authorities and bodies mentioned in Sec. 31, Para. 6, (11-16).

*Paragraph 7.* The supervisory authorities of a country within the European Union, or a country with which the Union has concluded an agreement in the financial sector, may, with the FSA's permission, verify the information provided by the companies in this country that are bound by this Act and subject to supplementary supervision by the supervisory authority concerned according to the provisions set forth in directives in the financial sector.

**Section 27.** The FSA may order a member of an insurance or reinsurance intermediary's executive board to resign within a time limit set by the FSA if the member of the executive board is unable to perform his or her duties as set forth in Sec. 9, Para. 1 (2-5).

*Paragraph 2.* The duration of an order issued under Para. 1 on the basis of Sec. 9, Para. 1 (2, 4 and 5) shall be stated in the order.

*Paragraph 3.* The FSA may order a member of an insurance or reinsurance intermediary's executive board to resign where the member of the executive board has been charged in criminal proceedings for a breach of the Criminal Code, financial legislation or other relevant legislation, pending the outcome of the criminal proceedings, if a conviction would mean that the member of the executive board does not meet the requirements of Sec. 9, Para 1 (3). The FSA sets a deadline for compliance with the order.

*Paragraph 4.* The FSA may, on its own initiative or upon application, revoke an order issued to a member of the executive board under Para. 1 and 3. If the FSA refuses an application for revocation, the applicant may seek a judicial review of the refusal. An application for this shall be submitted to the FSA no later than 4 weeks after the applicant has been notified of the refusal. An application for judicial review can only be made, however, if the order is not limited in time, and at least five years have elapsed from the date the order is issued, or at least two years after the FSA's refusal to withdraw the order has been upheld in a court judgment.

*Paragraph 5.* The FSA may withdraw the intermediary's authorisation, cf. Sec. 29, Para. 1 (5), if a member of the executive board does not comply with an order issued pursuant to Para. 1 and 3.

*Paragraph 6.* The FSA may order an insurance or reinsurance intermediary to dismiss a director in the company within a time limit set by the FSA if the director is unable to carry out the duties of his or her post as set forth in Sec. 9, Para. 1 (2-5).

*Paragraph 7.* The FSA may order an insurance or reinsurance intermediary to dismiss a director where the director has been charged in criminal proceedings for a breach of the Criminal Code, financial legislation or other relevant legislation, pending the outcome of the criminal proceedings, if a conviction would mean that the director does not meet the requirements of Sec. 9, Para 1 (3). The FSA sets a deadline for compliance with the order.

*Paragraph 8.* An insurance or reinsurance intermediary and the person against whom an order has been issued pursuant to Para. 1-7 may demand that the FSA seek a judicial review of the order. A request for this shall be submitted to the FSA no later than four weeks after the intermediary has been notified of the order. The FSA will seek the judicial review within four weeks of receiving the request. The rules of civil procedure apply to the proceedings.

*Paragraph 9.* If an insurance or reinsurance intermediary has not removed the director within the period prescribed in Para. 6 and 7, the FSA may withdraw the intermediary's authorisation, cf. Sec. 29, Para. 1 (5).

*Paragraph 10.* Where an insurance or reinsurance intermediary is operated as a legal person without an executive or a management board, Para. 1-9 shall apply to the person or persons responsible for the management in the intermediary.

**Section 28.** The FSA may order an ancillary insurance intermediary to remove an employee responsible for the distribution of ancillary insurance within a time limit set by the FSA if the employee is unable to perform the duties of the position pursuant to Sec. 10, Para. 1.

*Paragraph 2.* The FSA may order an ancillary insurance intermediary to remove an employee responsible for the distribution of ancillary insurance where the employee has been charged in criminal proceedings for breach of the Criminal Code, financial legislation or other relevant legislation, pending the outcome of the criminal proceedings, if a conviction would mean that the employee does not meet the requirement in Sec. 10, Para. 1 (1). The FSA sets a deadline for compliance with the order.

*Paragraph 3.* An ancillary insurance intermediary or the person concerning whom an order has been issued pursuant to Para. 1 and 2 may demand that the FSA seek a judicial review of the order. A request for this shall be submitted to the FSA no later than four weeks after the intermediary has been notified of the order. The FSA will seek the judicial review within four weeks of receiving the request. The rules of civil procedure apply to the proceedings.

