

# Consolidating Act on Public Limited Liability Companies and Private Limited Liability Companies (the Companies Act)<sup>1)</sup>

This is an Act to consolidate the Act on Public Limited Liability Companies and Private Limited Liability Companies (the Companies Act), cf. Consolidating Act no. 763 of 23 July 2019 with amendments consequential upon section 13 of Act no. 1374 of 13 December 2019, section 2 of Act no. 642 of 19 May 2020, and section 1 of Act no. 2199 of 29 December 2020.

## Part 1

### *Scope of the Act etc.*

#### *Scope*

**1.-(1)** This Act applies to all public limited liability companies and private limited liability companies (limited liability companies).

**(2)** In a public or private limited liability company, the shareholders are not personally liable for the obligations of the limited liability company, but are liable only for their individual contribution. The shareholders are entitled to a share of the profit of the limited liability company, in proportion to their ownership interest, unless otherwise stipulated in the company's statutes.

**(3)** A private liability company may not offer its shares to the public.

#### *Name of the limited liability company*

**2.-(1)** Only public and private limited liability companies have the right and duty to use the terms "*aktieselskab*" (public limited liability company) and "*anpartsselskab*" (private limited liability company) or the abbreviations "*A/S*" (public limited liability company) and "*ApS*" (private limited liability company) in their names.

**(2)** The name of a limited liability company must be clearly distinguishable from the name of other undertakings registered in the IT system at the Danish Business Authority. The name must not include any

family name, business name, distinctive name of real estate, trademark, business identifier or similar feature not belonging to the limited liability company, or any other element likely to cause confusion with such name or similar feature.

**(3)** The name of a limited liability company must not be of such a nature as to mislead the public. If the name indicates a specific business activity, the name may not be used in an unchanged form if the main activity of the limited liability company changes significantly..

**(4)** Limited liability companies must specify their name, registered office and Central Business Register (CVR) number on letters and other business documents, including electronic communication, and on the limited liability company's website.

**3.-(1)** Section 2(1)-(3) apply correspondingly to secondary names of limited liability companies.

**(2)** Where more than five secondary names are registered per company, an amount of DKK 1,000 is payable for each secondary name. However, this does not apply to secondary names carried on after a conversion, merger or division.

#### *Share capital*

**4.-(1)** Companies covered by this Act must have a share capital that is stated in Danish kroner (DKK) or euro (EUR), without prejudice to subsection (3).

**(2)** Public limited liability companies must have a share capital corresponding to no less than DKK 400,000, and private limited liability companies must have a share capital corresponding to no less than DKK 40,000.

**(3)** The Danish Business Authority may lay down more detailed regulations governing the conditions for stating the share capital in a currency other than Danish kroner (DKK) or euro (EUR).

#### *Definitions*

**5.** For the purposes of this Act, the following definitions apply:

1. Public limited liability company:

A limited liability company, including a limited partnership company, in which the capital contributed by the shareholders is divided into shares ("*aktier*"). The shares may be offered to the public. Shareholders are liable only for their individual contribution to the company.

2. Private limited liability company:

A limited liability company in which the capital contributed by the shareholders is divided into shares ("*anparter*"). Private limited liability companies may not offer their shares to the public, cf. section 1(3). Shareholders are liable only for their individual contribution to the company.

3. Subsidiary:

An undertaking under the dominant influence of a parent company, cf. sections 6 and 7.

4. The central governing body:

a) The board of directors of companies that have an executive board and a board of directors, cf. section 111(1), no. 1,

b) The executive board of companies that only have an executive board, cf. section 111(1), no. 2, and

c) The executive board of companies that have both an executive board and a supervisory board, cf. section 111(1), no. 2.

5. The supreme governing body:

a) The board of directors of companies that have an executive board and a board of directors, cf. section 111(1), no. 1,

b) The executive board of companies that only have an executive board, cf. section 111(1), no. 2, and

c) The supervisory board of companies that have both an executive board and a supervisory board, cf. section 111(1), no. 2.

6. Shareholders' agreement:

An agreement governing the ownership and management of the company entered into by the shareholders.

7. Share certificate:

Evidence of ownership of a share, cf. sections 59 and 60.

8. Register of shareholders:

A complete register of all shareholders that must be kept by the limited liability company, cf. section 50.

9. Ownership register:

A register kept by the Danish Business Authority that records the shareholdings of certain shareholders, cf. sections 58 and 58a.

10. Bonus shares:

Shares in a private limited liability company or a public limited liability company issued in connection with a bonus share issue, cf. section 165.

11. Cross-border conversion:

Transfer of the registered office of a limited liability company from one EU or EEA Member State to another EU or EEA Member State.

12. Cross-border merger or division:

A merger or division involving limited liability companies subject to the laws of at least two different EU or EEA Member States.

13. Registered office:

The address in Denmark at which the company may be contacted.

14. Share:

A share in a public limited liability company or a private limited liability company as set out in sections 45-49.

15. Shareholder:

Any owner of one or more shares.

16. Share class:

A group of shares carrying the same rights or obligations.

17. Limited liability company:

A private limited liability company or a public limited liability company, including a limited partnership company.

18. Group:

A parent company and its subsidiaries, cf. section 7.

19. Management:

All of the bodies specified in nos. 4 and 5. A member of the management may be a member of the company's supervisory board, board of directors or executive board.

20. Parent company:

A limited liability company exercising dominant influence of one or more subsidiaries, cf. sections 6 and 7.

21. Multilateral trading facility:

The definition of a multilateral trading facility in section 3, no. 3, of the Capital Markets Act applies.

22. Limited partnership company:

A limited partnership, cf. section 2(2) of the Certain Commercial Undertakings Act, in which the limited partners have contributed a specific amount of capital which is divided into shares as set out in Part 21.

23. Temporary resumption:

Temporary resumption of the estate of a limited liability company after the company has been struck off the register in the IT system at the Danish Business Authority, cf. section 235.

24. Public limited shipping company:

A public limited liability company carrying on shipping activities, cf. section 112(3).

25. Beneficial owner:

A natural person who ultimately owns or controls, directly or indirectly, a sufficient proportion of the ownership interest or voting rights, or who exercises control by other means, apart from owners of companies whose ownership interests are traded on a regulated market or an equivalent market subject to disclosure requirements in accordance with EU law or equivalent international standards.

26. Record date:

The date on which a shareholder's right to attend a general meeting and vote in accordance with its shareholding is determined.

27. Regulated market:

The definition of a regulated market in section 3, no. 2, of the Capital Markets Act applies.

28. Capital represented:

Voting or non-voting shares represented at the general meeting and carrying the right of representation as provided by the statutes.

29. Right of representation:

A right that may be attached to non-voting shares, allowing the shareholder to attend general meetings and be included in the assessment of share capital represented at the general meeting. Voting shares always carry a right of representation, cf. section 46.

30. Company documents:

The documents and annexes that a limited liability company is obliged to prepare in accordance with this Act or regulations laid down in pursuance hereof.

31. Share capital:

The contributions to which the liability of the shareholders is limited under this Act, cf. section 4.

32. State-owned public limited liability companies:

A public limited liability company with which the Danish state has a connection similar to that a parent company has with a subsidiary, cf. sections 6 and 7.

33. Central securities depository:

The definition of the central securities depository in section 3, no. 10, of the Capital Markets Act applies.

## *Groups*

**6.** A group consists of a parent company and one or more subsidiaries. No undertaking may have more than one direct parent company. If more than one company satisfies one or more of the criteria in section 7, only the company that actually exercises a dominant influence of the financial and operating decisions of the undertaking is deemed to be the parent company.

**7.-(1)** Dominant influence means the power to control a subsidiary's financial and operating decisions.

**(2)** Dominant influence of a subsidiary exists where the parent company owns, directly or indirectly through a subsidiary, more than half of the voting rights in an undertaking, unless, in exceptional circumstances, it can be clearly demonstrated that such ownership does not constitute dominant influence.

**(3)** Where a parent company holds no more than half of the voting rights in an undertaking, the parent company exercises a dominant influence if it has

1) the power to exercise more than half of the voting rights by virtue of an agreement with other investors,

2) the power to control the financial and operating policies of an undertaking according to the statutes or by agreement,

3) the power to appoint or remove the majority of the members of the supreme governing body, and this body exercises a dominant influence of the undertaking, or

4) the power to exercise the actual majority of votes at the general meeting or in an equivalent body and thus exercises an actual dominant influence of the undertaking.

**(4)** The existence and effect of potential voting rights, including rights to subscribe for and purchase shares that are currently exercisable or convertible, must be taken into account when assessing whether a company exercises a dominant influence.

**(5)** Any voting rights attached to shares owned by the subsidiary itself or by its subsidiaries must be disregarded in the determination of the voting rights in a subsidiary.

### *Powers of the probate courts and the Danish Maritime and Commercial High Court*

**8.** Any powers granted to the probate courts under this Act are exercised by the probate court that has jurisdiction over the place where the company has its registered office. However, such powers are exercised by the Danish Maritime and Commercial High Court in Copenhagen for areas that fall within the jurisdiction of the Copenhagen City Court, the Court of Frederiksberg, and the Courts of Glostrup and Lyngby, cf. section 4 of the Bankruptcy Act.

## *Part 1a*

### *Communication*

**8a.-(1)** The Danish Business Authority may lay down regulations stipulating that written communication to and from the Authority about circumstances covered by this Act or regulations issued in pursuance of this Act must be digital.

**(2)** The Danish Business Authority may lay down more detailed regulations on digital communication, including the use of specific IT systems, special digital formats and digital signatures, etc.

**(3)** A digital message is deemed to have reached the recipient when it is available to the recipient of the message.

**8b.-(1)** The Danish Business Authority may lay down regulations stipulating that the Authority may issue decisions and other documents according to this Act or regulations issued in pursuance of this Act without a signature, with a digital or similarly provided signature, or by means of a technique that ensures unambiguous identification of the person who has issued the decision or document. Such decisions and documents are equivalent to decisions and documents with a personal signature.

**(2)** The Danish Business Authority may lay down regulations stipulating that decisions and other documents which are made or issued exclusively on the basis of electronic data processing be issued solely with specification of the Danish Business Authority as the sender.

**8c.-(1)** Where this Act or regulations issued in pursuance of this Act require that a document issued by parties other than the Danish Business Authority be signed, such requirement may be satisfied by using a technique which ensures unambiguous identification of the signee, without prejudice to subsection (2). Such documents are equivalent to documents with a personal signature.

**(2)** The Danish Business Authority may lay down more detailed regulations for derogation from signature requirements. In this respect, it may be decided that the personal signature requirement may not be derogated from for certain types of documents.

## Part 2

### *Registration, publication, retention of documents, time limits and supervision*

#### *Registration and publication*

**9.-(1)** All information to be registered under this Act must be recorded in the IT system at the Danish Business Authority no later than two weeks after the date of the statutory decision, unless otherwise provided in or under this Act. Where the applicant does not register the information directly in the IT system at the Danish Business Authority, cf. section 12(1), an application for registration must be received by the Danish Business Authority no later than two weeks after the date of the statutory decision.

**(2)** The company's central governing body is responsible for ensuring that the information is registered or that an application for registration is submitted to the Danish Business Authority.

**(3)** Subsections (1) and (2) apply correspondingly to publication of documents and notifications etc. in the IT system at the Danish Business Authority. Where an applicant does not publish the document or notification directly in the IT system at the Danish Business Authority, cf. section 12(2), the document or notice must be received by the Danish Business Authority no later than two weeks after the date of the relevant event.

**10.-(1)** All members of the executive board, board of directors and supervisory board of a limited liability company as well as the company's auditor, if any, must be registered in the IT system at the Danish Business Authority.

**(2)** If an auditor, cf. section 144(1), resigns before the end of a term, the registration of the resignation or the application for such registration must be accompanied by an adequate account by the central governing body of the reason for such termination of office.



**11.** Any amendment to the statutes of a limited liability company or changes to any other information previously registered with the Danish Business Authority must be registered directly in the IT system at the Danish Business Authority or an application for registration must be submitted to the Authority, cf. section 9.

**12.-(1)** The Danish Business Authority issues regulations on registration and application for registration of information to be registered under this Act.

**(2)** The Danish Business Authority issues regulations on publication of registrations, documents and notifications etc. in the IT system at the Authority under this Act.

**(3)** The Danish Business Authority may lay down regulations on fees for registration and transcripts etc., publication, use of the IT system at the Authority and reminder letters etc. in case of late payment.

**(4)** The Danish Business Authority may lay down regulations on payment of an annual fee for administration of company law regulations and for services for which no particular price has been set.

**13.-(1)** The Danish Business Authority may lay down regulations on the language to be used in documentation submitted in connection with registrations or applications for registration by limited liability companies.

**(2)** The Danish Business Authority issues regulations stipulating that voluntary registration and publication of company information may also be made in any other official language of the European Union, in addition to the statutory publication in one of the languages permitted under subsection (1).

**(3)** In the event of a discrepancy between the documents and information subject to mandatory registration and publication under subsection (1) and any translations of such documents and information voluntarily published under subsection (2), the company cannot invoke the translated version against any third party. However, third parties may invoke against the company a text that has been voluntarily published, unless it can be established that the third party knew about the version subject to compulsory registration and published in the IT system at the Danish Business Authority. Section 9(1) does not apply to documents published voluntarily.

**14.-(1)** The Danish Business Authority keeps a register of companies registered under this Act. Registrations under this Act must be made in the IT system at the Authority. Information to be registered under this Act, and company documents to be submitted to the Danish Business Authority are published in the Central Business Register, unless otherwise stipulated in this Act or in regulations issued in pursuance hereof.

**(2)** Information published in the IT system is deemed to have come to the knowledge of third parties. However, the 1<sup>st</sup> sentence does not apply to transactions made no later than the 16<sup>th</sup> day after the date of publication if it can be established that the third party could not have known about the published information.

**(3)** Information to be registered and published cannot be invoked against third parties until it has been published in the IT system, unless it can be established that the third party knew about the information. The fact that such information has not yet been published does not prevent third parties from invoking such information.

**15.-(1)** Registration may not take place, if the information to be registered contravenes this Act, regulations laid down pursuant to this Act or the statutes of the company. Furthermore, registration may not take

place if the decision on which the registration is based was not made in accordance with the regulations laid down in the Act, provisions laid down pursuant to this Act or laid down in the statutes of the company.

**(2)** An applicant registering information in the IT system at the Danish Business Authority or submitting an application for registration in the IT system at the Danish Business Authority, warrants that the registration or application is lawful, including that the applicant is duly authorised, and that the documentation related to the registration or application is valid.

**(3)** Subsections (1) and (2) apply correspondingly to documents etc. published in the IT system at the Danish Business Authority or submitted to the Authority for publication etc. pursuant to this Act.

**16.-(1)** Information on the names of persons registered pursuant to this Act must be published in the Central Business Register at all times, unless otherwise decided by the Danish Business Authority. This applies irrespective of whether the company is active or has ceased to exist.

**(2)** Information on the addresses of residence of persons registered pursuant to this Act must be published in the Central Business Register, until five years have passed since the person ceased being active in an undertaking registered in the Central Business Register. This applies irrespective of whether the undertaking is active, has ceased to exist or has been deregistered.

**(3)** For persons who have registered name and address protection in the Civil Registration System, the address will not be published in the Central Business Register, for as long as the protection in the Civil Registration System applies, unless the person submits a request to the Danish Business Authority that the address protection is not to apply in the Central Business Register.

**(4)** Persons who do not have a civil registration number (CPR number) may submit a request to the Danish Business Authority for address protection in the Central Business Register.

**(5)** The Danish Business Authority lays down specific terms and conditions for address protection and disclosure of protected addresses for persons without a civil registration number (CPR number), cf. subsection (4).

**(6)** Updates of personal data covered by subsections (1) and (2) for fully liable members, owners and members of the management will cease five years after the person in question is no longer active in an undertaking registered in the Central Business Register.

#### *Retention of company documents*

**17.** The executive board of a limited liability company must ensure appropriate retention of company documents for a period of five years, starting at the end of the financial year to which the documents relate. Company documents must be retained so as to enable independent and unambiguous retrieval of the documents for the duration of the retention period.

**18.-(1)** Company documents must be retained so as to ensure that they can easily be made available to public authorities in Denmark who may require access to the company documents.

**(2)** If the company documents are not kept in electronic form, they must be kept on paper in Denmark.

**19.-(1)** If the company ceases to exist, the most recently registered executive board must ensure the continued retention of company documents in accordance with this Act. If a company is dissolved through the intervention of the probate court, the probate court may decide that persons other than the most recently registered executive board must retain the company documents.

**(2)** In other cases in which the executive board resigns, the members of the resigning executive board must ensure that company documents covering the period up to the date of resignation are retained in accordance with this Act. When a new executive board replaces a resigning executive board, the members of the resigning executive board must pass on the company documents to the new executive board.

#### *Invalid resolutions*

**20.-(1)** If, except in cases covered by section 109, anyone asserts that the registration of a resolution passed by the founders, the general meeting or the management of a company is detrimental to them, the question of deregistration is to be determined by the courts.

**(2)** Such legal proceedings must be commenced against the company within six months from the date of publication of the registration in the IT system at the Danish Business Authority. The court will send a transcript of the judgment to the Danish Business Authority for publication of the outcome of the case in the IT system at the Authority.

#### *Time limits*

**21.-(1)** Where stipulated by this Act or by regulations issued pursuant to this Act that an action can or must be taken within a certain number of days, weeks, months or years before a specific event occurs, the time allowed for taking such action is calculated from the day before this event.

**(2)** If the time limit for taking action expires on a weekend, public holiday, 5 June (Constitution Day), 24 December or 31 December, action must be taken no later than the last preceding working day.

**22.** Where stipulated by this Act or by regulations issued pursuant to this Act that an action or a decision cannot be taken until a certain number of days, weeks, months or years after a specific event has occurred, the time allowed for taking such action or decision is calculated from the day after this event. The action or decision cannot be taken until the day after expiry of the time limit.

**23.-(1)** Where stipulated by this Act or by regulations issued pursuant to this Act that an action must be taken within a certain number of days, weeks, months or years after a specific event has occurred, the time allowed for taking such action is calculated from the day after this event, cf. subsections (2)-(4).

**(2)** If the time limit in subsection (1) is stated in weeks, the time limit for taking action expires on the same day of the week that the event took place.

**(3)** If the time limit in subsection (1) is stated in months, the time limit for taking action expires on the same day of the month that the event took place. If the event took place on the last day of a month, or if the time limit expires on a date that does not exist in that month, the time limit always expires on the last day of the month, irrespective of the number of days in that month.

**(4)** If the time limit in subsection (1) is stated in years, the time limit for taking action expires on the anniversary of the date of the event.

**(5)** If the time limit expires on a weekend, public holiday, 5 June (Constitution Day), 24 December or 31 December, action must be taken no later than the next working day.

#### *Supervision*

**23a.-(1)** The Danish Business Authority supervises compliance with this Act and the regulations laid down pursuant to this Act, including information and company documents to be registered under this Act.

**(2)** The Danish Business Authority may conduct checks on registration of applications received, resulting either in an immediate digital decision or selection for manual case processing.

**(3)** The Danish Business Authority may conduct subsequent risk-based controls of registrations by limited liability companies.

**(4)** Controls must be data-based and digital to the greatest extent possible.

**(5)** In exceptional circumstances, controls may be carried out as spot checks.

**(6)** Supervision by the Danish Business Authority pursuant to this Act may be exercised as part of supervision pursuant to other legislation within the remits of the Authority. Supervision by the Danish Business Authority may be organised in collaboration with other authorities exercising supervision pursuant to legislation within their remits.

**23b.-(1)** The Danish Business Authority may demand any information necessary to determine whether a limited liability company is in compliance with this Act, any regulations laid down pursuant to this Act and the limited liability company's statutes, including that the company has the necessary capital base, and that the registered members of the management perform the actual management.

**(2)** In connection with demanding information pursuant to subsection (1), in exceptional circumstances, the Danish Business Authority may demand that a limited liability company obtain a declaration from an approved auditor, a lawyer or another expert confirming the accuracy of certain information, including that the limited liability company has an adequate capital base, and that the financial transactions relating to the registration or the application for registration were legal. Any person issuing a declaration pursuant to the 1<sup>st</sup> sentence must confirm in the declaration that said person is independent of the limited liability company.

**23c.-(1)** If the Danish Business Authority learns that the legality of a matter registered with the Authority, or for which an application for registration has been made, is questionable, the Authority may decide to discontinue registrations under section 9(1) until the matter has been clarified.

**(2)** The applicant must be notified in writing that registration cannot take place, including the reason for this. The Danish Business Authority may also publish a notification in its IT system explaining the reason for the decision.

**(3)** For matters covered by subsection (1), the Danish Business Authority may also register any resignation of management.

**23d.-(1)** If the Danish Business Authority finds the information about a person registered pursuant to this Act, or for whom an application for registration has been made, to be incomplete, the Authority may refuse to register, or may deregister, this person.

**(2)** If a person does not have a valid address of residence, the Danish Business Authority may refuse to register, or may deregister, this person.

**(3)** In the event of doubt as to the identity of a person who has been registered pursuant to this Act, or for whom an application for registration has been made, the Danish Business Authority may demand verification of the identity of this person and of the identification information provided. If necessary, the Danish Business Authority may demand confirmation of a person's identity by requiring said person to

appear in person at the premises of the Danish Business Authority or another institution authorised by the Danish Business Authority to carry out such identification.

**(4)** If there is still doubt about the person's identity, the Danish Business Authority may refuse to register, or may deregister, this person, cf. Subsection (1).

**(5)** Subsection (3) applies correspondingly in the event of doubt about the identity of an applicant. If there is still doubt about the applicant's identity, the Danish Business Authority may refuse to register applications for registration from this applicant.

**23e.** The Danish Business Authority may carry out on-site inspections to check whether a limited liability company can be contacted at its registered office, cf. Section 5, no. 13.

**23f.** If there is doubt as to whether a member of the management performs actual management functions, cf. Section 112(2), the Danish Business Authority may refuse to register, or may deregister, this member.

#### *Checks on registration*

**23g.-(1)** Applications for registration may be decided by the Danish Business Authority by an immediate digital decision, or may be selected for manual case processing.

**(2)** If the Danish Business Authority considers that an error or incompleteness related to a matter for which an application for registration has been made could be remedied by a resolution of the general meeting or by a decision by the central governing body of the limited liability company, the Authority may stipulate a time limit for rectification of the matter.

**(3)** If the matter has not been rectified within the time limit stipulated, registration cannot take place.

**(4)** The applicant must be notified in writing that registration pursuant to subsection (1) cannot take place, including the reason for this.

#### *Subsequent checks*

**23h.-(1)** The Danish Business Authority may require evidence of legal registration for up to five years after the date of registration.

**(2)** If the Danish Business Authority finds that information has been registered which is obviously incorrect, the Authority may make an administrative correction.

#### *Publication of supervision cases*

**23i.-(1)** When considered appropriate, the Danish Business Authority may announce publicly that checks pursuant to sections 23g and 23h will be or have been initiated. Furthermore, the Danish Business Authority may publish the results of such checks.

**(2)** Publication pursuant to subsection (1) will be on the Danish Business Authority website. The Danish Business Authority determines how publication is to take place.

**(3)** Any decision by the Danish Business Authority to refer a case to the police for investigation may be published on the Authority website. The name of the limited liability company or the persons to be registered pursuant to this Act may be mentioned in the notification published.

**(4)** Publication pursuant to subsections (1)-(3) may not take place if publication will jeopardise a pending criminal investigation, or if the publication will mean disproportionate damage.

## Part 3

### *Formation*

#### *Founders*

**24.-(1)** A limited liability company may be formed by one or more founders.

**(2)** A founder must not be the subject of financial reconstruction or pending bankruptcy proceedings.

**(3)** If the founder is a natural person, that person must have full legal capacity and may not be under guardianship pursuant to section 5 of the Danish Guardianship Act, or under co-guardianship pursuant to section 7 of the Guardianship Act.

**(4)** If the founder is a legal person, that person must be authorised to acquire rights, enter into commitments and be a party to legal proceedings.

#### *Memorandum of association*

**25.** The founders must sign a memorandum of association, including the statutes of the limited liability company.

**26.** The memorandum of association must specify

1) the names, addresses and Central Business Register (CVR) numbers, if any, of the founders of the limited liability company,

2) the subscription price of the shares,

3) the time limits for subscribing and paying for the shares,

4) the specific date from which formation takes legal effect, cf. Section 40(3)-(5),

5) the specific date from which formation takes effect for accounting purposes, cf. Section 40(6)), and

6) whether the limited liability company must pay the initial expenses and, if so, the estimated amount of such expenses.

**27.-(1)** The memorandum of association must also include provisions on the following matters if so resolved:

1) special rights or benefits accruing to the founders or others,

2) any agreement entered into with the founders or others that may impose a major financial obligation on the limited liability company,

3) that shares may be subscribed against contribution of assets other than cash, cf. Section 35,

4) that the financial statements etc. of the limited liability company are not to be audited if the limited liability company qualifies for an audit exemption under the Financial Statements Act or any other legislation, and

5) the amount of the subscribed share capital that is paid up at the date of formation.

**(2)** In the memorandum of association, the founders must give an account of the circumstances affecting the assessment of the provisions included pursuant to subsection (1). The account must include the names and addresses of the persons covered by the provisions.

**(3)** Documents that are referred to in the memorandum of association without their main contents being reproduced must be annexed to the memorandum of association.

**(4)** Agreements on matters that are dealt with but not approved in the memorandum of association are not enforceable against the limited liability company.

#### *Statutes*

**28.** The statutes of a limited liability company must include information on:

- 1) the name and any secondary name(s) of the limited liability company,
- 2) the object(s) of the limited liability company,
- 3) the size of the share capital and the number or nominal value of the shares,
- 4) the rights attaching to the shares,
- 5) the limited liability company's governing bodies, including information on the selected management structure, cf. Section 111, and, for public limited liability companies, information on the actual number or the minimum and maximum number of members of the different governing bodies and any alternates as well as the term of office for members of the supreme governing body,
- 6) notice of general meetings, and
- 7) the financial year of the limited liability company.

**29.** The statutes of a limited liability company must also specify the resolutions to be included in the statutes pursuant to this Act, and the latest date for termination of the limited liability company if its existence is limited in time.

#### *Subscription for share capital*

**30.** Any subscription for shares must be specified in the memorandum of association with annexes, if any.

**31.** No shares may be subscribed subject to reservations or at a discount.

**32.-(1)** The founders decide whether to accept subscriptions for shares, without prejudice to section 31.

**(2)** In case of oversubscription, the founders must before registration or application for registration, cf. sections 9 and 40, decide on the number of shares to be allotted to each individual subscriber. cf. section No founder may be allotted shares representing a smaller amount than that subscribed for by the founder according to the memorandum of association.

**(3)** The founders must notify, as soon as possible, the subscribers for shares in a limited liability company if

- 1) the subscription is not accepted,
- 2) the founders consider the subscription to be invalid, or
- 3) the amount subscribed for has been reduced because of oversubscription.

**(4)** Any proposal to form a limited liability company with a larger or smaller share capital than that specified in the statutes is subject to the consent of all founders and subscribers for capital.

**(5)** Where the share capital or any prescribed minimum capital has not been fully subscribed for and accepted by the founders, the formation of the limited liability company and thereby the subscribers' obligations lapse. Any amounts paid must be refunded. However, initial expenses may be deducted from the refunded amount where so stipulated in connection with the subscription.

#### *Payment of share capital*

**33.-(1)** An amount corresponding to 25% of the share capital, but at least DKK 40,000, must be paid up at all times. Payment must be made on each individual share. In public limited liability companies, any premium must be fully paid up, notwithstanding that part of the share capital is not paid up. In private limited liability companies, any premium need not be paid in full, but it may be partially paid up at the same percentage as the share capital. However, if all or part of the share capital is paid by means of contributions other than cash, cf. Section 35, the entire share capital and any premium must be fully paid up.

**(2)** The central governing body of a limited liability company may call up share capital that has not been paid up. The time limit for payment must be at least two weeks. The statutes may stipulate a longer term of payment, but it must not exceed four weeks.

**(3)** The claims of a limited liability company for payment on shares cannot be disposed of or made subject to a charge.

**(4)** Where the size of the share capital is stated in the limited liability company's letters and other business papers, including electronic messages, and on the limited liability company's website, both the subscribed and the paid-up share capital must be stated..

**34.-(1)** The rights of a shareholder under this Act subsist regardless of whether the shares have been fully paid up, without prejudice to subsection (3).

**(2)** A shareholder must make payment on a share upon request from the central governing body, cf. Section 33(2). However, a shareholder is entitled to pay the amount outstanding on a share at any time, notwithstanding that the central governing body has not called up such capital. In this case, the shareholder must pay the full amount outstanding on the share, unless otherwise provided by the statutes.

**(3)** Where a shareholder has failed to comply with the central governing body's request for payment of the amount outstanding in respect of a share, the shareholder cannot exercise the voting rights attaching to any part of his shareholding in the limited liability company at general meetings, and his shares will be deemed to be unrepresented at general meetings until the amount has been paid to and registered by the limited liability company. However, this does not apply to the right to dividends and other payments, or to the right to subscribe for new shares in connection with a capital increase. The central governing body of a limited liability company may set off the company's claim for payment of capital against distributions from the company to which the shareholder is entitled in its capacity as shareholder.

**(4)** A shareholder who has a claim against the limited liability company cannot set off this claim against the shareholder's obligation to pay outstanding amounts, without the consent of the central governing body of the limited liability company. Such consent may not be given if the set-off may be detrimental to the limited liability company or its creditors.



**(5)** A shareholder cannot contribute assets other than cash to a limited liability company to discharge the shareholder's obligations to pay outstanding amounts, without the consent of the central governing body of the limited liability company. Such consent may not be given if the contribution may be detrimental to the limited liability company or its creditors. Furthermore, a valuation report must be prepared pursuant to the provisions in sections 36 and 37, unless the contribution is covered by section 38.

**(6)** Where a shareholder transfers a share that has not been fully paid up, the shareholder will be jointly and severally liable with the transferee and any subsequent transferees for payment of the outstanding amount on the share.

*Special provisions on consideration other than in cash*

**35.-(1)** Consideration other than in cash— must represent an economic value and must not be an obligation to perform work or provide a service.

**(2)** Claims against founders or shareholders may not be contributed or acquired, regardless of whether the claims are secured by a charge.

**36.-(1)** If the limited liability company is to acquire assets other than cash, the memorandum of association must be accompanied by a valuation report. The report must include

1) a description of each contribution,

2) information on the valuation method applied,

3) the amount of the consideration payable for the acquisition, and

4) a declaration that the economic value of the assets estimated in the report corresponds at least to the consideration agreed, including the nominal value of the shares to be issued, if applicable, plus any premium.

**(2)** The valuation must not have been made more than four weeks before the date of signing the memorandum of association. If the four-week period is exceeded, a new valuation is required.

**(3)** Where, in connection with its formation, a limited liability company acquires an existing undertaking, the valuation report must include an opening balance sheet for the limited liability company. The opening balance sheet must be prepared in accordance with the regulatory framework governing the preparation of the company's annual report. The opening balance sheet must be unqualified. If a limited liability company is subject to audit obligations under the Financial Statements Act or other legislation, the opening balance sheet must be accompanied by an unqualified audit declaration.

**37.-(1)** The valuation report must be prepared by one or more impartial valuation experts. The founders may only appoint approved auditors as valuation experts. In other cases, valuation experts may be appointed by the probate court with jurisdiction over the place where the limited liability company is to have its registered office.

**(2)** Sections 133 and 149 of this Act and section 24 of the Act on Approved Auditors and Audit Firms (Auditor Act) apply correspondingly to valuation experts.

**(3)** The valuation experts must be able to make any investigation that they deem necessary, and they may demand any information and assistance from the founders or the limited liability company that they consider necessary for the performance of their duties.

**38.-(1)** The requirement in section 36(1) to prepare a valuation report does not apply to contributions of:

1) Assets and liabilities (net assets) measured at fair value and presented individually in the financial statements or consolidated financial statements for the previous financial year. The financial statements or consolidated financial statements must have been prepared in accordance with the provisions of the Financial Statements Act or international accounting standards, cf. The Regulation of the European Parliament and of the Council on the application of international accounting standards, in accordance with accounting regulations laid down in or pursuant to financial business legislation, or in the financial statements of a foreign undertaking prepared under the regulations of Directive 2013/34/EU of the European Parliament and of the Council, as amended, and containing an auditors' report.

2) Securities or money-market instruments recorded at the average price at which they have been traded on one or more regulated markets over the four weeks preceding the date of signing the memorandum of association. However, a valuation report must be prepared in accordance with section 36(1) if the central governing body of the limited liability company assesses that the average price is affected by extraordinary circumstances or that, for other reasons, the average price cannot be assumed to reflect the current value.

**(2)** The central governing body of the limited liability company is responsible for ensuring that contributions made under subsection (1) are not detrimental to the limited liability company, its shareholders or creditors, and must issue a declaration containing

1) a description of assets and liabilities (net assets) and their values,

2) information on the valuation method applied,

3) a statement that the values stated correspond at least to the value of and, if applicable, the premium on the shares to be issued as consideration for the contribution, and

4) a statement that no new circumstances significant for the original valuation have occurred.

**(3)** The central governing body must publish its declaration under subsection (2) in the IT system at the Danish Business Authority no later than the date of registration or application for registration of the company formation.

*Election of management and auditor, if any, etc.*

**39.** Where the management and auditor, if any, of the limited liability company have not been elected in connection with the formation of the company, the founders must hold a general meeting to elect the management and auditor, if any, by no later than two weeks after signing the memorandum of association. The company formation and the elected management and auditor, if any, must be registered or an application for registration must be submitted as provided in section 9.

*Registration*

**40.-(1)** The limited liability company must be registered in the IT system at the Danish Business Authority or an application for registration must be submitted as provided in section 9 by no later than two weeks after the date of signing the memorandum of association. If no registration has been made or no application for registration has been received by the Danish Business Authority before expiry of the two-week period, the registration cannot take place.

**(2)** The limited liability company cannot be registered unless at least 25% of the total capital, however no less than DKK 40,000, cf. section 4(2), has been paid, cf. section 33(1), 1st sentence. Where a premium has

been fixed, this must be paid as provided in section 33(1). In connection with registration or application for registration pursuant to subsection (1), evidence must be provided to demonstrate that the capital has been paid to the company by no later than at the time of registration or application for registration.

**(3)** The formation of a limited liability company will have legal effect from the date of signing the memorandum of association, or from a later date specified in the memorandum of association, without prejudice to subsections (4) and (5).

**(4)** If the share capital is paid by way of cash contributions, the formation may not take legal effect more than 12 months after the memorandum of association has been signed.

**(5)** If, in connection with its formation, a limited liability company is to acquire assets other than cash, the formation may not take legal effect later than the date of registration or application for registration of the company, cf. subsection (1).

**(6)** If, in connection with its formation, a limited liability company acquires an existing undertaking or a controlling ownership interest in another undertaking, the formation may take effect for accounting purposes from the first day of the current financial year of the undertaking acquired, or in which an ownership interest has been acquired.

**41.-(1)** A limited liability company that has not been registered may not acquire rights, enter into commitments or be a party to legal proceedings, apart from proceedings to recover subscribed share capital and other proceedings relating to the subscription for shares. The company must add the words "*under stiftelse*" (in the process of formation) to its name.

**(2)** Where a limited liability company is formed with a date of legal effect, cf. section 40(3)-(5), that postdates the date of signing the memorandum of association, no rights may be acquired and no commitments may be entered into on behalf of the limited liability company in the period until the company formation takes legal effect.

**(3)** The persons who have entered into a commitment on behalf of the limited liability company after the date of signing the memorandum of association, but before the date of registration, or who have joint responsibility in this regard, will be jointly and severally liable for such commitment. Upon registration, the limited liability company acquires the rights and obligations stipulated in the memorandum of association or conferred on the limited liability company after the signing of the memorandum of association.

