

Act 2022-06-21 no. 871 on Denmark's Export and Investment Fund

Part 1. Objects, target group and scope

1. The objects of Denmark's Export and Investment Fund are to create the maximum possible social return by

- 1) promoting growth and innovation in Danish trade and industry,
- 2) promoting Danish trade and industry's export and internationalisation opportunities, participation in the global value chain and cultivation of new markets, and
- 3) contributing to a sustainable and green transition.

2. The target group for Denmark's Export and Investment Fund is:

- 1) Businesses with potential for growth.
- 2) Businesses and funds that invest directly or indirectly in businesses with potential for growth.
- 3) Businesses that are active in or have the potential for exports or internationalisation.
- 4) Businesses that contribute to a sustainable and green transformation of society.
- 5) Public housing organisations and public companies and institutions, etc. whose wealth is separate from that of the government, regions and municipalities, and who have the potential to take on financing in the private market if it contributes to a sustainable and green transition, cf. section 1(1) no. 3.

(2) The Minister for Industry, Business and Financial Affairs may lay down rules on access to the services of Denmark's Export and Investment Fund for companies in the Faroe Islands and Greenland.

3. Denmark's Export and Investment Fund may only perform its activities pursuant to Part 2 where the private market would not normally undertake said activity in consideration of the nature, extent or risk associated with said activity.

4. Denmark's Export and Investment Fund shall, in the performance of its financial activities, observe government decisions as regards export promotion, trade policy and politically imposed trade sanctions and export controls.

(2) Denmark's Export and Investment Fund includes climate and environmental, social and managerial factors in connection with its financial activities.

5. Denmark's Export and Investment Fund is Denmark's export credit agency.

(2) Denmark's Export and Investment Fund may represent the Danish government nationally and internationally in matters relating to export credit policy and associated agreements.

(3) Denmark's Export and Investment Fund is subject to instructions from and reports to the Minister for Industry, Business and Financial Affairs in matters concerning export credit policy.

Part 2. Activities

6. Denmark's Export and Investment Fund may, for a fee, undertake both direct and indirect investment, financing and risk cover to fulfil the objects of the Fund.

(2) Denmark's Export and Investment Fund may exercise active ownership in connection with the Fund's equity investments.

7. Denmark's Export and Investment Fund may, for a fee, provide services in the form of administration, collection and acquisition of outstanding claims abroad, among other things, as well as brokerage, advice and capital management.

8. Denmark's Export and Investment Fund may prepare, establish and participate in partnerships, enter into alliances, support the development of markets for financing and, to a certain extent, provide financing. Denmark's Export and Investment Fund may otherwise introduce or participate in other initiatives relating to financing, entrepreneurship, exports or a sustainable transition.

(2) Denmark's Export and Investment Fund may, in connection with activities pursuant to subsection (1), charge a fee to cover its costs.

9. In connection with the performance of its activities pursuant to this Part, Denmark's Export and Investment Fund may establish companies, funds and associations, etc. and own, acquire and dispose of all or parts of companies, funds and associations, etc.

10. The Minister for Industry, Business and Financial Affairs may lay down rules to allow Denmark's Export and Investment Fund to take on other tasks relating to its objects, cf. section 1, including rules on independent business promotion schemes and initiatives which are referred for administration within Denmark's Export and Investment Fund.

(2) The Minister for Industry, Business and Financial Affairs may, within the framework of the Danish national budget or subject to submission to the Finance Committee of the Danish Parliament, stipulate rules on limits to the amounts that Denmark's Export and Investment Fund may use for investment, financing and risk cover in connection with tasks performed pursuant to subsection (1).

Part 3. Establishment and framework of ownership

11. The Minister for Industry, Business and Financial Affairs has decided to establish Denmark's Export and Investment Fund as an independent public company.

(2) The Minister for Industry, Business and Financial Affairs has decided to transfer ownership of EKF Denmark's Export Credit Agency and Vækstfonden to Denmark's Export and Investment Fund. EKF Denmark's Export Credit Agency and Vækstfonden are henceforth independent public subsidiaries owned by Denmark's Export and Investment Fund. Additional independent public subsidiaries owned by Denmark's Export and Investment Fund may only be established by statute.

(3) The Minister for Industry, Business and Financial Affairs has decided that Vækstfonden will take on the activities and associated assets and liabilities formerly undertaken by the independent state-owned administrative unit Danmarks Grønne Investeringsfond (the Danish Green Investment Fund), with all commensurate rights and obligations.