**Section 29.** The FSA may withdraw the authorisation of an insurance intermediary and a reinsurance intermediary under Sec. 3 where

- (1) the company so requests,
- (2) the company does not make use of the authorisation within 12 months after the FSA has granted the authorisation,
- (3) the company has not carried on the activity as insurance intermediary or reinsurance intermediary for a total period exceeding 6 months,
- (4) the company has obtained the authorisation on the basis of false or misleading information or by any other unlawful means,
- (5) the company no longer meets the conditions for the granting of authorisation under Chapter 2,
- (6) the proprietor of an insurance or reinsurance intermediary that is a sole proprietorship has been prosecuted for breach of the Criminal Code, this Act or other financial legislation, pending the outcome of the criminal proceedings, if a conviction would mean that the person concerned does not meet the requirements of Sec. 9, Para 1 (3),
- (7) the company is guilty of gross or repeated neglect of its obligations under this Act or rules made pursuant thereto or regulations made pursuant to European Parliament and Council Directive (EU) 2016/97 of 20 January 2016 on insurance distribution, or

(8) the company is guilty of serious or repeated contraventions of the Money Laundering Act.

*Paragraph 2.* The withdrawal of authorisation pursuant to in Para. 1 (4 and 5) is published by the FSA.

*Paragraph 3.* The FSA removes a company from the register when the authorisation is withdrawn in accordance with Para. 1.

*Paragraph 4.* The proprietor of an insurance or reinsurance intermediary that is a sole proprietorship may seek a judicial review of the withdrawal of authorisation under in Para. 1 (5) for failure to comply with the requirements stipulated in Sec. 9, Para. 1 (2 to 5) and withdrawal under Para. 1 (6). A request for this shall be submitted to the FSA within four weeks after the intermediary has been notified of the withdrawal of authorisation. The FSA will seek the judicial review within four weeks of receiving the request. The rules of civil procedure apply to the proceedings.

**Section 30.** The FSA may delete the registration of an ancillary insurance intermediary that is registered with the FSA, cf. Sec. 5, where the company

(1) requests this,

(2) does not engage in ancillary insurance mediation within 12 months of registration by the FSA,

(3) has not carried on the activity of ancillary insurance intermediary for a total period exceeding 6 months,

(4) is registered on the basis of false or misleading information or by any other unlawful means,

(5) no longer meets the conditions for registration under Sec. 4, Para. 2, or

(6) is guilty of gross or repeated neglect of its obligations under this Act or rules made pursuant thereto or regulations made pursuant to European Parliament and Council Directive (EU) 2016/97 of 20 January 2016 on insurance distribution.

**Section 31.** According to sections 152-152 e of the Danish Criminal Code, employees of the FSA are obliged to keep secret any confidential information that comes to their knowledge in the course of their supervisory activity. The same applies to persons providing services as part of the FSA's operations, and experts acting on behalf of the FSA. This also applies after the end of the employment or contractual relationship.

*Paragraph 2.* The consent of the person whom the duty of confidentiality is intended to protect does not entitle the persons referred to in Para. 1 to disclose confidential information.

*Paragraph 3.* Para. 1 shall not apply, however, to information in cases concerning competence requirements and good practice, cf. Sec. 11 and 12, and executive orders issued pursuant thereto.

*Paragraph 4.* The provision in Para. 1 does not prevent the FSA from disclosing, on its own initiative, confidential information in summary or collective form, where neither the individual company nor its customers can be identified.

*Paragraph 5.* Confidential information may be disclosed in civil proceedings when a company bound by this Act has been declared bankrupt or has entered into liquidation, and if the information does not concern customer relations or third parties who are or have been involved in attempts to rescue the company.