**(4)** Where an agreement was entered into prior to registration of a limited liability company, and the other contracting party knew that the limited liability company had not been registered, the other party may cancel the agreement if registration in the IT system at the Danish Business Authority has not taken place on or before expiry of the time limit specified in section 40(1), or if registration is refused. However, this will not apply if otherwise agreed. If the other contracting party was not aware that the limited liability company had not been registered, this party may cancel the agreement as long as the limited liability company remains unregistered.

#### *Subsequent acquisitions*

**42.** The central governing body of a limited liability company is responsible for ensuring that the acquisition of assets from founders, shareholders and members of the limited liability company's management is not detrimental to the company, its shareholders or its creditors.

**42a.-(1)** Acquisition by a public limited liability company of assets from a founder is subject to approval by the general meeting if

1) the acquisition takes place in the period between the date of signing the memorandum of association and 24 months after the date of registration of the public limited liability company, and

2) the consideration corresponds to no less than one-tenth of the share capital.

**(2)** In order for the general meeting to pass a resolution on approval of the acquisition, the central governing body of the public limited liability company must prepare an account on the circumstances related to the acquisition.

**43.-(1)** Where a public limited liability company acquires assets from a founder, and such acquisition is covered by section 42a(1), a valuation report must be prepared pursuant to the provisions in sections 36 and 37, unless the acquisition is covered by section 38.

**(2)** However, if the asset acquired under subsection (1) is an existing undertaking, the balance sheet to be prepared under section 36(3) must be prepared as a pre-acquisition balance sheet for the acquired undertaking.

**44.-(1)** The central governing body must publish the account, cf. section 42a(2), and the valuation report or letter of representation by the management, cf. section 43, in the IT system at the Danish Business Authority by no later than two weeks after approval of the acquisition by the general meeting.

**(2)** Sections 42a and 43 do not apply to the usual business transactions of the public limited liability company.

#### Part 4

##### *Shares, registers of shareholders, etc.*

##### *Shares*

**45.** In limited liability companies, all shares carry equal rights. However, the statutes may provide that the company must have different share classes. In this case, the statutes must specify the differences between each share class, and the size of each class.

**46.-(1)** All shares carry voting rights. However, the statutes of a limited liability company may provide that certain shares carry no voting rights, and that the voting power of certain shares differs from that of other shares.

**(2)** Non-voting shares only carry a right of representation if so provided by the statutes.

**47.-(1)** A limited liability company may issue par value shares or non-par value shares, or a combination of such shares.

**(2)** Non-par value shares have no nominal value. Each non-par value share represents an equal part of the share capital.

**(3)** The part of the share capital represented by par value shares is based on the ratio between the nominal value and the share capital, and the part of the share capital represented by non-par value shares is based on the number of shares issued.

**48.-(1)** Shares are freely transferable and non-redeemable, unless otherwise provided by law.

**(2)** Shares may be issued in the name of the holder. In this case, the statutes may impose restrictions on transferability, or provisions on redemption.

**49.-(1)** No transferee of a registered share can exercise the rights conferred on a shareholder, unless the transferee is registered in the register of shareholders or the transferee has applied for and documented his acquisition.. However, this does not apply to the right to dividends and other payments, and the right to subscribe for new shares in connection with a capital increase.

**(2)** No transferee of one or more bearer shares may exercise the rights conferred on a shareholder, unless the transferee is registered in the IT system at the Danish Business Authority, cf. section 57a or 58, or has notified the company of the shareholding in accordance with section 55.

**(3)** The central governing body is responsible for verifying that a transferee meets the conditions set out in subsections (1) and (2).

#### *Identification of shareholders*

**49a.-(1)** Public limited liability companies which have shares with voting rights admitted to trading on a regulated market located or active in an EU/EEA Member State, are entitled to request that intermediaries provide the information required in order for the public limited liability company to determine the identity of the shareholders of the public limited company, including

- 1) the shareholder's full name, email address, if any, and residential address and country of residence, or, in the case of undertakings, registered office and Central Business Register (CVR) number or similar registration number or other documentation ensuring unambiguous identification of the undertaking in question,
- 2) the number of shares held by the shareholder,
- 3) the share classes, and
- 4) the date of acquisition of the shares.

**(2)** The public limited liability company may hold information on the shareholders' identity for up to 12 months after the public limited liability company became aware that the shareholder in question ceased to be a shareholder, unless otherwise provided by other legislation.

**(3)** Shareholders who are legal persons have the right to rectify incomplete or inaccurate information held by the public limited liability company, cf. subsection (2).

**(4)** The public limited liability company must provide intermediaries, in a timely and standardised manner, with the information that the public limited liability company is obliged to provide to shareholders. If the relevant information is available on the website of the public limited liability company, the public limited liability company can instead provide information about where on the website the information can be found.

**(5)** Subsection (4) does not apply when a public limited liability company sends the information or a notification in accordance with subsection (4), 1st sentence, directly to all its shareholders or to a third party appointed by the shareholders.

#### *Register of shareholders*

**50.-(1)** As soon as possible after the establishment of a company, the central governing body must set up a register of all shareholders.

**(2)** The company may keep the register of shareholders by registering the information specified in sections 52 and 56(2) in the IT system at the Danish Business Authority, cf. section 58.

**(3)** The statutes may provide that the register of shareholders be kept by a person appointed by the company on the company's behalf. The statutes must include information on the name and address of the person keeping the register of shareholders. If it is a legal person, only the Central Business Register (CVR) number is required. The Danish Business Authority may lay down more detailed regulations allowing persons to keep registers of shareholders, including the conditions that such persons must meet.

**51.-(1)** The register of shareholders must be available to the public authorities. The statutes must specify the place where the register of shareholders is kept if it is not kept at the company's registered office. The register of shareholders must be kept within the EU/EEA.

**(2)** In companies where the employees have a right to elect members of the company's supreme governing body under section 140, but where such right has not been exercised, the register of shareholders must also be available to an employee representative. For groups whose employees have not elected representatives to the company's supreme governing body under section 141, the register of shareholders of the parent company must be available to an employee representative in the other Danish group companies.

**(3)** Subsection (2) which applies to companies with no employee representatives on the board of directors applies correspondingly to European Companies (SEs) in which no employee representatives have been elected to the administrative body or supervisory body in accordance with the regulations on employee involvement in SEs.

**(4)** The statutes may provide that the register of shareholders must also be available to the shareholders, including in electronic form, without prejudice to subsections (5) and (6). A resolution to this effect must be passed by the general meeting with the majority of votes required to amend the statutes.

**(5)** Where the register of shareholders is available in electronic form as specified in section 50(2), the company can fulfil its obligations under subsections (1)-(4) by giving those entitled to access the register under subsections (1)-(4) access to the electronic register of shareholders. The company's obligations are met if the company reports the information set out in section 52 to the IT system at the Danish Business Authority (the ownership register), cf. section 58(1) and (2).

**(6)** In private limited liability companies, the register of shareholders must be available to all shareholders.

**52.-(1)** The register of shareholders of a limited liability company which has issued registered shares must include the following information, without prejudice to subsection (3):

1) The shareholders' aggregate shareholding.

2) The name, residential address and country of residence of shareholders and charge holders, and, in the case of undertakings, their name, Central Business Register (CVR) number and registered office, cf. subsection (2).

3) The date of acquisition, disposal of or charge over the shares, including the size of the shares.

4) The voting rights attaching to the shares.

**(2)** If the shareholder or charge holder is a foreign national or a foreign legal person, the notification, cf. section 53(1), must be accompanied by other documentation ensuring unambiguous identification of the shareholder or charge holder.

**(3)** Subsections (1) and (2) do not apply to public limited liability companies which have issued share certificates or whose shares have been issued through a central securities depository.

**53.-(1)** The shareholder or charge holder must notify the limited liability company of any change in share ownership or any charge. Notification from the shareholder or charge holder must be received by the company no later than two weeks after the date of the change of ownership or charge. The notification must contain the information about the new shareholder or charge holder specified in section 52. Where shares are transferred, the name of the new holder need not be registered, without prejudice to subsection (4).

**(2)** Any notification of change of share ownership or a charge must be entered in the register of shareholders with information about the new shareholder or charge holder, provided that the statutes do not prevent the acquisition. The company, or the keeper of the register of shareholders, respectively, may make registration subject to the transferee or the charge holder documenting their right. Entries in the register of shareholders must be dated.

**(3)** At the request of a shareholder or charge holder, the company, or the keeper of the register of shareholders, respectively, must provide evidence of registration in the register of shareholders.

**(4)** The limited liability company, or the keeper of the register of shareholders, respectively, must endorse the share certificate to the effect that registration has taken place, or, if so provided by the statutes, issue evidence of registration subject to the share certificate being deposited.

**54.** The register of shareholders of a public limited liability company which has issued bearer shares must include serial number information.

#### *Notification of significant shareholdings*

**55.-(1)** Any holder of shares in a limited liability company must notify the company if

1) the voting rights attaching to the shares represent at least 5% of the share capital voting rights, or represent at least 5% of the share capital, or

2) any change occurs to a previously notified shareholding such that the 5, 10, 15, 20, 25, 50, 90 or 100% thresholds and the thresholds of one-third or two-thirds of the voting rights of the share capital or of the share capital are reached or no longer reached.

**(2)** Shareholdings under subsection (1) include

1) shares whose voting rights are held by an undertaking controlled by the holder as specified in section 7, and

2) shares that the holder has provided as collateral, unless the charge holder controls the voting rights and declares an intention to exercise these rights.

**(3)** The Danish Business Authority may lay down more detailed regulations on the holding of shares and notification of shareholdings under subsections (1) and (2). Furthermore, the Danish Business Authority may lay down regulations deviating from subsection (1) with respect to shares in public limited liability

companies whose shares are admitted to trading on a regulated market or a multilateral trading facility, including regulations on a shorter notice period.

**56.-(1)** Notification under section 55 must be provided to the company by no later than two weeks after one of the thresholds specified in section 55(1) has been reached or is no longer reached. The company must register the information in its register of shareholders.

**(2)** The notification must include information on the date of acquisition or disposal of shares, the number of shares and the class of shares, if applicable, the full name, residential address, country of residence and civil registration number (CPR number) of the shareholder, or, in the case of undertakings, their name, Central Business Register (CVR) number and registered office. If the shareholder does not have a CPR number or a CVR number, the notification must be accompanied by other documentation ensuring unambiguous identification of the shareholder. The Danish Business Authority may lay down more detailed regulations in this respect.

**(3)** The notification must also include information on the size and nominal value of the shares and the voting rights attaching to them. Notification to the company may be provided in connection with the notification to be provided under section 53(1).

**57.** The Danish Business Authority lays down regulations on notification under section 55 concerning shareholdings in state-owned public limited liability companies, including regulations on

1) the definition of a shareholding, and

2) notification to the company taking place as soon as possible.

#### *Registration of minor holdings of bearer shares*

**57a.-(1)** Any transferee of one or more bearer shares who holds less than 5% of the share capital's voting rights, or less than 5% of the share capital, must be registered in the IT system at the Danish Business Authority by no later than two weeks after the acquisition, without prejudice to subsection (4).

**(2)** The registration under subsection (1) must include information on the date of acquisition, the number of bearer shares and the full name, residential address, country of residence and civil registration number (CPR number) of the transferee, or, in the case of undertakings, their name, Central Business Register (CVR) number and registered office. If the transferee does not have a CPR number or a CVR number, other information must be registered to ensure unambiguous identification of the transferee.

**(3)** When transferring one or more bearer shares registered in accordance with subsection (1), by no later than two weeks after the transfer, registration must be made in the IT system at the Danish Business Authority, stating that the transferor no longer holds the shares, and the date of the transfer must be registered, without prejudice to subsection (4).

**(4)** The duty of registration under subsections (1) and (3) does not apply if the bearer shares which have been acquired and transferred, respectively, have been admitted to trading on a regulated market.

**(5)** Information registered pursuant to subsections (1) and (3) may only be disclosed to other public authorities. Disclosure of the information may only take place if the information is necessary to enable the public authority to carry out its supervisory and regulatory duties, and if the disclosure takes place in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016



on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and the Data Protection Act.

**(6)** The Danish Business Authority lays down more detailed regulations on registration of ownership information on bearer shares in the IT system at the Danish Business Authority, including which information the transferee or transferor may or must register in the IT system themselves.

#### *Ownership register*

**58.-(1)** Upon establishment a limited liability company, by no later than at the time of registration of the company, cf. section 9, registration must be made of the company's shareholders having significant shareholdings, cf. section 55(1), or registration must be made that the company has no shareholders with such significant shareholdings.

**(2)** Furthermore, the company must register, as soon as possible, any change in the information covered by subsection (1), including that the thresholds in section 55(1) have been reached or are no longer reached.

**(3)** Information received pursuant to subsections (1) and (2) is published in the IT system at the Danish Business Authority. The regulations on registration in Part 2 apply correspondingly.

**58a.-(1)** The limited liability company must obtain information on the beneficial owners of the company, including the details of the beneficial interests held..

**(2)** Any person who, directly or indirectly, owns or controls the limited liability company, must, at the request of the company, provide the company with the ownership information necessary for the company to identify beneficial owners, including the details of the beneficial interests held.

**(3)** The limited liability company must register information concerning the company's beneficial owners, including information about the rights of the beneficial owners, in the IT system at the Danish Business Authority as soon as possible after the company becomes aware that a person has become a beneficial owner. Any change to the information registered about the beneficial owners must be registered as soon as possible after the company has become aware of the change. The registered members of the executive board of the limited liability company, cf. section 10(1), are to be considered and registered as beneficial owners in the IT system at the Danish Business Authority, if, after exhausting all opportunities for identification, the company has no beneficial owners or no beneficial owners can be identified.

**(4)** The limited liability company must review at least once a year whether there are changes to the information registered about the company's beneficial owners. The result of the annual review must be presented at the meeting at which the central governing body approves the annual report.

**(5)** The limited liability company must hold documentation of the information obtained on the company's beneficial owners for a period of five years after the beneficial ownership ceases to exist. The limited liability company must also hold documentation of the information obtained on any attempts at identifying beneficial owners for a period of five years after any such identification attempt.

**(6)** The limited liability company must provide, upon request, information on the company's beneficial owners, including the company's attempts at identifying its beneficial owners, to the Public Prosecutor for Serious Economic and International Crime. The limited liability company must moreover, upon request, provide the aforementioned information to other competent authorities, when these authorities assess that the information is necessary to carry out their supervisory or regulatory duties.

**(7)** The Public Prosecutor for Serious Economic and International Crime and other competent authorities may disclose, free of charge, information about beneficial owners registered, cf. subsection (3), or obtained, cf. subsection (6), to competent authorities or financial intelligence units in other EU Member States.

**(8)** Subsections (1)-(7) do not apply to limited liability companies whose ownership interests or bonds are traded on a regulated market or an equivalent market that is subject to disclosure requirements consistent with EU law or equivalent international standards.

**(9)** The Danish Business Authority lays down more detailed regulations regarding registration, availability and publication according to subsections (1), (3) and (5) in the IT system at the Danish Business Authority, including which information the limited liability company must register in the IT system at the Authority.

**58b.** Upon establishment of a limited liability company, by no later than at the time of registration of the company, cf. section 9(1), information on the beneficial owners of the company must be obtained and registered, including the details of the beneficial interests held..

**58c.-(1)** Limited liability companies that must obtain, hold and register information on beneficial owners, cf. section 58a, must, upon request, provide persons and undertakings which, pursuant to the Anti-Money Laundering Act must apply customer due diligence measures, with ownership information on the company.

**(2)** If, pursuant to the Anti-Money Laundering Act, the Danish Business Authority receives reports of discrepancies with regard to the information registered about the beneficial owners of a limited liability company, the Danish Business Authority will conduct an inquiry into the matter, cf. section 23b(1) and section 58a(6). The Danish Business Authority may stipulate a time limit for the limited liability company for rectification of the matter.

**(3)** Simultaneously with the inquiry, cf. subsection (2), the Danish Business Authority may publish a notification about the report in the IT system at the Danish Business Authority. The limited liability company must be offered the option to object to the report before it is made public, unless the purpose of publishing the announcement of the report will thereby be compromised.

#### *Share certificates*

**59.** A share certificate may include one or more shares. A share certificate including more than one share must state the denomination of each share and, if applicable, their nominal values. A share certificate issued for one or more bearer shares must state the serial numbers of the individual bearer shares.

**60.-(1)** The central governing body may decide to issue and cancel share certificates. Share certificates may only be issued if so provided by the statutes, without prejudice to section 64(1), or where the share certificates are negotiable instruments or issued to bearer, in which case share certificates must be issued for all shares, unless the share certificates are issued through a central securities depository.

**(2)** However, if shares are subject to restrictions on transferability or the shareholders are obliged to have their shares redeemed, share certificates cannot be issued to bearer, and no transfer of share certificates to bearer will be binding on the public limited liability company.

**(3)** No share certificates may be surrendered until the capital subscription has been registered in the IT system at the Danish Business Authority. Registered shares may only be surrendered to shareholders registered in the company's register of shareholders.

**(4)** Share certificates must state the name, registered office and registration number of the company, the denomination or nominal value of the share, and, in the case of bearer shares, the serial number. The share certificates must also state whether the certificate is to be registered in the name of the holder or whether it may be issued to bearer, and the date or month of issue. Share certificates must be signed by the central governing body. However, the signature may be mechanically reproduced.

**(5)** If, according to the statutes, shares of different classes may be issued, the share certificate must state the class of the share.

**(6)** Share certificates must also state the provisions of the statutes stipulating

- 1) that the shares must be registered shares in order to carry voting rights,
- 2) that special rights attach to some of the shares,
- 3) that shareholders must be obliged to have their shares redeemed,
- 4) that the shares must not be negotiable instruments,
- 5) that the shares are subject to restrictions on transferability, and
- 6) that it must be possible to cancel the shares without a court order.

**(7)** Share certificates must contain a proviso that, after the date of issue, a resolution may have been adopted on the matters described in subsection (6), nos. 3-5, that changes the legal position of the shareholder. Where such changes are made, the central governing body must take all reasonable steps to ensure that the share certificates be endorsed accordingly, or replaced by new share certificates.

*Shares issued through a central securities depository*

**61.-(1)** For shares issued through a central securities depository, the central governing body of the limited liability company must ensure that the central securities depository receives the following information, as well as any subsequent changes to such information, as soon as possible:

- 1) The company's name, registered office, postal address and registration number in the register of limited liability companies.
- 2) The company's share capital, including the number and denomination of shares, and, in the case of registered shares, also the name and address of the shareholder. If there are different share classes, information on each class must be provided.
- 3) Any particular rights or obligations attaching to specific shares.
- 4) Any requirement for the shares to be registered in order to carry voting rights.

**(2)** No shares may be issued through a central securities depository until the company has been registered in the IT system at the Danish Business Authority.

**(3)** In connection with capital increases, the central governing body must ensure that pre-emption rights and rights to bonus shares are registered, stating the number of rights required for new shares. For new shares, the date from which they confer rights in the company must be specified. If the capital increase has not been registered in the register of limited liability companies, or if a share has not yet been fully paid up, the central governing body must ensure that this information is registered in a central securities depository.

**(4)** The central governing body must ensure that completion of a capital reduction, and the amount of such reduction, are registered in a central securities depository as soon as possible after completion.

**(5)** The Danish Business Authority may lay down more detailed regulations on the information to be provided under subsections (1)-(4).

**62.-(1)** If the shares in a public limited liability company are to be issued through a central securities depository, the company must provide the central securities depository with the information specified in section 61 as soon as possible.

**(2)** Any shares in the public limited liability company must be surrendered to an account-holding institution in the manner prescribed in the call for registration from a central securities depository. The shareholder and the company must provide the information prescribed in the call.

**(3)** The public limited liability company must pay all costs associated with issuing shares, etc. through a central securities depository. The public limited liability company must enter into an agreement with one or more account-holding institutions stipulating that the shareholders may, at the public limited company's expense,

1) have their shares, etc. registered and held in safekeeping by such institutions, and

2) receive notification of dividends, etc. and an annual statement of account.

**(4)** The shareholders are entitled to appoint an account-holding institution of their choice to provide, at the company's expense, the services listed in nos. 1 and 2, provided that such institution agrees to provide these services at the same cost that the public limited liability company would have been charged by the institution with which the company has made an agreement.

**63.** In the event that three years have passed after a call for registration in a central securities depository, and not all shares covered by a call for registration have been registered in the central securities depository, the central governing body may, through an announcement in the IT system at the Danish Business Authority, request that shareholders register their shares within a period of six months. Upon expiry of this period, if registration has not taken place, the central governing body may sell unregistered shares, at the expense of the relevant shareholder, through a securities dealer, cf. section 9(1) of the Financial Business Act, as well as foreign credit institutions, investment companies and management companies or branches of foreign credit institutions and investment companies covered by section 1(3), sections 30, 31, 33 and 33a of the Financial Business Act, which lawfully conduct securities trading in Denmark. The public limited liability company may deduct the expenses incurred in connection with the announcement and sale of the shares from the sales proceeds. Any sales proceeds not claimed within three years after the sale will accrue to the public limited liability company.

#### *Cancellation of share certificates*

**64.-(1)** Where a company's shares have been admitted to trading on a regulated market, the shareholders cannot demand that share certificates be issued.

**(2)** Where a limited liability company has issued share certificates, the company may call in these share certificates for cancellation at no less than three months' notice in accordance with the provisions in this Act and the company's statutes concerning notices of the company's annual general meeting, and by written notification to all shareholders registered in the register of shareholders. The rights conferred on a shareholder may not be exercised until the share certificate has been surrendered to the limited liability

company. However, this does not apply to the right to dividends and other payments, or to the right to subscribe for new shares in connection with a capital increase.

**(3)** Subsection (1) does not apply to shares that are negotiable instruments or bearer shares.

#### *Transfer of shares*

**65.-(1)** Any transfer of a share that has not been issued through a central securities depository, or for which no share certificate has been issued in ownership or by way of security, will not be effective against the creditors of the transferor unless the limited liability company or the keeper of the register of shareholders, cf. section 50(3), has received notification of such transfer from the transferor or the transferee.

**(2)** Where a shareholder has transferred the same share to more than one transferee and the share is governed by subsection (1), any subsequent transferee takes priority over prior transferees once the limited liability company or the keeper of the register of shareholders, cf. section 50(3), has received notification of the transfer to the subsequent transferee, and the subsequent transferee acted in good faith when the limited liability company or the keeper of the register of shareholders received the notification.

**66.-(1)** Where a share certificate is transferred in ownership or by way of security, the provisions of section 14(1) and (2) of the Debt Instruments Act apply correspondingly. However, this does not apply if a clear and unambiguous reservation has been made on the share certificate in accordance with a provision in the statutes of the limited liability company, e.g. stipulating that it is a non-negotiable instrument. A share certificate issued to the bearer remains a bearer security even if it is endorsed by the public limited liability company to the effect that the share is registered in the name of the owner, if the owner's name is not stated on the certificate.

**(2)** The provisions of sections 24 and 25 of the Debt Instruments Act apply to dividend coupons.

**(3)** Share certificates may be cancelled without a court order only when the statutes of the limited liability company and the share certificate provide for such cancellation. Notice of cancellation must be registered in the IT system at the Danish Business Authority subject to the following notice periods:

1) No less than four weeks in cases of cancellation of share certificates which are not negotiable instruments, and

2) no less than six months in cases of cancellation of other share certificates.

**(4)** The provisions of subsection (3) apply correspondingly to coupons and talons. Coupon sheets and the accompanying share certificates may be cancelled without a court order unless otherwise provided by the statutes.

### Part 5

#### *Restrictions on negotiability and redemption*

##### *Pre-emption rights*

**67.-(1)** If the statutes grant pre-emption rights to shareholders or others in the event of a transfer of shares, the statutes must include detailed regulations on such pre-emption rights, including the time allowed for exercising such rights. If these provisions lead to a price or terms that are clearly unreasonable, they may be set aside in whole or in part by a court order.

**(2)** For the purpose of the main hearing, cf. subsection (1), 2nd sentence, the parties may rely on the regulations in subsection (3) and have an expert appointed to assess whether the price seems clearly unreasonable and to determine an appropriate price

**(3)** If the statutes do not include any provisions about calculating the price payable on the exercise of pre-emption rights, in the absence of agreement, the price must be fixed at the value of the shares as assessed by an expert appointed by the court with jurisdiction over the place where the registered office of the limited liability company is situated. The expert's opinion may be brought before the court. Such legal proceedings must be commenced within three months of receipt of the expert opinion. All costs pertaining to the expert must be paid by the shareholder requesting the expert opinion, but may be imposed on the company if the expert opinion differs significantly from the price and is used in whole or in part as a basis for a new price.

**(4)** Where more than one share is transferred, the pre-emption rights cannot be exercised for only some of the shares unless this is authorised by the statutes.

#### *Consent to sale*

**68.-(1)** If the statutes contain provisions on consent for transfer of shares, a decision as to consent must be made as soon as possible after receipt of a request for consent. The person requesting such consent must be notified of the decision as soon as possible. If no notification has been given within four weeks of receipt of the request, consent will be deemed to have been given.

**(2)** If the statutes make the transfer of shares subject to consent from the limited liability company, the company's central governing body must make the decision, unless such decision is to be made by the general meeting. The reason for any refusal of consent must be stated in the notification, cf. subsection (1).

#### *Redemption*

**69.** If the statutes include provisions on redemption, such provisions must specify the terms of redemption and the persons entitled to demand redemption. Section 67 applies correspondingly. The shares held by a shareholder may only be redeemed in aggregate, unless otherwise provided by the statutes.

**70.-(1)** Any shareholder holding more than nine-tenths of the shares in a limited liability company and a corresponding share of the votes may demand that the minority shareholders of the limited liability company have their shares redeemed to that shareholder. In this case, under the regulations governing notice for general meetings, the minority shareholders must be requested to transfer their shares to the shareholder to which the shares are to be redeemed by no more than four weeks after receiving the request. Through an announcement in the IT system at the Danish Business Authority and with the same notice, the minority shareholders must also be requested to transfer shares to the shareholder to which the shares are to be redeemed.

**(2)** The terms of redemption and the basis of assessment used in determining the redemption price must be set out in the request. It must also be stated that, in the event that no agreement can be reached on the redemption price, such redemption price will be fixed under the regulations in section 67(3) by an expert appointed by the court with jurisdiction over the place where the registered office of the limited liability company is situated. If the redemption is carried out for the purpose of a takeover bid under the regulations in Part 8 of the Capital Markets Act, the regulations in that Act on price determination apply to the redemption, unless a minority shareholder submits a request to the shareholder to which the shares are to be redeemed that the price be fixed by an expert, without prejudice to subsection (4). The request

must also include the information referred to in subsection (3), 1st sentence. Furthermore, the request must contain a statement from the central governing body of the limited liability company on all the terms of redemption. Finally, it must be notified that, after expiry of the time limit in subsection (1), 2nd sentence, the shares will be listed in the name of the shareholder to which the shares are to be redeemed in the register of shareholders of the limited liability company in accordance with section 72(1) and (2). The previous, now redeemed, minority shareholders will, however, maintain their right to demand an expert opinion, cf. section 72(3). The same information must appear in the announcement pursuant to subsection (1), 3rd sentence.

**(3)** Where the expert opinion or a decision pursuant to section 67(3) leads to a higher redemption price than that offered by the shareholder to which the shares are to be redeemed, the higher price will also be valid for the minority holders of shares of the same class who have not requested an opinion. The costs pertaining to the price determination are payable by the shareholder who has requested such determination. Where an opinion or decision leads to a redemption price that is higher than that offered by the shareholder to which the shares are to be redeemed, the court that appointed the expert may order the shareholder to which the shares are to be redeemed to pay the costs in whole or in part.

**(4)** In the case of redemption following a voluntary bid, under all circumstances the price will be considered reasonable if bids are accepted from the bidder such that the bidder has acquired no less than 90% of the capital carrying voting rights covered by the bid. In the case of redemption under a mandatory bid, the consideration in the bid will be considered reasonable under all circumstances.

**71.-(1)** If an acquisition of shares in a limited liability company which has one or more shares admitted to trading on a regulated market in a Member State of the European Union or a country with which the Union has entered into an agreement for the financial area leads to redemption under section 70(1) or to an obligation to make a bid under section 45 of the Capital Markets Act, the price determination regulations provided for in the Capital Markets Act will apply, unless a minority shareholder requests that the price be determined by an expert, cf. section 67(3).

**(2)** If the redemption is carried out for the purpose of a takeover bid, cf. section 70(2), 3rd sentence, the consideration for the redemption may be in the same form as specified in the bidder's initial takeover bid, or it may be payable in cash. Minority shareholders are always permitted to demand cash payment as consideration for redemption.

**(3)** Any request for redemption in connection with a takeover bid, cf. section 70(2), 3rd sentence, must be made by no less than three months after expiry of the bid period stipulated in the bidder's takeover bid.

**(4)** The Danish Business Authority stipulates regulations governing bidder redemptions of shares held by the other shareholders, including how share acquisitions are to be determined in connection with a takeover bid, cf. section 70(2), 3rd sentence.

**72.-(1)** If all of the minority shareholders have not transferred their shares to the shareholder to which the shares are to be redeemed within the time limit provided for in section 70(1), 2nd sentence, the shareholder to which the shares are to be redeemed must, as soon as possible, without qualifications and in favour of the minority shareholders, deposit the amount necessary to redeem the shares that have not been transferred, cf. the Escrow Account Act. If the shares have been issued through a central securities depository, the shareholder to which the shares are to be redeemed must pay the redemption amount to the relevant minority shareholders via the issuing central securities depository.

**(2)** Simultaneously with the deposit or payment via the central securities depository, cf. subsection (1), 2nd sentence, any share certificates for the redeemed shares will be considered cancelled. The company's central governing body must ensure that the new share certificates are endorsed to the effect that they replace the cancelled share certificates.

**(3)** Through an announcement in the IT system at the Danish Business Authority and with notice of no less than three months, the previous, now redeemed, shareholders must be notified that their right to demand an expert opinion, cf. section 67(3), will lapse at the end of the time limit. Furthermore, the date of any expert opinion or judgement pursuant to section 67 (3) must be disclosed.

**73.** If a shareholder holds more than nine-tenths of the shares in a company and a corresponding share of the votes, each minority shareholder in the company may demand redemption to that shareholder. Section 67(3), section 70(2), 2nd sentence, and subsection (3), 2nd and 3rd sentence, apply correspondingly.

#### *Amortisation*

**74.-(1)** The statutes of a limited liability company may include provisions on a reduction of the share capital by redemption of shares (amortisation), including provisions on the amortisation process.

**(2)** Amortisation may be by the shareholders, cf. subsection (1), being paid by the issue of bonds if so provided in the statutes.

**(3)** The central governing body may implement amortisation in respect of shares subscribed to after inclusion of the provisions on reduction of the share capital in the statutes. Amendments to the statutes consequential upon implementation of the amortisation may be adopted by the central governing body.

**(4)** For capital reductions by way of amortisation, publication need not be made of a request asking creditors of the limited liability company to file their claims against the company in the IT system at the Danish Business Authority, provided that the following conditions are met:

- 1) The reduction is by cancellation of fully paid-up shares.
- 2) The shares have been acquired either without payment of consideration or for consideration that does not exceed the amount which may be used for dividends, including by the issue of bonds.
- 3) An amount corresponding to the nominal value per share cancelled is transferred to a special fund.

**75.** (Repealed)

### Part 6

#### *General Meeting*

##### *Shareholders' rights to pass resolutions*

**76.-(1)** The shareholders' right to pass resolutions are exercised at the general meetings of the limited liability company.

**(2)** Shareholders may pass resolutions at a general meeting without complying with the requirements as to form and notice in this Act and the statutes, provided that all shareholders agree to do so, without prejudice to subsection (5).

**(3)** Resolutions passed by shareholders at a general meeting may, in general, be passed without complying with the rules on form and notice provided by this Act, without prejudice to subsection (5). A resolution to



that effect must be passed by unanimous agreement, and regulations that provide for passing such resolutions must be set out in the statutes. Section 106 applies to any amendment to or abolition of such regulations. However, where shareholders holding more than 10% of the share capital so request, general meetings must be held by physical attendance.

**(4)** The central governing body may decide that persons other than those specified in this Act are entitled to attend general meetings, unless otherwise provided by the statutes.

**(5)** Shareholders of state-owned public limited liability companies and public limited liability companies whose shares are admitted to trading on a regulated market in a Member State of the European Union or in a country with which the Union has entered into an agreement for the financial area may not pass resolutions without complying with the regulations on form and notice provided by this Act, cf. subsections (2) and (3). This also applies to public limited liability companies where it is laid down by law or an executive order that the press must have access to the general meeting.

**(6)** General meetings of state-owned public limited liability companies must be open to the press.

#### *Electronic general meetings*

**77.-(1)** Unless otherwise provided by the statutes, the central governing body may decide that, in addition to a right to physical attendance at general meetings, shareholders may be given the right to attend electronically, including using electronic voting that does not require physical attendance at the meeting, so that the general meeting will be partly electronic, cf. subsections (3)-(6).

**(2)** The general meeting may resolve to hold general meetings electronically without any opportunity to attend physically, so that the meeting is held by electronic means alone, cf. subsections (3)-(6). A resolution to this effect must explain how electronic media can be used to attend the general meeting. The resolution must be recorded in the statutes. Section 106 applies to the resolution and to any amendments to it.

**(3)** The central governing body stipulates more detailed requirements for the electronic systems to be used to conduct general meetings that are held electronically, in whole or in part. The notice convening the general meeting must specify these requirements and explain how shareholders can register to attend the general meeting electronically and where they can find information about the procedure for attending.

**(4)** General meetings may only be held electronically, in whole or part, if the central governing body of the limited liability company ensures that the general meeting can be properly conducted. The system used must be set up in a manner that satisfies the requirements of this Act for holding general meetings, including shareholder rights to attend, speak and vote at general meetings. The system must also be able to determine reliably which shareholders attend the general meeting, the capital and voting rights represented by them, and the outcome of voting.

**(5)** If a public limited liability company has issued bearer shares without specifying a date of registration, cf. section 84, the notice convening the general meeting, cf. subsection (3), must also specify how the holders of such shares are to establish their right to attend the general meeting electronically.

**(6)** All of the provisions in this Act that regulate the holding of general meetings apply correspondingly, with any necessary derogations, to general meetings conducted in whole or in part by electronic means.

#### *Meeting and voting rights, etc.*

**78.** All shareholders are entitled to attend and speak at general meetings, without prejudice to section 84(1).

**79.** If a share is jointly held by multiple shareholders, the rights attaching to the share may only be exercised against the limited liability company by a proxy holder jointly appointed by such shareholders.

**80.-(1)** All shareholders are entitled to attend general meetings by proxy.

**(2)** The proxy holder must provide a written and dated proxy. Proxy appointments may be revoked at any time. Notification of revocation must be given in writing and may be by contacting the limited liability company. Shareholders may make and revoke proxy appointments electronically.

**(3)** If a proxy holder has been appointed by more than one shareholder, the proxy holder may vote differently on behalf of the different shareholders.

**(4)** Any public limited liability company whose shares are admitted to trading on a regulated market must make hard copy or electronic proxy forms available to all shareholders entitled to vote at general meetings and must offer the shareholders at least one method of notifying the public limited liability company of electronic proxy appointments. The appointment of a proxy holder, the notification of the appointment to the public limited liability company, and the issue of any voting instructions to the proxy holder may only be made subject to such formal requirements as are necessary and reasonable to identify the shareholder and the proxy holder and to verify the contents of the voting instructions, and only to a reasonable extent in relation to these objectives. This also applies to the revocation of proxy appointments.

**81.** All shareholders or proxy holders may attend general meetings with an adviser.

**82.** Shareholders' agreements are not binding on the limited liability company and the resolutions passed by the general meeting.

**83.** If a public limited liability company whose shares are admitted to trading on a regulated market has designated a financial institution through which the company's shareholders may exercise their financial rights, the shareholders must be notified of this.