12. In respect of Denmark's Export and Investment Fund, the Minister for Industry, Business and Financial Affairs shall exercise the powers vested in the annual general meeting of a public limited company under the Danish Companies Act, whereby the Minister has the same status as a sole shareholder.

(2) The annual general meeting of Denmark's Export and Investment Fund shall be held as a company meeting. A company meeting may be held in person or as a partially or fully virtual company meeting.

(3) The Minister for Industry, Business and Financial Affairs shall lay down articles of association for Denmark's Export and Investment Fund.

(4) Denmark's Export and Investment Fund and its articles of association shall be reported to and registered with the Danish Business Authority in accordance with the rules in Part 2 of the Danish Companies Act.

(5) The Minister for Industry, Business and Financial Affairs may decide on any matter relating to Denmark's Export and Investment Fund.

13. In respect of its independent public subsidiaries, Denmark's Export and Investment Fund shall exercise the powers vested in the annual general meeting of a public limited company under the Danish Companies Act, whereby Denmark's Export and Investment Fund has the same status as a sole shareholder, subject to the amendments that follow from said Act.

(2) The independent public subsidiaries of Denmark's Export and Investment Fund shall hold general meetings in the form of company meetings. A company meeting may be held in person or as a partially or fully virtual company meeting.

(3) The Minister for Industry, Business and Financial Affairs is entitled to attend and speak at the company meetings.

(4) Denmark's Export and Investment Fund stipulates articles of association for its independent public subsidiaries, which are approved by the Minister for Industry, Business and Financial Affairs at the company meeting.

(5) The independent public subsidiaries of Denmark's Export and Investment Fund and their articles of association shall be reported to and registered with the Danish Business Authority in accordance with the rules in Part 2 of the Danish Companies Act.

(6) The Minister for Industry, Business and Financial Affairs may change names and any secondary names of Denmark's Export and Investment Fund's independent public subsidiaries. The names are recorded in the articles of association at a company meeting.

(7) The Minister for Industry, Business and Financial Affairs may decide on any matter concerning the affairs of independent public subsidiaries of Denmark's Export and Investment Fund, including their dissolution.

14. The activities, etc. that Denmark's Export and Investment Fund can carry out pursuant to section 5(2), Part 2 and executive orders issued pursuant to this Act and other legislation, may correspondingly be carried out by the independent public subsidiaries of Denmark's Export and Investment Fund.

(2) Denmark's Export and Investment Fund stipulates a group instruction, which lays down the overall decision-making powers and the overall distribution of tasks and responsibilities between Denmark's Export and Investment Fund and its independent public subsidiaries. The Minister for Industry, Business and Financial Affairs must approve the group instruction and any amendments thereto.

15. The Danish Act on Access to Public Administration Files, the Act on the Danish Parliamentary Ombudsman, the Danish Public Administration Act and the Danish Archives Act are not applicable to Denmark's Export and Investment Fund and its independent public subsidiaries and other subsidiaries and units managed by Denmark's Export and Investment Fund or the independent public subsidiaries of Denmark's Export and Investment Fund in regard to activities performed pursuant to Part 2.

(2) The Danish Companies Act, including the special provisions on state-owned public limited companies, shall apply to Denmark's Export and Investment Fund and any independent public subsidiaries of the latter, as amended pursuant to this Act.

(3) The Danish Financial Statements Act, including the special provisions on state-owned public limited companies, shall apply to Denmark's Export and Investment Fund and any independent public subsidiaries of the latter with the necessary adjustments. Denmark's Export and Investment Fund shall present group financial statements in accordance with the rules in subsection 1.

Part 4. Management

16. The management of Denmark's Export and Investment Fund shall be undertaken by a Board of Directors and a Chief Executive Officer.

(2) The Minister for Industry, Business and Financial Affairs shall appoint up to 12 members of the Board of Directors, including the Chair and Deputy Chair, for a term of up to 2 years with a

possibility of reappointment. The Minister for Industry, Business and Financial Affairs may discharge one or more of the appointed members at any time at a company meeting.

(3) In addition to members appointed by the Minister for Industry, Business and Financial Affairs, employees of Denmark's Export and Investment Fund and of independent public subsidiaries of Denmark's Export and Investment Fund and any wholly owned subsidiaries, cf. section 20(1), elect up to 3 members to the Board of Directors for a term of up to 2 years with a possibility of re-election.

(4) The members of the Board of Directors must between them have the competencies necessary to pursue the fulfilment of the objects of Denmark's Export and Investment Fund, including the required professional credit and investment expertise, and must have relevant managerial and international experience as well as expertise on a sustainable and green transition. (5) The Minister for Industry, Business and Financial Affairs shall lay down fees for the Board of Directors.