*Paragraph 6.* Para. 1 does not prevent the disclosure of confidential information to:

(1) other public authorities, including the public prosecutor's office and the police, in connection with the investigation and prosecution of possible criminal offences covered by criminal law or supervisory legislation,

(2) the relevant minister as part of his or her overall supervision, but see Para. 11,

(3) administrative authorities and courts that consider decisions made by the FSA,

(4) the Parliamentary Ombudsman,

(5) a parliamentary commission established by the Danish Parliament, but see Para. 10 and 11,



- (6) commissions of inquiry established by law or pursuant to the Act on Commissions of Inquiry, but see Para. 10 and 11,
- (7) the State Auditors and the National Audit Office,
- (8) the Bankruptcy Court, but see Para. 10, other authorities involved in the liquidation, bankruptcy or similar proceedings of a company bound by this Act, and the liquidator and persons responsible for the statutory audit of the accounts of a company bound by this Act, provided that the recipients of the information need it for the performance of their tasks,
- (9) the Danish Business Authority, in its capacity as supervisory authority for compliance with company law when the information is disclosed with a view to strengthening the stability and integrity of the financial system, but see Para. 10, and the Danish Business Authority and the Danish Board of Auditors, in their capacity as supervisory authority for the statutory audit of accounts of the companies bound by this Act, but see Para. 10, Disclosure pursuant to Para. 1 is only permitted on condition that the recipient needs it for the performance of its tasks,
- (10) experts who assist the FSA, the Danish Business Authority, the Danish Board of Auditors and institutions managing deposit, investor or insurance guarantee schemes in the performance of their supervisory tasks, provided that the recipient needs the information for the performance of its tasks, but see Para. 10 and 11,
- (11) supervisory authorities of other countries within the European Union, or countries with which the Union has concluded an agreement in the financial sector, that are responsible for the supervision of companies bound by this Act, authorities and bodies involved in the liquidation, bankruptcy or similar procedures of companies bound by this Act, and persons responsible for carrying out statutory audits of the accounts of companies bound by this Act, provided that the recipients of the information need it for the performance of their tasks,
- (12) bodies in other countries within the European Union, or in countries with which the Union has concluded an agreement in the financial sector, that are responsible for identifying breaches of company law, provided that the recipient of the information needs it for the performance of its tasks and the information is disclosed with a view to strengthening the stability and integrity of the financial system, but see Para. 10,
- (13) experts who assist authorities in other countries within the European Union, or countries with which the Union has concluded an agreement in the financial sector, that carry out supervision of the bodies involved in liquidation or bankruptcy proceedings for companies bound by this Act, or similar procedures, and authorities that exercise supervision of the persons responsible for carrying out statutory audits of the accounts of companies bound by this Act, provided that the recipient of the information needs it for the performance of its tasks, but see Para. 10,
- 14) committees of inquiry set up by the European Parliament pursuant to Article 226 of the Treaty on the Functioning of the European Union,
- (15) the European Banking Authority, the European Systemic Risk Board, the European Insurance and Occupational Pensions Authority, the European Securities and Markets Authority, and bodies established by them, provided that the recipients of the information need it for the performance of their tasks.
- (16) Faroese supervisory authorities in the financial sector, provided that the recipients are subject to a statutory obligation of professional secrecy that is at least equivalent to the duty of confidentiality mentioned in Para. 1, and that the recipients need the information to carry out their tasks, but see Para. 10.
- 17) the Danish Data Protection Agency, as an independent supervisory authority for compliance with the data protection rules, provided that the Danish Data Protection Agency needs the information for the performance of its tasks, but see Para.10.

*Paragraph 7.* Any person receiving confidential information from the FSA pursuant to Para. 5 and 6 shall be bound by the duty of confidentiality referred to in Para. 1 in respect of this information.

*Paragraph 8.* Confidential information received pursuant to Para. 6 (15) may be directly exchanged, notwithstanding the duty of confidentiality referred to in Para. 7, between the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority and bodies established by them on the one part, and the European Systemic Risk Board on the other.

*Paragraph 9.* Confidential information received by the FSA may only be used in connection with the supervisory function for the imposition of sanctions, or if the FSA's decision is appealed to a higher administrative authority or brought before the courts.

*Paragraph 10.* Furthermore, confidential information originating in countries within the European Union, or countries with which the Union has concluded agreements in the financial sector, may only be disclosed pursuant to Para. 6 (5, 6, 8-13, 16 and 17) with the explicit consent of the authorities that have disclosed it, and may be used only for the purposes for which this consent has been given. Where information is disclosed pursuant to Para. 6 (10 and 13), the FSA informs the authorities or bodies that have disclosed the information which experts the information will be disclosed to, with details of their powers.