**84.-(1)** In public limited liability companies whose shares are admitted to trading on a regulated market, a shareholder's right to attend a general meeting and to vote on their shares must be determined on the basis of the shares held by the shareholder at the date of registration.

**(2)** A shareholder's shareholding and voting rights must be determined with respect to the shares held on the record date on the basis of the shareholder information registered in the register of shareholders as well as information about ownership that the public limited liability company has received for insertion in the register of shareholders.

**(3)** The record date is one week before the general meeting.

**(4)** The statutes may provide that shareholders are required to notify the public limited liability company that they will attend a general meeting by no later than three days before the date of the general meeting. Notification of attendance will not prevent the shareholder from deciding to be represented by a proxy holder after notification has taken place.

**(5)** In public limited liability companies whose shares are not admitted to trading on a regulated market, and in private limited liability companies, the statutes may provide the following:

1) Subsections (1)-(3) apply correspondingly.

2) Subsection (4) applies correspondingly.

**85.** Voting rights may not be exercised where they attach to shares held by a limited liability company itself, or to shares in a parent company that are held by a subsidiary. Own shares and shares held by a subsidiary in a parent company are excluded from calculations of voting and ownership interests. The 2nd sentence does not apply, however, for calculations of capital and voting interests pursuant to section 55.

**86.** A shareholder may not participate on their own behalf, by proxy or acting as a proxy holder for others, in any vote at a general meeting that relates to legal proceedings against the shareholder or that relates to the shareholder's liability to the limited liability company, or legal proceedings against others or relating to the liability of others if that shareholder has a significant interest in the matter which may be contrary to the interests of the limited liability company.

#### *Time and place*

**87.** General meetings must be held at the registered office of the limited liability company, unless the statutes specify another place at which the meetings must or can be held. If exceptional circumstances so require, a general meeting may, in isolated cases, be held elsewhere.

**88.-(1)** The annual general meeting must pass resolutions on

1) approval of the annual report,

2) appropriation of the profit or loss in accordance with the approved annual report,

3) any change to a resolution about auditing future financial statements etc. of the limited liability company if the limited liability company is not subject to audit obligations under the Financial Statements Act or any other legislation, and

4) other matters to be addressed by the general meeting pursuant to the statutes of the limited liability company.

**(2)** The annual general meeting must be held in time for the approved annual report to be submitted to the Danish Business Authority within the time limit specified in the Financial Statements Act. The annual report must be presented at the general meeting.

#### *Extraordinary general meetings*

**89.-(1)** Extraordinary general meetings must be held upon request from the central governing body, the supervisory board or the auditor elected by the general meeting.

**(2)** For private limited liability companies, any shareholder can request an extraordinary general meeting. Extraordinary general meetings to consider specific issues must be convened within two weeks of receipt of a request to such effect.

**(3)** For public limited liability companies, the statutes may provide that shareholders that hold 5% of the share capital, or any smaller fraction of the capital as prescribed by the statutes, or shareholders that are so authorised under the statutes, may request in writing that an extraordinary general meeting be held.

Extraordinary general meetings to consider specific issues must be convened within two weeks of receipt of a request to such effect.

#### *Agenda*

**90.-(1)** All shareholders are entitled to put items on the agenda for the annual general meeting, without prejudice to subsection (2).

**(2)** In public limited liability companies, shareholders must submit a written request to the central governing body to include a specific item on the agenda for the annual general meeting. Shareholders are entitled to have items included on the agenda for the general meeting where their request is received by the central governing body by no later than six weeks before the date of the meeting. If a public limited liability company receives the request later than six weeks before the date of the general meeting, the central governing body must decide whether the request has been made with enough time for the item to be included on the agenda.

**(3)** No later than eight weeks before the scheduled date for an annual general meeting, public limited liability companies whose shares are admitted to trading on a regulated market must announce the date for the general meeting as well as the time limit for any shareholder requests to include specific topics on the agenda, unless both dates are specified in the statutes.

**91.** Any matter which is not on the agenda may only be decided by the general meeting with the consent of all of the shareholders. However, at any time, the annual general meeting may pass resolutions on matters, cf. section 88(1), and decide matters that, according to the statutes, must be considered at such a general meeting, and resolutions to convene extraordinary general meetings to consider specific topics.

#### *Electronic communication*

**92.-(1)** The general meeting may pass a resolution on electronic communication, i.e. on the use of electronic exchange of documents and communication by e-mail between the limited liability company and the shareholders, instead of sending and presenting documents in hard copy form in accordance with this Act, cf. subsections (2) and (3). Electronic communication may thus be used by the limited liability company and its shareholders regardless of any requirements as to form contained in the provisions that specifically govern the documents and notices, without prejudice to subsection (5) and section 8c.

**(2)** The resolution referred to in subsection (1) must specify which notices, etc. are covered by the resolution and which means of electronic communication must or may be used. The resolution must also state where the shareholders can find information about the requirements for the systems to be used and the procedures to be followed when communicating electronically.

**(3)** The resolution passed by the general meeting under subsections (1) and (2) must be included in the statutes, without prejudice to subsection (4). Section 106 applies to the resolution and to any amendments to it.

**(4)** Even if the general meeting has not resolved to introduce electronic communication between the limited liability company and its shareholders under subsection (1), the limited liability company and one or more shareholders may agree to communicate electronically.

**(5)** The right to use electronic communication as set out in subsection (1) cannot replace public notices of meetings or announcements published in the Danish Official Gazette or via the IT system at the Danish Business Authority where the limited liability company is required by law to give notifications, etc. to its

shareholders by public notice or by announcements in the Danish Official Gazette or via the IT system at the Danish Business Authority. This does not apply to the circumstances outlined in section 95(3), 2nd sentence.

**(6)** For subsections (1) and (4), a limited liability company must request that the shareholders recorded in the register of shareholders provide an electronic address to which notifications, etc. can be sent. The shareholders are responsible for ensuring that the limited liability company has the correct electronic address. The limited liability company must pay its own costs for electronic communication.

#### *Notice of annual general meetings*

**93.-(1)** General meetings must be convened and organised by the central governing body.

**(2)** If a limited liability company has no central governing body, or if the central governing body fails to convene a general meeting required to be held by law, by the statutes or by a resolution of the company at a general meeting, such general meeting must be convened by the Danish Business Authority upon request from a member of the limited liability company's supreme or central governing body, the auditor, if any, elected by the general meeting, cf. section 144(1), or a shareholder. The Authority may determine the agenda for the general meeting.

**(3)** General meetings convened by the Danish Business Authority must be presided over by a person authorised by the Authority for such purpose, and the central governing body must provide the limited liability company's register of shareholders, minutes of general meetings, and auditors' records if such records are kept by the auditor. All expenses incidental to the general meeting must initially be paid by the Authority, but must be finally paid by the limited liability company.

**(4)** Notwithstanding section 77, the Danish Business Authority may decide that a general meeting that it convenes under subsection (2) may only be held with physical attendance, or may be held as an electronic meeting in whole or in part, and that, notwithstanding section 87, the meeting must be held in the municipality in which the Authority is situated.

**94.-(1)** Notice of general meetings must be given no earlier than four weeks before the meeting date, and, unless the statutes stipulate a longer period of notice, by no later than two weeks before the meeting date. If the general meeting is postponed to a later date that is more than four weeks after the date of the meeting, notice of the postponed meeting must be provided.

**(2)** For public limited liability companies whose shares are admitted to trading on a regulated market, notice of general meetings must be given no earlier than five weeks before the meeting date, and, unless the statutes stipulate a longer period of notice, no later than three weeks before the meeting date, without prejudice to section 339(4) and section 343.

**95.-(1)** Notice must be given in accordance with the provisions in the statutes.

**(2)** The general meeting may resolve that notice must be provided on the website of the limited liability company, without prejudice to subsection (3). Such a resolution must be included in the statutes. Section 106 applies to the resolution and to any amendments to it.

**(3)** In public limited liability companies, notice of general meetings must be given in writing to any shareholder registered in the register of shareholders who have requested such notice. If the shares in a public limited liability company can be issued to bearers, the notice must be published via the IT system at the Danish Business Authority.

**(4)** Regardless of whether notice is also given by other means, notice of a general meeting for a public limited liability company whose shares are admitted to trading on a regulated market must be published on the website of the public limited liability company. The costs of this must be paid by the public limited liability company.

**96.-(1)** Notices of general meetings must specify the time and place for the meeting as well as an agenda with information on the matters to be dealt with at the meeting. If any proposal to amend the statutes is to be considered at the general meeting, the main contents of such proposal must be specified in the notice.

**(2)** Notices of general meetings at which resolutions are to be passed in accordance with sections 77(2), 92(1) or section 107(1) or (2) must contain the full text of the proposed amendment to the statutes.

**97.-(1)** In public limited liability companies whose shares are admitted to trading on a regulated market, the notice must as a minimum include the following information in addition to that specified in section 96:

- 1) A description of the size of the share capital and the voting rights of the shareholders.
- 2) A clear and accurate description of the procedures to be observed by the shareholders in order to attend and vote at the general meeting, cf. subsection (2).
- 3) The record date, cf. section 84(1), specifying that only persons who are shareholders at such date are entitled to attend and vote at the general meeting.
- 4) Information on where and how the full, unabridged texts of the documents referred to in section 99(1), nos. 3 and 4, as well as the agenda of the meeting are available.
- 5) The website on which the information specified in section 99 will be made available.

**(2)** A clear and accurate description of the procedures to be observed by the shareholders in order to attend and vote at the general meeting as provided by subsection (1), no. 2, must include

- 1) the shareholders' right to ask questions, including a time limit, if any, cf. section 102(3),
- 2) the procedure for voting by proxy, particularly the voting forms to be used when voting by proxy, and information on the means of communication accepted by the limited liability company in connection with electronic notices of proxy appointments, and
- 3) the procedures for voting by post or electronically.

**(3)** In state-owned public limited liability companies, the notice of general meetings must include all proposals to be considered at the meeting and, in the case of extraordinary general meetings, the reason for holding the meeting. The notice must be published in the IT system at the Danish Business Authority no later than at the time it is given to the shareholders.

**98.** In public limited liability companies, the agenda, the proposals in full, and, in the case of annual general meetings, the annual report, must be made available for inspection by the shareholders no later than two weeks before the date of the general meeting, without prejudice to section 99.

**99.-(1)** A public limited liability company whose shares are admitted to trading on a regulated market must, for a consecutive period of three weeks beginning no later than three weeks before the general meeting, including the date of the meeting, make at least the following information available to shareholders on the company website:

- 1) The notice convening the meeting.
  - 2) The aggregate number of shares and voting rights at the date of the notice, including the aggregate number for each class of shares if the company's share capital is divided into two or more classes.
  - 3) The documents to be submitted to the general meeting.
  - 4) The agenda and the proposals in full.
  - 5) The forms to be used for voting by proxy and by post, if applicable, unless such forms are sent directly to the shareholders. If, for technical reasons, such forms cannot be made available over the internet, the limited liability company must specify on its website how the forms may be obtained in hard copy. In such cases, the limited liability company must send the forms to any shareholder who requests them. The costs of this must be paid by the public limited liability company.
- (2)** If notice of a general meeting under sections 339(4) and 343 is provided less than three weeks before the date of the meeting, the time limit specified in subsection (1) will be reduced accordingly.

#### *Conduct at general meetings*

- 100.-(1)** General meetings must be held in Danish, without prejudice to subsections (2)-(4).
- (2)** The general meeting may resolve by a simple majority of votes to hold the meeting in a language other than Danish, offering all participants simultaneous interpretation to and from Danish. The resolution may be included in the statutes without requiring a separate resolution being passed by the general meeting.
- (3)** The general meeting may resolve by a simple majority of votes to hold the meeting in Swedish, Norwegian or English without offering all participants simultaneous interpretation to and from Danish. The resolution may be included in the statutes without requiring a separate resolution being passed by the general meeting.
- (4)** The general meeting may resolve that the meeting must be held in a language other than Danish, Swedish, Norwegian or English without offering all participants simultaneous interpretation to and from Danish. A resolution to such effect must be included in the statutes, and section 107(2), no. 6, and section 110 apply to the resolution and to any amendments to it.
- (5)** If it has been resolved to hold the general meeting in a language other than Danish, the meeting may resolve by a simple majority of votes that all future general meetings must be held in Danish. Such resolution may be included in the statutes without a separate resolution being passed by the general meeting. If the resolution to hold general meetings in a language other than Danish has been included in the statutes, a resolution made under the 1st sentence of this subsection must specify whether this resolution is to be included in the statutes or whether no provisions regarding the language to be used at general meetings is to be included in the statutes.
- (6)** All documents prepared for internal use by a general meeting at or after the general meeting must be in Danish, without prejudice to subsections (7) and (8).
- (7)** The general meeting may resolve by a simple majority of votes that the documents referred to in subsection (6) must be prepared in Swedish, Norwegian or English. Such resolution may be included in the statutes without requiring a separate resolution being passed by the general meeting.

**(8)** The general meeting may resolve that the documents referred to in subsection (6) must be prepared in a language other than Danish, Swedish, Norwegian or English. Such resolution must be included in the statutes, and section 107(2), no. 7, and section 110 apply to the resolution and to any amendments to it.

**100a.** The general meeting may resolve by a simple majority of votes that the annual report is to be prepared and presented in English. Such resolution by the general meeting must be included in the statutes. The resolution may be included without a separate resolution being passed by the general meeting.

**101.-(1)** A chairman of the general meeting, who may or may not be a shareholder, must be elected by the general meeting, unless otherwise provided by the statutes.

**(2)** The chairman must preside over the general meeting and ensure that the meeting is conducted properly and efficiently. The chairman has all powers necessary for that purpose, including the right to manage discussions, identify matters to be voted on, decide when to close discussions, bring speeches to an end and, if necessary, expel participants from the general meeting.

**(3)** Minutes recording the proceedings at general meetings must be kept and must be signed by the chairman. All resolutions must be recorded in the minute book of the limited liability company.

**(4)** No later than two weeks after the general meeting, the minutes of the meeting or a certified copy of the minutes must be made available to the shareholders.

**(5)** Public limited liability companies whose shares are admitted to trading on a regulated market must, for every resolution passed, state as a minimum,

- 1) the number of shares for which valid votes have been cast,
- 2) the proportion of the share capital represented by such votes,
- 3) the total number of valid votes,
- 4) the number of votes in favour of and against each proposed resolution, and
- 5) the number of abstentions, if relevant.

**(6)** If none of the shareholders of a public limited liability company whose shares are admitted to trading on a regulated market request a complete account of the vote as provided in subsection (5), only the result of the vote need to be specified in order to establish that each resolution was passed by the required majority.

**(7)** A public limited liability company whose shares are admitted to trading on a regulated market must announce the results of all votes on its website by no later than two weeks after the general meeting.

**(8)** State-owned public limited liability companies must file a certified copy of the minutes of general meetings with the Danish Business Authority no later than the date the minutes are made available to the shareholders, cf. subsection (4).

**102.-(1)** Upon request from a shareholder and when deemed by the supreme governing body not to cause any significant detriment to the limited liability company, the company's management must disclose to the general meeting the information at hand about all matters of importance to the assessment of the annual report and the limited liability company's position in general, or of importance to any proposed resolution



put forward for vote at the general meeting. This disclosure requirement also applies to the limited liability company's relationship with other group companies.

**(2)** If the answer to a request requires information that is not at hand at the general meeting, such information must be made available to the shareholders by no later than two weeks after the meeting and must also be sent to any shareholder upon request.

**(3)** The central governing body may decide that shareholders may ask questions about the agenda or documents etc. to be used for the general meeting, before expiry of a time limit stipulated in the statutes. The central governing body may adopt the necessary amendments to the statutes.

**(4)** For public limited liability companies whose shares are admitted to trading on a regulated market and state-owned public limited liability companies, the disclosure requirements under subsections (1) and (2) also apply to questions submitted in writing by a shareholder within the last three months before the general meeting. The answer may be given in writing, in which case both the question and the answer must be made available to the shareholders at the beginning of the general meeting. No answer is required to be provided if the shareholder is not represented at the general meeting. Any questions with the same content may be answered together. Questions will be deemed to have been answered if the relevant information is made available on the public limited liability company's website in the form of a 'Question and Answer' feature.

**103.-(1)** The auditor, if any, elected by the general meeting of a limited liability company, cf. section 144(1), is entitled to attend general meetings. The auditor, if any, elected by the general meeting, cf. section 144(1), must attend general meetings if so requested by a member of the supreme or central governing body, or a shareholder.

**(2)** At general meetings, the auditor, if any, elected by the general meeting of the limited liability company, cf. section 144(1), must answer questions about the annual report etc. considered at the relevant general meeting.

**(3)** The auditor, if any, elected by the general meeting, cf. section 144(1), is entitled to attend meetings of the supreme governing body when the annual report etc. is considered, and is obliged to attend such meetings if so requested by any member of the supreme governing body.

**(4)** For public limited liability companies whose shares are admitted to trading on a regulated market and state-owned public limited liability companies, the auditor elected by the general meeting of the company must attend the annual general meeting.

#### *Voting*

**104.-(1)** Shareholders must vote on their shares in aggregate, unless otherwise provided by the statutes, without prejudice to subsection (3).

**(2)** Shareholders may vote by post, i.e. cast their votes in writing before the general meeting. Limited liability companies whose shares are admitted to trading on a regulated market in a Member State of the European Union or in a country with which the Union has entered into an agreement for the financial area may derogate from this option in their statutes. Written votes may only be subject to requirements and restrictions that are reasonably necessary to ensure identification of the shareholders.

**(3)** For public limited liability companies, where a shareholder acts in a professional capacity on behalf of other natural or legal persons (clients), that shareholder will be entitled to exercise its voting rights in a manner that is not identical to the exercise of voting rights in relation to other shares.

**(4)** In the event of electronic voting, public limited liability companies which have shares with voting rights admitted to trading on a regulated market and which are located or active in an EU/EEA Member State, must send an electronic confirmation to the person who voted that the vote has been received.

**(5)** Public limited liability companies which have shares with voting rights admitted to trading on a regulated market and which are located or active in an EU/EEA Member State, must, when votes are cast electronically, send a confirmation that the shareholder's vote has been validly registered and counted by the public limited liability company, if the shareholder or a third party appointed by the shareholder so requests by no later than four weeks after the date of the general meeting. However, this provision does not apply if the information is already available.

**105.** Unless otherwise provided by this Act or the statutes of the limited liability company, all matters addressed at general meetings must be decided by a simple majority of votes. If the number of votes for and against are the same, the proposed resolution will not be passed. Where votes involve electing people or casting only one vote with several options, these votes must be decided by a relative, simple majority of votes. Where a vote that involves electing people results in a tie, the tie must be decided by lot, unless otherwise provided by the statutes.

**106.-(1)** A resolution to amend the statutes is only valid if passed by at least two-thirds of the votes cast as well as at least two-thirds of the share capital represented at the general meeting, without prejudice to subsection (2). Resolutions to amend the statutes must also meet any other requirements stipulated in the statutes and comply with the specific regulations in section 107.

**(2)** A resolution to amend the statutes under sections 74(3), 102(3), 175(2), 176(2), 247(1), 265(1), 282(1) or 302(1) is not to be passed by the general meeting.

**107.-(1)** A resolution to amend the statutes, and thereby increase the shareholders' obligations to the limited liability company, is only valid if agreed by all shareholders..

**(2)** The following resolutions to amend the statutes are only valid if passed by at least nine-tenths of the votes cast as well as at least nine-tenths of the share capital represented at the general meeting:

1) Resolutions whereby shareholder rights to receive dividends or distribution of the limited liability company's assets, including subscriptions for shares at a favourable price, are reduced to the benefit of persons other than the shareholders and the employees of the limited liability company or its subsidiary.

2) Resolutions whereby the transferability of the shares is restricted or existing restrictions are increased, including the adoption of provisions that make share transfers subject to the consent of the limited liability company or prevent any shareholder from holding shares that exceed a specific amount of the share capital.

3) Resolutions whereby shareholders are required to redeem their shares on equal terms, except on dissolution of the limited liability company or in circumstances referred to in Part 5 of this Act.

4) Resolutions whereby shareholder rights to exercise voting rights in respect of their own or other shareholders' shares are restricted to a specific part of the votes or the voting share capital.

5) Resolutions whereby, in connection with a division of the company, the shareholders will not receive votes or shares in each of the recipient companies in the same proportion as in the transferor company.

6) Resolutions to hold general meetings in a language other than Danish, Swedish, Norwegian or English without offering all participants simultaneous interpretation to and from Danish.

7) Resolutions to adopt a language other than Danish, Swedish, Norwegian or English for internal documents, i.e. documents prepared for the company's own use in connection with or following general meetings.

**(3)** If the limited liability company has more than one class of shares, any amendment to the statutes that will change the legal relationship between the share classes, either by changing existing distinctions or creating new distinctions between such rights, is only valid if adopted by shareholders attending the general meeting who hold at least two-thirds of the shares in the share class whose rights will be prejudiced.

#### *Invalid resolutions by general meetings*

**108.** The general meeting may not pass a resolution if it is clear that such resolution is likely to give certain shareholders or others an undue advantage over other shareholders or the limited liability company.

**109.-(1)** Legal proceedings may be instituted by a shareholder or member of the management if a resolution passed by the general meeting has not been lawfully passed or is contrary to this Act or to the statutes of the limited liability company.

**(2)** Legal proceedings must be instituted no later than three months after the date of the resolution, or the resolution will be deemed to be valid.

**(3)** Subsection (2) does not apply when

1) the resolution could not be passed lawfully, even with the consent of all shareholders,

2) this Act or the statutes of the limited liability company requires the consent to the resolution of all or certain shareholders to pass the resolution, and such consent has not been obtained,

3) there has been a serious failure to comply with the regulations governing notices of general meetings, or

4) a shareholder who has instituted the proceedings after expiry of the time limit specified in subsection (2), but within 24 months after the date of the resolution, can demonstrate reasonable grounds for the delay and, for this reason and in view of all the circumstances, the court finds that it would clearly be unreasonable to apply subsection (2).

**(4)** If the court finds that the resolution is subject to subsection (1), it must be amended or declared invalid by a court judgment. However, the resolution may only be amended if a claim is made to such effect and the court is able to establish the proper contents of the resolution. The judgment of the court also applies to shareholders who have not instituted legal proceedings.

#### *Right of redemption*

**110.-(1)** Shareholders who have opposed the amendments to the statutes referred to in section 107(2), nos. 1-4, 6 and 7 at the general meeting, may demand that their shares be redeemed by the limited liability company, provided that such demand is made in writing no later than four weeks after the date of the general meeting.

**(2)** However, if a shareholder has been asked to declare before the vote whether the shareholder wishes to exercise the right of redemption under subsection (1), such shareholder must make that declaration at the general meeting in order to receive that right.

**(3)** On redemption, the limited liability company must buy the shareholder's shares at a price corresponding to the value of the shares, which, in the absence of agreement, is determined by experts appointed by the court with jurisdiction over the place where the registered office of the limited liability company is situated. The costs of the experts must be paid by the shareholder that requests the valuation, but may be imposed on the company if the experts' valuation differs significantly from the price proposed by the company and the valuation is used in whole or in part for the redemption. Either party may bring the expert opinion before the court. Such legal proceedings must be commenced within three months of receipt of the expert opinion.

## Part 7

### *Management of limited liability companies*

#### *Choice of management structure*

**111.-(1)** A limited liability company may adopt one of the following management structures:

1) A management structure by which the limited liability company is managed by a board of directors responsible for overall and strategic management. The board of directors must appoint an executive board which is responsible for the day-to-day management of the company and which must either consist of one or more persons who are also members of the board of directors, or of persons who are not members of the board of directors. In both cases, persons in charge of day-to-day management are designated as executive officers, and together they form the executive board of the limited liability company. The majority of the members of the board of directors of public limited liability companies must be non-executive directors. No executive officer in a public limited liability company may be chairman or vice-chairman of the board of directors of that company.

2) A management structure where the limited liability company is managed by an executive board. In public limited liability companies, the executive board must be appointed by a supervisory board that oversees the executive board. No member of the executive board may be a member of the supervisory board.

**(2)** The board of directors or the supervisory board of a public limited liability company must have at least three members.

**(3)** Private limited liability companies in which the employees exercise their rights under section 140 to elect members to serve on the supreme governing body must have a board of directors or a supervisory board. If a private limited liability company has no board of directors or supervisory board, but is required under the 1st first sentence to have one of these bodies, any proposed resolution to amend the statutes to the effect that the limited liability company must have a board of directors or a supervisory board will be deemed to have been validly passed when approved by the vote of any one shareholder.

**(4)** The provisions in this Act that govern members of the board of directors and the supervisory board apply correspondingly to their alternates.

#### *General provisions on management and supervisory functions*

**112.-(1)** Members of the management of a limited liability company must have full legal capacity and may not be under guardianship pursuant to section 5 of the Guardianship Act or under co-guardianship pursuant to section 7 of the Guardianship Act.

**(2)** Members of the management of a limited liability company who are registered pursuant to section 10 must be persons who actually act as members of the management, cf. section 7.

**(3)** Executive officers in public limited shipping companies may be sole proprietorships or partnerships, provided that the proprietors or partners meet the requirements in subsection (1).

**113.** Members of the board of directors or the supervisory board and executive officers may not engage in speculative transactions involving shares in the limited liability company or in companies in the same group.

**114.** For limited liability companies whose shares are admitted to trading on a regulated market and state-owned public limited liability companies, the chairman of the board of directors or the supervisory board may not perform any duties for the limited liability company that are unrelated to the duties as chairman. However, where special circumstances so require, the chairman of the board of directors may perform any work that the chairman is requested to perform by and for the board of directors.

#### *Duties of the board of directors*

**115.-(1)** In limited liability companies that have a board of directors, in addition to performing overall and strategic management duties and ensuring proper organisation of the limited liability company's business activities, the board must ensure that

- 1) the bookkeeping and financial reporting procedures are satisfactory, having regard to the circumstances of the limited liability company,
- 2) adequate risk management and internal control procedures have been established,
- 3) the board of directors regularly receives information as necessary about the financial position of the limited liability company,
- 4) the executive board performs its duties properly and as directed by the board of directors, and that
- 5) the financial resources of the limited liability company are adequate at all times, including that the limited liability company has sufficient liquidity to meet its current and future liabilities as they fall due, and the board of directors is therefore required to continuously assess the financial position and ensure that the existing capital resources are adequate.

#### *Duties of the supervisory board*

**116.** In limited liability companies that have a supervisory board, the board must ensure that

- 1) the bookkeeping and financial reporting procedures are satisfactory, having regard to the circumstances of the limited liability company,
- 2) adequate risk management and internal control procedures have been established,
- 3) the supervisory board regularly receives information as necessary about the financial position of the limited liability company,
- 4) the executive board performs its duties properly, and that

5) the financial resources of the limited liability company are adequate at all times, including that the limited liability company has sufficient liquidity to meet its current and future liabilities as they fall due, and the supervisory board is therefore required to continuously assess the financial position and ensure that the existing capital resources are adequate.

#### *Duties of the executive board*

**117.-(1)** In limited liability companies that are managed under section 111(1), no. 1, the executive board is in charge of day-to-day management. The executive board must follow the guidelines and directions issued by the board of directors. Day-to-day management does not include transactions of an unusual nature or of major importance, having regard to the circumstances of the limited liability company. Such transactions may only be made by the executive board if specifically authorised by the board of directors, unless it will cause considerable inconvenience for the activities of the limited liability company to wait for authorisation by the board of directors. If so, the board of directors must be notified of the transaction as soon as possible.

**(2)** In limited liability companies covered by section 111(1), no. 2, the executive board is responsible for overall and strategic management as well as day-to-day management. The executive board must also ensure proper organisation of the business activities of the limited liability company.

**118.-(1)** The executive board must ensure that bookkeeping by the limited liability company complies with the applicable statutory regulations, and that its assets are properly managed.

**(2)** The executive board must also ensure that the financial resources of the limited liability company are adequate at all times, including that the limited liability company has sufficient liquidity to meet its current and future liabilities as they fall due. The executive board is required to continuously assess the financial position and ensure that the existing capital resources are adequate.

#### *Loss of capital*

**119.** If it is established that the equity of a limited liability company represents less than half of the subscribed capital, the management of the limited liability company must ensure that a general meeting is held within six months. At the general meeting, the central governing body must account for the financial position of the limited liability company and, if necessary, submit a proposal for measures that should be taken, including a proposal for dissolution of the limited liability company.

#### *Election of members of board of directors and the supervisory board*

**120.-(1)** In public limited liability companies, the majority of the members of the board of directors or the supervisory board must be elected by the general meeting.

**(2)** The statutes may provide public authorities or other parties with the right to appoint one or more members of the board of directors or the supervisory board.

**(3)** Before holding elections for members of the board of directors or the supervisory board at the general meeting, public limited liability companies must provide information on managerial posts held by the candidates in other commercial enterprises, except for posts held in the public limited liability company's own wholly owned subsidiaries. If a candidate is a member of the management in another parent company

and in one or more of its wholly owned subsidiaries, it will be sufficient, notwithstanding the 1st sentence, to state the name of the parent company and the number of subsidiaries in which the candidate is a member of management. The shareholders may agree on a resolution to deviate from this subsection.

**(4)** The members of the board of directors or supervisory board elected by the general meeting hold office for the term specified in the statutes. The members' term of office expires at the end of an annual general meeting held no later than four years after their election.

#### *Resignation of members of the board of directors and the supervisory board*

**121.-(1)** Members of the board of directors or the supervisory board may resign at any time. Notice of resignation must be given to the board of directors or the supervisory board of the limited liability company and, if the member has not been elected by the general meeting, also to the appointing party. Members of the board of directors or the supervisory board may be removed at any time by the electing or appointing party.

**(2)** If there is no alternate to replace the member, the other members of the board of directors or the supervisory board must arrange for the election of a new member to replace the resigning member during the remainder of the term of office. This also applies if a member elected by the employees under section 140 or section 141 ceases to be employed by the limited liability company or the group. However, if the election is to be held at the general meeting, it may be postponed until the next annual general meeting for the election of members of the board of directors or supervisory board, provided that the remaining members of the board of directors or the supervisory board and alternates can form a quorum.

#### *Election of chairman*

**122.** The board of directors or the supervisory board of a public limited liability company elects its own chairman, unless otherwise provided by the statutes. In the event of a parity of votes, the election must be resolved by lot.

#### *Meetings of the board of directors and the supervisory board*

**123.** The chairman of the board of directors or the supervisory board of a public limited liability company must ensure that the supreme governing body convenes meetings when necessary and that all members are invited to attend. Any member of management, or the company's auditor elected by the general meeting under section 144, may demand that the supreme governing body be invited to attend. Executive officers, including executive officers who are not members of the board of directors or the supervisory board, have a right to attend and speak at meetings of the board of directors or the supervisory board, unless otherwise determined in each case by the board of directors or the supervisory board.

#### *Quorum of the board of directors and the supervisory board*

**124.-(1)** The board of directors or the supervisory board forms a quorum when more than half of the members are represented, unless a higher number of members is required by the statutes. However, resolutions cannot be passed without all members, as far as possible, being given access to participate in transaction of the business.

**(2)** If a member is absent, and an alternate has been elected, the alternate must have the right to replace the member for as long as the member is absent. Unless otherwise resolved by the board of directors or the supervisory board, or provided in the statutes, in exceptional cases members may appoint another

member as their proxy holder instead of calling an alternate, if this is considered appropriate having regard to the issue to be discussed.

**(3)** All resolutions by the board of directors or the supervisory board must be passed by a simple majority of votes, unless a special majority is required by the statutes. The statutes may stipulate that the chairman, or in the absence of the chairman, the vice-chairman, is to cast the deciding vote in the event of a parity of votes.

*Meetings of the board of directors and the supervisory board by written procedure or electronic means*

**125.-(1)** Meetings of the board of directors and the supervisory board may be held by written procedure to the extent that this does not prevent the board of directors or the supervisory board from performing their duties. Any member of management may, however, demand an oral discussion. The provisions of this Act that on meetings of the board of directors and the supervisory board apply correspondingly, with any necessary derogations, to meetings by written procedure.

**(2)** Meetings of the board of directors and the supervisory board may be held electronically to the extent that this does not prevent the board of directors or the supervisory board from performing their duties. Any member of management may, however, demand an oral discussion. The provisions of the Act on Public and Private limited liability companies on meetings of the board of directors and the supervisory board, and on electronic communication, apply correspondingly, with any necessary derogations, to meetings held electronically and to all communication for this purpose.

*Language of meetings of the board of directors and the supervisory board*

**126.-(1)** Meetings of the board of directors or the supervisory board must be held in Danish, without prejudice to subsections (2) and (3).

**(2)** Meetings of the board of directors or the supervisory board may, if so resolved by the majority, be held in a language other than Danish if all participants are offered simultaneous interpretation to and from Danish. Any decision to hold meetings in a language other than Danish without simultaneous interpretation must be unanimously agreed by the members of the board of directors or the supervisory board.

**(3)** Notwithstanding subsection (2), meetings of the board of directors and the supervisory board may be held in Swedish, Norwegian or English without simultaneous interpretation if that language is also the official corporate language as provided by the statutes.

**(4)** When documents that are to be used for the purposes of carrying out the work of the board of directors or the supervisory board are not prepared in Danish, any member of the board of directors or the supervisory board may demand that such documents be translated into Danish. This does not apply, however, if the documents are prepared in Swedish, Norwegian or English, and such language is the official corporate language as provided by the company's statutes.

*Improper transactions and agreements with sole shareholders*

**127.-(1)** Members of the management of a limited liability company may not enter into any transaction that is clearly capable of providing certain shareholders or others with an undue advantage over other shareholders or the limited liability company. Members of management of the limited liability company must not comply with any resolution passed by the general meeting or any other governing body if that resolution is invalid or contravenes the law or the statutes of the limited liability company.



**(2)** Agreements entered into between a sole shareholder and the limited liability company are only valid if drafted in a manner that can subsequently be verified, except for agreements made on usual terms in the ordinary course of business.

*Minutes of proceedings at meetings of the supreme governing body*

**128.-(1)** If the supreme governing body is made up of more than one member, minutes must be taken to record the proceedings at meetings, and such minutes must be signed by all members present.

**(2)** Any member of the management who dissents on a matter at the meeting is entitled to have their opinion entered in the minutes of the meeting.

*Auditors' records*

**129.** The members of the supreme governing body must sign the auditors' records, if the auditors keep such records.

*Rules of procedure for the board of directors and the supervisory board*

**130.-(1)** If the board of directors or the supervisory board of a limited liability company is made up of more than one member, rules of procedure to govern the performance of the board's duties must be adopted.

**(2)** For the purpose of drawing up the rules of procedure, the nature of the business activities of the limited liability company and its needs must be taken into account. In this regard, the board of directors or the supervisory board should consider in particular whether the rules of procedure should include provisions on the composition of the board, the division of responsibilities, supervision of the day-to-day management by the executive board, keeping of books, minutes, etc., any written and electronic meetings, duty of confidentiality, alternates, accounting checks and controls, signing of the auditors' records, and provisions to ensure that there is the requisite basis for an audit.

**(3)** Rules of procedure adopted by the board of directors or the supervisory board in state-owned public limited liability companies must be published in the IT system at the Danish Business Authority within four weeks of their adoption. The same time limit applies if a public limited liability company converts to a state-owned public limited liability company under Part 20, or in the event that changes are made to the rules of procedure for a state-owned public limited liability company.

*Disqualification*

**131.** No member of management may participate in addressing matters related to agreements between the limited liability company and that member, or legal proceedings against that member, or matters related to an agreement between the limited liability company and a third party, or legal proceedings against a third party, if the member has a material interest in such matter and that material interest could conflict with the interests of the limited liability company.

*Duty of confidentiality*

**132.** Members of the board of directors or the supervisory board, executive officers, valuation experts and scrutinisers, including their assistants and alternates, may not make unauthorised disclosure of any information gained in the performance of their duties.