17. The Board of Directors shall undertake the overall and strategic management of Denmark's Export and Investment Fund.

(2) Subject to prior notification of the Minister for Industry, Business and Financial Affairs, the Board of Directors shall employ a Chief Executive Officer to undertake the day-to-day management. The Board of Directors shall similarly dismiss the Chief Executive Officer subject to prior notification of the Minister for Industry, Business and Financial Affairs.

(3) The Board of Directors shall lay down its own rules of procedure and instructions, and inform the Minister for Industry, Business and Financial Affairs of said rules and instructions. (4) The Board of Directors shall keep the Minister for Industry, Business and Finance informed about all significant matters concerning Denmark's Export and Investment Fund and the latter's independent public subsidiaries, including significant changes in strategy and finances and in matters material to operation. This information shall be received in time for the Minister for Industry, Business and Financial Affairs to exercise his powers of ownership and supervision and other powers in regard to Denmark's Export and Investment Fund and the latter's independent public subsidiaries pursuant to this Act.

(5) The Board of Directors shall lay down a remuneration policy for Denmark's Export and Investment Fund and the latter's independent public subsidiaries, which is approved by the Minister for Industry, Business and Financial Affairs in connection with a company meeting.

(6) Denmark's Export and Investment Fund may obtain advice and sparring from an advisory committee appointed by the Minister for Industry, Business and Financial Affairs in regard to strategic issues and specific investment and financing efforts.

18. Independent public subsidiaries of Denmark's Export and Investment Fund shall each be managed by a Board of Directors and a Chief Executive Officer. (2) The Minister for Industry, Business and Financial Affairs appoints up to 4 members of Board of Directors of independent public subsidiaries of Denmark's Export and Investment Fund from the members of the Board of Directors of Denmark's Export and Investment Fund at a company meeting, including the Chair and Deputy Chair, for a term of up to 2 years with a possibility of reappointment. The Minister for Industry, Business and Financial Affairs may discharge one or more of the appointed members at any time at a company meeting.

(3) In addition to the members appointed by the Minister for Industry, Business and Financial Affairs, the employees of independent public subsidiaries of Denmark's Export and Investment Fund shall elect up to 2 members to the Board of Directors for a term of up to two years with a possibility of re-election. (4) The members of the Board of Directors shall jointly have the competencies necessary to pursue the respective objects of the independent public subsidiaries of Denmark's Export and Investment Fund. (5) The Minister for Industry, Business and Financial Affairs shall lay down fees for the Board of Directors.

19. The Board of Directors shall undertake the overall and strategic management of Denmark's Export and Investment Fund's independent public subsidiaries, while taking into account the overall strategy for Denmark's Export and Investment Fund.

(2) The Board of Directors of the independent public subsidiaries of Denmark's Export and Investment Fund shall, subject to prior notification of the Board of Directors of Denmark's Export and Investment Fund, appoint a Chief Executive Officer to undertake the day-to-day management. The Board of Directors shall similarly dismiss the Chief Executive Officer subject to prior notification of the Board of Directors of Denmark's Export and Investment Fund.

(3) The Board of Directors of the independent public subsidiaries of Denmark's Export and Investment Fund shall lay down its own rules of procedure and instructions, which the Board of Directors of Denmark's Export and Investment Fund receives for information.

(4) The independent public subsidiaries of Denmark's Export and Investment Fund may obtain advice and sparring from an advisory committee appointed by the Minister for Industry, Business and Financial Affairs in regard to strategic issues and specific investment and financing efforts.

20. Denmark's Export and Investment Fund and the latter's independent public subsidiaries may, as part of the internal organisation, form wholly owned subsidiaries and refer activities to said subsidiaries.

(2) The Minister for Industry, Business and Financial Affairs must be notified before any wholly owned subsidiaries are formed pursuant to subsection 1.

(3) The Minister for Industry, Business and Financial Affairs may lay down further rules concerning operation, management, organisation and financial matters in subsidiaries formed pursuant to subsection 1.

Part 5. Finances, financing and risk management

21. Denmark's Export and Investment Fund and the latter's independent public subsidiaries may take on loans, including state on-lending, to undertake their activity.

(2) Within the framework of the Danish national budget or subject to submission to the Finance Committee of the Danish Parliament, the Minister for Industry, Business and Financial Affairs sets rules concerning access to loans pursuant to subsection 1.