*Paragraph 11.* The disclosure of confidential information pursuant to Para. 6 (2, 5, 6 and 10) is only permitted with the explicit consent of the authorities or bodies that have disclosed the information or the authorities of the member state in which the verification or inspection was carried out, and if the information is received from the European Banking Authority, the European Systemic Risk Board, the European Insurance and Occupational Pensions Authority or the European Securities and Markets Authority, the European Insurance and Occupational Pensions Authority or the European Securities and Markets Authority and bodies established under them and pursuant to this Act, provisions adopted pursuant to this Act, Article 15 of European Parliament and Council Regulation (EU) 1092/2010 of 24 November 2010 on the macroprudential supervision of the financial system at European level and on the establishment of a European commission for systemic risks, Articles 31, 35 and 36 of European Parliament and Council Regulation (EU) 1092/2010 of 24 November 2010 on the establishment of a European regulatory authority (the European Banking Authority), and Articles 31 and 36 of Regulation (EU) 1095/2010 on establishing a European regulatory authority (European Securities and Markets Authority), or from the authorities responsible for the supervision of the companies bound by this Act, the authorities and bodies responsible for maintaining the stability of the financial system through the application of macroprudential rules, the authorities or bodies charged with safeguarding financial stability, the bodies involved in the liquidation or bankruptcy proceedings of companies bound by this Act or similar procedures, and the persons responsible for carrying out statutory audits of the accounts of companies bound by this Act.

*Paragraph 12.* Para. 1 does not apply, however, to information on where a company has liability insurance or other equivalent guarantee against claims for damages, cf. Sec. 3, Para. 2 (3).

**Section 32.** Employees of the FSA may not disclose information about a person when this person has reported a company or a person to the FSA for breach or potential breach of the financial regulation supervised by the FSA, but see Para. 2.

*Paragraph 2.* Para. 1 does not prevent the disclosure of personal pursuant to Sec. 31, Para. 6.

*Paragraph 3.* Nor does Para. 1 prevent personal data relating to a customer from being disclosed to a financial company in connection with the cases covered by Sections 11, 12, 15 and 16 where the customer has consented to the disclosure.

*Paragraph 4.* Any person receiving personal information pursuant to Para. 3 shall be bound by the duty of confidentiality referred to in Para. 1 in respect of this information.

**Section 33.** Regulatory actions taken pursuant to Sec. 22, Para. 2, cf. Sec. 345, Para. 12 (4) of the Financial Business Act, and regulatory actions taken by delegation from the FSA's executive board against a company bound by this Act shall be published, with details of the company's name, but see Para. 4. The company shall publish the information in an appropriate place on its website, if any, as soon as possible but no later than three working days of the company's receipt of notification of the action, or at the latest at the time of publication required by the Capital Markets Act. The company shall insert a link giving direct access to clear details of the action on the front page of the company's website at the same time as the publication, and the link and any associated text shall clearly indicate that it is an action taken by the FSA. If the company comments on the action, the comments shall be made in continuation of the action, and clearly separated from the action. The link shall be removed from the front page, and the information shall be removed from the company's website, in compliance with the same principles as those used by the company for other communications, but no sooner than when the link and the information have been on the website for three months, and no sooner than after the next general meeting or meeting of the board of representatives. The company's obligation to publish the information on its website only applies to information concerning legal persons. The FSA shall publish the information on its website. Actions taken pursuant to Sec. 22, Para. 2, cf. Sec. 345, Para. 12 (6) of the Financial Business Act, and the FSA's decisions to refer cases to the police for investigation, in accordance with this Act or rules issued pursuant to the Act or regulations issued pursuant to European Parliament and Council Directive (EU) 2016/97 of 20 January 2016 on insurance distribution, shall be published in summarised form on the FSA's website, with an indication of the company's name, but see Sec. 4. If an action published in accordance with Para. 1 is brought before the Danish Business Appeals Board or the courts, this shall be stated in the FSA's publication, and the subsequent result of the decision of the Danish Business Appeals Board or the courts shall also be published on the FSA's website as soon as possible.

*Paragraph 2.* Actions taken in accordance with Sec. 22, Para. 2, cf. Sec. 345, Para. 12 (4 and 6) of the Financial Business Act, or by the FSA by delegation from the FSA's executive board, against a company that is not under supervision shall be published on the FSA's website, with an indication of the company's name, but see Para. 4.