*Disclosure of information, etc. to the auditor*

**133.-(1)** The management of a limited liability company must provide any auditor or scrutiniser who is elected by the general meeting to make a declaration on the situation of the limited liability company with such information as is likely to influence the assessment of the limited liability company and, if the limited liability company is a parent company, its group as defined by the Financial Statements Act.

**(2)** The management of a limited liability company must provide any auditor or scrutiniser who is elected by the general meeting to make a declaration on the situation of the limited liability company with access to make such examinations as are deemed necessary to perform the work, and must provide the auditor or scrutiniser with such information and assistance as is deemed necessary to perform the work.

**(3)** The management of a Danish limited liability company that is a subsidiary in a group of companies, owes a corresponding duty to the auditor of the parent undertaking.

#### *Notification of group relations*

**134.** The central governing body of a Danish parent company must notify the central governing body of a subsidiary as soon as any group relationship has been established. The central governing body of a Danish subsidiary must provide the parent with such information as is necessary to assess the group's position and the results from its activities.

#### *Right of representation and power to bind the company*

**135.-(1)** Members of the board of directors and the executive board represent the limited liability company in relation to third parties.

**(2)** A limited liability company is bound by agreements made on behalf of the limited liability company by the entire central governing body, by a member of the board of directors, or by a member of the executive board. Members of the supervisory board have no power to bind the limited liability company.

**(3)** The power of each member of the board of directors and executive board to bind the company, as conferred by subsection (2), may be restricted by the statutes so that it can only be exercised by several members acting jointly or by one or more specific members acting jointly or alone. No other restrictions on the power to bind the company may be registered.

**(4)** Notwithstanding subsection (1), where limited liability companies have a supervisory board, the supervisory board may represent the company when legal action is brought against one or more members of the company's executive board. The supervisory board may also represent the company when legal action is brought against the company by a member of its executive board. The same applies when members of the executive board are disqualified or cannot represent the company for any other reason.

**(5)** Power of procuration may only be granted by the central governing body.

**136.-(1)** Any agreement or commitment made on behalf of the limited liability company by persons authorised to bind the company under section 135 will be binding on the limited liability company, unless

1) the persons authorised to bind the company have not acted within the restrictions on their powers stipulated by this Act,

2) the agreement or commitment does not fall within the objects of the limited liability company, and the limited liability company proves that the third party knew or should have known this, or

3) the person authorised to bind the company has exceeded its authorisation or has seriously failed to act in the company's interests, and the third party knew or should have known this.

**(2)** It will not be sufficient evidence under subsection (1), no. 2 of this provision that the limited liability company has published a statement of its objects, as provided by the statutes, in the IT system at the Danish Business Authority.

**137.** Where an election or appointment of members of the management of a limited liability company has been published in the IT system at the Danish Business Authority system in accordance with section 14, no defect in the election or appointment may be relied upon against any third party, unless the limited liability company proves that the third party had knowledge of that defect.

#### *Remuneration of members of management*

**138. -(1)** Members of the management of a limited liability company may receive fixed or variable remuneration. The amount of remuneration may not exceed what is considered usual, taking into account the nature and extent of the work, and what is considered reasonable with regard to the financial position of the limited liability company and, in the case of parent companies, the financial position of the group.

**(2)** If a limited liability company goes bankrupt, even if they have acted in good faith, members of its management must repay any variable remuneration received in the five-year period preceding the date of presentation of the bankruptcy petition, provided that the limited liability company was insolvent when the amount of the variable remuneration was fixed.

**139.-(1)** The supreme governing body of public limited liability companies which have shares admitted to trading on a regulated market and which are located or active in an EU/EEA Member State, must develop a remuneration policy for members of the management, unless shares are exclusively without voting rights.

**(2)** The shareholders must vote on the remuneration policy at the general meeting of the public limited liability company in the event of any significant amendment and at least every four years.

**(3)** When concluding specific agreements on management remuneration, or in the event of an extension or amendment to existing agreements, the current approved remuneration policy must be observed, without prejudice to section 139a(5).

**(4)** If the general meeting does not approve the remuneration policy, the supreme governing body must submit a proposed revised remuneration policy by no later than the next annual general meeting. The public limited liability company may continue to remunerate members of the management in accordance with the current practice, until a new remuneration policy has been approved by the general meeting.

**(5)** An approved remuneration policy must be published as soon as possible on the website of the public limited liability company, with the date and the results of the voting. The remuneration policy must remain available to the public free of charge on the website for as long as it is in force.

**(6)** When the general meeting has approved a remuneration policy, the provision on guidelines for incentive pay in the statutes of the public limited liability company will cease to apply, and it must be deleted from the statutes of the public limited liability company without formal procedure.

**139a.-(1)** The remuneration policy, cf. section 139, must be clear and comprehensible, contribute to the public limited liability company's strategy, long-term interests and sustainability, and contain the following:

1) A description of how the remuneration policy contributes to the strategy, long-term interests and sustainability of the public limited liability company.

2) A description of the different components of fixed and variable remuneration, including all bonuses and other benefits which may be allocated to members of management, with indication of the relative proportions of the components.

3) A description of how the pay and terms of employment of the employees of the public limited liability company have been taken into account in developing the remuneration policy.

4) Guidelines for the duration of contracts or schemes with members of management, the main elements in supplementary pension schemes or early retirement schemes and the terms, periods of notice and payments in relation to resignation.

5) A description of the decision-making process applied to establish, review and implement the remuneration policy, including measures to avoid or manage conflicts of interest.

**(2)** If the public limited liability company enters into agreements on variable remuneration, the remuneration policy must include clear, broad and varied criteria for granting the variable pay. The remuneration policy must include:

1) information on the financial and non-financial performance criteria, including, where appropriate, the criteria for corporate social responsibility, and an explanation of how they contribute to the strategy, long-term interests and sustainability of the public limited liability company, and the methods to be used to determine whether performance criteria have been met, and

2) information on any postponement periods and on whether the public limited liability company has any option to claim repayment of variable remuneration.

**(3)** If the public limited liability company grants share-based remuneration, the remuneration policy, cf. subsection (2), must also contain guidelines for maturity periods and any binding period for shares after expiry of the maturity period, and explain how the share-based remuneration contributes to the strategy, long-term interests and sustainability of the public limited liability company.

**(4)** If the remuneration policy is amended, the remuneration policy must describe and explain all significant amendments. The description must contain information on how account has been taken of shareholders' voting on and opinions about the remuneration policy and remuneration reports, cf. section 139b, since the most recent vote by the general meeting on the remuneration policy.

**(5)** The supreme governing body of the public limited liability company may, under exceptional circumstances, temporarily derogate from the remuneration policy, provided that the remuneration policy contains a description of the procedural requirements for this and specifies the elements in the remuneration policy that may be derogated from.

**139b.-(1)** Public limited liability companies that have developed a remuneration policy, cf. section 139, must prepare a clear and comprehensible remuneration report, which provides an overview of the remuneration that the individual members of management, including new and previous members, have been granted or are due for the most recent financial year. Remuneration must also include all benefits, in whatever form. For the individual members of management, the remuneration report may not include the special categories of personal data referred to in Article 9(1) of the General Data Protection Regulation or personal data relating to the family situation of individual members of the management.

**(2)** The central governing body of a public limited liability company is responsible for preparing and publishing the remuneration report.

**(3)** Where relevant, the remuneration report must include the following information relating to the remuneration of each member of the management:

1) The aggregate amount of remuneration broken down by components, the proportionate share of fixed and variable remuneration, an explanation of how the total remuneration complies with the adopted remuneration policy, including how it contributes to the long-term results of the public limited liability company, and information on how the performance criteria have been applied.

2) The annual change in the remuneration, in the results of the public limited liability company, and in the average remuneration on the basis of full-time equivalents of other employees in the public limited liability company than members of management, as a minimum over the last five financial years, presented in such a way as to allow for comparison.

3) Any form of remuneration from undertakings belonging to the same group, cf. section 5, no. 19.

4) The number of shares, granted or offered share options, and the most important conditions for the exploitation of the rights, including the exercise price, the date of exercise and any amendments thereto.

5) Information on use of the option to claim repayment of variable remuneration.

6) Information on any derogation from the procedure for implementation of the remuneration policy, cf. section 139a(1), no. 5 and derogations from the remuneration policy itself, cf. section 139a(5), including a description of the specific circumstances and an indication of the specific elements in the remuneration policy which are derogated from.

**(4)** At the annual general meeting, the public limited liability company must hold an indicative vote on approval of the remuneration report from the most recent financial year, without prejudice to subsection (5). In the remuneration report for the subsequent financial year, the public limited liability company must explain how account has been taken of the result of the vote at the general meeting.

**(5)** Small and medium-sized public limited liability companies, cf. section 7(2), nos. 1 and 2 of the Financial Statements Act, may, instead of an indicative vote, cf. subsection (4), submit the remuneration report to the annual general meeting for discussion. In the remuneration report for the subsequent financial year, the public limited liability company must explain how account has been taken of the discussions at the general meeting.

**(6)** As soon as possible after the general meeting, the remuneration report must be published on the website of the public limited liability company, and it must remain available to the public and free of charge for a period of 10 years. The remuneration report may be made available for a longer period, provided that it no longer contains personal data.

#### *Target figures and policies for the under-represented gender*

**139c.-(1)** In state-owned public limited liability companies, in companies whose shares, debt instruments or other securities are admitted to trading on a regulated market in a Member State of the European Union or in a country with which the Union has entered into an agreement for the financial area, and in large limited liability companies, cf. subsection (2)

1) the supreme governing body must set targets for the percentage of the under-represented gender in the supreme governing body, and

2) the central governing body must develop a policy to increase the percentage of the under-represented gender in the other management levels of the limited liability company, without prejudice to subsections (4)-(7).

**(2)** Large limited liability companies are companies that exceed two of the following criteria for two consecutive financial years:

1) A balance sheet total of DKK 156 million.

2) Net turnover of DKK 313 million.

3) An average number of full-time employees of 250.

**(3)** For the purposes of calculating the figures referred to in subsection (2), section 7(3) and (4) of the Financial Statements Act apply.

**(4)** For parent companies which prepare consolidated financial statements, providing the targets and developing a policy, cf. subsection (1), for the group as a whole will suffice.

**(5)** A subsidiary which is part of a group may omit to set targets and develop a policy, cf. subsection (1), if the parent company sets targets and develops a policy for the group as a whole.

**(6)** In setting targets, cf. subsection (1), no. 1, state-owned public limited liability companies are subject to section 11(2) of the Act on Equal Treatment of Men and Women.

**(7)** Limited liability companies which in the most recent financial year have employed fewer than 50 employees may omit to develop a policy for increasing the percentage of the under-represented gender in their other management levels, cf. subsection (1), no. 2.

#### *Significant transactions between related parties*

**139d.-(1)** In public limited liability companies which have shares with voting rights admitted to trading on a regulated market and which are located or active in an EU/EEA Member State, significant transactions between the public limited liability company and its related parties must be authorised by the supreme governing body of the public limited liability company before the transaction is implemented. In the assessment of significance, transactions implemented with the same related party within the same financial year must be aggregated.

**(2)** The public limited liability company must publish a notification on a transaction with a related party when the fair value of the transaction amounts to 10% or more of the total assets or 25% or more of the result of the primary operations according to most recently published consolidated financial statements. If the public limited liability company does not prepare consolidated financial statements, the calculation must be carried out in relation to the most recently published annual financial statements. If the public limited liability company carries out several transactions with the same related party in the same financial year, publication must be effected when the sum of the transactions which have not been published exceeds at least one of the limits in the 1st sentence.

**(3)** The notification pursuant to subsection (2) must be published as soon as possible after the transaction has been agreed. The notification must, as a minimum, contain information about the nature of the

relationship with the related party, the name of the related party, the date of the agreement on the transaction, the fair value of the transaction and other matters which are necessary to be able to assess whether the transaction is carried out on terms and conditions that may be considered as reasonable for the public limited liability company and the shareholders who are not related parties. Publication must take place on the website of the public limited liability company and the notification must be accessible to the public for five years.

**(4)** Subsections (1)-(3) do not apply to ordinary commercial transactions. The supreme governing body of the public limited liability company must establish an internal procedure for periodical assessment of whether a transaction is covered by the 1st sentence. Related parties who are affected by the transactions may not participate in this assessment.

**(5)** Subsections (1)-(3) do not apply for

1) transactions between the public limited liability company and its subsidiaries, unless the related parties of the public limited liability company have interests in the subsidiary,

2) clearly defined transaction types that must be approved by the general meeting,

3) transactions relating to remuneration for members of the management, cf. sections 139 and 139a,

4) transactions carried out by credit institutions on the basis of the measures aimed at protecting their stability and that are decided by the Danish FSA, and

5) transactions offered to all shareholders on the same conditions, so as to ensure equal treatment of all shareholders and to secure protection of the interests of the public limited liability company.

**(6)** Subsections (2)-(5) apply correspondingly for transactions between the related parties of the public limited liability company and subsidiaries of the public limited liability company.

**(7)** Subsections (1)-(5) do not affect the regulations on public disclosure of inside information in pursuance of European Parliament and Council Regulation (EU) no. 596/2014.

**(8)** Related parties are defined in accordance with the definition in International Accounting Standard IAS 24, as this has been adopted by the European Commission in accordance with European Parliament and Council Regulation on the application of international accounting standards, and the subsequent changes in the definition adopted by the European Commission in accordance with the provisions of said Regulation.

## Part 8

### *Employee representation*

#### *Representation at company level*

**140.-(1)** In limited liability companies that have employed an average of at least 35 employees for the last three years, the employees are entitled to elect a number of representatives and alternates for these to the company's supreme governing body, corresponding to half the number of the other members of the management. Employees in a company's foreign branch situated in another EU/EEA Member State are considered to be employees in the company. However, employees always have the right to elect at least two representatives with alternates for these. If the number of representatives to be elected by the employees is not a whole number, it must be rounded up.

**(2)** The employees are entitled to elect fewer representatives and alternates if it is not possible to elect the number of representatives and alternates the employees are entitled to elect under subsection (1).

#### *Representation at group level*

**141.-(1)** Section 140 applies correspondingly to the employees of a Danish parent company, cf. sections 6 and 7, and its subsidiaries registered in Denmark as well as their foreign branches located in an EU/EEA Member State.

**(2)** If the parent company is subject to section 140, its employees are entitled to elect two representatives with alternates. The total number of employee representatives elected to the parent company's supreme governing body must constitute half the number of the other members; however, the number of employee representatives must be at least three. The employees are entitled to elect fewer representatives and alternates if it is not possible to elect the number of representatives and alternates the employees are entitled to elect under the 1st sentence.

**(3)** Subject to the regulations on cross-border mergers and divisions in Part 16 and in the Act on SEs, the parent company in general meeting may decide that the employees of one or more foreign subsidiaries are eligible to be elected and are entitled to vote. If the group has employees in Danish subsidiaries, such employees may elect at least one representative at any time. If the employees of the Danish subsidiaries constitute more than 10% of the total number of employees entitled to participate in the election, such employees may elect at least two representatives. If the majority required for representation at group level as provided in section 142 is not reached, but the majority of the Danish subsidiaries vote in favour of group representation, employee representation will be deemed to have been adopted by the employees of the Danish subsidiaries to the effect that elections for group representatives will only be held in the Danish subsidiaries.

#### *Election of employee representatives*

**142.** A decision to elect members for the supreme governing body under sections 140 and 141 requires that at least half of the employees in the limited liability company and its subsidiaries, respectively, vote in favour thereof, unless the management and employees agree not to vote on this. Notice of the decision must be given to the supreme governing body in a manner that can subsequently be verified.

**143.** The Danish Business Authority may lay down regulations on the following:

- 1) Which persons are considered employees for the purpose of employee representation.
- 2) The calculation of the average number of employees under sections 140 and 141.
- 3) The conduct for elections under sections 140-142, including regulations to ensure secret ballot.
- 4) The option to derogate from specific provisions laid down pursuant to this section, where derogation is by agreement between the management and employees, including regulations on the establishment of voluntary schemes for employee representation and possibilities for the central governing body to amend the statutes of the limited liability company as a consequence of this.
- 5) How the employees in limited liability companies and groups in which board members have been elected under sections 140 and 141 must be informed about the company's affairs.
- 6) Security of employment for employee representatives in governing bodies, including representatives elected by voluntary schemes, and resolution of related disagreements.



- 7) The consequences of any contravention of legislation and regulations issued in pursuance hereof.
- 8) That the register of shareholders must also be made available to employee representatives in companies and parent companies in which no employees have been elected to the board of directors under sections 140 and 141.
- 9) Requirements for providing notice of general meetings to the employees of the company and the group, respectively, if the employees have notified the board of directors that employee representatives are to be elected.

## Part 9

### *Audit and scrutiny*

#### *Audit*

**144.-(1)** If a limited liability company is subject to audit obligations under the Danish Financial Statements Act or any other statute, or if the general meeting otherwise resolves that the company's financial statements must be audited, the general meeting must elect one or more approved auditors, and alternate auditors if applicable. Such resolution may be passed by a simple majority of votes under section 105. The statutes may also grant other parties the right to appoint one or more additional auditors.

**(2)** Provisions in the statutes of the company or in another agreement that restrict election by the general meeting of one or more approved auditors to audit the company's financial statements and any alternates for these to specific categories or lists of auditors or audit firms are invalid.

**(3)** Any shareholder may request the Danish Business Authority to appoint an additional approved auditor to participate in the audit together with the other auditor(s) until the next general meeting, where

1) shareholders holding no less than one-tenth of the capital have voted in favour of an additional auditor at a general meeting whose agenda included the election of an auditor, and

2) the request is made no later than two weeks after the date of the general meeting.

**(4)** The Danish Business Authority may appoint an auditor if a limited liability company which is subject to audit obligations has no statutory auditor and a member of management or a shareholder so requests. The appointment remains in force until a new auditor has been elected by the general meeting.

**(5)** Where an auditor has been appointed under subsections (3) and (4), the appointment must be registered, without any application for registration. The Danish Business Authority will determine the remuneration for the appointed auditor. Costs incidental to the statutory audit of the limited liability company's annual financial statements etc. are payable out of public funds, but must be reimbursed by the limited liability company.

**(6)** If the auditor is to express an opinion about the affairs of a limited liability company, the auditor has the rights and obligations provided by this Act, unless a distinction has been made by the company between the auditors elected by the general meeting to audit the annual financial statements as provided in subsection (1) and other auditors.

**144a.** Notwithstanding Article 17(1) of Regulation (EU) No 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities, the

general meeting in a limited liability company covered by section 1a, no. 3 of the Act on Approved Auditors and Audit Firms (Auditor Act) may elect the same auditor for a maximum of

1) 20 years if a tendering procedure has been conducted in accordance with Article 16(2)-(5) of Regulation (EU) No 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities with effect for the audit after expiry of a period of 10 years, or

2) 24 years, if, after the expiry of a period of 10 years, the general meeting elects at least one additional auditor to carry out the audit.

**145.** Any subsidiary in a group, as defined by the Financial Statements Act, in which the parent company is a state-owned public limited liability company or an undertaking whose securities are admitted to trading on a regulated market, must, where possible, elect the same auditor as the auditor elected by the parent company in general meeting. Where this is not possible, the subsidiary must, as far as possible, elect an auditor who is a partner of the auditor elected by the parent undertaking in general meeting.

**146.-(1)** Auditors may be removed by the party that appointed them. An auditor elected to audit the company's annual financial statements under section 144 may only be removed before the auditor's term of office expires if such removal is based on reasonable grounds.

**(2)** If an auditor elected by the general meeting, cf. section 144(1), resigns or is removed from office, or if an auditor's appointment is otherwise terminated before the auditor's term of office expires, the auditor must notify the Danish Business Authority as soon as possible. The notification must be accompanied by an adequate account of the reason for the termination if this took place before expiry of the auditor's term. In companies whose securities are admitted to trading on a regulated market, an auditor elected by the general meeting must also notify the market of their resignation or removal as soon as possible in accordance with the regulations of the Capital Markets Act.

**(3)** If the auditor elected to audit the company's annual financial statements as provided in section 144(1) resigns or is removed from office, or if the auditor's appointment is otherwise terminated, cf. subsections (1) and (4), and no alternate auditor has been elected to replace the auditor, the central governing body must arrange for election of a new auditor as soon as possible in accordance with section 144(1). An extraordinary general meeting must be convened to elect a new auditor by no later than two weeks after the company has been notified of the resignation or removal. However, in state-owned public limited liability companies and companies whose securities are admitted to trading on a regulated market, the general meeting must be convened by no later than eight days after the company has been notified of the resignation.

**(4)** In limited liability companies covered by section 1a, no. 3, of the Act on Approved Auditors and Audit Firms (Auditor Act), the elected auditors, cf. section 144, may be removed by court ruling, if the circumstances so justify. Legal proceedings in this regard may be brought by one or more shareholders in limited liability companies who together represent at least 5% of the voting rights or share capital, and by the Danish Business Authority, as the supervisory authority for approved auditors and audit firms, cf. section 32 of the Auditor Act.

**(5)** Legal proceedings concerning removal of the company's auditor pursuant to subsection (4) are brought against the company and conducted as civil proceedings. If a claim that the auditor is to be removed is upheld, the auditor must resign when the ruling is final. The court will simultaneously notify the Danish

Business Authority and the auditor about the removal. On the basis of the ruling, the Authority will register the resignation of the removed auditor in the IT system of Authority.

**(6)** If the company's auditor is removed pursuant to subsection (4), then subsection (2), 3rd sentence and subsection (3) apply correspondingly.

**147.-(1)** The auditor elected to audit the company's annual financial statements, cf. section 144(1), must comply with any audit requirements made by the general meeting insofar as such requirements are not contrary to statute, the company's statutes or generally accepted auditing standards.

**(2)** The auditor must also determine whether the company's management complies with its obligations to draw up rules of procedure and prepare and keep books, records and minutes, and determine whether the regulations on the submission and signing of audit records are complied with. Furthermore, the auditor must ensure that the information pursuant to section 139b(3) is stated in the company's remuneration report.

**(3)** If the auditor finds that the requirements referred to in subsection (2) have not been fulfilled, the auditor must prepare a separate declaration to that effect for the general meeting, unless, at the general meeting, the company's annual report is to be approved, and the matter has been referred to in the audit report on the annual report.

**148.** Any changes with respect to an auditor elected under section 144 must be registered in the IT system at the Danish Business Authority or notified to the Authority, cf. section 9. If an auditor is replaced before expiry of the auditor's term of office, the provision in section 10(2) applies.

**149.** The auditor may demand that members of the company's management provide any information that is deemed to be of importance to the assessment of the company and, if the company is a parent company, its group, cf. section 7. This also applies to members of the management of a Danish company which is a subsidiary in a group pursuant to the Financial Statements Act.

#### *Scrutiny*

**150.-(1)** Any shareholder may, at the annual general meeting or at a general meeting whose agenda includes such issues, submit a proposal for scrutiny of the company's formation, of any specific matter relating to the administration of the company, or of certain financial statements. If the proposal is adopted by a simple majority of votes, the general meeting must elect one or more scrutinisers.

**(2)** If the proposal is not adopted, but shareholders representing 25% of the share capital vote in favour of the proposal, any shareholder may, by no later than four weeks after the general meeting, request that scrutinisers be appointed by the probate court with jurisdiction over the place where the company's registered office is situated. The probate court must provide the company's management and any auditor elected by the general meeting to audit the company's annual financial statements, cf. section 144(1), and, if relevant, the person whose affairs are the subject of the request, with the right to make a statement to the court before it makes its decision. The request will only be agreed to if the probate court finds it to be based on reasonable grounds. The probate court determines the number of scrutinisers. The court's decisions are subject to appeal.

**(3)** The provisions on independence in section 24 of the Act on Approved Auditors and Audit Firms (Auditor Act) apply correspondingly to scrutinisers elected or appointed under subsections (1) and (2).

**151.** The scrutiniser may demand from the company's management any information deemed to be of importance to the assessment of the company and, if the company is a parent company, its group as defined by the Financial Statements Act. This also applies to the management of a Danish company that is a subsidiary in a group as defined by the Financial Statements Act.

**152.-(1)** The scrutinisers must submit a written report to the general meeting and are entitled to receive remuneration from the company. If the scrutinisers have been appointed by the probate court, their remuneration will be determined by the court.

**(2)** No later than eight days before the date of any general meeting, the report prepared by the scrutinisers must be made available for inspection by the shareholders.

## Part 10

### *Capital increases*

**153.-(1)** The capital of a limited liability company may be increased by

- 1) subscriptions for new shares,
- 2) conversion of the company's reserves into share capital by the issue of bonus shares, or
- 3) the issue of convertible debt instruments or warrants.

**(2)** No new shares may be subscribed for subject to any reservations or at a discount.

#### *Resolution by the general meeting to increase the capital*

**154.-(1)** The general meeting may pass a resolution to increase the share capital in accordance with the regulations in this Part of the Act.

**(2)** Any resolution under subsection (1) must be passed by the majority of votes required to amend the statutes.

**155.-(1)** The general meeting may authorise the central governing body to increase the capital by including a provision to this effect in the statutes. The authorisation may be given for one or more periods of up to five years at a time.

**(2)** The general meeting may also authorise the central governing body to issue convertible debt instruments or warrants under section 169 by including a provision to this effect in the statutes, provided that it simultaneously authorises the central governing body to implement the capital increase required for this purpose, cf. subsection (1). The authorisation may be given for one or more periods of up to five years at a time.

**(3)** In connection with any authorisation under subsections (1) and (2), the statutes must specify

- 1) for which type of capital increase, as set out in this Part of the Act, the authorisation is given,
- 2) the expiry date for the period specified in subsection (1) or (2), 2nd sentence,
- 3) the maximum amount of the capital increase that may be implemented by the central governing body, and
- 4) provisions governing the matters referred to in section 158, nos. 2, 6, 7, 10-12.

**(4)** If the capital can be increased in whole or in part by consideration of assets other than cash, this must be stipulated in the statutes. Also, any resolution passed by the general meeting to derogate from the existing shareholders' pre-emption rights under section 162 must be specified.

*Procedural requirements for capital increases*

**156.-(1)** Any proposal to increase capital in a public limited company must be made available to the shareholders as prescribed in sections 98 and 99, and be presented to the general meeting.

**(2)** If the annual report of a public limited company for the last financial year is not going to be under consideration at the same general meeting, the following documents must be submitted:

1) The most recent approved annual report.

2) A report by the company's central governing body that includes information about events of major importance to the company's position that have occurred after presentation of the annual report, unless such information may be detrimental to the company due to special circumstances.

3) A declaration by the company's auditor about the report from the central governing body if the company's financial statements etc. are subject to audit obligations under the Financial Statements Act or any other legislation.

**(3)** If the resolution to increase the capital is to be taken by the general meeting, the shareholders may agree on a resolution to derogate from subsections (1) and (2). If the resolution to increase the capital is to be taken by the central governing body after prior authorisation from the general meeting, cf. section 155, subsection (2) applies correspondingly when the central governing body exercises the authorisation. The central governing body may, however, decide to derogate from subsection (2), unless in connection with notification of the authorisation to the central governing body, the general meeting has resolved that the procedural requirements pursuant to subsection (2) may not be derogated from.

*Requirements for the notice*

**157.-(1)** In connection with an increase in capital for a public limited company, the notice of the general meeting must include information about the pre-emption rights of shareholders or others and instructions on how to exercise such rights.

**(2)** In the event of any derogation from the shareholders' pre-emption rights under section 162, the reason for the derogation and for the proposed subscription price must be stated in the notice.

**(3)** The shareholders may agree to exclude subsections (1) and (2).

*The contents of the resolution*

**158.-(1)** A resolution to increase the share capital by a subscription for new shares must specify

1) the minimum and maximum amount by which the share capital may be increased,

2) whether there may be partial payment,

3) the subscription price and the size or number of the shares,

4) when the new shares will confer on the holders a right to receive dividends and other rights in the limited liability company,

- 5) the estimated costs of the capital increase that are payable by the limited liability company,
- 6) the share class for the new shares if different classes exist or are contemplated,
- 7) the pre-emption rights of the shareholders or others and any restrictions on the new shareholders' pre-emption rights in the event of future increases, cf. section 162,
- 8) the time limit for subscription, and a time limit of no less than two weeks from the date of issue of notification to shareholders, within which the shareholders must exercise their pre-emption rights,
- 9) the deadline for payment of the shares and, where the allotment is not left to the central governing body, the rules governing allotment in the event of oversubscription of any shares not subscribed for by the exercise of a pre-emption right,
- 10) any restrictions on the negotiability of the new shares or any obligation on the new shareholders to have their shares redeemed,
- 11) whether the new shares are negotiable instruments, and
- 12) whether the new shares will be registered shares or bearer shares.

**159.-(1)** If the company's central governing body exercises any authorisation granted under section 155 to increase the capital by subscription to new shares, the resolution must specify

- 1) the minimum and maximum amount by which the share capital may be increased,
- 2) the subscription price and the size or number of the shares,
- 3) when the new shares will confer on the holders a right to receive dividends and other rights in the limited liability company,
- 4) the estimated costs of the increase that are payable by the limited liability company,
- 5) the deadline for subscription, and a time limit of no less than two weeks from the date of issue of notification to shareholders, within which the shareholders must exercise their pre-emption rights,
- 6) the deadline for payment of the shares and the regulations governing allotment in the event of oversubscription of any shares not subscribed for by the exercise of a pre-emption right,
- 7) whether the new shares may be paid for by consideration of assets other than cash, cf. section 160, or
- 8) whether the new shares may be paid for by conversion of debt, cf. section 161.

**(2)** Any decision by the central governing body under subsection (1) is also subject to sections 163 and 164.

**(3)** The central governing body may make any amendments to the statutes that are necessary because of the capital increase.

*Consideration other than in cash or contributions by conversion of debt*

**160.** If new shares can be paid for by consideration of assets other than cash, this must be specified in the resolution on the increase, and a valuation report must be prepared in accordance with sections 36 and 37. If the central governing body issues a declaration under section 38(2), it is not required to obtain a valuation report in connection with the consideration of assets as mentioned in section 38(1). The central governing body must publish the declaration in the IT system at the Danish Business Authority no later than

two weeks after the date of the resolution on the contribution, cf. section 9(3). The balance sheet to be prepared under section 36(3) must be prepared as a pre-acquisition balance sheet for the acquired undertaking.

**161.-(1)** If new shares can be paid for by conversion of debt, this must be specified in the resolution on the increase.

**(2)** The central governing body must explain the reason for and the point in time at which the debt was incurred, as well as the reasons for the proposed conversion.

**(3)** In public limited companies, the central governing body's account and any additional documents must be made available to the shareholders as provided in sections 98 and 99 and must be presented to the general meeting.

**(4)** The shareholders may agree to exclude subsection (2)..

**(5)** The shareholders may agree to depart from the requirement in subsection (3).

#### *Right to proportionate subscription*

**162.-(1)** In the event of a cash increase of the share capital, shareholders are entitled to subscribe for new shares in proportion to their existing shareholdings. It may be stipulated in the statutes that the pre-emption rights are non-transferable to any third party.

**(2)** The general meeting may resolve, by the same majority of votes that is required to amend the statutes, cf. section 106, to derogate from the pre-emption rights, cf. subsection (1), for the benefit of others.

**(3)** If there are different share classes carrying different rights to vote and different rights to receive dividends or other distributions from the company, it may be stipulated in the statutes that holders of the same class of shares have a priority right to subscribe for shares within their own share class. In this case, holders of shares of other classes may only exercise their pre-emption rights under subsection (1) after such subscription.

**(4)** The general meeting may resolve, by the same majority of votes that is required to amend the statutes, cf. section 106, to derogate from the pre-emption rights, cf. subsections (1) and (3), for the benefit of employees in the company or in any of its subsidiaries. With the same majority of votes, the general meeting may fix a favourable price for the shares that are offered to the employees.

**(5)** However, a derogation from the shareholders' pre-emption rights which is greater than specified in the notice of the meeting can only be resolved by the general meeting with the consent of the shareholders whose rights are prejudiced.

**(6)** If the company has more than one class of shares, any resolution affecting the legal rights attaching to any of those classes will only be valid if it is adopted by shareholders holding at least two-thirds of the shares in the share class whose rights will be prejudiced, and attending the general meeting.

#### *Subscription for new shares*

**163.-(1)** Any subscription for new shares must be in writing.

**(2)** In connection with the subscription, the statutes and the documents specified in section 156 must be produced, unless it is resolved not to prepare such documents, cf. section 156(3). If the capital subscription

falls within sections 160 and 161, the documents referred to in these provisions must be produced upon subscription, unless it is resolved not to prepare such documents.

**(3)** The shareholders must be notified about the opportunity for subscription and the time allowed for exercising their pre-emption rights under the regulations governing notices of general meetings. In public limited liability companies where all the shareholders are known to the company, the individual shareholders may instead be notified in writing.

**164.** Any resolution to amend the statutes that requires a capital increase will lapse if the prescribed minimum amount for the capital increase has not been subscribed for within the time limit stipulated in the resolution. In this case, any amount paid in for the capital must be refunded as soon as possible.

#### *Issue of bonus shares*

**165.-(1)** A limited liability company may issue bonus shares by transferring amounts to the share capital that have been recorded in the company's most recent approved annual report as

1) retained earnings, or

2) reserves with the exception of any reserve under sections 35a and 35b of the Financial Statements Act, without prejudice to subsection (2).

**(2)** For the issue of bonus shares, the company may also use

1) any profit realised in the current financial year and not distributed, spent or tied up, or

2) any distributable reserves accumulated or released in the current financial year.

**(3)** Any resolution passed under subsections (1) and (2) must specify the amount of the share capital increase and the size and number of the shares. Section 158(1), nos. 3, 6 and 9-11 apply correspondingly.

**(4)** The capital increase may only be implemented when the resolution has been registered.

**(5)** If the bonus share issue has not been registered, or an application for registration has not been submitted, within 12 months after the resolution on a capital increase, the resolution and any resulting amendments to the statutes will lapse.

**166.-(1)** If more than three years have passed since a bonus share issue was registered and not all shares have been transferred to the transferees, the central governing body of the limited liability company may request such transferee(s) to collect the shares within six months by publishing an announcement in the IT system at the Danish Business Authority.

**(2)** If the time limit provided by subsection (1) has expired without any transferee having responded to the request, the central governing body may dispose of the shares at the shareholder's expense through a securities dealer, cf. section 9(1) of the Financial Business Act, as well as foreign credit institutions, investment firms and management companies or branches of foreign credit institutions and investment firms covered by section 1(3), sections 30, 31, 33, and 33a of the Financial Business Act which lawfully conduct securities trading in Denmark. The company may deduct its expenses for publication of the announcement and disposal of the shares from the proceeds of the sale. Any sales proceeds not claimed within three years after the disposal will accrue to the limited liability company.

#### *Issue of convertible debt instruments and warrants.*



**167.-(1)** The general meeting may resolve, by the majority of votes required to amend the statutes, to issue convertible debt instruments or warrants if it resolves at the same time to increase the capital as required, cf. section 154.

**(2)** The resolution passed by the general meeting must specify the terms of the issue, including the maximum amount of the capital increase that may be subscribed on the basis of the security and the class to which the new shares will belong.

**(3)** A resolution passed by the general meeting under subsection (1) must also specify the rights that will accrue to the holder if the holder has not converted the debt instrument or exercised the warrant before the general meeting passes a resolution on one or more of the following matters:

- 1) Capital increase.
- 2) Capital reduction.
- 3) Issue of new warrants.
- 4) Issue of new convertible debt instruments.
- 5) Dissolution.
- 6) Merger.
- 7) Division.

**(4)** The terms stipulated in any resolutions passed by the general meeting under subsections (2) and (3) must be communicated to the holders of convertible debt instruments or warrants.

**168.** The full text of any resolution passed by the general meeting under section 167 must be included in the statutes. When the time allowed for subscription for the capital increase has expired, the company's central governing body may delete the provision.