22. Denmark's Export and Investment Fund may pay dividends to the Danish state. The Board of Directors sets a dividend policy for Denmark's Export and Investment Fund, which is approved by the Minister for Industry, Business and Financial Affairs at a company meeting. The dividend policy shall form an appendix to the articles of association for Denmark's Export and Investment Fund.

23. The financial year of Denmark's Export and Investment Fund and the latter's independent public subsidiaries shall be the calendar year. (2) The annual reports of Denmark's Export and Investment Fund and the latter's independent public subsidiaries shall be audited by an approved auditor and by the Auditor General. The audit shall be performed in accordance with the standards for public auditing. The approved auditor shall be elected on the recommendation of the Board of Directors at the annual general meetings, and may be re-elected.

(3) The audited annual reports shall be submitted for approval at the annual general meetings.

24. Denmark's Export and Investment Fund, the independent public subsidiary Vækstfonden and subsidiaries formed pursuant to section 20(1) are not part of the state agreements and contracts system, but may negotiate salary and terms of employment with their employees, including entering into collective agreements.

(2) The independent public subsidiary EKF Denmark's Export Credit Agency may, subject to a decision by the Minister for Taxation, enter into collective agreements or otherwise lay down salary and other employment terms for employees of the company.

25. The equity of Denmark's Export and Investment Fund and the latter's independent public subsidiaries must always be of sufficient size to provide, together with their provisions, a reasonable basis for their respective liabilities and activities.

26. The government shall take over the rights and obligations of Denmark's Export and Investment Fund and the latter's independent public subsidiaries to the extent that their respective equity and provisions are insufficient.

(2) The Minister for Industry, Business and Financial Affairs may, within the framework of the Danish national budget or subject to submission to the Finance Committee of the Danish Parliament, set rules on the Danish state's direct guarantee in connection with tasks performed pursuant to section 10(1), whereby the state guarantees losses in connection with the specific task, even if the respective equity and provisions of Denmark's Export and Investment Fund and the latter's independent public subsidiaries are insufficient. The state's direct guarantee may not exceed the sum total of the established access to investment, financing and risk cover for the task, pursuant to section 10(2), less any state subsidies and remuneration received.

Part 6. Supervision, penalties, entry into force, etc.

27. The Minister for Industry, Business and Financial Affairs shall supervise Denmark's Export and Investment Fund and the latter's independent public subsidiaries.

(2) Upon request, Denmark's Export and Investment Fund and the latter's independent public subsidiaries shall immediately disclose any information about them and their activities to the Minister for Industry, Business and Financial Affairs.

28. Persons contributing to activities covered by section 5(2) and Part 2 are bound by a duty of confidentiality under sections 152–152e of the Danish Criminal Code with regard to any information of which they become aware in connection with this.

(2) The provision in subsection 1 shall not impede the disclosure of confidential information to the Minister for Industry, Business and Financial Affairs as part of the latter's overall supervision, cf. section 17(4) and section 27(2), or other authorities or bodies to which Denmark's Export and Investment Fund, the latter's independent public subsidiaries or subsidiaries formed pursuant to section 20(1) are legally obliged to disclose information.

(3) Any party who, pursuant to subsection 2, receives confidential information from Denmark's Export and Investment Fund, the latter's independent public subsidiaries or subsidiaries formed or acquired pursuant to section 9 or section 20(1), is subject to the duty of confidentiality mentioned in subsection 1 in respect of said information.

29. Any party who discloses incorrect or misleading information or conceals information of importance to decisions that may be made pursuant to Part 2 shall be liable for a fine or imprisonment for up to 4 months, unless a higher penalty is incurred under other legislation. (2) In rules laid down pursuant to the Act, a penalty of a fine or imprisonment for up to 4 months may be laid down.

(3) Companies, etc. (legal persons) may incur liability under the rules in Part 5 of the Danish Criminal Code.

30. This Act shall enter into force on 1 July 2022; however, cf. subsection 2.

(2) The Minister for Industry, Business and Financial Affairs shall determine when sections 32–35 and 37–40 enter into force. The Minister may set the provisions to enter into force at different times.

31. Entry into force not set.

32. Entry into force not set.

33. Entry into force not set.

34. Entry into force not set.

35. Entry into force not set.

Part 7. Changes to other legislation

36. The following amendment shall be made to the Danish Tax Assessment Act no. 1735 of 17 August 2021, as last amended by section 15 of Act no. 565 of 10 May 2022:

1. *section 7 D* is repealed.

37. Entry into force not set.

38. Entry into force not set.

39. Entry into force not set.

40. Entry into force not set.

Part 8. Territorial provision

41. This Act shall not apply to the Faroe Islands and Greenland.