*Paragraph 3.* If the FSA has referred a case to the police for investigation and a full or partial ruling is delivered or a fine imposed, the conviction or fine or a summary thereof shall be published, but see Para. 4. If the ruling is not final, or has been appealed or reviewed, this shall be stated in the publication. The company shall publish the information in an appropriate place on its website, if any, as soon as possible but no later than ten working days after the ruling is delivered or the fine is imposed, or at the latest at the time of publication required by the Capital Markets Act. The company shall insert a link giving direct access to clear details of the ruling, decision to impose a fine, or the summary on the front page of the company's website at the same time as the publication, and the link and any associated text shall clearly indicate that it is a ruling or decision to impose a fine. If the company comments on the ruling, decision to impose a fine or summary, it must do so in continuation of the ruling, decision to impose a fine or summary, and the comments must be clearly separated from the ruling, decision to impose a fine or summary. The information shall be removed from the company's website in compliance with the same principles as those used by the company for other communications, but no sooner than when the link and the information have been on the website for three months, and no sooner than after the next general meeting or meeting of the board of representatives. The company shall notify the FSA of the publication, and send a copy of the ruling or decision to impose a fine. The FSA shall then publish the ruling or decision to impose a fine or summary thereof on its website. The company's obligation to publish the information on its website only applies to information concerning legal persons.

*Paragraph 4.* Publication pursuant to Para. 1-3 is not required if it would cause disproportionate harm to the company, or if publication is not advisable for investigative considerations. The publication must not contain information subject to Sec. 30 of the Act on Public Disclosure in Administration. The publication must not contain confidential information obtained from supervisory authorities in other countries, inside or outside the European Union, unless the authorities providing the information have given their explicit consent.

*Paragraph 5.* Where publication is omitted pursuant to Para. 4 (1), publication is required pursuant to Para. 1 or 2 when the considerations which necessitated the omission are no longer valid. This only applies, however, for and up to two years after the date of the action or the decision to refer the case for police investigation. Publication is only required, however, if charges have not been dropped or dismissed in accordance with the rules of the Civil Procedure Code.

*Paragraph 6.* In cases where the FSA has published a decision to refer a case for police investigation pursuant to Para. 1 (8) and Para. 3, and where a decision is made to drop or withdraw charges or to acquit, the FSA shall publish information on this. The company shall submit a copy of the decision to drop or withdraw charges or a copy of the ruling to the FSA at the same time as the request for publication. If the ruling to drop or dismiss charges or the conviction is not final, this must be stated in the publication. If the FSA receives documentation that the case has been closed by final dismissal of charges or final acquittal, the FSA shall remove all information on the decision to refer the case to the police for investigation and any subsequent rulings in the case from the FSA's website.

**Section 34.** The FSA shall inform the public of cases handled by the FSA, the public prosecutor or the courts which are in the public interest or of importance for the understanding of the provisions of this Act, except for cases covered by Chapter 2, Sections 13-15 and Chapters 6 and 7.

*Paragraph 2.* The FSA shall also inform the public of the name of a company that infringes the prohibition on carrying on business as an insurance intermediary or reinsurance intermediary without authorisation, cf. Sec. 3, or infringes the prohibition on carrying on business as an ancillary insurance intermediary without registration, cf. Sec. 4.

**Section 35.** The FSA may set rules on the obligation of insurance intermediaries, reinsurance intermediaries and ancillary insurance intermediaries to publish information on the FSA's assessment of the company, and on whether the FSA is able to publish the information before the company.

**Section 36.** A company or person bound by this Act is deemed to be a party in relation to the FSA if the FSA has made or will make a decision in respect of the company or person pursuant to this Act or regulations set forth in this Act or in European Parliament and Council Regulation 2019/2088/EU of 27 November 2019 on sustainability-related information in the financial services sector or rules issued pursuant thereto, but see Para. 2.

*Paragraph 2.* The following are also deemed to be parties in relation to the FSA in respect of the part of the case that relates to the person or company concerned:

- (1) a company or person carrying on insurance or reinsurance mediation without authorisation, cf. Sec. 3, or carrying on ancillary insurance mediation without being registered, cf. Sec. 4,
- (2) a company or a person applying for authorisation to conduct insurance or reinsurance mediation, cf. Sec. 3, or applying for registration as an ancillary insurance intermediary, cf. Sec. 4,
- (3) a member of a company's executive or management board or a person responsible for the management, where the FSA refuses or withdraws a company's authorisation, cf. Sec. 29, or where the FSA refuses to register a company as an ancillary insurance intermediary,
- (4) a company or person from whom the FSA requires information to determine whether the latter is bound by the provisions of this Act,

(5) a company or person that is the subject of a decision by the FSA on the fitness or propriety of the person pursuant to Sections 9 and 10.