**169.-(1)** If authorised under section 155(2), the central governing body may resolve to issue convertible debt instruments or warrants.

**(2)** The resolution by the central governing body must specify the terms of the issue, including

- 1) the maximum amount of the capital increase that may be subscribed for on the basis of the security,
- 2) the class to which the new shares will belong,
- 3) the deadline for subscription of shares, and a time limit of no less than two weeks from the date of sending a notification to shareholders, within which the shareholders must exercise their pre-emption rights,
- 4) the time when the rights start accruing to holders,
- 5) the deadline for payment, and
- 6) the size or number of the shares and the subscription price.

**(3)** In its resolution under subsection (1), the central governing body must also specify the rights that will accrue to the holder if the holder has not converted the debt instrument or exercised the warrant before one of the following is implemented:

- 1) Capital increase.
- 2) Capital reduction.
- 3) Issue of new warrants.
- 4) Issue of new convertible debt instruments.
- 5) Dissolution.
- 6) Merger.
- 7) Division.

**(4)** The terms specified in any resolutions passed by the central governing body under subsections (2) and (3) and the authorisation of the central governing body under section 155(2) must be communicated to holders of convertible debt instruments or warrants.

**(5)** Section 159 applies correspondingly to any resolution by the central governing body to increase the capital by conversion of convertible debt instruments or by the exercise of warrants.

**170.** The full text of any resolution passed by the central governing body under section 169 must be included in the statutes. The central governing body may make any amendments to the statutes that result from the resolution.

**171.** If the amount paid for a debt instrument is less than the corresponding amount of the share(s) into which the debt instrument may be converted in accordance with the loan terms, the residual amount must be paid in accordance with section 33 on partial payment of the capital, or be covered by the part of equity that is distributable for dividend purposes.

*Terms governing registration of convertible debt instruments by a central securities depository*

**172.** The Danish Business Authority may lay down regulations

- 1) governing the registration of convertible debt instruments by a central securities depository,
- 2) providing for information to be delivered to a central securities depository,
- 3) requiring the company to pay all expenses associated with the issue of convertible debt instruments through a central securities depository and their registration and safe keeping, etc. by an account-holding institution, and
- 4) stipulating that section 63 applies correspondingly to convertible debt instruments.

*Application for registration of a resolution to increase the capital*

**173.-(1)** Any resolution by the general meeting or the central governing body to increase the capital under this Part of this Act must be registered or an application for registration must be filed with the Danish Business Authority by no later than two weeks after payment for the shares has been made or the time limit for making such payment has expired.

**(2)** Any resolution by the general meeting or the central governing body to issue convertible debt instruments or warrants and to amend the statutes accordingly under sections 168 and 170 must be

registered or an application for registration must be filed with the Danish Business Authority by no later than two weeks after the resolution has been passed.

**174.-(1)** Any registration or application for registration of a capital increase is subject to payment of the share capital and any premium that is required to be paid up under section 33 of this Act or the statutes. In connection with registration or application for registration of a capital increase in cash, evidence must be provided to demonstrate that the capital and any premium has been paid to the company by no later than the date of registration or application for registration.

**(2)** The new shares will confer on the holders a right to receive dividends and other rights in the limited liability company from the date of registration of the capital increase, unless otherwise provided in the resolution on the capital increase. However, such rights accrue no later than 12 months after the date of registration.

**(3)** When registration is complete, the share capital will be considered to have been increased by the total amount of the capital increase.

**175.-(1)** No later than four weeks after the end of each financial year, the central governing body must register or apply to register the amount of any capital increase that occurred during the year if

- 1) shares are subscribed for on the basis of convertible debt instruments or warrants,
- 2) the deadline for subscription stipulated in the resolution exceeds 12 months, and
- 3) the prescribed minimum amount of the capital increase has been subscribed and paid up, cf. section 33.

**(2)** The central governing body may make any amendments to the statutes that are necessary because of the capital increase.

**(3)** If the registration or application for registration under subsection (1) has not reached the Danish Business Authority within four weeks after expiry of the time allowed for subscription, or if registration is refused, any amount already paid must be refunded, cf. section 177(3).

**176.-(1)** As soon as possible after expiry of the time limit for conversion of convertible debt instruments or exercise of warrants, the central governing body must register, or apply for registration of, the amount of convertible debt instruments or the number of warrants that have been converted into shares with the Danish Business Authority. If the period allowed for exercise exceeds 12 months, the central governing body must make the registration or file the application for registration under the regulations in section 175.

**(2)** The central governing body may make any amendments to the statutes that are necessary because of the capital increase.

#### *Revocation of a resolution to increase the capital*

**177.-(1)** Any resolution to increase the capital will lapse if registration is refused.

**(2)** A resolution will also lapse if it has not been registered or no application for registration has been received within 12 months after the date of the resolution.

**(3)** If a resolution on capital increase has not been registered, any amounts already paid must be refunded as soon as possible without deduction for costs, and any assets other than cash must be promptly returned.

#### *Profit-sharing debt instruments*

**178.-(1)** The general meeting may resolve, by a simple majority of votes, cf. section 105, to raise loans against the issue of debt instruments carrying interest, the size of which depends in whole or in part on the dividend paid on shares in the limited liability company, or on the profit for the year.

**(2)** The general meeting may also authorise the central governing body to raise loans under subsection (1). The authorisation may be given for one or more periods of up to five years at a time.

## Part 11

### *Capital outflow*

**179.-(1)** The company's assets may only be distributed to its shareholders

1) as dividends, based on the most recent approved financial statements, cf. section 180,

2) as extraordinary dividends, cf. sections 182 and 183,

3) as distributions in connection with capital reductions, cf. sections 185-193, or

4) as distributions in connection with dissolution of the company cf. Part 14.

**(2)** The company's central governing body is responsible for ensuring that distributions do not exceed a reasonable amount having regard to the company's financial position and, in the case of parent companies, the group's financial position, and that no distribution is made to the detriment of the company or its creditors, cf. section 115, no. 5, and section 116, no. 5. The central governing body is also responsible for ensuring that the share capital as well as reserves that are undistributable under the law or according to the company's statutes, are covered.

### *Distribution of ordinary dividend*

**180.-(1)** The general meeting must resolve how to distribute, by dividend, the amount available for distribution as recorded in the annual financial statements. The general meeting cannot resolve to distribute dividends that exceed the amount proposed or accepted by the company's central governing body.

**(2)** Dividends may only be distributed out of distributable reserves, which are amounts stated as retained earnings in the company's most recent approved annual financial statements, and reserves that are distributable under the law or according to the company's statutes, less retained losses.

**181.** If non-cash assets are distributed as dividends, a valuation report must be prepared, cf. sections 36 and 37. The declaration by the valuation expert must state that the amount of dividend corresponds to at least the estimated value of the non-cash assets distributed. The balance sheet pursuant to section 36(3) must be prepared as a pre-acquisition balance sheet for the transferred undertaking. If the central governing body prepares and files a declaration under section 38(2), it has no obligation to obtain a valuation report in connection with the distribution of assets as mentioned in section 38(1). The central governing body must publish the declaration in the IT system at the Danish Business Authority by no later than two weeks after the date of the resolution on distribution, cf. section 9(3).

### *Distribution of extraordinary dividends*

**182.-(1)** The general meeting may resolve to distribute extraordinary dividends after the company has presented its first annual report. The general meeting cannot resolve to distribute extraordinary dividends that exceed the amount proposed or accepted by the company's central governing body.

**(2)** The general meeting may authorise the central governing body to resolve to distribute extraordinary dividends after presentation of its first annual financial statements. The authorisation may be subject to financial restrictions and time constraints.

**(3)** Extraordinary dividends under subsections (1) and (2) may only be made up of the amounts referred to in section 180(2) as well as profit earned and distributable reserves that have been earned or become distributable after the period covered by the most recently presented annual report, unless the amount has been distributed, spent or tied up.

**183.-(1)** In public limited liability companies, any resolution on the distribution of extraordinary dividends must be accompanied by a balance sheet. The central governing body must assess whether the balance sheet from the most recent annual report is adequate, or whether an interim balance sheet showing that sufficient funds are available for distribution has to be prepared, without prejudice to subsection (2).

**(2)** Notwithstanding subsection (1), public limited liability companies that pass a resolution on distribution of extraordinary dividends more than six months after the balance sheet date in the company's most recent approved annual report must always prepare an interim balance sheet showing that sufficient funds are available for distribution.

**(3)** In private limited liability companies, the central governing body must assess whether a resolution under subsection (1) is to be accompanied by a balance sheet. However, private limited liability companies that pass a resolution on distribution of extraordinary dividends more than six months after the balance sheet date in the company's most recent approved annual report must always prepare an interim balance sheet showing that sufficient funds are available for distribution.

**(4)** If an interim balance sheet is prepared under subsections (1)-(3), such balance sheet must be audited by the company's auditor if the company is subject to audit obligations. The interim balance sheet must be prepared in accordance with the regulations on preparation of the limited liability company's annual report. The balance sheet date of the interim balance sheet may not predate the resolution to distribute extraordinary dividends by more than six months.

**(5)** If extraordinary dividends are distributed as non-cash dividends, a valuation report must be prepared, cf. sections 36 and 37. The declaration by the valuation expert must state that the amount of dividend corresponds to at least the estimated value of the non-cash asset(s) distributed. If the central governing body prepares and files a declaration under section 38(2), it has no obligation to obtain a valuation report in connection with the distribution of assets as set out in section 38(1). The central governing body must publish the declaration in the IT system at the Danish Business Authority by no later than two weeks after the date of the resolution on the distribution, cf. section 9(3). The balance sheet to be prepared under section 36(3) must be prepared as a pre-acquisition balance sheet for the transferred undertaking.

**(6)** The resolution by the central governing body on the distribution of extraordinary dividends must be recorded in the company's minute book. The interim balance sheet or the balance sheet for the latest financial year must be included in the minute book as an annex to the resolution.

#### *Special disclosure requirements in connection with dividends*

**184.-(1)** A public limited liability company that is covered by the regulations issued under Part 8 of the Capital Markets Act may not distribute the company's assets, cf. section 179, to the offeror or parties related to the offeror within the first 12 months after the acquisition of the company.

**(2)** However, notwithstanding subsection (1), distribution may be made if the offeror has disclosed information on the distribution and the detailed terms in the offer document that must be prepared under the relevant regulations in the Capital Markets Act. However, such information need not be given if the distribution does not exceed the overall improvement of the company's financial position after the date of acquisition, and if the offeror could not have foreseen the distribution when preparing the offer document.

#### *Resolutions on capital reductions*

**185.** The provisions of section 156 on the procedure to be followed in connection with resolutions on capital increases apply correspondingly to resolutions on capital reductions in public limited liability companies.

**186.** Any resolution reducing the share capital must be passed by the general meeting by the majority of votes required to amend the statutes.

**187.-(1)** In private limited liability companies, the general meeting may, by way of a provision in the statutes, authorise the central governing body to reduce the capital to a specified amount.

**(2)** The request to creditors referred to in section 192 must be published no later than two weeks after the date of the resolution by the central governing body to exercise the authorisation.

**188.-(1)** Resolutions on capital reductions must specify the amount by which the share capital is to be reduced and for which of the following purposes that amount is to be used

1) to cover losses,

2) to make distributions to shareholders, or

3) to transfer to a special reserve fund.

**(2)** If a higher amount of the limited liability company's assets is to be distributed than the capital reduction amount, this must be stated in the resolution, specifying any premium.

**(3)** Only capital reductions for the purpose of distribution or transfer to a special reserve fund as referred to in subsection (1), nos. 2 and 3, may be made at a discount.

**189.-(1)** The general meeting of a limited liability company may only pass a resolution to use the capital reduction amount for distribution to the shareholders or for transfer to a special reserve fund, cf. section 188(1), nos. 2 and 3, if the central governing body submits or approves a resolution to this effect.

**(2)** Where the capital is reduced under subsection (1) at a price lower than the nominal value of the shares, the balance, up to the nominal value of the shares, must be transferred to the company's distributable reserves.

**190.-(1)** A valuation report, cf. sections 36 and 37, must be available at the date of the resolution if a capital reduction is implemented for the purpose of distributing non-cash assets to the shareholders.

**(2)** The declaration in the valuation report referred to in section 36(1), no. 4, must state that, at the date of the resolution, the capital reduction plus any premium corresponds to at least the estimated value of the non-cash asset(s) to be distributed. The balance sheet according to section 36(3) must be prepared as a pre-acquisition balance sheet for the transferred company. If the central governing body prepares and files a declaration under the provisions of section 38(2), it has no obligation to obtain a valuation report in connection with the distribution of assets as set out in section 38(1). The central governing body must

publish the declaration in the IT system at the Danish Business Authority by no later than two weeks after the date of the resolution on distribution, cf. section 9(3).

#### *Application for registration of capital reductions*

**191.** Resolutions on capital reductions must be registered or an application for registration must be filed, cf. section 9, by no later than two weeks after the date of the resolution. The resolution is invalid if no registration or application for registration has been filed with the Danish Business Authority within such time limit.

#### *Request to creditors*

**192.-(1)** In connection with capital reductions for the purpose of distribution or transfer to a special reserve fund, cf. section 188(1), nos. 2 and 3, notice must be given to creditors of the limited liability company requesting them to file their claims against the company within four weeks. This is by registration and publication by the Danish Business Authority of the resolution by the central governing body to reduce the share capital.

**(2)** No request to creditors needs to be made under subsection (1) if, at the same time, the capital is increased by subscription of at least the same nominal amount, plus a premium, as the amount of the reduction.

#### *Implementation of capital reductions*

**193.-(1)** When the time limit for notifications of claims against the limited liability company has expired, cf. section 192, the central governing body may resolve to conduct the capital reduction for the purpose of distribution or transfer to a special reserve fund, if it is appropriate to carry out the capital reduction, cf. section 115, no. 5, section 116, no. 5 and section 118(2), 2nd sentence, without prejudice to subsection (4).

**(2)** Four weeks after the expiry of the time limit for creditors to notify their claims against the limited liability company, the Danish Business Authority may, without prior notice, register that the capital reduction for the purpose of distribution or transfer to a special reserve fund has been completed, unless the company has previously registered or applied for registration that the resolution on capital reduction is to be annulled, cf. subsection (3), or that the capital reduction is not to be implemented until a subsequent registration or application for registration to the Danish Business Authority, cf. subsections (4) and (5). The Danish Business Authority may lay down provisions to the effect that certain changes to the limited liability company after the registration of the resolution on capital reduction, cf. section 191, mean that the resolution on capital reduction is to be annulled or that the capital reduction must be implemented by a subsequent registration or application for registration to the Danish Business Authority.

**(3)** If a capital reduction for the purpose of distribution or transfer to a special reserve fund cannot be implemented in accordance with what has been published, cf. section 192, or if it is not appropriate to carry out the capital reduction, cf. section 115, no. 5, section 116, no. 5 and section 118(2), 2nd sentence, the central governing body must, before expiry of the time limit in subsection (2), 1st sentence, register, or apply for registration of, annulment of the resolution on capital reduction.

**(4)** A capital reduction for the purpose of distribution or transfer to a special reserve fund may not be implemented if the notified claims due have not been paid in full and, upon request, satisfactory collateral has not been provided for the disputed claims or claims not due. The Danish Business Authority may, at the request of one of the parties, decide whether collateral offered can be considered satisfactory.

**(5)** A capital reduction for the purpose of distribution or transfer to a special reserve fund must be registered or an application for registration must be filed, cf. section 9, by no later than the expiry of the time limit for submission of the annual report including the date of the resolution on capital reduction, although by no later than one year after the resolution on capital reduction. If this time limit is exceeded, the resolution on capital reduction will become invalid.

#### *Repayment*

**194.-(1)** If a distribution has been made to the shareholders in contravention of the provisions of this Act, the shareholders must repay the amount with interest accruing annually at the rate fixed under section 5(1) and (2) of the Interest on Delayed Payment, etc. Act plus 2%. However, dividends must only be repaid if shareholders realised or ought to have realised that the distribution was illegal.

**(2)** If the amount cannot be collected, or if the shareholder has no obligation to repay the amount, the persons involved in the resolution on the distribution or in implementing it, or in the preparation or approval of the incorrect financial report will be liable under the general law of damages.

#### *Charitable gifts*

**195.** The general meeting may resolve to give gifts for charitable or similar purposes out of the funds of the limited liability company if this is deemed reasonable, having regard to the purpose of the gift, the company's financial position and the circumstances in general. For the purposes referred to in the 1st sentence, the central governing body may use amounts that are insignificant taking into account the company's financial position.

### Part 12

#### *Own shares*

##### *Acquisition of own shares by way of ownership or charge*

**196.** A limited liability company may only acquire own shares if they are fully paid up. The shares may be acquired both by way of ownership and by way of charge.

##### *Acquisition of own shares for consideration*

**197.-(1)** If a limited liability company acquires its own shares for consideration, the company may only use amounts that may be used to distribute dividends, cf. section 180(2). The company's holding of its own shares must be disregarded when assessing whether the company satisfies the capital requirements specified in section 4.

**(2)** A company's holding of its own shares can include shares acquired by a third party in its own name, but at the company's expense.

**198.-(1)** An acquisition of a company's own shares for consideration may not proceed without the central governing body of the limited liability company obtaining authorisation from the general meeting, without prejudice to section 199.

**(2)** The authorisation may only be given for a specified time, which may not exceed five years.

**(3)** The authorisation must specify

1) the maximum permitted value of own shares, and



2) the minimum and maximum amount that may be paid by the company as consideration for the shares.

**199.-(1)** Where it is necessary in order to avoid significant and imminent detriment to the limited liability company, the central governing body may acquire the company's own shares on behalf of the limited liability company for consideration under sections 196-198, without authorisation from the general meeting.

**(2)** If the limited liability company has acquired its own shares under subsection (1), the central governing body must notify the next general meeting of

- 1) the reason for and the purpose of the acquisition,
- 2) the number and value of the shares acquired,
- 3) the proportion of the share capital represented by the acquired shares, and
- 4) the consideration provided for the acquired shares.

**200.-(1)** Notwithstanding sections 196-198, a limited liability company may, directly or indirectly, acquire its own shares

- 1) in connection with a reduction of the share capital under Part 11,
- 2) in connection with a transfer of assets by merger, division or other universal succession,
- 3) in order to comply with a statutory obligation to redeem incumbent on the company, or
- 4) in connection with the purchase of fully paid-up shares in a foreclosure to satisfy a claim due to the company.

#### *Acquisition by subsidiaries of shares in parent companies*

**201.** Sections 196-200 apply correspondingly to acquisition by a subsidiary of shares in its parent company in ownership or by way of security.

#### *Disposal of acquired shares*

**202.-(1)** Shares acquired without consideration in accordance with section 196 and shares acquired in accordance with section 200, nos. 2-4, must be disposed of as soon as possible without detriment to the limited liability company, without prejudice to subsection (2).

**(2)** The shares must be disposed of by no later than three years after the acquisition, unless the value of aggregate shareholdings in the limited liability company and its subsidiaries does not exceed the company's distributable reserves.

**203.-(1)** Shares acquired in ownership in contravention of sections 196-201 must be disposed of as soon as possible and by no later than six months after the acquisition.

**(2)** If shares have been acquired by way of security in contravention of sections 196-201, the security must be terminated as soon as possible and by no later than six months after the acquisition.

**204.** If any shares have not been disposed of in a timely manner as provided by sections 202 and 203, the central governing body of the limited liability company must cause the share capital to be reduced by the value of such shares, cf. Part 11.

### *Subscription for own shares*

**205.-(1)** A limited liability company may not subscribe for its own shares.

**(2)** Shares that are subscribed for by a third party in its own name, but at the company's expense, are deemed to be subscribed for at the third party's own expense.

**(3)** Shares subscribed for in the company's name in contravention of subsection (1) are deemed to be subscribed for by the founders or, in the case of a capital increase, by the members of the company's management at their own expense, and they will be jointly and severally liable for the purchase price. However, this does not apply to founders or members of the company's management who can demonstrate that they neither realised nor ought to have realised that the subscription for the shares was illegal.

**(4)** Subsection (1) applies correspondingly when a company subscribes for shares in its parent company. The shares in the parent company will be deemed to be subscribed for by the management of the subsidiary, cf. subsection (3).

### Part 13

#### *Financial assistance using the limited liability company's own funds*

##### *Financing of purchase of own shares*

**206.-(1)** A limited liability company may not, either directly or indirectly, make funds available, grant loans, or provide collateral for a third party to acquire shares in the limited liability company or in its parent company, without prejudice to subsection (2) and sections 213 and 214.

**(2)** However, if the conditions in subsection (3) and sections 207-209 on approval by the general meeting, reasonableness of the resolution, report by the central governing body and arm's length terms are satisfied, a limited liability company may, directly or indirectly, make funds available, grant loans or provide collateral in connection with a third party acquiring shares in the company or in its parent company.

**(3)** The central governing body of the limited liability company must ensure that any third party receiving financial assistance from the company is credit-rated, cf. subsection (2).

**207.-(1)** Provision of financial assistance under section 206(2) is subject to approval by the general meeting. For the purpose of a resolution by the general meeting, the company's central governing body must present a written report, including information about

- 1) the reason for the proposed financial assistance,
- 2) the company's interest in entering into such transaction,
- 3) the conditions on which the transaction is entered into,
- 4) an assessment of the consequences of the transaction for the company's liquidity and solvency, and
- 5) the price to be paid by the third party for the shares.

**(2)** The resolution on approval by the general meeting, cf. subsection (1), must be passed by the same majority of votes that is required to amend the statutes, cf. section 106.

**(3)** The report to be presented under subsection (1) must be published in the IT system at the Danish Business Authority or received by the Authority for the purpose of publication, cf. section 9, no later than two weeks after the date of approval by the general meeting.

**208.** The total financial assistance provided by the limited liability company to third parties under section 206(2) may at no time exceed what is reasonable having regard to the company's financial position. If the company is a parent company within the meaning of sections 6 and 7, the total financial assistance may not exceed what is reasonable having regard to the group's financial position. For this purpose, the limited liability company may only use funds that can be distributed as dividends, cf. section 180(2).

**209.** Where a third party acquires shares in a limited liability company with financial assistance from said limited liability company, cf. section 206(2), such assistance must be granted at arm's length. The same applies if a third party subscribes for shares under section 162 in connection with an increase in the subscribed capital.

*Financial assistance to parent companies, shareholders, members of management and others*

**210.-(1)** A limited liability company may, either directly or indirectly, make funds available, grant loans, or provide collateral for its shareholders or members of the management, provided the conditions in subsection (2) are met. The same applies in relation to shareholders or members of management in the company's parent company or undertakings other than parent companies that exercise a dominant influence over the company. The 1st sentence also applies to persons who, by marriage or lineal consanguinity, are related to a person falling within the 1st or 2nd sentence or who have other close affiliations to such person.

**(2)** In order for a limited liability company to grant financial assistance, cf. subsection (1), the following conditions must be met:

1) The financial assistance must be within in the company's distributable reserves, cf. section 180(2), and must be granted on ordinary market conditions.

2) The resolution to grant financial assistance must be made by the general meeting or the central governing body of the company in accordance with authorisation from the general meeting. The authorisation from the general meeting may be subject to financial restrictions and time constraints. The financial assistance may not constitute an amount greater than is proposed or adopted by the central governing body of the company.

3) The resolution to grant financial assistance may only be taken after the presentation of the company's first annual report.

**(3)** If a limited liability company grants financial assistance in the form of financing of purchase of own shares, the conditions in sections 206-209 must be met.

**211.-(1)** Even if the conditions in section 210(2) have not been met, a limited liability company may, directly or indirectly, make funds available, grant loans, or provide collateral to meet the obligations of Danish and certain foreign parent companies.

**(2)** The Danish Business Authority lays down more detailed regulations specifying which foreign parent companies are subject to subsection (1).

**212.** Even if the conditions in section 210(2) have not been met, a limited liability company may, directly or indirectly, make funds available, grant loans, or provide collateral for the persons mentioned in section 210 for the purpose of usual business transactions.

*Exception for financial institutions, etc.*

**213.** Sections 206 and 210 do not apply to financial institutions or to mortgage loans granted by mortgage credit institutions.

*Exception for employees*

**214.-(1)** Sections 206 and 210 do not apply to transactions for the acquisition of shares from, or the transfer of shares to, employees of the company or any subsidiary.

**(2)** Minutes of meetings held by the central governing body must include a note on any transaction covered by subsection (1).

**(3)** Transactions covered by subsection (1) may only be entered into using funds that can be distributed as dividends under section 180.

*Repayment*

**215.-(1)** If a limited liability company has granted financial assistance in contravention of sections 206 and 210, the amount must be returned to the company together with interest that accrues annually at the rate specified in section 5(1) and (2) of the Interest on Delayed Payment, etc. Act with the addition of 2%, unless a higher rate of interest is agreed.

**(2)** Where repayment is not possible, or where agreements for other financial assistance cannot be terminated, the persons who have agreed to or continued with transactions in contravention of sections 206 and 210 will be liable for any loss suffered by the limited liability company.

**(3)** Any provision of collateral in contravention of sections 206 and 210 is binding on the company if the contracting party did not know that the collateral had been provided in contravention of these provisions.

Part 14

*Dissolution of limited liability companies*

*Dissolution by declaration*

**216.-(1)** Limited liability companies that have paid all creditors may be dissolved by the company's shareholders making a declaration to the Danish Business Authority that all debts, whether due or not, have been paid and that it has been resolved to dissolve the limited liability company. The shareholders' names and addresses must be stated in the declaration.

**(2)** The Danish Business Authority may only register the dissolution if the declaration under subsection (1) is received by the Authority by no later than two weeks after the date it was signed, and it is accompanied by a declaration from the customs and tax authorities that there is no claim for direct taxes or indirect taxes against the limited liability company.

**(3)** The company will be dissolved when it has been struck off the Danish Business Authority's register of active companies.

**(4)** The shareholders have unlimited, personal, joint and several liability for the company's debts, whether due, not due, or disputed, that existed at the date that the declaration was made. Any excess funds must be distributed to the shareholders.

#### *Resolution to enter into liquidation*

**217.-(1)** Unless otherwise provided by legislation, any resolution voluntarily dissolving a limited liability company by liquidation must be passed by the general meeting.

**(2)** The resolution must be passed by the majority of votes required to amend the statutes, cf. section 106. Where dissolution is required by legislation, by the statutes of the limited liability company, or by the Danish Business Authority under this Act, the resolution must be passed by a simple majority of votes, cf. section 105.

#### *Election of liquidator*

**218.-(1)** The general meeting elects one or more liquidators to liquidate the company. In the period from the date of the resolution on voluntary dissolution, cf. section 217(1), up to the date of election of a liquidator, section 229(1) applies correspondingly to any management dispositions.

**(2)** Shareholders holding at least 25% of the share capital are entitled to elect a liquidator at the general meeting to liquidate the company together with the other liquidators elected by the general meeting.

**219.-(1)** One or more liquidators will replace the management. The provisions of this Act on company management apply correspondingly, with such changes as are necessary, to one or more liquidators.

**(2)** Liquidators may be removed at any time by the party that has elected or appointed the liquidator.

**(3)** The provisions of this Act and the Financial Statements Act on financial reporting, auditing, general meetings, and the submission of annual reports to the Danish Business Authority apply correspondingly to companies in liquidation, subject to the derogations provided by this Part of the Act.

#### *Application for registration of liquidation*

**220.-(1)** The liquidator must ensure that any application for registration of a resolution to enter into liquidation reaches the Danish Business Authority by no later than two weeks after the date of the resolution.

**(2)** A company in liquidation must keep its name with "*i likvidation*" (in liquidation) added to it. Section 228(1) on registration applies.

**(3)** When a limited liability company has resolved to enter into liquidation, no resolution to change the registered circumstances concerning the limited liability company may be passed, except for the following:

1) Change of liquidator.

2) Change of the company's auditor if such auditor has been elected to audit the company's financial statements etc.

3) Capital increases.

4) Amendments to the statutes as a result of a resolution passed by the general meeting to change a previous resolution on the audit of the limited liability company's future financial statements etc. if the

limited liability company is not subject to audit obligations under the Financial Statements Act or any other legislation, cf. section 88(1), no. 3.

5) Change of the address of the company's registered office to the liquidator's address if it is not possible to contact the company at the former address or if, exceptionally, such change is warranted by the specific circumstances.

6) Resumption of activities, cf. section 231.

7) Merger, without prejudice to section 246(1), and section 247(1).

8) Division, without prejudice to section 264 and section 265(1).

9) Cross-border merger, without prejudice to section 281 and section 282(1).

10) Cross-border division, without prejudice to section 301 and section 302(1).

#### *Request to creditors*

**221.-(1)** Upon registration and publication in the IT system at the Danish Business Authority under section 220(1), the creditors of the limited liability company are requested to file their claims with the liquidator by no later than three months from the date of publication. At the time of applying for registration of the resolution on liquidation under section 220(1), the liquidator must notify all the company's known creditors of the resolution.

**(2)** The liquidator may not close and dissolve the estate until the three-month period stipulated in subsection (1) has expired.

**(3)** If a claim is not admitted as proved by a creditor, the creditor must be notified to such effect by registered post or by any other means of communication providing the same degree of proof of receipt. The creditor must be notified that if the creditor wishes to contest the decision not to admit a claim, the matter must be brought before the probate court by no later than four weeks after dispatch of the letter or other communication.

**(4)** Claims filed after the estate has been closed and dissolved must be paid out of funds not yet distributed to the shareholders.

#### *Distribution of dividends and liquidation proceeds*

**222.-(1)** The shareholders may agree to distribute dividends in a company in liquidation on the basis of the most recent adopted annual report.

**(2)** Dividend distributions under subsection (1) must be made in accordance with the general regulations on dividends and extraordinary dividends in sections 180-183 and 194.

**223.-(1)** Liquidation proceeds may not be distributed to shareholders until the time limit stipulated in the request to creditors referred to in section 221(1) has expired and all debt to known creditors has been paid, without prejudice to subsection (2).

**(2)** If adequate collateral is provided, an interim distribution may be made before the liquidation is complete where the time limit for claims, cf. section 221(1), has expired and any creditor claims have been paid. Shareholders may be requested to repay liquidation proceeds distributed as an interim distribution pursuant to 194.

**224.-(1)** When the administration of the estate has been concluded, the general meeting may pass a resolution on final liquidation. Administration of the estate may not be concluded until any disputes under section 221(3), 2nd sentence, have been settled. The liquidation proceeds may be distributed before or after completion of the administration of the estate, without prejudice to section 223.

**(2)** The liquidators' application for registration of the final liquidation accounts must reach the Danish Business Authority by no later than two weeks after the liquidation accounts have been approved by the shareholders. The liquidation accounts must be annexed to the application for registration. The liquidation accounts must be audited if the company is subject to audit obligations under the Financial Statements Act or any other legislation. The Danish Business Authority will then deregister the company.

#### *Compulsory dissolution*

**225.-(1)** The Danish Business Authority may request that the probate court dissolve a limited liability company as required in accordance with section 226, if

- 1) the Danish Business Authority has not, at the appropriate time, received the approved annual report of the limited liability company in accordance with the Financial Statements Act,
- 2) the limited liability company does not have the management or the registered office required by this Act or by the statutes of the company,
- 3) the limited liability company has no registrations pursuant to section 58,
- 4) the limited liability company has not registered information on its beneficial owners, or if the company has registered incomplete information pursuant to section 58a,
- 5) the limited liability company has not held documentation for the information on its beneficial owners, or the company has held incomplete documentation pursuant to section 58a,
- 6) the limited liability company has not held company documents pursuant to section 17 or the retention of such documents is inadequate or the documents are incomplete,
- 7) the limited liability company does not submit information or the company submits incomplete information pursuant to section 23h(1),
- 8) the limited liability company has not obtained a declaration pursuant to section 23b(2),
- 9) the limited liability company has not registered an auditor, even though the company is subject to audit obligations under the Financial Statements Act or other legislation,
- 10) the limited liability company has not registered an auditor, even though the general meeting has otherwise resolved that the annual financial statements etc. of the company are to be audited, or
- 11) the management of the company has not reacted to claims on called up share capital that cannot be met.

**(2)** The Danish Business Authority may stipulate a time limit within which the limited liability company may rectify a deficiency under subsection (1). If the deficiency is not rectified by no later than the expiry of the time limit stipulated by the Authority, the Authority may decide to impose compulsory dissolution.

**226.-(1)** If dissolution is not adopted by the company in circumstances in which this is required by legislation, by the statutes of the limited liability company, or by the Danish Business Authority under the

regulations in this Act, cf. section 217(2), 2nd sentence, or if a liquidator is not elected, the Danish Business Authority may request that the probate court for the registered office of the limited liability company dissolve the company.

**(2)** Subsection (1) applies correspondingly to compulsory dissolution of a company by court order under section 230.

**227.-(1)** The decision by the Danish Business Authority to request the probate court to compulsorily dissolve a limited liability company must be published in the IT system at the Danish Business Authority.

**(2)** The limited liability company must keep its name with "*under tvangsopløsning*" (under compulsory dissolution) added to it.

**(3)** The probate court may appoint one or more liquidators. The probate court may also appoint an auditor. The provisions on liquidation in this Part apply to compulsory dissolution, always provided that the probate court or anyone authorised by the court makes decisions with respect to the company's circumstances. The costs of dissolution will be paid out of public funds, if necessary.

**(4)** Upon conclusion of administration of the estate, the probate court must notify the Danish Business Authority to such effect, and the Authority must register the dissolution of the company in the IT system at the Danish Business Authority.

**228.-(1)** When the Danish Business Authority has decided that a limited liability company must be compulsorily dissolved, no decision to change the registered information concerning the limited liability company may be made, except as follows:

- 1) Installation of a liquidator appointed by the probate court, cf. section 227(3), 1st sentence.
- 2) Change of a liquidator appointed by the probate court.
- 3) Installation of an auditor appointed by the probate court, cf. section 227(3), 2nd sentence.
- 4) Change of an auditor appointed by the probate court.
- 5) Resumption of activities, cf. section 232.
- 6) Merger, cf. sections 236-253, without prejudice to subsection (2).
- 7) Division, cf. sections 254-270, without prejudice to subsection (2).
- 8) Cross-border merger, cf. sections 271-290 and 311-317, without prejudice to subsection (2).
- 9) Cross-border division, cf. sections 291-311 and 318, without prejudice to subsection (2).

**(2)** A resolution to implement a merger, division, cross-border merger or cross-border division is subject to approval by the probate court or any liquidator appointed by the probate court

**(3)** If the surviving company in a merger or cross-border merger or the recipient company in a division or cross-border division is under compulsory dissolution, the resolution on the transaction may only be passed if, at the same time, it is resolved to resume the company's activities, cf. section 232

**229.-(1)** In the period from when the request for compulsory dissolution of the limited liability company is submitted to the probate court until a liquidator has been appointed or the company has been dissolved,



the former management of the limited liability company may only carry out transactions that are necessary and that may be carried out without detriment to the company and its creditors.

**(2)** To the extent necessary, the former management of the limited liability company must provide the probate court and any liquidator appointed by the probate court with information on the company's activities so far. The same applies to the company's former auditor, if any, if the probate court is unable to obtain information from the company's former management. The management and the auditor must provide the information necessary for the probate court and any appointed liquidator to assess existing and future claims.

**(3)** In groups, the managements of subsidiaries must also assist the probate court and any liquidator appointed by the probate court, cf. subsection (2), if the parent company is subject to compulsory dissolution.

**(4)** The probate court may summon the former members of the company's management and the company's former auditor to a court hearing in order to obtain the information mentioned in subsections (2) and (3).

**(5)** The probate court may decide that former members of the company's management and the company's former auditor are to attend the hearing using video-based telecommunications if this is considered appropriate. The person(s) in question will be summoned to appear at a specified location, cf. section 192 of the Administration of Justice Act.

**(6)** The probate court may decide that former members of the company's management and the company's former auditor are to attend the hearing using non-video-based telecommunications if attending the hearing using video-based telecommunications would involve disproportionate difficulties, and attending the hearing using non-video-based telecommunications is considered adequate.

#### *Compulsory dissolution by the court*

**230.** Where any shareholders in a limited liability company have wilfully contributed to passing a resolution by the general meeting that is in contravention of section 108, or have otherwise abused the influence that they have over a limited liability company or contributed to a contravention of this Act or the statutes of the limited liability company, the court may, upon request from shareholders representing no less than one-tenth of the share capital, order that the limited liability company be dissolved if special grounds exist because of the duration of the abuse or other circumstances.

#### *Resumption of activities*

**231.-(1)** If no distribution pursuant to section 223 has commenced, the shareholders of a limited liability company may resolve to resume the company's activities in accordance with section 106. A condition for resumption is that a management and possibly an auditor must be elected and a declaration must be made by a valuation expert, cf. Section 37, that the required capital is available. The share capital must be reduced to the amount available. If, after this, the share capital is less than the capital requirement, cf. Section 4(2), the share capital must be increased to at least this amount.

**(2)** The resolution to resume the company's activities must be notified by no more than two weeks after the date of the resolution. Notification must be accompanied by a declaration by an approved auditor that no loans etc. have been advanced to members in contravention of Part 13 of this Act.

**232.-(1)** Section 231 applies correspondingly when a company under compulsory dissolution by order of the probate court applies to the Danish Business Authority for discontinuation of the proceedings and resumption of the company's activities.

**(2)** If the application pursuant to subsection (1) has not been received by no later than three months after the Danish Business Authority has requested the probate court to dissolve the company, or if the company has previously been under compulsory dissolution within the past five years, the company's activities may not be resumed. The time limit of three months will be suspended if the company is taken under financial reconstruction.

**(3)** If a limited liability company is subject to compulsory dissolution, a condition for resumption of the company's activities is that the circumstances that caused the limited liability company to be subject to compulsory dissolution have been rectified. Such rectification must be made by no later than at the time of passing the resolution to resume the company's activities, cf. section 231(1). Documentation that the matters have been rectified must be submitted no later than the date of application, cf. subsection (1). If, at the time of the request to resume the company's activities, the limited liability company has not yet submitted annual reports for the financial year in which the deadline for submission falls, receipt of said annual reports will also be a condition for resumption of the company's activities.

**(4)** If the probate court has appointed a liquidator, such liquidator must consent to the resumption of activities.

**(5)** If the court has ordered a company to be dissolved, cf. section 230, the company's activities may not be resumed.

#### *Transition to financial reconstruction or bankruptcy proceedings*

**233.-(1)** Only the central governing body or, if the company is in liquidation, the liquidator, may file a petition in financial reconstruction or bankruptcy on behalf of the company.

**(2)** If the liquidators consider that the creditors will not be satisfied in full in connection with the liquidation, they must file a petition in financial reconstruction or bankruptcy.

**(3)** If a company is under compulsory dissolution pursuant to section 226, the liquidator must file a petition in financial reconstruction or bankruptcy. If no liquidator has been appointed, the probate court may issue a financial reconstruction or bankruptcy order on its own initiative.

**(4)** When a petition for bankruptcy has been filed, no registrations may be made with respect to the limited liability company other than changes with respect to any auditor elected.

**(5)** A limited liability company in bankruptcy may participate in mergers and cross-border mergers as the non-surviving company and in divisions and cross-border divisions as the transferor company if such participation is approved by the curator.

**(6)** In a company whose management has been assumed by the reconstruction administrator ("*rekonstruktøren*"), no registrations may be made concerning the company, except for changes concerning any auditor appointed by the reconstruction administrator or changes for which a resolution has been passed by the general meeting with the consent of the reconstruction administrator

**234.-(1)** A company under financial reconstruction must keep its name with "*under rekonstruktionsbehandling*" (under financial reconstruction) added to it.

**(2)** A company in bankruptcy must keep its name with "*under konkurs*" (in bankruptcy) added to it.

#### *Temporary resumption*

**235.-(1)** The probate court may order that the estate of a limited liability company that has been struck off the register of active limited liability companies in the IT system at the Danish Business Authority following dissolution by means of a payment declaration, cf. section 216, or liquidation must be restored to the register if additional funds become available for distribution. The probate court may also order that that temporary resumption takes place if other circumstances provide grounds for such temporary resumption.

**(2)** The former liquidators will be responsible for administration of the estate. If this is not possible, the probate court or a liquidator appointed by the court will be responsible for administration of the estate.

**(3)** An application for temporary resumption and its completion must be received by the Danish Business Authority by no later than two weeks after the date of the probate court's order on temporary resumption.

### Part 15

#### *Merger and division*

##### *Merger of limited liability companies*

**236.** Under the provisions of this Part of the Act, a limited liability company may be dissolved without liquidation by transferring its assets and liabilities as a whole to another limited liability company in return for consideration provided to the shareholders of the non-surviving limited liability companies, a "merger by absorption". The same applies where two or more limited liability companies merge into a new limited liability company, a "merger by formation of a new company". The transfers are not subject to consent by the creditors.

##### *Merger plan*

**237.-(1)** The central governing bodies in the existing limited liability companies involved in a merger must draw up and sign a joint merger plan, without prejudice to subsection (2).

**(2)** If the merger only involves private limited liability companies, the shareholders may agree on a resolution that no merger plan is to be drawn up, without prejudice to section 248(2)-(4).

**(3)** If the merger involves public limited liability companies, the merger plan must include information and provisions on

1) the names and any secondary names of the limited liability companies, including whether the name or secondary name of a non-surviving company is to be adopted as a secondary name for the surviving company,

2) the registered offices of the limited liability companies,

3) the consideration for shares in a non-surviving limited liability company,

4) the date from which any shares offered as consideration will confer on the holders a right to receive dividends,

5) the rights in the surviving company that accrue to any holders of shares and debt instruments carrying special rights in a non-surviving company,

- 6) any other measures taken for the benefit of holders of the shares and debt instruments referred to in no. 5,
- 7) registration of any shares offered as consideration and any surrender of share certificates,
- 8) the date from which the rights and obligations of a non-surviving company are considered to have been transferred for accounting purposes, cf. subsection (4),
- 9) any special benefits accruing to the members of the management of limited liability companies, and
- 10) draft statutes, cf. sections 28 and 29, if a new limited liability company is formed by the merger.

**(4)** Each of the existing limited liability companies must sign the merger plan by the end of the financial year including the date on which the merger takes effect for accounting purposes, cf. subsection (3), no. 8. If this time limit is exceeded, notification that the merger plan has been received cannot be published, and the merger can thereby not be approved.

#### *Merger statement*

**238.-(1)** The central governing body in each of the existing limited liability companies involved in a merger must draw up a written statement explaining and justifying the planned merger, including the merger plan, if applicable, without prejudice to subsection (2). The statement must include information on how the consideration for shares in non-surviving companies has been determined, including any particular difficulties related to such determination, as well as information about preparation of the valuation report, if such report is to be prepared in accordance with section 240.

**(2)** The shareholders may agree on a resolution that no merger statement is to be drawn up.

#### *Interim balance sheet*

**239.-(1)** If the merger plan is signed more than six months after the end of the financial year to which the most recent annual report of a limited liability company relates, an interim balance sheet must be prepared for the relevant limited liability company involved in the merger, without prejudice to subsections (4) and (5).

**(2)** Where a limited liability company has resolved not to draw up a merger plan, cf. section 237(2), an interim balance sheet must be prepared for the relevant limited liability company involved in the merger, if the resolution not to draw up a merger plan was made more than six months after the end of the financial year to which the most recent annual report for the limited liability company relates, without prejudice to subsections (4) and (5).

**(3)** The interim balance sheet must be prepared in accordance with the regulatory framework governing the preparation of annual reports by the limited liability company, and the balance sheet date must not be more than three months prior to the date of signing the merger plan or resolving that no merger plan is to be drawn up. The interim balance sheet must be audited if the limited liability company is subject to audit obligations under the Financial Statements Act or any other legislation.

**(4)** The shareholders may agree on a resolution that no interim balance sheet is to be prepared, notwithstanding that the merger plan, if applicable, has been signed more than six months after the end of the financial year to which the most recent annual report of the company relates.

**(5)** The provision in subsection (1) does not apply to limited liability companies whose securities are admitted to trading on a regulated market in a Member State of the European Union or in a country with which the Union has entered into an agreement for the financial area, and which have published an interim report in accordance with the Financial Statements Act, provided that such interim report includes audited interim financial statements for the company, and the interim report is made available to the company's shareholders.

*Valuation report on consideration other than in cash*

**240.-(1)** If, in connection with a merger, a capital increase is carried out in the surviving public limited liability company, or if a new public limited liability company is formed by the merger, a report must be obtained from a valuation expert, without prejudice to subsection (2). The valuation expert must be appointed under section 37(1). Section 37(2) and (3) apply correspondingly to the valuation experts' activities in relation to all of the merging limited liability companies.

**(2)** The valuation report may be omitted and replaced instead by a statement from the valuation expert regarding the planned merger, cf. section 241, or a declaration from the valuation expert regarding the position of creditors, cf. section 242.

**(3)** If a valuation report is to be prepared in connection with a merger, it must include

1) a description of each contribution,

2) information on the valuation method applied,

3) specification of the agreed consideration, and

4) a declaration that the value of the assets estimated in the report corresponds at least to the consideration agreed, including the nominal value of the shares to be issued, if applicable, plus any premium.

**(4)** The valuation report may not be drawn up more than three months before the date of the merger resolution, if applicable, cf. section 245. If this time limit is exceeded, the merger cannot be validly approved.

*Statement by valuation expert(s) on the planned merger, including merger plan, if applicable*

**241.-(1)** For each of the limited liability companies involved in a merger, one or more independent valuation experts must make a written statement on the merger plan, including the consideration, cf. subsection (4). Where it has been resolved not to draw up a merger plan, cf. section 237(2), the valuation expert must make a written statement on the planned merger, including the consideration, cf. subsection (4). The shareholders may agree on a resolution not to obtain a statement by a valuation expert on the planned merger, cf. the 1st and 2nd sentence.

**(2)** The valuation experts must be appointed as specified in section 37(1). If the limited liability companies involved in the merger want to use one or more joint valuation experts, these valuation experts must, at the limited liability companies' request, be appointed by the probate court with jurisdiction over the place where the registered office of the surviving company is situated.

**(3)** Section 37(2) and (3) apply correspondingly to the valuation experts' activities in relation to all the merging limited liability companies.

**(4)** The statement must include a declaration as to whether the consideration for shares in a non-surviving limited liability company is reasonable and based on objective grounds. The declaration must specify the method(s) used to determine the consideration, and assess whether such methods are appropriate. The declaration must also specify the values that result from each method and the relative importance that should be attached to each individual method when making the valuation. Where the valuation has been associated with particular difficulties, these must be described in the declaration.

*Declaration by valuation expert(s) on the creditors' position*

**242.** In addition to the declaration described in section 241, the valuation experts must make a declaration as to whether the creditors of each limited liability company can be considered to be secured by sufficient collateral after the merger relative to the company's present situation. However, the shareholders may agree on a resolution not to obtain a declaration by a valuation expert on the creditors' position.

*Opportunity for creditors to file their claims*

**243.-(1)** If, in their declaration on the position of creditors, cf. section 242, the valuation experts conclude that the creditors in a limited liability company will not be secured by sufficient collateral after the merger, or if no declaration has been made by a valuation expert on the creditors' position, creditors whose claims arose prior to the Danish Business Authority's publication under section 244 may file their claims with the company by no later than four weeks after the date of publication. However, no claims for which adequate collateral has been provided may be filed.

**(2)** Repayment may be demanded for claims filed if they are due, and adequate collateral may be demanded for claims filed that are not yet due.

**(3)** Unless otherwise established, collateral under subsection (2) is not required if repayment of the claims is secured by a statutory arrangement.

**(4)** If the limited liability company and any creditors who have filed claims disagree as to whether collateral is to be provided, or whether the collateral offered is adequate, either party may, by no later than two weeks after the claim has been filed, bring the matter before the probate court with jurisdiction over the place where the registered office of the limited liability company is situated, in order for the court to settle the matter.

**(5)** In the agreement on which the claim is based, creditors may not, with binding effect, waive their rights to demand collateral under subsection (2).

*Submission of information on the planned merger, including the merger plan, if applicable, and declaration by valuation expert(s) on the creditors' position, if applicable*

**244.-(1)** A copy of the merger plan, if applicable, must be received by the Danish Business Authority by no later than four weeks after it has been signed, without prejudice to subsection (2). If this time limit is exceeded, notification that the Authority has received the merger plan cannot be published and the merger can thereby not be approved.

**(2)** If the limited liability companies involved have resolved not to draw up a merger plan, cf. the option provided under section 237(2), this must be notified to the Danish Business Authority, stating the names and Central Business Register (CVR) numbers of the limited liability companies involved in the merger.

**(3)** The declaration by a valuation expert on the creditors' position, cf. section 242, 1st sentence, must be submitted to the Danish Business Authority, without prejudice to subsection (4).

**(4)** If it has been decided not to obtain a declaration by a valuation expert on the creditors' position, cf. the option provided under section 242, 2nd sentence, this must be notified to the Danish Business Authority, stating the names and Central Business Register (CVR) numbers of the limited liability companies involved in the merger.

**(5)** Notification that the Danish Business Authority has received information as well as any documents, cf. subsections (1)-(4), will be published in the IT system at the Danish Business Authority. If the creditors are entitled to file claims, cf. section 243, the publication by the Danish Business Authority will include information to this effect.

**(6)** The Danish Business Authority may lay down more detailed regulations on publication by limited liability companies of any merger plan and accompanying documents.

#### *Resolution to carry out a merger*

**245.-(1)** A resolution to carry out a merger may be passed no earlier than four weeks after publication by the Danish Business Authority, cf. section 244(5), of a notification that it has received information on the planned merger, without prejudice to subsections (2) and (3). If publication pertaining to section 244(1) or (2), and publication pertaining to section 244(3) and (4) have taken place separately, the time limit stipulated in the 1st sentence must be calculated from the most recent date of publication.

**(2)** Where a merger only involves private limited liability companies, and where, in their declaration on the creditors' position under section 242, the valuation experts conclude that the creditors of each private limited liability company will be secured by sufficient collateral after the merger, the shareholders may, following publication by the Danish Business Authority, cf. section 244(5), of a notification that it has received information on the planned merger, agree on a resolution to disregard the time limit under subsection (1).

**(3)** Where it has been decided not to draw up a merger plan, cf. section 237(2), there is no requirement for the Danish Business Authority to have published a notification as provided by section 244(5) before the shareholders in a private limited liability company may resolve to carry out the merger, if a declaration by a valuation expert on the creditors' position has been made, cf. section 242, and the valuation experts conclude in their declaration on the creditors' position that the creditors of each private limited liability company will be secured by sufficient collateral after the merger.

**(4)** If the non-surviving limited liability company has reached the end of its financial year before the date on which the non-surviving company's rights and obligations are to be considered to have been transferred to the surviving company for accounting purposes, and the general meeting has not yet approved the annual report for this accounting period, the general meeting must approve the annual report for the accounting period no later than the date of the resolution to carry out the merger.

**(5)** Creditors must, upon request, be informed about the date on which a resolution to carry out the possible merger is to be passed.

**(6)** The merger must be carried out in accordance with the merger plan if such plan has been drawn up. If the merger is not approved in accordance with the published merger plan, if applicable, the proposal will be considered to have lapsed.

**(7)** If the following documents have been prepared, they must be made available for inspection by the shareholders at the company's registered office or on the company website by no later than four weeks before the date on which the resolution to carry out a merger is to be passed, unless the shareholders agree on a resolution that such documents are not to be made available prior to or at the general meeting, without prejudice to subsection (8):

- 1) The merger plan.
- 2) Approved annual reports for each existing limited liability company involved in the merger for the last three financial years or any shorter period in which the limited liability company has existed.
- 3) A merger statement.
- 4) An interim balance sheet.
- 5) A valuation report on consideration other than in cash.
- 6) The valuation experts' statement on the planned merger, including the merger plan, if applicable.
- 7) The valuation experts' declaration on the creditors' position.

**(8)** Shareholders must, upon request, be given access to the documents specified in subsection (7), free of charge.

**246.-(1)** In a non-surviving limited liability company, the resolution to carry out a merger must be passed by the general meeting, without prejudice to subsection (2) and section 252. If the limited liability company is in liquidation, a merger resolution may only be passed if the shareholders have not yet received any distributions, and if the general meeting resolves at the same time to suspend the liquidation process. Section 231 on resumption of activities will then not apply.

**(2)** If a limited liability company is dissolved without liquidation by transferring the limited liability company's assets and liabilities as a whole to another limited liability company that holds at least 90% of the share capital in the non-surviving limited liability company, the merger resolution may be passed by the central governing body of the non-surviving limited liability company, without prejudice to subsections (3)-(5).

**(3)** The resolution under subsection (2) must, however, be passed by the general meeting if shareholders holding 5% of the share capital make a written request to this effect by no later than two weeks after notification has been published that information on the planned merger, including the merger plan, if applicable, has been received. The resolution in the non-surviving company must also be passed by the general meeting if so requested by shareholders entitled under the statutes, cf. Section 89, to demand that a general meeting be called.

**(4)** The central governing body must call a general meeting within two weeks of such request being made.

**(5)** If the resolution in the non-surviving limited liability company is to be passed by the general meeting, the resolution must be passed by the majority required under section 106 and in accordance with any other provisions in the statutes that apply to dissolution or mergers.

**247.-(1)** In the surviving limited liability company, a merger resolution must be passed by the central governing body, unless amendments to the statutes are to be adopted by the general meeting, except for adopting the name or secondary name of a non-surviving limited liability company as a secondary name for



the surviving limited liability company, without prejudice to subsections (2)-(4). If the limited liability company is in liquidation, a merger resolution may only be passed if the shareholders have not yet received any distributions, and if the general meeting resolves at the same time to resume activities, cf. section 231.

**(2)** Shareholders holding 5% of the share capital, or shareholders entitled under the statutes, cf. section 89, to demand that a general meeting be called, may also present a written demand that the merger resolution in the surviving company be passed by the general meeting, provided that such demand is presented by no later than two weeks after the Danish Business Authority has published notification that it has received information on the planned merger, including the merger plan, if applicable.

**(3)** The central governing body must call a general meeting within two weeks of such request being made.

**(4)** If the resolution in the surviving limited liability company is to be passed by the general meeting, the resolution must be passed by the majority required under section 106.

**248.-(1)** The central governing body of the existing limited liability companies involved in a merger must inform any general meeting at which the resolution to carry out the merger is to be passed about any significant events, including any significant changes in assets and liabilities, that have occurred in the period between the date of signing the merger plan and the date of the general meeting.

**(2)** Where it has been decided not to draw up a merger plan, cf. section 237(2), the central governing bodies must provide information about any significant events, including any significant changes in assets and liabilities, that have occurred in the period between the balance sheet date in the company's most recent annual report and the date of the general meeting.

**(3)** If a merger only involves private limited liability companies, the following issues must be addressed in connection with passing the resolution to carry out the merger, unless this information is included in the merger plan, if applicable, cf. section 237:

1) The names and any secondary names of the private limited liability companies, including whether the name or secondary name of a non-surviving company is to be adopted as a secondary name of the surviving private limited liability company.

2) The consideration for shares in a non-surviving private limited liability company.

3) The date from which any shares offered as consideration will confer on the holders a right to receive dividends.

4) The date from which the rights and obligations of a non-surviving private limited liability company are considered to have been transferred for accounting purposes.

5) Statutes, cf. sections 28 and 29, if a new private limited liability company is formed by the merger.

**(4)** If the merger only involves private limited liability companies, and if, under section 237(2), the shareholders have agreed on a resolution that no merger plan is to be drawn up, identical resolutions must have been passed by all of the existing private limited liability companies involved in the merger with regard to the requirements in subsection (3). If this is not the case, the resolution to carry out the merger will be considered to have lapsed.

*Opportunity to claim compensation*

**249.-(1)** The shareholders in the non-surviving company or limited liability companies may claim compensation from the limited liability company if the consideration for shares in the non-surviving company or limited liability companies is not reasonable and not based on objective grounds, and if the shareholders have made a reservation to this effect at the general meeting at which the resolution to carry out the merger was passed.

**(2)** Any legal proceedings pursuant to subsection (1) must be commenced by no later than two weeks after the merger resolution has been adopted in all of the merging limited liability companies.

**(3)** If a reservation is made under subsection (1), the approved merger may not be registered until after expiry of the time limit prescribed in subsection (2), unless, in their statement on the planned merger, including the consideration, cf. section 241, the valuation experts conclude that the consideration for shares in the non-surviving company or limited liability companies is reasonable and based on objective grounds.

#### *Legal effects of a merger*

**250.-(1)** A merger will be considered to have been completed, and a non-surviving limited liability company will be considered to have been dissolved and its rights and obligations to have been transferred in full to the surviving limited liability company, without prejudice to subsection (2), when:

1) The resolution to carry out the merger has been passed by all of the existing limited liability companies involved in the merger.

2) The claims filed by creditors under section 243 have been settled.

3) The shareholders' claims for compensation under section 249 have been settled, or adequate collateral has been provided in respect of the claims. If valuation experts have drawn up a statement on the planned merger, including the consideration, and the statement is based on the assumption that the consideration is reasonable and based on objective grounds, the valuation experts must also have declared that their statement on the consideration is not disputed to any significant degree. The valuation experts determine whether the collateral is adequate.

4) The requirements in subsection (6) concerning election of members of the supreme governing body and election of auditor have been met.

5) An executive board has been employed if, in connection with the merger, a new limited liability company is formed that requires a management model in which the supreme governing body is either a board of directors or a supervisory board, cf. section 111(1).

**(2)** If the date on which the non-surviving company's rights and obligations are to be considered to have been transferred to the surviving company for accounting purposes is after the date of passing the resolutions to carry out the merger, the merger will not take legal effect, cf. the 2nd and 3rd sentence, until it takes effect for accounting purposes. The date on which the merger takes effect for accounting purposes may not be more than two weeks after the date of passing the resolutions to carry out the merger, although no later than on the date of registration or application for registration of the merger. Furthermore, the date on which the merger takes effect for accounting purposes, and the date of passing the resolution to carry out the merger must be in the same financial year for all limited liability companies involved in the merger.

**(3)** When the requirements stipulated in subsections (1) and (2) are met, the shareholders in a non-surviving limited liability company who receive shares as consideration will become shareholders in the surviving company.

**(4)** Consideration cannot be offered for shares in a non-surviving limited liability company owned by the merging limited liability companies. Section 31 and section 153(2) apply correspondingly in connection with mergers.

**(5)** Part 3 on formation, Part 10 on capital increases and Part 14 on dissolution do not apply to mergers unless this is stipulated in the provisions on mergers, cf. sections 236-252.

**(6)** If a new limited liability company is formed by the merger, and if members of the supreme governing body and an auditor, if applicable, are not elected immediately after the general meeting has approved the merger, a general meeting must be held in the new limited liability company within two weeks to elect members of the supreme governing body and an auditor, if applicable. The general meeting must also resolve whether the future financial statements of the limited liability company are to be audited if the limited liability company is not subject to audit obligations under the Financial Statements Act or any other legislation.

#### *Application for registration of a merger*

**251.-(1)** For each limited liability company, the approved merger must be registered with, or an application for registration, cf. Section 9, must be submitted to, the Danish Business Authority by no later than two weeks after the merger resolution has been passed by all existing limited liability companies involved in the merger. The surviving limited liability company may register or apply for registration of the merger on behalf of the limited liability companies involved in the merger. The registration or application for registration must be accompanied by the documents specified in section 245(7), nos. 3-7, if such documents have been prepared. The approved merger may only be registered when it has taken legal effect under section 250(1) and (2).

**(2)** The approved merger must be registered or an application for registration must be submitted, cf. Section 9, by no later than at the expiry of the time limit for submitting the annual report for the period including the date on which the merger takes effect for accounting purposes, however no later than one year after the Danish Business Authority has published notification, cf. Section 244(5), of receipt of information on the planned merger. If one of these two time limits is exceeded, the resolution to carry out the merger will be invalid, and any merger plan prepared under section 237 will be considered to have lapsed.

**(3)** If a limited liability company resulting from a merger enters into an agreement before the limited liability company has been registered, and if the other contracting party is aware that the limited liability company is not registered, the other contracting party may, unless otherwise agreed, cancel the agreement if no registration has been made with, or no application for registration has been received by, the Danish Business Authority by the end of the period stipulated in subsection (2), or if registration is refused. If the other contracting party was not aware that the limited liability company had not been registered, this party may cancel the agreement as long as the limited liability company remains unregistered. Section 41(1), 2nd sentence, applies correspondingly.

**(4)** Sections 42-44 apply correspondingly where a public limited liability company resulting from a merger acquires assets from a shareholder known to the company during the 24 months following registration of the company.

### *Vertical mergers between parent companies and wholly owned subsidiaries*

**252.** If a limited liability company is dissolved without liquidation by transferring the limited liability company's assets and liabilities as a whole to another limited liability company that holds all of the shares in the non-surviving limited liability company, i.e. a vertical merger, the merger resolution may be passed by the central governing body of the non-surviving limited liability company. Section 237(1) and (2), section 237 (3), nos. 1, 2, 5, 6 and 8-10, and (4), section 239, sections 242-245, section 246(1), 2nd and 3rd sentence, sections 247 and 248 and sections 250 and 251 apply correspondingly to vertical mergers.

#### *Transfer of the assets and liabilities of a limited liability company to the Danish state or a Danish municipality*

**253.** If a limited liability company is dissolved without liquidation by transferring the limited liability company's assets and liabilities as a whole to the Danish state or a Danish municipality, section 237(1) and (3), section 238, section 241, section 244(1), (2) and (5), section 245(1) and (3)-(6), sections 246, 248 and 249, section 250(1), no. 1, and section 251(1) apply correspondingly.

#### *Division of limited liability companies*

**254.-(1)** The general meeting of a limited liability company may pass a resolution to divide the limited liability company. In connection with the division, assets and liabilities are transferred as a whole to several existing or new public or private limited liability companies formed by the division, in exchange for consideration to the shareholders in the transferor company. The general meeting of a limited liability company may resolve, with the same majority of votes, to effect a division whereby the limited liability company transfers part of its assets and liabilities to one or more existing or new limited liability companies formed by the division. The transfers are not subject to consent by the creditors.

**(2)** If a creditor of a limited liability company involved in a division has a claim that is not paid in full, each of the other limited liability companies involved in the division are jointly and severally liable for obligations existing on the date of publication by the Danish Business Authority, cf. section 262(5), pertaining to section 262(1) or (2), however for a maximum amount corresponding to the net value contributed or remaining in the individual company at that time.

**(3)** If one or more of the recipient companies involved in a division are formed as part of another division or merger that has not been completed, this must be specified in the division plan, cf. section 255, or in the resolution to approve the division, cf. section 266, if it has been decided not to draw up a division plan. Any division into new recipient limited liability companies formed as part of another division or merger must be carried out immediately after the division or merger that the new limited liability companies are formed as part of, cf. section 269.

#### *Division plan*

**255.-(1)** The central governing bodies in the existing limited liability companies involved in a division must draw up and sign a joint division plan, without prejudice to subsection (2).

**(2)** If the division only involves private limited liability companies, the shareholders may agree on a resolution that no division plan is to be drawn up, without prejudice to section 266(2), (3) and (4).

**(3)** If the division involves public limited liability companies, the division plan must include information and provisions on

- 1) the names and any secondary names of the limited liability companies, including whether the name or secondary name of a transferor company is to be adopted as a secondary name for the recipient company,
- 2) the registered offices of the limited liability companies,
- 3) a precise description and allocation of the assets and liabilities that are to be transferred or to remain in each of the limited liability companies involved in the division,
- 4) the consideration for shareholders in the transferor company,
- 5) the allocation of the consideration, including shares in the recipient companies, to shareholders in the transferor company and the criterion for such allocation,
- 6) the date from which any shares offered as consideration will confer on the holders a right to receive dividends,
- 7) the rights in a recipient company that accrue to any holders of shares and debt instruments carrying special rights in the transferor company,
- 8) any other measures taken for the benefit of holders of the shares and debt instruments referred to in no. 7,
- 9) registration of any shares offered as consideration and any surrender of share certificates,
- 10) the date from which the rights and obligations of the transferor company are considered to have been transferred for accounting purposes, cf. subsection (4),
- 11) any special benefits accruing to the members of the management of limited liability companies, and
- 12) draft statutes, cf. sections 28 and 29, if one or more new limited liability companies are formed by the division.

**(4)** Each of the existing limited liability companies must sign the division plan by the end of the financial year including the date on which the division takes effect for accounting purposes, cf. subsection (3), no. 10. If this time limit is exceeded, notification that the Danish Business Authority has received the division plan cannot be published and the division can thereby not be approved.

**(5)** Where part of the assets have not been allocated by the division plan, cf. subsection (3), no. 3, or section 266(3), and where the interpretation of this plan does not make a decision on their allocation possible, this part of the assets or the value thereof will be allocated to the limited liability companies involved in proportion to the net assets contributed or remaining in each limited liability company according to the division plan.

**(6)** Where part of the liabilities have not been allocated by the division plan, cf. subsection (3), no. 3, or section 266(3), and where the interpretation of this plan does not make a decision on their allocation possible, each of the limited liability companies involved are jointly and severally liable, although for a maximum amount corresponding to the net value contributed or remaining in the individual limited liability company. Such liabilities are allocated to the limited liability companies involved in proportion to the net assets contributed or remaining in each limited liability company according to the division plan.

#### *Division statement*

**256.-(1)** The central governing body in each of the existing limited liability companies involved in a division must draw up a written statement explaining and justifying the planned division, including the division plan, if applicable, without prejudice to subsection (2). The statement must include information on how the consideration for shares in the transferor company has been determined, including any particular difficulties related to such determination, as well as information about the preparation of the valuation report, if such report is to be prepared in accordance with section 258.

**(2)** The shareholders may agree on a resolution that no division statement is to be drawn up.

#### *Interim balance sheet*

**257.-(1)** If the division plan is signed more than six months after the end of the financial year to which the most recent annual report of a limited liability company relates, an interim balance sheet must be prepared for the relevant limited liability company involved in the division, without prejudice to subsections (4) and (5).

**(2)** Where a limited liability company has decided not to draw up a division plan, cf. section 255(2), an interim balance sheet must be prepared for the relevant limited liability company involved in the division, if the resolution not to draw up a division plan was passed more than six months after the end of the financial year to which the most recent annual report for the limited liability company relates, without prejudice to subsections (4) and (5).

**(3)** The interim balance sheet must be prepared in accordance with the regulatory framework governing the company's preparation of annual reports, and the balance sheet date must not be more than three months prior to the date of signing the division plan or resolving that no division plan is to be drawn up. The interim balance sheet must be audited if the limited liability company is subject to audit obligations under the Financial Statements Act or any other legislation.

**(4)** The shareholders may agree on a resolution that no interim balance sheet is to be prepared, notwithstanding that the division plan, if applicable, has been signed more than six months after the end of the financial year to which the most recent annual report of the limited liability company relates.

**(5)** The provision in subsection (1) does not apply to limited liability companies whose securities are admitted to trading on a regulated market in a Member State of the European Union or in a country with which the Union has entered into an agreement for the financial area, and which have published an interim report in accordance with the Financial Statements Act, provided that such interim report includes audited interim financial statements for the company, and the interim report is made available to the company's shareholders.

#### *Valuation report on consideration other than in cash*

**258.-(1)** If, in connection with a division, capital increases are carried out in one or more of the recipient public limited liability companies, or if one or more new public limited liability companies are formed by the division, a report must be obtained from a valuation expert as part of the division, without prejudice to subsection (2). The valuation expert must be appointed under section 37(1). Section 37(2) and (3) apply correspondingly to the valuation experts' activities in relation to all of the limited liability companies involved in the division.

**(2)** The valuation report may be omitted and replaced instead by a statement from the valuation expert regarding the planned division, cf. section 259, or a declaration from the valuation expert regarding the position of creditors, cf. section 260.

**(3)** If a valuation report is to be prepared in connection with a division, it must include

- 1) a description of each contribution,
- 2) information on the valuation method applied,
- 3) specification of the agreed consideration, and
- 4) a declaration that the value of the assets estimated in the report corresponds at least to the consideration agreed, including the nominal value of the shares to be issued plus any premium.

**(4)** The valuation report may not be drawn up more than three months before the date of the division resolution, if applicable, cf. section 263. If this time limit is exceeded, the division cannot be validly approved.

*Statement by valuation expert(s) on the planned division, including the division plan, if applicable*

**259.-(1)** For each of the limited liability companies involved in a division, one or more independent valuation experts must make a written statement on the division plan, including the consideration, cf. subsection (4). Where it has been decided not to draw up a division plan, cf. section 255(2), the valuation expert must make a written statement on the planned division, including the consideration, cf. subsection (4). The shareholders may agree on a resolution not to obtain a statement by a valuation expert on the planned division.

**(2)** The valuation experts must be appointed as specified in section 37(1). If the limited liability companies involved in the division want to use one or more joint valuation experts, these valuation experts must, at the limited liability companies' request, be appointed by the probate court with jurisdiction over the place where the registered office of one of the recipient companies is situated.

**(3)** Section 37(2) and (3) apply correspondingly to the valuation experts' activities in relation to all of the limited liability companies involved in the division.

**(4)** The statement must include a declaration as to whether the consideration for shareholders in the transferor company is reasonable and based on objective grounds. The declaration must specify the method(s) used to determine the consideration, and assess whether such methods are appropriate. The declaration must also specify the values that result from each method and the relative importance that should be attached to each individual method when making the valuation. Where the valuation has been associated with particular difficulties, these must be described in the declaration.

*Declaration by valuation expert(s) on the creditors' position*

**260.** In addition to the declaration described in section 259, the valuation experts must make a declaration as to whether the creditors of each limited liability company can be considered to be secured by sufficient collateral after the division relative to the company's present situation. However, the shareholders may agree on a resolution not to obtain a declaration by a valuation expert on the creditors' position.

*Opportunity for creditors to file their claims*

**261.-(1)** If, in their declaration on the position of creditors, cf. section 260, the valuation experts conclude that the creditors in a limited liability company will not be secured by sufficient collateral after the division, or if no declaration has been made by a valuation expert on the creditors' position, creditors whose claims arose prior to the Danish Business Authority's publication under section 262 may file their claims with the company by no later than four weeks after the date of publication. However, no claims for which adequate collateral has been provided may be filed.

**(2)** Repayment may be demanded for claims filed if they are due, and adequate collateral may be demanded for claims filed that are not yet due.

**(3)** Unless otherwise established, collateral under subsection (2) is not required if repayment of the claims is secured by a statutory arrangement.

**(4)** If the limited liability company and any creditors who have filed claims disagree as to whether collateral is to be provided, or whether the collateral offered is adequate, either party may, by no later than two weeks after the claim has been filed, bring the matter before the probate court with jurisdiction over the place where the registered office of the limited liability company is situated, in order for the court to settle the matter.

**(5)** In the agreement on which the claim is based, creditors may not, with binding effect, waive their rights to demand collateral under subsection (2).

*Submission of information on the planned division, including the division plan, if applicable, and a declaration by valuation expert(s) on the creditors' position, if applicable*

**262.-(1)** A copy of the division plan, if applicable, must be received by the Danish Business Authority by no later than four weeks after it has been signed, without prejudice to subsection (2). If this time limit is exceeded, notification that the division plan has been received cannot be published and the division can thereby not be approved.

**(2)** If the limited liability companies involved have decided not to draw up a division plan, cf. the option provided under section 255(2), this must be notified to the Danish Business Authority, stating the names and Central Business Register (CVR) numbers of the limited liability companies involved in the division.

**(3)** The declaration by a valuation expert on the creditors' position, cf. section 260, 1st sentence, must be submitted to the Danish Business Authority, without prejudice to subsection (4).