*Paragraph 3.* When the FSA takes up a matter concerning the disclosure of confidential information, cf. Sec. 15, the FSA may grant certain party powers to natural or legal persons other than those mentioned in Para. 1 and 2. These powers may only be granted in respect of that part of the case which is of direct and essential importance to the person concerned. The granting of the powers shall take account of the protection of confidential information concerning the companies under supervision.

**Section 37.** Decisions made by the FSA in accordance with this Act, rules issued pursuant thereto, regulations issued pursuant to European Parliament and Council Directive (EU) 2016/97 of 20 January 2016 on insurance distribution or pursuant to European Parliament and Council Regulation 2019/2088/EU of 27 November 2019 on sustainability-related information in the financial services sector or rules issued pursuant thereto may be brought before the Danish Business Appeals Board by the person against whom the decision is directed within four weeks of the person concerned being notified of the decision.

**Section 38.** Companies supervised under this Act pay the FSA a fee in accordance with Chapter 22 of the Financial Business Act.

#### *Timescales*

**Section 39.** The timescales for the deadlines specified in or pursuant to this Act start on the day following the day on which the event that triggers the deadline occurs. This applies in the calculation of daily, weekly, monthly and yearly timescales.

*Paragraph 2.* Where the timescale is expressed in weeks, the timescale as referred to in Para. 1 expires on the same day of the week as the day on which the event triggering the deadline occurred.

*Paragraph 3.* Where the timescale is expressed in months, the timescale as referred to in Para. 1 expires on the same day of the month as the day on which the event triggering the deadline occurred. If the day on which the event triggering the deadline occurred is the last day of a month, or if the timescale expires on a non-existent date of the month, the timescale expires on the last day of the month, whatever its length.

*Paragraph 4.* Where the timescale is expressed in years, the timescale as referred to in Para. 1 expires on the same day of the year as the day on which the event triggering the deadline occurred.

*Paragraph 5.* If a timescale expires at a weekend or on a public holiday, Constitution Day, Christmas Eve or New Year's Eve, the timescale is extended to the next working day.

#### *Communication*

**Section 40.** A digital notification is deemed to be received when it is available to the addressee.

*Paragraph 2.* The Minister for Industry, Business and Financial Affairs may establish rules stipulating that communication to and from the FSA concerning matters covered by this Act, or rules issued pursuant to this Act, shall be digital.

*Paragraph 3.* The Minister for Industry, Business and Financial Affairs may establish specific rules on electronic communication, including the use of specified IT systems, special electronic formats and electronic signatures or the like.

**Section 41.** If this Act, or a rule issued pursuant to this Act, contains a requirement for a document issued by other bodies than the FSA to be signed, this requirement may be satisfied by the use of a technique which clearly identifies the body that has issued the document, but see Para. 2. Such documents shall be equivalent to documents signed in person.

*Paragraph 2.* The Minister for Industry, Business and Financial Affairs may lay down specific rules for derogation from the signature requirement. In this connection, it may be decided that the requirement for documents to be signed in person cannot be derogated from for certain types of documents.

## Chapter 9

### *Penal Provisions, etc.*

**Section 42.** Non-compliance with Sec. 3, Para. 1, Sec. 4, Para. 1, Sec. 7, Sec. 9, Para. 2, cf. Para. 1 (3 and 4), Sec. 9, Para 3, cf. Para. 2, cf. Para. 1 (3 and 4), Sec. 10, Para. 2, cf. Sec. 10, Para 1 (1 and 2), Sec. 15, Para. 1, and Sec. 16, Para. 1 (2 and 3) is punishable by a fine or imprisonment of up to four months, unless a more severe penalty is prescribed under other legislation.