**(4)** If it has been decided not to obtain a declaration by a valuation expert on the creditors' position, cf. the option provided under section 260, 2nd sentence, this must be notified to the Danish Business Authority, stating the names and Central Business Register (CVR) numbers of the limited liability companies involved in the division.

**(5)** Notification that the Danish Business Authority has received information as well as any documents, cf. subsections (1)-(4), will be published in the IT system at the Danish Business Authority. If the creditors are entitled to file claims, cf. section 261, the publication by the Danish Business Authority will include information to this effect.

**(6)** The Danish Business Authority may lay down more detailed regulations on publication by limited liability companies of a division plan, if applicable, and any accompanying documents.

*Resolution to carry out a division*



**263.-(1)** A resolution to carry out a division may be passed no earlier than four weeks after publication by the Danish Business Authority, cf. section 262(5), of a notification that it has received information on the planned division, without prejudice to subsections (2) and (3). If publication pertaining to section 262(1) or (2), and publication pertaining to section 262(3) and (4) have taken place separately, the time limit stipulated in the 1st sentence must be calculated from the most recent date of publication.

**(2)** Where a division only involves private limited liability companies, and where, in their declaration on the creditors' position under section 260, the valuation experts conclude that the creditors of each company will be secured by sufficient collateral after the division, the shareholders may, following publication by the Danish Business Authority, cf. section 262(5), of a notification that it has received information on the planned division, resolve to disregard the time limit under subsection (1).

**(3)** Where it has been decided not to draw up a division plan, cf. section 255(2), there is no requirement for the Danish Business Authority to have published a notification as provided by section 262(5) before the shareholders in a private limited liability company may resolve to carry out the division, if a declaration by a valuation expert on the creditors' position has been made, cf. section 260, and if the valuation experts conclude in their declaration on the creditors' position that the creditors of each private limited liability company will be secured by sufficient collateral after the division.

**(4)** If the transferor company ceases to exist as part of the division and has reached the end of its financial year before the date on which the transferor company's rights and obligations are to be considered to have been transferred to the recipient companies for accounting purposes, and the general meeting has not yet approved the annual report for this accounting period, the general meeting must approve the annual report for the accounting period no later than the date of the resolution to carry out the division.

**(5)** Creditors must, upon request, be informed about the date on which a resolution to carry out the possible division is to be passed.

**(6)** The division must be carried out in accordance with the division plan if such plan has been drawn up. If the division is not approved in accordance with the published division plan, if applicable, the proposal will be considered to have lapsed.

**(7)** If the following documents have been prepared, they must be made available for inspection by the shareholders at the company's registered office or on the company website by no later than four weeks before the date on which the resolution to carry out a division is to be passed, unless the shareholders agree on a resolution that such documents are not to be made available to them prior to or at the general meeting, without prejudice to subsection (8):

- 1) The division plan.
- 2) Approved annual reports for each existing limited liability company involved in the division for the last three financial years or any shorter period in which the limited liability company has existed.
- 3) Division statement.
- 4) An interim balance sheet.
- 5) A valuation report on consideration other than in cash.
- 6) Statements by valuation expert(s) on the planned division, including the division plan, if applicable
- 7) The valuation experts' declaration on the creditors' position.

**(8)** Shareholders must, upon request, be given access to the documents specified in subsection (7), free of charge.

**264.** In the transferor limited liability company, a division resolution must be passed by the general meeting by the majority required under sections 106 and 107 and in accordance with any other provisions in the statutes that apply to dissolution or division, without prejudice to section 270. If the limited liability company is in liquidation, a division resolution may only be passed if the shareholders have not yet received any distributions, and if the general meeting resolves at the same time to suspend the liquidation process. Section 231 on resumption of activities will then not apply.

**265.-(1)** In existing recipient limited liability companies, a division resolution must be passed by the central governing body, unless amendments to the statutes are to be adopted by the general meeting, except for adopting the name or secondary name of the transferor company as a secondary name for the recipient company, without prejudice to subsection (2). If the limited liability company is in liquidation, a division resolution may only be passed if the shareholders have not yet received any distributions, and if the general meeting resolves at the same time to resume activities in the company, cf. Section 231.

**(2)** Shareholders holding 5% of the share capital, or shareholders entitled under the statutes, cf. Section 89, to demand that a general meeting be called, may also present a written demand that the division resolution in existing recipient companies be passed by the general meeting, provided that such demand is presented by no later than two weeks after the Danish Business Authority has published notification that it has received information on the planned division, including the division plan, if applicable.

**(3)** The central governing body must call a general meeting within two weeks of such request being made.

**(4)** If the resolution in an existing recipient company is to be passed by the general meeting, the resolution must be passed by the majority required under section 106.

**266.-(1)** The central governing body of the existing limited liability companies involved in a division must inform any general meeting at which the resolution to carry out a division is to be passed about any significant events, including any significant changes in assets and liabilities, that have occurred in the period between the date of signing the division plan and the date of the general meeting.

**(2)** Where it has been decided not to draw up a division plan, cf. Section 255(2), the central governing bodies must provide information about any significant events, including any significant changes in assets and liabilities, that have occurred in the period between the balance sheet date in the company's most recent annual report and the date of the general meeting.

**(3)** If a division only involves private limited liability companies, the following issues must be addressed in connection with passing the resolution to carry out the division, unless this information is included in the division plan, if applicable, cf. Section 255:

1) The names and any secondary names of the private limited liability companies, including whether the name or secondary name of a transferor company is to be adopted as a secondary name for the recipient company.

2) The allocation of the assets and liabilities that are to be transferred or to remain in each of the private limited liability companies involved in the division.

3) The consideration for shares in the transferor company, including the allocation thereof.

4) The date from which any shares offered as consideration will confer on the holders a right to receive dividends.

5) The date from which the rights and obligations of the transferor private limited liability company are considered to have been transferred for accounting purposes.

6) Statutes, cf. Sections 28 and 29, if a new private limited liability company is formed by the division.

**(4)** If the division only involves private limited liability companies, and if, under section 255(2), the shareholders have agreed on a resolution that no division plan is to be drawn up, identical resolutions must have been passed by all of the existing private limited liability companies involved in the division with regard to the requirements in subsection (3). If this is not the case, the resolution to carry out the division is considered to have lapsed.

#### *Opportunity to claim compensation*

**267.-(1)** The shareholders in a transferor limited liability company may claim compensation from the limited liability company if the consideration for shares in the transferor company is not reasonable and not based on objective grounds, and if the shareholders have made a reservation to this effect at the general meeting at which the resolution to carry out the division was passed.

**(2)** Any legal proceedings pursuant to subsection (1) must be commenced by no later than two weeks after the division resolution has been adopted in all of the existing limited liability companies involved in the division.

**(3)** If a reservation is made under subsection (1), the approved division may not be registered until after expiry of the time limit prescribed in subsection (2), unless, in their statement on the planned division, including the consideration, cf. Section 259, the valuation experts conclude that the consideration for shares in the transferor limited liability company is reasonable and based on objective grounds.

#### *Legal effects of a division*

**268.-(1)** A division will be considered to have been completed, and the rights and obligations of the transferor limited liability company to have been transferred to the recipient limited liability company, without prejudice to subsection (2), when:

1) The resolution to carry out the division has been passed by all of the existing limited liability companies involved in the division.

2) The claims filed by creditors under section 261 have been settled.

3) The shareholders' claims for compensation under section 267 have been settled, or adequate collateral has been provided in respect of the claims. If valuation experts have drawn up a statement on the division plan, including the consideration, and the statement is based on the assumption that the consideration is reasonable and based on objective grounds, the valuation experts must also have declared that their statement on the consideration is not disputed to any significant degree. The valuation experts determine whether the collateral is adequate.

4) The requirements in subsection (6) concerning election of members of the supreme governing body and election of auditor have been met.

5) An executive board has been employed if, in connection with the division, one or more new limited liability companies are formed that require a management model in which the supreme governing body is either a board of directors or a supervisory board, cf. Section 111(1).

**(2)** If the date on which the transferor company's rights and obligations are to be considered to have been transferred to the recipient companies for accounting purposes is after the date of passing the resolutions to carry out the division, the division will not take legal effect, cf. The 2nd and 3rd sentence, until it takes effect for accounting purposes. The date on which the division takes effect for accounting purposes may not be more than two weeks after the date of passing the resolutions to carry out the division, although no later than on the date of registration or application for registration of the division. Furthermore, the date on which the division takes effect for accounting purposes, and the date of passing the resolution to carry out the division must be in the same financial year for all limited liability companies involved in the division.

**(3)** When the requirements stipulated in subsections (1) and (2) are met, the shareholders in the transferor limited liability company who receive shares as consideration will become shareholders in one or more of the recipient companies.

**(4)** Consideration cannot be offered for shares in the transferor limited liability company owned by the limited liability companies involved in the division. Section 31 and section 153(2) apply correspondingly in connection with divisions.

**(5)** Part 3 on formation, Part 10 on capital increases, Part 11 on capital outflow, and Part 14 on dissolution do not apply to divisions unless this is stipulated in the provisions on divisions, cf. Sections 254-270.

**(6)** If a new limited liability company is formed by the division, and if members of the supreme governing body and an auditor, if applicable, are not elected immediately after the general meeting has approved the division, a general meeting must be held in the new limited liability company within two weeks to elect members of the supreme governing body and an auditor, if applicable. The general meeting must also resolve whether the future financial statements of the limited liability company are to be audited if the limited liability company is not subject to audit obligations under the Financial Statements Act or any other legislation.

#### *Registration of implementation of a division*

**269.-(1)** For each limited liability company, the approved division must be registered with, or an application for registration, cf. Section 9, must be submitted to, the Danish Business Authority by no later than two weeks after the division resolution has been passed by all existing limited liability companies involved in the division. The recipient limited liability companies may register or apply for registration of the division on behalf of the limited liability companies involved in the division. The registration or application for registration must be accompanied by the documents specified in section 263(7), nos. 3-7, if such documents have been prepared. The approved division may only be registered when it has taken legal effect under section 268(1) and (2).

**(2)** The approved division must be registered or an application for registration must be submitted, cf. Section 9, by no later than at the expiry of the time limit for submitting the annual report for the period including the date on which the division takes effect for accounting purposes, although no later than one year after the Danish Business Authority has published notification, cf. Section 262(5), of receipt of information on the planned division. If one of these two time limits is exceeded, the resolution to carry out the division will be invalid, and any division plan prepared under section 255 will be considered to have lapsed.

**(3)** If a limited liability company resulting from a division enters into an agreement before the limited liability company has been registered, and if the other contracting party is aware that the limited liability company was not registered, the other contracting party may, unless otherwise agreed, cancel the agreement if no registration has been made with, or no application for registration has been received by the Danish Business Authority by the end of the period stipulated in subsection (2), or if registration is refused. If the other contracting party was not aware that the limited liability company had not been registered, this party may cancel the agreement as long as the limited liability company remains unregistered. Section 41(1), 2nd sentence, applies correspondingly.

**(4)** Sections 42-44 apply correspondingly where a public limited liability company resulting from a division acquires assets from a shareholder known to the company during the 24 months following registration of the company.

*Simplified procedures for vertical divisions, etc.*

**270.-(1)** Where all of the shares in the transferor limited liability company are held by the recipient limited liability companies, i.e. a vertical division, the division resolution may be passed by the central governing body of the transferor company. The provisions in section 255(1) and (2), and subsection (3), nos. 1-3, 7, 8 and 10-12, and subsection (4), sections 256, 257 and 260-263, section 264, 2nd and 3rd sentence, and sections 265, 266, 268 and 269 apply correspondingly to vertical divisions.

**(2)** If one or more new limited liability companies are formed by a division, and the shares in these companies are allotted to the shareholders of the transferor company in proportion to their shares or votes in the transferor company, the provisions in sections 256, 257 and 259 and section 266(1) do not apply.

Part 16

*Cross-border merger and division*

*Cross-border merger*

**271.** Limited liability companies covered by this Act may participate in cross-border mergers in which the other members are also limited liability companies, governed by the laws of EU/EEA Member States. A cross-border merger is not subject to consent by the creditors.

*Merger plan*

**272.-(1)** The central governing bodies in the existing limited liability companies involved in a merger must draw up and sign a joint merger plan that includes information and provisions on

- 1) the corporate form, names and any secondary names of the limited liability companies, including whether the name or secondary name of a non-surviving company is to be adopted as a secondary name for the surviving company,
- 2) the registered offices of the limited liability companies,
- 3) the consideration for shares in the non-surviving limited liability company,
- 4) the allocation of the consideration, including shares in the surviving company, to shareholders in the non-surviving companies and the criterion for such allocation,
- 5) the likely repercussions of the cross-border merger on employment in the limited liability companies involved in the merger,

- 6) the date from which any shares offered as consideration will confer on the holders a right to receive dividends, and a specification of any special conditions associated with such rights,
- 7) registration of any shares offered as consideration and any surrender of share certificates,
- 8) the date from which the rights and obligations of the non-surviving companies are considered to have been transferred for accounting purposes,
- 9) the rights accruing in a surviving limited liability company to any holders of shares carrying special rights and any holders of securities other than shares, or the actions proposed to be taken for the benefit of such persons,
- 10) any special benefits accruing to the valuation experts making a statement on the merger plan, cf. Section 276, and to the members of the management of the limited liability companies,
- 11) the statutes of the surviving limited liability company with the wording used after the merger,
- 12) information about the procedures under sections 311-317 for involving employees in establishing their rights to participation in the surviving limited liability company, if appropriate,
- 13) valuation of the assets and liabilities transferred to the surviving company, and
- 14) the dates of the financial statements of the merging limited liability companies used to establish the conditions of the cross-border merger.

**(2)** Each of the existing limited liability companies must sign the merger plan by the end of the financial year including the date on which the merger takes effect for accounting purposes, cf. Subsection (1), no. 6. If this time limit is exceeded, notification that the Danish Business Authority has received the merger plan cannot be published, and the merger can thereby not be approved.

#### *Merger statement*

**273.** The central governing body of each of the existing limited liability companies involved in the merger must draw up a written statement explaining and justifying the merger plan. The statement must include information on how the consideration for shares in non-surviving companies has been determined, including any particular difficulties related to such determination, as well as information about preparation of the valuation report, if such report is to be prepared in accordance with section 275. The statement must include a description of the consequences of the cross-border merger for the shareholders, creditors and employees.

#### *Interim balance sheet*

**274.-(1)** If the merger plan is signed more than six months after the end of the financial year to which the most recent annual report of the limited liability company relates, an interim balance sheet must be prepared for the relevant limited liability company involved in the merger, without prejudice to subsections (3) and (4).

**(2)** The date of the interim balance sheet which must be prepared in accordance with the regulatory framework according to which the limited liability company prepares annual reports may not be more than three months before the date that the merger plan was signed. The interim balance sheet must be audited if the limited liability company is subject to audit obligations under the Financial Statements Act or any other legislation.

**(3)** The shareholders may agree on a resolution that no interim balance sheet is to be prepared, notwithstanding that a merger plan has been signed more than six months after the end of the financial year to which the most recent annual report of the company relates.

**(4)** The provision in subsection (1) does not apply to limited liability companies whose securities are admitted to trading on a regulated market in a Member State of the European Union or in a country with which the Union has entered into an agreement for the financial area, and which have published an interim report in accordance with the Financial Statements Act, provided that such interim report includes audited interim financial statements for the company, and the interim report is made available to the company's shareholders.

#### *Valuation report on consideration other than in cash*

**275.-(1)** If, in connection with a merger, a capital increase is carried out in the surviving public limited liability company, or if a new public limited liability company is formed by the merger, a report must be obtained from a valuation expert, without prejudice to subsection (2). The valuation expert must be appointed under section 37(1). Section 37(2) and (3) apply correspondingly to the valuation experts' activities in relation to all of the merging limited liability companies.

**(2)** The valuation report may be omitted and replaced instead by a statement from the valuation expert regarding the merger plan, cf. Section 276, or a declaration from the valuation expert regarding the position of creditors, cf. Section 277.

**(3)** If a valuation report is to be prepared in connection with a merger, it must include

- 1) a description of each contribution,
- 2) information on the valuation method applied,
- 3) specification of the agreed consideration, and
- 4) a declaration that the value of the assets estimated in the report corresponds at least to the consideration agreed, including the nominal value of the shares to be issued, if applicable, plus any premium.

**(4)** The valuation report may not be drawn up more than three months before the date of any merger resolution, cf. Section 280. If this time limit is exceeded, the merger cannot be validly approved.

#### *Statement by valuation expert(s) on the merger plan*

**276.-(1)** For each of the limited liability companies involved in a merger, one or more independent valuation experts must make a written statement on the merger plan, including the consideration, cf. Subsection (4). The shareholders may agree on a resolution not to obtain a statement by a valuation expert on the merger plan.

**(2)** The valuation experts must be appointed as specified in section 37(1). If the limited liability companies involved in the merger want to use one or more joint valuation experts, these valuation experts must, at the limited liability companies' request, be appointed by the probate court with jurisdiction over the place where the registered office of the surviving company is situated.

**(3)** Section 37(2) and (3) apply correspondingly to the valuation experts' activities in relation to all the merging limited liability companies.

**(4)** The statement must include a declaration as to whether the consideration for shares in a non-surviving limited liability company is reasonable and based on objective grounds. The declaration must specify the method(s) used to determine the consideration, and assess whether such methods are appropriate. The declaration must also specify the values that result from each method and the relative importance that should be attached to each individual method when making the valuation. Where the valuation has been associated with particular difficulties, these must be described in the declaration.

*Declaration by valuation expert(s) on the creditors' position*

**277.** In addition to the declaration described in section 276, the valuation experts must make a declaration as to whether the creditors of each limited liability company can be considered to be secured by sufficient collateral after the merger relative to the company's present situation. However, the shareholders may agree on a resolution not to obtain a declaration by a valuation expert on the creditors' position.

*Opportunity for creditors to file their claims*

**278.-(1)** If, in their declaration on the position of creditors, cf. Section 277, the valuation experts conclude that the creditors in a limited liability company will not be secured by sufficient collateral after the merger, or if no declaration has been made by a valuation expert on the creditors' position, creditors whose claims arose prior to the Danish Business Authority's publication under section 279 may file their claims with the company by no later than four weeks after the date of publication. However, no claims for which adequate collateral has been provided may be filed.

**(2)** Repayment may be demanded for claims filed if they are due, and adequate collateral may be demanded for claims filed that are not yet due.

**(3)** Unless otherwise established, collateral under subsection (2) is not required if repayment of the claims is secured by a statutory arrangement.

**(4)** If the limited liability company and any creditors who have filed claims disagree as to whether collateral is to be provided, or whether the collateral offered is adequate, either party may, by no later than two weeks after the claim has been filed, bring the matter before the probate court with jurisdiction over the place where the registered office of the limited liability company is situated, in order for the court to settle the matter.

**(5)** In the agreement on which the claim is based, creditors may not, with binding effect, waive their rights to demand collateral under subsection (2).

*Submission of information on the planned cross-border merger, including the merger plan and a declaration by valuation expert(s) on the creditors' position, if applicable*

**279.-(1)** A copy of the merger plan must be received by the Danish Business Authority by no later than four weeks after it has been signed.

**(2)** The declaration by a valuation expert on the creditors' position, cf. Section 277, 1<sup>st</sup> sentence, must be submitted to the Danish Business Authority, without prejudice to subsection (3).

**(3)** If it has been decided not to obtain a declaration by a valuation expert on the creditors' position, cf. the option provided under section 277, 2<sup>nd</sup> sentence, this must be notified to the Danish Business Authority, stating the names and, if relevant, Central Business Register (CVR) numbers of the limited liability companies involved in the merger.



**(4)** Notification that the Danish Business Authority has received the merger plan as well as information and any declaration by a valuation expert on the creditors' position, cf. Subsections (1)-(3), will be published in the IT system at the Danish Business Authority. If the creditors are entitled to file claims, cf. Section 278, the publication by the Danish Business Authority will include information to this effect.

**(5)** The Danish Business Authority may lay down more detailed regulations on publication by limited liability companies of a merger plan and any accompanying documents.

*Resolution to carry out a cross-border merger*

**280.-(1)** A resolution to carry out a merger may be passed no earlier than four weeks after publication by the Danish Business Authority, cf. Section 279(4), of a notification that it has received the merger plan and the declaration by a valuation expert on the creditors' position. If publication pertaining to section 279(1), and publication pertaining to section 279(2) or (3) have taken place separately, the time limit stipulated in the 1<sup>st</sup> sentence must be calculated from the most recent date of publication.

**(2)** If the non-surviving limited liability company has reached the end of its financial year before the date on which the non-surviving company's rights and obligations are to be considered to have been transferred to the surviving company for accounting purposes, and the general meeting has not yet approved the annual report for this accounting period, the general meeting must approve the annual report for the accounting period no later than the date of the resolution to carry out the merger.

**(3)** Creditors must, upon request, be informed about the date on which a resolution to carry out the possible merger is to be passed.

**(4)** The merger must be carried out in accordance with the merger plan. If the merger is not approved in accordance with the merger plan as published, the proposal will be considered to have lapsed.

**(5)** If the following documents have been prepared, they must be made available for inspection by the shareholders at the registered office of the company or on its website by no later than four weeks before the date on which the resolution to carry out a merger is to be passed, unless the shareholders agree on a resolution that the documents are not to be made available to them before or at the general meeting, without prejudice to subsection (6):

1) The merger plan.

2) Approved annual reports for each existing limited liability company involved in the division for the last three financial years or any shorter period in which the limited liability company has existed.

3) A merger statement.

4) An interim balance sheet.

5) A valuation report on consideration other than in cash.

6) The valuation experts' statements on the merger plan, including the consideration.

7) The valuation experts' declaration on the creditors' position.

**(6)** Shareholders must, upon request, be provided with access to the documents specified in subsection (5), free of charge.

**(7)** In connection with a cross-border merger, the merger statement, cf. Section 273, must also be made available at the office of the limited liability company for inspection by the employee representatives or, in the absence of such employee representatives in the relevant limited liability company, by the employees in general no later than four weeks before the date on which the merger resolution is to be passed.

**281.** In a non-surviving limited liability company, the merger resolution must be passed by the general meeting with the majority required under section 106 and in accordance with any additional rules on dissolution and merger provided by the statutes, without prejudice to section 290. If the limited liability company is in liquidation, a merger resolution may only be passed if the shareholders have not yet received any distributions, and if the general meeting resolves at the same time to suspend the liquidation process. Section 231 on resumption of activities will then not apply.

**282.-(1)** In the surviving limited liability company, a merger resolution must be passed by the central governing body, unless amendments to the statutes are to be adopted by the general meeting, except for adopting the name or secondary name of a non-surviving limited liability company as a secondary name for the surviving limited liability company, without prejudice to subsections (2)-(4). If the limited liability company is in liquidation, a merger resolution may only be passed if the shareholders have not yet received any distributions, and if the general meeting resolves at the same time to resume activities, cf. Section 231.

**(2)** Shareholders holding 5% of the share capital, or shareholders entitled under the statutes, cf. Section 89, to demand that a general meeting be called, may also present a written demand that the merger resolution in the surviving company be passed by the general meeting, provided that such demand is presented by no later than two weeks after the Danish Business Authority has published notification that it has received the merger plan.

**(3)** The central governing body must call a general meeting within two weeks of such request being made.

**(4)** If the resolution in the surviving limited liability company is to be passed by the general meeting, the resolution must be passed by the majority required under section 106.

**283.** The central governing body of the existing limited liability companies involved in a merger must inform any general meeting at which the resolution to carry out the merger is to be passed about any significant events, including any significant changes in assets and liabilities, that have occurred in the period between the date of signing the merger plan and the date of the general meeting.

**284.** If the resolution to carry out a cross-border merger is to be passed by the general meeting, the general meeting may decide that the resolution to carry out a cross-border merger is subject to subsequent approval by the general meeting of the guidelines on employee participation.

#### *Opportunity to claim compensation*

**285.-(1)** The shareholders in the non-surviving limited liability company or limited liability companies may claim compensation from the limited liability company if the consideration for shares in the non-surviving company or limited liability companies is not reasonable and not based on objective grounds, and if the shareholders have made a reservation to this effect at the general meeting at which the resolution to carry out the merger was passed.

**(2)** Any legal proceedings pursuant to subsection (1) must be commenced by no later than two weeks after the merger resolution has been passed in all of the merging limited liability companies.

**(3)** If a reservation is made under subsection (1), the approved merger may not be registered until after expiry of the two-week time limit, cf. Subsection (2), unless, in their statement on the merger plan, cf. Section 276, the valuation experts conclude that the consideration for shares in the non-surviving company or limited liability companies is reasonable and based on objective grounds.

#### *Opportunity to claim redemption*

**286.-(1)** In connection with a cross-border merger, shareholders in the non-surviving limited liability companies who opposed the merger at the general meeting may demand redemption of their shares by the limited liability company by making a written request to this effect no later than four weeks after the date of the general meeting. Section 110 applies correspondingly.

**(2)** The certificate to be issued under section 289 may only be issued when adequate collateral has been provided for the value of the shares. Experts appointed by the court with jurisdiction over the place where the registered office of the limited liability company is situated determine whether the collateral is adequate. If the experts' finding is challenged before the court, this will not have a suspensive effect on the possibilities of the Danish Business Authority to issue the certificate, unless otherwise determined by the court.

#### *Formation, capital increases and dissolution in connection with a cross-border merger*

**287.-(1)** Consideration cannot be offered for shares in a non-surviving limited liability company which are owned by the merging limited liability companies. Section 31 and section 153(2) apply correspondingly for cross-border mergers.

**(2)** Part 3 on formation, Part 10 on capital increases and Part 14 on dissolution do not apply for a cross-border merger, unless stipulated in the provisions on cross-border mergers in sections 271-290.

**(3)** If implementation of the merger results in the formation of a new limited liability company which is subject to Danish law, and if members of the supreme governing body and an auditor, if applicable, are not elected immediately after approval of the merger by the general meeting, a general meeting must be held in the new limited liability company within two weeks to elect members of the supreme governing body and an auditor, if applicable. The general meeting must also resolve whether the future financial statements of the limited liability company are to be audited if the company is not subject to audit obligations under the Financial Statements Act or any other legislation.

#### *Application for registration of a cross-border merger*

**288.-(1)** For each limited liability company, the approved merger must be registered with, or an application for registration, cf. Section 9, must be submitted to, the Danish Business Authority by no later than two weeks after the merger resolution has been passed by all existing limited liability companies involved in the merger. The surviving company may register or apply for registration of the merger on behalf of the limited liability companies involved in the merger. The registration or application for registration must be accompanied by the documents specified in section 280(5), nos. 3-7, if such documents have been prepared.

**(2)** The application for registration of the approved merger must be received by the Danish Business Authority within the time limit allowed for submitting an annual report for the period including the date on which the merger takes effect for accounting purposes, cf. Section 272(1), no. 6, although no later than one year after publication by the Authority of notification that it has received the merger plan under section

279. If one of these two time limits is exceeded, the resolution to carry out the merger will be invalid, and the merger plan prepared under section 272 will be considered to have lapsed.

**(3)** If a limited liability company resulting from a merger enters into an agreement before the limited liability company has been registered, and if the other contracting party is aware that the limited liability company is not registered, the other contracting party may, unless otherwise agreed, cancel the agreement if no application for registration has been received by the Danish Business Authority by the end of the period stipulated in subsection (2), or if registration is refused. If the other contracting party was not aware that the limited liability company had not been registered, this party may cancel the agreement as long as the limited liability company remains unregistered. Section 41(1), 2nd sentence, applies correspondingly.

**(4)** Sections 42-44 apply correspondingly where a public limited liability company resulting from a merger acquires assets from a shareholder known to the company during the 24 months following registration of the company.

#### *Issue of certificate*

**289.-(1)** Upon receipt of an application for registration of a cross-border merger, the Danish Business Authority ensures that all actions and formalities that are necessary to carry out the merger have been taken or met. The Danish Business Authority will issue a certificate to this effect to the limited liability companies involved that are subject to Danish law, as soon as possible after the following conditions have been met, without prejudice to subsection (2):

- 1) The merger resolution has been passed by all of the existing limited liability companies involved in the merger that are subject to Danish law.
- 2) The claims filed by creditors under section 278 have been settled.
- 3) The shareholders' claims for compensation under section 285 have been settled, or adequate collateral has been provided in respect of the claims. If valuation experts have drawn up a statement on the division plan, including the consideration, and the statement is based on the assumption that the consideration is reasonable and based on objective grounds, the valuation experts must also have declared that their statement on the consideration is not disputed to any significant degree. The valuation experts determine whether the collateral is adequate.
- 4) The shareholders' claims for redemption under section 286 have been settled.
- 5) The requirements in section 287(3) concerning election of members of the supreme governing body and election of auditor have been met.
- 6) Section 316 about participation has been met.
- 7) An executive board has been employed if, in connection with the merger, a new limited liability company is formed that is subject to Danish law and that requires a management model in which the supreme governing body is either a board of directors or a supervisory board, cf. Section 111(1).

**(2)** If the date on which the non-surviving company's rights and obligations are to be considered to have been transferred to the surviving company for accounting purposes is after the date of passing the resolutions to carry out the merger, the certificate may not be issued until this transferal date for accounting purposes. The date on which the merger takes effect for accounting purposes may not be more than two weeks after the date of passing the resolutions to carry out the merger, although no later than on

the date of application for registration of the merger, cf. Section 288(1). Furthermore, the date on which the merger takes effect for accounting purposes, and the date of passing the resolution to carry out the merger must be in the same financial year for all limited liability companies involved in the merger.

**(3)** If the surviving limited liability company involved in a cross-border merger will be subject to Danish law, the registration authorities that govern the foreign limited liability companies involved must, for each company, submit a certificate to the Danish Business Authority for the purpose of registering the merger. The certificate serves as conclusive evidence that all actions and formalities that are necessary to carry out the merger in the relevant country have been taken or met, and that the foreign registration authority will register the merger in respect of the non-surviving company after receipt of a notification by the Danish Business Authority. The certificate must be received by the Authority by no later than six months after it has been issued or it will be deemed invalid. Upon receipt of certificates for all of the limited liability companies involved in the merger, the Danish Business Authority will register the implementation of the cross-border merger with respect to the surviving company, and notify all registers in which the other companies involved are registered as soon as possible.

**(4)** For a cross-border merger where the surviving limited liability company will be subject to Danish law, the merger takes effect from the date that the Danish Business Authority registers the merger.

**(5)** If the surviving limited liability company involved in a cross-border merger will not be subject to Danish law, the Danish Business Authority will register the implementation of the merger in respect of the non-surviving limited liability companies that are subject to Danish law when the Danish Business Authority has received notification as provided in subsection (3) from the competent registration authority governing the surviving limited liability company.

#### *Vertical cross-border mergers between a parent company and its wholly owned subsidiaries*

**290.** If a limited liability company is dissolved without liquidation by transferring its assets and liabilities as a whole to another limited liability company holding all of the shares in the non-surviving limited liability company, a “vertical cross-border merger”, the merger resolution may be passed by the central governing body in the non-surviving limited liability company. Section 272(1), nos. 1, 2, 5, and 8-14 and subsection (2), sections 273, 274 and 277-280, section 281(1), 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> sentence, sections 282-284 and sections 287-289 apply correspondingly to vertical cross-border mergers.

#### *Cross-border division*

**291.-(1)** Limited liability companies covered by this Act may participate in cross-border divisions in which the other companies involved are also limited liability companies governed by the laws of one or more other EU/EEA Member States. A cross-border division is not subject to consent by the creditors.

**(2)** A cross-border division can only be implemented if the laws governing the other limited liability companies involved permit cross-border divisions. It is also a requirement that any right of participation enjoyed by the employees of a Danish transferor company will be protected under the laws governing the recipient limited liability companies after the division. If these conditions are not met, a Danish limited liability company may not participate in any cross-border division.

**(3)** If a creditor of a limited liability company involved in a division has a claim that is not paid in full, each of the other limited liability companies involved in the division are jointly and severally liable for obligations existing on the date of publication of the division plan, however for a maximum amount corresponding to the net value contributed or remaining in the individual company at that time.

**(4)** If one or more of the recipient companies involved in a division are formed as part of another division or merger that has not been completed, this must be specified in the division plan, cf. Section 292. Any division into new recipient limited liability companies formed as part of another division or merger must be carried out immediately after the division or merger that the new limited liability companies are formed as part of, cf. Section 308.

*Division plan*

**292.-(1)** The central governing bodies in the existing limited liability companies involved in a division must draw up and sign a joint division plan that includes information and provisions on

- 1) the corporate form, names and any secondary names of the limited liability companies, including whether the name or secondary name of a non-surviving company is to be adopted as a secondary name for the surviving company,
- 2) the registered offices of the limited liability companies,
- 3) a precise description and allocation of the assets and liabilities that are to be transferred or to remain in each of the limited liability companies involved in the division,
- 4) the consideration for shareholders in the transferor company,
- 5) the allocation of the consideration, including shares in the recipient companies, to shareholders in the transferor company as well as the criterion for such allocation,
- 6) the likely repercussions of the cross-border division on employment in the limited liability companies involved in the division,
- 7) registration of any shares offered as consideration and any surrender of share certificates,
- 8) the date from which any shares offered as consideration will confer on the holders a right to receive dividends, and a specification of any special conditions associated with such rights,
- 9) the date from which the rights and obligations of the transferor company are considered to have been transferred for accounting purposes,
- 10) the rights accruing in a recipient limited liability company to any holders of shares carrying special rights and any holders of securities other than shares, or the actions proposed to be taken for the benefit of such persons,
- 11) any special benefits accruing to the valuation experts making a statement on the division plan, cf. Section 296, and to the members of the company managements,
- 12) the statutes of the surviving limited liability company with the wording used after the division,
- 13) information about the procedures under section 318 for involving employees in establishing their rights to participation in the surviving limited liability company, if appropriate,
- 14) valuation of the assets and liabilities transferred to the recipient companies, and
- 15) the dates of the financial statements of the limited liability companies involved in the division that have been used to establish the conditions of the cross-border division.

**(2)** Each of the existing limited liability companies must sign the division plan by the end of the financial year including the date on which the division takes effect for accounting purposes, cf. Subsection (1), no. 7. If this time limit is exceeded, notification that the Danish Business Authority has received the division plan cannot be published and the division can thereby not be approved.

**(3)** Where part of the assets have not been allocated by the division plan, cf. Subsection (1), no. 2, and where the interpretation of this plan does not make a decision on their allocation possible, this part of the assets, or the value thereof, will be allocated to the limited liability companies involved in proportion to the net assets contributed or remaining in each limited liability company according to the division plan.

**(4)** Where part of the liabilities have not been allocated by the division plan, cf. Subsection (1), no. 2, and where the interpretation of this plan does not make a decision on their allocation possible, each of the limited liability companies involved are jointly and severally liable, however for a maximum amount corresponding to the net value contributed or remaining in the individual company. Such liabilities are allocated to the limited liability companies involved in proportion to the net assets contributed or remaining in each limited liability company according to the division plan.

#### *Division statement*

**293.** The central governing body of each of the existing limited liability companies involved in the division must draw up a written statement explaining and justifying the division plan. The statement must include information on how the consideration for shares in the transferor company has been determined, including any particular difficulties related to such determination, as well as information about the preparation of the valuation report, if such report is to be prepared in accordance with section 295. The statement must include a description of the consequences of the cross-border division for the shareholders, creditors and employees.

#### *Interim balance sheet*

**294.-(1)** If the division plan is signed more than six months after the end of the financial year to which the most recent annual report of a limited liability company relates, an interim balance sheet must be prepared for the relevant limited liability company involved in the division, without prejudice to subsections (3) and (4).

**(2)** The date of the interim balance sheet which must be prepared in accordance with the regulatory framework according to which the limited liability company prepares annual reports may not be more than three months before the date that the division plan was signed. The interim balance sheet must be audited if the limited liability company is subject to audit obligations under the Financial Statements Act or any other legislation.