*Paragraph 2.* Non-compliance with the following provisions is punishable by a fine: Sec. 8, Sec. 13, Para. 1 and 2, Sec. 17, Para. 1, Sec. 18, Para. 1, Sec. 18 a, Para. 1 Sec. 19, Para. 3, cf. Sec. 19, Para. 1 and 2, Sec. 10, Para. 4, cf. Sec. 19, Para. 1, Sec. 20, Para. 5, cf. Sec. 20, Para. 1-4, Sec. 20, Para. 6, cf. Sec. 20, Para. 1, Article 5, Para. 1, Articles 6 and 7, Article 8, Para. 1-3, Article 9, Article 10, Para. 1, Article 13, Para. 1, 3 and 4, and Articles 14 and 19 of European Parliament and Council Regulation 1286/2014/EU on documents containing key information for packaged retail and insurance-based investment products (PRIIPs), and Articles 7, 18, 22-25, 33, 34 and 50 of European Parliament and Council Regulation 2019/1238/EU of 20 June 2019 on a pan-European personal pension product (PEPP).

*Paragraph 3.* An insurance, reinsurance or ancillary insurance intermediary that fails to comply with an order or prohibition issued pursuant to Sections 22-25, 27 and 28, fails to communicate or rectify information pursuant to Section 26, Para. 1 and 2, or infringes a prohibition, limitation or restriction issued pursuant to Article 17 of European Parliament and Council Regulation 1286/2014/EU of 26 November 2014 on documents containing key information on packaged retail and insurance-based investment products (PRIIPs) shall incur a fine.

*Paragraph 4.* A member of the executive board of an insurance intermediary or a reinsurance intermediary who fails to comply with an order issued pursuant to Article 27, Para. 1 and 3 shall incur a fine.

*Paragraph 5.* Companies, etc. (legal persons) may be held criminally liable in accordance with the rules of Chapter 5 of the Criminal Code.

*Paragraph 6.* The period of limitation for non-compliance with the provisions of this Act or the rules issued pursuant to this Act shall be five years.

*Paragraph 7.* In rules issued pursuant to this Act, fines may be stipulated for non-compliance with the provisions of the rules.

*Paragraph 8.* The FSA may establish rules on penalties in the form of fines for non-compliance with the provisions contained in the regulations issued pursuant to European Parliament and Council Directive (EU) No 2016/97 of 20 January 2016 on insurance distribution.

**Section 43.** If an intermediary or a person fails to fulfil the duties imposed on them by law, as stipulated in Sec. 8 and Sec. 26, Para. 1 and 4, the FSA may impose daily or weekly penalty payments on the person, the intermediary or the intermediary's responsible persons, as a coercive measure.

*Paragraph 2.* If an insurance or reinsurance intermediary fails to comply with an order issued pursuant to Sec. 27, Para. 6 and 7, daily or weekly periodic penalty payments may be imposed on the intermediary or the intermediary's responsible persons.

*Paragraph 3.* If an ancillary insurance intermediary fails to comply with an order issued pursuant to Sec. 28, Para. 1 and 2, daily or weekly periodic penalty payments may be imposed on the intermediary or the intermediary's responsible persons.

## Chapter 10

### *Entry into force, etc.*

**Section 44.** The Minister for Industry, Business and Financial Affairs specifies the date on which the Act enters into force. In this connection, the Minister may provide for different parts of the Act to enter into force at different times. The Minister may also establish transitional rules.

*Paragraph 2.* The Insurance Mediation Act, cf. Consolidated Act No. 1065 of 22 August 2013, is repealed.

## Chapter 11

### *Amendments to Other Legislation*

**Section 45.** (Omitted)

## Chapter 12

### *Territorial Provisions*

**Section 46.** The Act does not apply to the Faroe Islands and Greenland, but the Act may, by Royal Decree, be brought into force in whole or in part for Greenland, with such amendments as conditions in Greenland require.

Act No. 706 of 8 June 2018 (Increased efforts to combat money laundering, etc. in the financial sector, introduction of new forms of alternative investment funds, changed threshold for prospectus requirements, etc.) contains the following provision on entry into force:

### **Section 24**

*Paragraph 1.* This Act enters into force on 1 July 2018, but see Paragraphs 2 and 3.

*Paragraph 2.* (Omitted)

*Paragraph 3.* Section 7 enters into force on 1 October 2018.

*Paragraphs 4-6.* (Omitted)

Act No. 552 of 7 May 2019 (Implementation of the political agreement on further initiatives to increase efforts to combat money laundering and terrorist financing, and implementation of recommendations from the working group for the overhaul of financial regulation) contains the following provision on entry into force:

### **Section 18**

*Paragraph 1.* This Act enters into force on 1 July 2019.

*Paragraph 2.* (Omitted)

Act No. 1374 of 13 December 2019 (Direct debit, handling of claims for damages under a building damage insurance policy taken out with Qudos Insurance A/S, whistleblower scheme for companies with limited authorisation, the auditor's obligation to notify the FSA, and amendment of the procedure for redemption by minority shareholders, etc) contains the following provision on entry into force:

### **Section 19**

*Paragraph 1.* This Act enters into force on 1 January 2020, but see Para. 2-4.

*Paragraphs 2-6.* (Omitted)

Act No. 1563 of 27 December 2019 (Increased efforts to combat financial crime and the implementation of the 4<sup>th</sup> and 5<sup>th</sup> Money Laundering Directives) contains the following provision on entry into force:

### **Section 18**

*Paragraph 1.* This Act enters into force on 10 January 2020.

*Paragraphs 2-3.* (Omitted)

Act No. 641 of 19 May 2020 (Amendments resulting from the PEPP Regulation, amendment to the rules on outsourcing and clarification of the rules on the independence of insurance intermediaries)<sup>2)</sup> contains the following provision on entry into force:

### **Section 9**

*Paragraph 1.* This Act enters into force on 1 July 2020, but see Para. 2-6.

*Paragraphs 2-5.* (Omitted)

*Paragraph 6.* The Minister for Industry, Business and Financial Affairs sets the date of entry into force of Sec. 1 (14, 15, 18 and 19), Sec. 2 (3), Sec. 3 (10) and Sec. 6 (2 and 3). The Minister for Industry, Business and Financial Affairs may provide for the provisions to enter into force at different times.

*Paragraphs 7 and 8.* (Omitted)

Act No. 1940 of 15 December 2020 (Implementation of the 2nd Payment Services Directive, the 4<sup>th</sup> and 5<sup>th</sup> Money Laundering Directives, amendments to the Benchmarks Regulation and the Disclosure Regulation)<sup>3)</sup> contains the following provision on entry into force:

### **Section 12**

*Paragraph 1.* This Act enters into force on 1 January 2021, but see Para. 2-4.



*Paragraph 2. (Omitted)*

*Paragraph 3.* Section 4 (3-5), Section 5 (3 and 4), Section 6 (5-7) and Section 7 enter into force on 10 March 2021.

*Paragraph 4. (Omitted)*

Act No. 2382 of 14 December 2021 (Supplement to the Taxonomy Regulation and new model for SIFI designation)<sup>4)</sup> contains the following provision on entry into force:

### **Section 19**

*Paragraph 1.* This Act enters into force on 1 January 2022, but see Para. 2.

*Paragraph 2.* Section 1 (4), Section 2 (3), Section 3 (4), Section 4 (6), Section 5 (14), Section 7 (4), Section 8 (1), Section 10 (1), Section 11 (1), Section 12 (1), Section 13 (1), Section 15 (1), Section 16 (1) and Section 17 (1) enter into force on 17 December 2021.

*Paragraphs 3-8. (Omitted)*

*Ministry of Industry, Business and Financial Affairs, 11 March 2022*

Simon Kollerup

/ Jesper Berg

### **Official notes**

<sup>1)</sup> The Act contains provisions that transpose parts of European Parliament and Council Directive 2016/97/EU of 20 January 2016 on insurance distribution, Official Journal of the European Union 2016, No L 26, page 19.

<sup>2)</sup> The amendments relate to Sec. 16, Para. 3, Sec. 22, Para. 1 (2) and Sec. 42, Para. 2.

<sup>3)</sup> The amendments relate to Sec. 1, Para. 4 and 5, Sec. 3, Para. 4, Sec. 4, Para. 3, Sec. 12a, Sec. 22, Para. 1 (2), Sec. 36, Para. 1, and Sec. 37.

<sup>4)</sup> The amendments relate to Sec. 1, Para. 4, Sec. 2 (14 and 15), Sec. 13, Para. 3, Sec. 17, Para. 1 (4), Sec. 25 a, Sec. 27, Para. 3 (1), Sec. 27, Para. 7 (1), Sec. 28, Para. 2 (1), and Sec. 43, Para. 1.