**(3)** The shareholders may agree on a resolution that no interim balance sheet is to be prepared, notwithstanding that a division plan has been signed more than six months after the end of the financial year to which the most recent annual report of the limited liability company relates.

**(4)** The provision in subsection (1) does not apply to limited liability companies whose securities are admitted to trading on a regulated market in a Member State of the European Union or in a country with which the Union has entered into an agreement for the financial area, and which have published an interim report in accordance with the Financial Statements Act, provided that such interim report includes audited interim financial statements for the company, and the interim report is made available to the company's shareholders.

*Valuation report on consideration other than in cash*

**295.-(1)** If, in connection with a division, a capital increase is carried out in one or more of the recipient public limited liability companies, or if one or more new public limited liability companies are formed by the division, a report must be obtained from a valuation expert as part of the division, without prejudice to subsection (2). The valuation expert must be appointed under section 37(1). Section 37(2) and (3) apply correspondingly to the valuation experts' activities in relation to all of the limited liability companies involved in the division.

**(2)** The valuation report may be omitted and replaced instead by a statement from the valuation expert regarding the division plan, cf. Section 296, or a declaration from the valuation expert regarding the position of creditors, cf. Section 297.

**(3)** If a valuation report is to be prepared in connection with a division, it must include

- 1) a description of each contribution,
- 2) information on the valuation method applied,
- 3) specification of the agreed consideration, and
- 4) a declaration that the value of the assets estimated in the report corresponds at least to the consideration agreed, including the nominal value of the shares to be issued, if applicable, plus any premium.

**(4)** The valuation report may not be drawn up more than three months before the date of the division resolution, if applicable, cf. Section 300. If this time limit is exceeded, the division cannot be validly approved.

*Statement by valuation expert(s) on the division plan*

**296.-(1)** For each of the limited liability companies involved in a division, one or more independent valuation experts must make a written statement on the division plan, including the consideration, cf. Subsection (4). However, the shareholders may agree on a resolution not to obtain a statement by a valuation expert on the division plan.

**(2)** The valuation experts must be appointed as specified in section 37(1). If the limited liability companies involved in the division want to use one or more joint valuation experts, these valuation experts must, at the limited liability companies' request, be appointed by the probate court with jurisdiction over the place where the registered office of the surviving company is situated.

**(3)** Section 37(2) and (3) apply correspondingly to the valuation experts' activities in relation to all the limited liability companies involved in the division.

**(4)** The statement must include a declaration as to whether the consideration for shares in a transferor limited liability company is reasonable and based on objective grounds. The declaration must specify the method(s) used to determine the consideration, and assess whether such methods are appropriate. The declaration must also specify the values that result from each method and the relative importance that should be attached to each individual method when making the valuation. Where the valuation has been associated with particular difficulties, these must be described in the declaration.

*Declaration by valuation expert(s) on the creditors' position*



**297.** In addition to the declaration described in section 296, the valuation experts must make a declaration as to whether the creditors of each limited liability company can be considered to be secured by sufficient collateral after the division relative to the company's present situation. However, the shareholders may agree on a resolution not to obtain a declaration by a valuation expert on the creditors' position.

*Opportunity for creditors to file their claims*

**298.-(1)** If, in their declaration on the position of creditors, cf. Section 297, the valuation experts conclude that the creditors in a limited liability company will not be secured by sufficient collateral after the division, or if no declaration has been made by a valuation expert on the creditors' position, creditors whose claims arose prior to the Danish Business Authority's publication under section 299 may file their claims with the company by no later than four weeks after the date of publication. However, no claims for which adequate collateral has been provided may be filed.

**(2)** Repayment may be demanded for claims filed if they are due, and adequate collateral may be demanded for claims filed that are not yet due.

**(3)** Unless otherwise established, collateral under subsection (2) is not required if repayment of the claims is secured by a statutory arrangement.

**(4)** If the limited liability company and any creditors who have filed claims disagree as to whether collateral is to be provided, or whether the collateral offered is adequate, either party may, by no later than two weeks after the claim has been filed, bring the matter before the probate court with jurisdiction over the place where the registered office of the limited liability company is situated, in order for the court to settle the matter.

**(5)** In the agreement on which the claim is based, creditors may not, with binding effect, waive their rights to demand collateral under subsection (3).

*Submission of information on the planned cross-border division, including the division plan and a declaration by valuation expert(s) on the creditors' position, if applicable*

**299.-(1)** A copy of the division plan must be received by the Danish Business Authority by no later than four weeks after it has been signed.

**(2)** The declaration by a valuation expert on the creditors' position, cf. Section 297, 1<sup>st</sup> sentence, must be submitted to the Danish Business Authority, without prejudice to subsection (3).

**(3)** If it has been decided not to obtain a declaration by a valuation expert on the creditors' position, cf. the option provided under section 297, 2<sup>nd</sup> sentence, this must be notified to the Danish Business Authority, stating the names and, if relevant, Central Business Register (CVR) numbers of the limited liability companies involved in the division.

**(4)** Notification that the Danish Business Authority has received the division plan as well as information and any declaration by a valuation expert on the creditors' position, cf. Subsections (1)-(3), will be published in the IT system at the Danish Business Authority. If the creditors are entitled to file claims, cf. Section 298, the publication by the Danish Business Authority will include information to this effect.

**(5)** The Danish Business Authority may lay down more detailed regulations on publication by limited liability companies of a division plan and any accompanying documents.

*Resolution to carry out a cross-border division*

**300.-(1)** A resolution to carry out a division may be passed no earlier than four weeks after publication by the Danish Business Authority, cf. Section 299(4), of a notification that it has received the division plan and the declaration by a valuation expert on the creditors' position. If publication pertaining to section 299(1), and publication pertaining to section 299(2) or (3) have taken place separately, the time limit stipulated in the 1<sup>st</sup> sentence must be calculated from the most recent date of publication.

**(2)** If the transferor company ceases to exist as part of the division and has reached the end of its financial year before the date on which the transferor company's rights and obligations are to be considered to have been transferred to the recipient companies for accounting purposes, and the general meeting has not yet approved the annual report for this accounting period, the general meeting must approve the annual report no later than the date of the resolution to carry out the division.

**(3)** Creditors must, upon request, be informed about the date on which a resolution to carry out the possible division is to be passed.

**(4)** The division must be carried out in accordance with the division plan. If the division is not approved in accordance with the division plan, the proposal will be considered to have lapsed.

**(5)** If the following documents have been prepared, they must be made available for inspection by the shareholders at the company's registered office or on the company website by no later than four weeks before the date on which the resolution to carry out a division is to be passed, unless the shareholders agree on a resolution that such documents are not to be made available to them prior to or at the general meeting, without prejudice to subsection (7):

1) The division plan.

2) Approved annual reports for each existing limited liability company involved in the division for the last three financial years or any shorter period in which the limited liability company has existed.

3) Division statement.

4) An interim balance sheet.

5) A valuation report on consideration other than in cash.

6) The valuation experts' statements on the division plan, including the consideration.

7) The valuation experts' declaration on the creditors' position.

**(6)** Shareholders must, upon request, be provided with access to the documents specified in subsection (5), free of charge.

**(7)** In connection with a cross-border division, the division statement, cf. Section 293, must also be made available at the office of the limited liability company for inspection by the employee representatives or, in the absence of such employee representatives in the relevant limited liability company, by the employees in general no later than four weeks before the date on which the division resolution is to be passed.

**301.** In the transferor limited liability company, a division resolution must be passed by the general meeting by the majority required under sections 106 and 107 and in accordance with any other provisions in the statutes that apply to dissolution or division, without prejudice to section 310. If the limited liability company is in liquidation, a division resolution may only be passed if the shareholders have not yet

received any distributions, and if the general meeting resolves at the same time to suspend the liquidation process. Section 231 on resumption of activities will then not apply.

**302.-(1)** In existing recipient limited liability companies, a division resolution must be passed by the central governing body, unless amendments to the statutes are to be adopted by the general meeting, except for adopting the name or secondary name of the transferor company as a secondary name for the recipient company, without prejudice to subsections (2)-(4). If the limited liability company is in liquidation, a division resolution may only be passed if the shareholders have not yet received any distributions, and if the general meeting resolves at the same time to resume activities in the company, cf. Section 231.

**(2)** Shareholders holding 5% of the share capital, or shareholders entitled under the statutes, cf. Section 89, to demand that a general meeting be called, may also present a written demand that the division resolution in existing recipient companies be passed by the general meeting, provided that such demand is presented by no later than two weeks after the Danish Business Authority has published notification that it has received the division plan.

**(3)** The central governing body must call a general meeting within two weeks of such request being made.

**(4)** If the resolution in an existing recipient company is to be passed by the general meeting, the resolution must be passed by the majority required under section 106.

**303.** The central governing body of the existing limited liability companies involved in a division must inform any general meeting at which the resolution to carry out a division is to be passed about any significant events, including any significant changes in assets and liabilities, that have occurred in the period between the date of signing the division plan and the date of the general meeting.

**304.** If the resolution to carry out a cross-border division is to be passed by the general meeting, the general meeting may decide that the resolution to carry out a cross-border division is subject to subsequent approval by the general meeting of the guidelines on employee participation.

#### *Opportunity to claim compensation*

**305.-(1)** The shareholders in a transferor limited liability company may claim compensation from the company if the consideration for shares in the transferor limited liability company is not reasonable and not based on objective grounds, and if the shareholders have made a reservation to this effect at the general meeting at which the resolution to carry out the division was passed.

**(2)** Any legal proceedings pursuant to subsection (1) must be commenced by no later than two weeks after the division resolution has been adopted in all of the existing limited liability companies involved in the division.

**(3)** If a reservation is made under subsection (1), the approved division may not be registered until after expiry of the 2-week time limit prescribed in subsection (2), unless, in their statement on the division plan, including the consideration, cf. section 296, the valuation experts conclude that the consideration for shares in the transferor limited liability company is reasonable and based on objective grounds.

#### *Opportunity to claim redemption*

**306.-(1)** In connection with a cross-border division, the shareholders in the transferor limited liability company who opposed the merger at the general meeting may demand redemption of their shares by the

limited liability company by making a written request to this effect no later than four weeks after the date of the general meeting. Section 110 applies correspondingly.

**(2)** The certificate to be issued under section 309 may only be issued when adequate collateral has been provided for the value of the shares. Experts appointed by the court with jurisdiction over the place where the registered office of the limited liability company is situated determine whether the collateral is adequate. If the experts' finding is challenged before the court, this will not have a suspensive effect on the possibilities of the Danish Business Authority to issue the certificate, unless otherwise determined by the court.

*Formation, capital increases and capital reduction in connection with a cross-border division*

**307.-(1)** Consideration cannot be offered for shares in the transferor limited liability company owned by the limited liability companies involved in the division. Section 31 and section 153(2) apply correspondingly in connection with cross-border divisions.

**(2)** Part 3 on formation, Part 10 on capital increases, Part 11 on capital outflow, and Part 14 on dissolution do not apply to cross-border divisions unless this is stipulated in the provisions on cross-border divisions, cf. sections 291-310.

**(3)** If the implementation of the division results in the formation of a new limited liability company which is subject to Danish law, and if members of the supreme governing body and an auditor, if applicable, are not elected immediately after the approval of the division by the general meeting, a general meeting must be held in the new limited liability company within two weeks to elect members of the supreme governing body and an auditor, if applicable. The general meeting must also resolve whether the future financial statements of the limited liability company are to be audited if the limited liability company is not subject to audit obligations under the Financial Statements Act or any other legislation.

*Application for registration of a cross-border division*

**308.-(1)** For each limited liability company, the approved division must be registered with, or an application for registration, cf. section 9, must be submitted to, the Danish Business Authority by no later than two weeks after the division resolution has been passed by all existing limited liability companies involved in the division. The recipient limited liability companies may register or apply for registration of the division on behalf of the limited liability companies involved in the division. The registration or application for registration must be accompanied by the documents specified in section 300(5), nos. 3-7, if such documents have been prepared.

**(2)** The application for registration of the approved division must be received by the Danish Business Authority within the time limit allowed for submitting an annual report for the period including the date on which the division takes effect for accounting purposes, cf. section 292(1), no. 7, although no later than one year after announcement by the Authority that it has received the division plan under section 299. If one of these two time limits is exceeded, the resolution to carry out the division will be invalid, and the division plan prepared under section 292 will be considered to have lapsed.

**(3)** If a limited liability company resulting from a division enters into an agreement before the limited liability company has been registered, and if the other contracting party is aware that the company is not registered, the other contracting party may, unless otherwise agreed, cancel the agreement if no application for registration has been received by the Danish Business Authority by the end of the period stipulated in subsection (2), or if registration is refused. If the other contracting party was not aware that

the limited liability company had not been registered, this party may cancel the agreement as long as the limited liability company remains unregistered. Section 41(1), 2nd sentence, applies correspondingly to divisions.

**(4)** Sections 42-44 apply correspondingly where a limited liability company resulting from a division acquires assets from a shareholder known to the company, during the 24 months following registration of the company.

#### *Issue of certificate*

**309.-(1)** Upon receipt of an application for registration of a cross-border division, the Danish Business Authority ensures that all actions and formalities that are necessary to carry out the division have been taken or met. The Danish Business Authority will issue a certificate to this effect to the limited liability companies involved that are subject to Danish law, as soon as possible after the following conditions have been met, without prejudice to subsection (2):

1) The resolution to carry out the division has been passed by all of the existing limited liability companies involved in the division and subject to Danish law.

2) The claims filed by creditors under section 298 have been settled.

3) The shareholders' claims for compensation under section 305 have been settled, or adequate collateral has been provided in respect of the claims. If valuation experts have drawn up a statement on the division plan, including the consideration, and the statement is based on the assumption that the consideration is reasonable and based on objective grounds, the valuation experts must also have declared that their statement on the consideration is not disputed to any significant degree. The valuation experts determine whether the collateral is adequate.

4) The shareholders' claims for redemption under section 306 have been settled.

5) The requirements in section 307(3) concerning election of members of the supreme governing body and election of auditor have been met.

6) Section 316(1), cf. section 318, about participation has been met.

7) An executive board has been employed if, in connection with the division, a new limited liability company is formed that is subject to Danish law and that requires a management model in which the supreme governing body is either a board of directors or a supervisory board, cf. section 111(1).

**(2)** If the date on which the transferor company's rights and obligations are to be considered to have been transferred to the recipient companies for accounting purposes is after the date of passing the resolutions to carry out the division, the certificate may not be issued until this transferal date for accounting purposes. The date on which the division takes effect for accounting purposes may not be more than two weeks after the date of passing the resolutions to carry out the division, although no later than on the date of application for registration of the division, cf. section 308(1). Furthermore, the date on which the division takes effect for accounting purposes, and the date of passing the resolution to carry out the division must be in the same financial year for all limited liability companies involved in the division.

**(3)** If one or more recipient companies involved in a cross-border division will be subject to Danish law, the registration authorities that govern the other foreign limited liability companies involved must, for each company, submit a certificate to the Danish Business Authority for the purpose of registering the division.

The certificate serves as conclusive evidence that all actions and formalities that are necessary to carry out the division in the relevant country have been taken or met, and that the foreign registration authority will register the division in respect of the other limited liability companies involved after receipt of a notification by the Danish Business Authority. The certificate must be received by the Authority by no later than six months after it is issued or it will be deemed invalid. Upon receipt of certificates for all of the other limited liability companies involved in the division, the Danish Business Authority will register the implementation of the cross-border division with respect to the recipient companies to be subject to Danish law, and notify all registers in which the other companies involved are registered as soon as possible.

**(4)** For a cross-border division where one or more of the recipient limited liability companies will be subject to Danish law, the division takes effect for these companies from the date that the Danish Business Authority registers the division.

**(5)** If the recipient limited liability companies involved in a cross-border division will not be subject to Danish law, the Danish Business Authority will register the implementation of the cross-border division in respect of the transferor limited liability company if this company is subject to Danish law when the Danish Business Authority has received notification as provided in subsection (3) from the competent registration authorities governing the recipient limited liability companies.

#### *Vertical cross-border divisions*

**310.** Where all of the shares in the transferor limited liability company are held by the recipient limited liability companies, i.e. a vertical cross-border division, the division resolution may be passed by the central governing body of the transferor company. Section 292(1), nos. 1-3, 6 and 9-15 and subsections (2)-(4), sections 293, 294 and 297-300, section 301, 2nd and 3rd sentence, and sections 302-304 and 307-309 apply correspondingly to vertical cross-border divisions.

#### *Employee participation in cross-border mergers*

**311.-(1)** For a cross-border merger, cf. section 271, where the surviving limited liability company will be subject to Danish law, section 140 applies unless

1) such application does not provide for at least the same level of employee participation as in the relevant merging limited liability companies, measured by reference to the proportion of employee representatives among the members of the administrative or supervisory bodies or their committees or of the management groups which covers the profit units of the limited liability company, subject to employee representation,

2) such application does not provide for employees of establishments of the limited liability company resulting from the cross-border merger that are situated in other Member States the same entitlement to exercise participation rights as is enjoyed by employees employed in Denmark, or

3) in the six months before publication of the notification of the cross-border merger plan, cf. section 137(1), the average number of employees covered by an employee participation system is more than 500 in at least one of the merging limited liability companies.

**(2)** If section 140 applies, sections 312-316 will not apply.

**312.-(1)** If section 140 does not apply, cf. section 311, section 2(4)-(6) and (11), sections 3-14, section 15(1), (2), no. 1, and (3), section 17, nos. 1, 7 and 8, and sections 41-43 of the Act on Employee Involvement in European Companies (SEs), and sections 313-316 of this Act will apply.

**(2)** Pursuant to section 313(1) of this Act, section 15(4) and (5), section 33(2), section 34 and sections 36-40 of the Act on Employee Involvement in European Companies (SEs) may also apply.

**(3)** If the provisions in the Act on Employee Involvement in European Companies (SEs) apply, section 120(1) and sections 140-143 of this Act will not apply.

**(4)** If the surviving limited liability company in a cross-border merger will be subject to the laws of another EU/EEA Member State, and if, for the purpose of the cross-border merger, regulations on participation are applied that are based on the Council Directive supplementing the Statute for a European company with regard to employee participation, section 2(4)-(6) and (11) and sections 3, 9, 36-39 and 41-43 of the Act on Employee Involvement in European Companies (SEs) and section 368 of this Act apply to the limited liability companies involved and the affected subsidiaries that are subject to Danish law and to establishments of the surviving limited liability company, limited liability companies involved or affected subsidiaries, where these establishments are situated in Denmark.

**313.-(1)** Section 15(4) and (5), section 33(2) and sections 34 and 36-40 of the Act on Employee Involvement in European Companies (SEs) only apply if one or more of the limited liability companies involved had an employee participation system before the merger, and if

1) the competent bodies of the limited liability companies involved and the special negotiating body agree to apply these provisions,

2) no agreement has been made within the time limit provided for in section 12 of the Act on Employee Involvement in European Companies (SEs), and the competent bodies of the limited liability companies involved resolve to apply these provisions and thus continue with the registration, without prejudice to subsection (2), or

3) the competent bodies of the limited liability companies involved resolve to apply these provisions, without prior negotiations with the special negotiating body.

**(2)** In the situation referred to in subsection (1), no. 2, the application of section 15(4) and (5), section 33(2) and sections 34 and 36-40 of the Act on Employee Involvement in European Companies (SEs) is subject to the special negotiating body passing a resolution to this effect if, before the merger, less than one-third of the total number of employees in all of the limited liability companies involved were covered by one or more employee participation systems.

**(3)** In the situations referred to in subsection (1), nos. 1 and 2, the proportion of employee representatives serving on governing bodies may not exceed the number provided for in section 140 of this Act.

**314.** Where section 15(4) and (5), section 33(2) and sections 34 and 36-40 of the Act on Employee Involvement in European Companies (SEs), cf. section 313(1) of this Act, apply, the special negotiating body decides

1) how the seats on the board of directors or supervisory board are to be allocated between the members representing employees in states where the Council Directive supplementing the Statute for a European company with regard to the involvement of employees applies, or

2) how the employees in the surviving limited liability company may recommend or oppose the appointment of members of the board of directors or supervisory board with regard to the number of employees employed in each state.

**315.** The special negotiating body may, with no less than two-thirds of the votes from members representing no less than two-thirds of the employees employed in at least two countries, decide not to engage in negotiations or to break off negotiations and instead rely on the regulations laid down in section 140 on employees' election of members of the management.

**316.** If section 140 does not apply, cf. section 311(1), a cross-border merger may only be registered if an agreement on an employee participation system has been entered into pursuant to section 17, nos. 1, 7 and 8, of the Act on Employee Involvement in European Companies (SEs), cf. section 312(1) or section 313(1), no. 1, of this Act, or if a resolution has been passed under section 313(1), no. 3, or section 315 of this Act, or if the time limit stipulated in section 12 of the Act on the Involvement of Employees in SEs, cf. section 313(1), no. 2, of this Act has expired without any agreement having been made.

#### *Subsequent national mergers and divisions*

**317.** Sections 311-316 on employee participation in cross-border mergers apply correspondingly if the surviving limited liability company in a cross-border merger is involved in a national merger or division within the first three years after the merger.

#### *Employee participation in cross-border divisions*

**318.** Sections 311-317 on employee participation in cross-border mergers apply correspondingly, with such changes as are necessary, to cross-border divisions.

### Part 16a

#### *Cross-border conversions*

**318a.-(1)** In connection with a cross-border conversion, a limited liability company covered by this Act may transfer its registered office to another EU/EEA Member State, and similarly, a limited liability company that has its registered office in another EU/EEA Member State may transfer its registered office to Denmark, without prejudice to subsections (2) and (3). The cross-border conversion is not subject to consent by the creditors.

**(2)** A resolution on a cross-border conversion may only be passed if cross-border conversions are permitted by the laws of the country to or from which the limited liability company wants to transfer.

**(3)** A Danish limited liability company may only transfer its registered office to another EU/EEA Member State if the right of participation enjoyed by the employees of the Danish company is protected by the legislation that will govern the limited liability company after the transfer.

#### *Transfer from Denmark of the registered office of a limited liability company*

#### *Transfer plan*

**318b.-(1)** The central governing body of a limited liability company transferring its registered office must draw up and sign a transfer plan that includes information and provisions on

1) the corporate form, name and registered office of the limited liability company,



- 2) draft new statutes for the limited liability company following the transfer,
  - 3) the proposed time schedule for the transfer, including the accounting effect of the transfer,
  - 4) the likely impact of the transfer on employment in the limited liability company,
  - 5) the rights accruing in the limited liability company following the transfer to any holders of shares carrying special rights and any holders of securities other than shares, or the actions proposed to be taken for the benefit of such persons,
  - 6) any special benefits accruing to the valuation experts making a statement on the creditors' position, cf. section 318d, and to the members of the limited liability company's management, and
  - 7) information about the procedures under section 318o for involving employees in establishing their rights to participation in the limited liability company following the transfer, if appropriate.
- (2)** The transfer plan must be signed by the end of the financial year including the date on which the transfer takes effect for accounting purposes, cf. subsection (1), no. 3. If this time limit is exceeded, notification that the Danish Business Authority has received the transfer plan cannot be published and, accordingly, the transfer may not be adopted.

#### *Transfer statement*

**318c.** The central governing body of the limited liability company transferring its registered office to another EU/EEA Member State must draw up a written statement explaining and justifying the transfer plan. The statement must include a description of the impact of the cross-border conversion for the shareholders of the company, its creditors and its employees.

#### *Declaration by valuation expert(s) on the creditors' position*

**318d.-(1)** In a limited liability company transferring its registered office to another EU/EEA Member State, one or more independent valuation experts must draw up a declaration as to whether the creditors of the limited liability company can be considered to be secured by sufficient collateral after the transfer relative to the company's present situation. However, the shareholders may agree on a resolution not to obtain a declaration by a valuation expert on the creditors' position, without prejudice to section 318e.

**(2)** Section 37 on valuation experts applies correspondingly to cross-border conversions.

#### *Possibility for creditors to file their claims*

**318e.-(1)** If, in their declaration on the position of creditors, cf. section 318d, the valuation experts conclude that the creditors in a limited liability company will not be secured by sufficient collateral after the transfer, or if no declaration has been made by a valuation expert on the creditors' position, creditors whose claims arose prior to the Danish Business Authority's publication under section 318f(4) may file their claims by no later than four weeks after the date of publication. However, no claims for which adequate collateral has been provided may be filed.

**(2)** Repayment may be demanded for claims filed if they are due, and adequate collateral may be demanded for claims filed that are not yet due.

**(3)** Unless otherwise established, collateral under subsection (2) is not required if repayment of the claims is secured by a statutory arrangement.

**(4)** If the limited liability company and any creditors who have filed claims disagree as to whether collateral is to be provided, or whether the collateral offered is adequate, either party may, by no later than two weeks after the claim has been filed, bring the matter before the probate court with jurisdiction over the place where the registered office of the company is situated, in order for the court to settle the matter.

**(5)** In the agreement on which the claim is based, creditors may not, with binding effect, waive their rights to demand collateral under subsection (2).

*Submission of transfer plan and declaration by valuation expert(s) on the creditors' position*

**318f.-(1)** A copy of the transfer plan must be received by the Danish Business Authority by no later than four weeks after it has been signed. If this time limit is exceeded, notification that the Danish Business Authority has received the transfer plan cannot be published and, accordingly, the transfer may not be adopted.

**(2)** The declaration by a valuation expert on the creditors' position, cf. section 318d(1), 1st sentence, must be submitted to the Danish Business Authority, without prejudice to subsection (3).

**(3)** If it has been decided not to obtain a declaration by a valuation expert, cf. the option provided under section 318d(1), 2nd sentence, this must be notified to the Danish Business Authority, stating the name and Central Business Register (CVR) number of the limited liability company whose registered office is to be transferred.

**(4)** Notification that the Danish Business Authority has received the transfer plan as well as information and any declaration by a valuation expert on the creditors' position, cf. subsections (1)-(3), will be published in the IT system at the Danish Business Authority. If the creditors are entitled to file claims, cf. section 318e, the publication by the Danish Business Authority will include information to this effect.

**(5)** The Danish Business Authority may lay down more detailed regulations on publication by limited liability companies of a transfer plan and any accompanying documents.

*Resolution to implement a transfer*

**318g.-(1)** A resolution to implement a transfer of the registered office of a limited liability company to another EU/EEA Member State may be passed no earlier than four weeks after publication by the Danish Business Authority, cf. section 318(4), of a notification that it has received the transfer plan and a declaration by the valuation experts on the creditors' position, if applicable. If publication pertaining to section 318f(1), and publication pertaining to section 318f(2) or (3) have taken place separately, the time limit stipulated in the 1st sentence must be calculated from the most recent date of publication.

**(2)** If the company that the envisaged transfer concerns has reached the end of its financial year before the date on which the transfer takes effect for accounting purposes, and the general meeting has not yet approved the annual report for this accounting period, the general meeting must approve the annual report for the accounting period no later than the date of the resolution to implement the transfer.

**(3)** Creditors must, upon request, be informed about the date on which a resolution is passed on the possible implementation of the transfer.

**(4)** The transfer must be carried out in accordance with the transfer plan. If the transfer is not approved in accordance with the transfer plan as published, the proposal will be considered to have lapsed.

**(5)** If the following documents have been prepared, they must be made available to the shareholders by no later than four weeks before the date on which the resolution to implement a transfer is to be passed, unless the shareholders agree on a resolution that such documents are not to be made available to them prior to or at the general meeting, without prejudice to subsection (6):

1) The transfer plan.

2) Approved annual reports for the limited liability company for the last three financial years or any shorter period in which the limited liability company has existed.

3) Transfer statement.

4) Declaration by valuation expert(s) on the creditors' position.

**(6)** Shareholders must, upon request, be provided with access to the documents listed in subsection (5), free of charge.

**(7)** In connection with the transfer of a limited liability company's registered office to another EU/EEA Member State, the transfer statement, cf. section 318c, must also be made available at the limited liability company's office for inspection by the employee representatives or, in the absence of such employee representatives in the relevant company, by the employees in general, no later than four weeks before the date on which the transfer resolution is to be passed.

**318h.** A resolution to transfer to another EU/EEA Member State must be passed by the general meeting of the transferring limited liability company by the majority required under section 106 and in accordance with any other provisions in the statutes that apply to dissolution or cross-border conversion. If the limited liability company is in liquidation, a transfer resolution may only be passed if the shareholders have not yet received any distributions, and if the general meeting resolves at the same time to suspend the liquidation process. Section 231 on resumption of activities will then not apply.

**318i.**

At the general meeting at which the resolution to carry out a cross-border conversion is to be passed, the central governing body must provide information about any significant events, including any significant changes in assets and liabilities, that have occurred in the period between the signing the transfer plan and the general meeting

**318j.** The general meeting may decide that the resolution on cross-border conversion is subject to subsequent approval by the general meeting of the guidelines on employee participation.

*Possibility to claim redemption*

**318k.-(1)** The shareholders in a limited liability company transferring its registered office to another EU/EEA Member State who opposed the transfer at the general meeting may demand redemption of their shares by the limited liability company by making a written request to this effect no later than four weeks after the date of the general meeting. Section 110 applies correspondingly.

**(2)** The certificate to be issued under section 318m may only be issued when adequate collateral has been provided for the value of the shares. Experts appointed by the court with jurisdiction over the place where the registered office of the limited liability company is situated determine whether the collateral is adequate. If the experts' finding is challenged before the court, this will not have a suspensive effect on the

possibilities of the Danish Business Authority to issue the certificate, unless otherwise determined by the court.

#### *Application for registration of a cross-border conversion*

**318l-(1)** The approved transfer must be registered with, or an application for registration, cf. section 9, must be submitted to the Danish Business Authority by no later than two weeks after the transfer resolution has been passed, without prejudice to subsection (2). The registration or application for registration must be accompanied by the documents specified in section 318g(5), nos. 3 and 4, if such documents have been prepared.

**(2)** The application for registration of the approved transfer must be received by the Danish Business Authority within the time limit allowed for submitting an annual report for the period including the date on which the transfer takes effect for accounting purposes, cf. section 318b(1), no. 3, but no later than one year after publication by the Authority of notification that it has received the transfer plan under section 318f. If one of these two time limits is exceeded, the resolution to implement the transfer will be invalid, and the transfer plan prepared under section 318b will be considered to have lapsed.

#### *Issue of certificate*

**318m.-(1)** When the Danish Business Authority receives an application for registration of a transfer of registered office to another EU/EEA Member State, the Authority ensures that all actions and formalities that are necessary to implement the transfer have been completed. The Danish Business Authority will issue a certificate to this effect to the limited liability company as soon as possible after the following conditions have been met, without prejudice to subsection (2):

- 1) The resolution on the transfer has been passed by the Danish limited liability company.
- 2) The claims filed by creditors under section 318e have been settled.
- 3) The shareholders' claims for redemption under section 318k have been settled.

**(2)** If the date on which the transfer takes effect for accounting purposes is after the date of passing the resolution to implement the transfer, the certificate may not be issued until the transferal date for accounting purposes. The date on which the transfer takes effect for accounting purposes may not be more than two weeks after the date of passing the resolution to implement the transfer, although no later than on the date of application for registration of the transfer, cf. section 318l(1). Furthermore, the date on which the transfer takes effect for accounting purposes, and the date of passing the resolution to implement the transfer must be in the same financial year for the limited liability company.

**(3)** The final registration of a transfer of the registered office of a company to another EU/EEA Member State will be made by the Danish Business Authority when the Authority has received a notification from the competent authority in the country in which the limited liability company is to have its registered office after the transfer, stating that the transfer of registered office of the limited liability company has now been finally registered in that country.

#### *Transfer to Denmark of the registered office of a limited liability company*

**318 n.-(1)** A limited liability company that has its registered office in another EU/EEA Member State may transfer its registered office to Denmark when the competent authority in the country in which the limited liability company's registered office was previously located has issued a certificate stating that all actions

and formalities to be taken or met prior to the transfer have been completed, and that the foreign registration authority will register the transfer of registered office.

**(2)** After receiving the certificate referred to in subsection (1), the Danish Business Authority will register the implementation of the cross-border transfer of registered office to Denmark, and will, as soon as possible thereafter, notify the competent authority of the country in which the limited liability company has previously been registered that the transfer has now been registered. Registration may not take place until the company meets the requirements of this Act with regard to the relevant corporate form.

**(3)** A cross-border transfer of registered office to Denmark takes effect from the date that the Danish Business Authority registers the transfer.

**(4)** Part 3 on formation does not apply when, in connection with a cross-border conversion, a limited liability company transfers its registered office from another EU/EEA Member State to Denmark.

*Employee participation in connection with a cross-border conversion of a limited liability company*

**318o.** Sections 311-317 apply correspondingly, with such changes as are necessary, to cross-border conversions.

Part 17

*Conversion*

*Conversion of a private limited liability company into a public limited liability company*

**319.-(1)** The shareholders of a private limited liability company may, with the majority required to amend the statutes, resolve to convert a private limited liability company into a public limited liability company. Before passing a resolution on conversion, the shareholders of a private limited liability company must be presented with a valuation report prepared in accordance with sections 36 and 37. Sections 42-44 apply correspondingly to acquisitions after the resolution on conversion has been passed. The conversion is not subject to consent by the creditors. Section 31 applies correspondingly to conversion of a private limited liability company into a public limited liability company.

**(2)** Notification of the approved conversion must be sent to all shareholders of the private limited liability company who did not participate in passing the resolution by no later than two weeks after the date of the approval.

**320.** Conversion of a private limited liability company into a public limited liability company is deemed to have been implemented when the company's statutes have been amended to comply with the requirements for public limited liability companies and when the conversion has been registered in the IT system at the Danish Business Authority.

*Conversion of a public limited liability company into a private limited liability company*

**321.-(1)** The general meeting may, with the majority required to amend the statutes of a company, resolve to convert a public limited liability company into a private limited liability company. The conversion is not subject to consent by the creditors.

**(2)** Notification of the approved conversion must be sent to all shareholders of the public limited liability company who did not participate in passing the resolution by no later than two weeks after the date of the resolution.

**322.** Conversion of a public limited liability company into a private limited liability company is deemed to have been implemented when the company's statutes have been amended to comply with the requirements for private limited liability companies and when the conversion has been registered in the IT system at the Danish Business Authority.

*Conversion of a public limited liability company into a limited partnership company*

**323.-(1)** The general meeting may, with the majority required to amend the statutes, resolve to convert a public limited liability company into a limited partnership company. The conversion is not subject to consent by the creditors.

**(2)** Notification of the adopted conversion must be sent to all registered shareholders and to the new fully liable members by no later than two weeks after the date of the resolution.

**(3)** Conversion of a public limited liability company into a limited partnership company is deemed to have been implemented when the company's statutes have been amended to comply with the requirements for limited partnership companies and when the conversion has been registered in the IT system at the Danish Business Authority.

*Conversion of a limited partnership company into a public limited liability company*

**324.-(1)** The general meeting may, with the majority required to amend the statutes, and with the consent of the fully liable members, resolve to convert a limited partnership company into a public limited liability company. The conversion is not subject to consent by the creditors. Before passing the resolution on conversion, the general meeting must be presented with a valuation report prepared in accordance with sections 36 and 37. Sections 42-44 apply correspondingly to acquisitions after the resolution on conversion has been passed. Section 31 applies correspondingly to conversion of a limited partnership company into a public limited liability company.

**(2)** Notification of the approved conversion must be sent to all members who did not participate in passing the resolution by no later than two weeks after the date of the resolution.

**(3)** Conversion of a limited partnership company into a public limited liability company is deemed to have been implemented when the company's statutes have been amended to comply with the requirements for public limited liability companies and when the conversion has been registered in the IT system at the Danish Business Authority.

**(4)** When a limited partnership company has been converted into a public limited liability company, the fully liable partner remains liable for obligations incurred by the company before the conversion.

*Conversion of limited liability undertakings into public limited liability companies.*

**325.** In limited liability undertakings covered by the Certain Commercial Undertakings Act, the body authorised to amend the statutes may resolve to convert the undertaking into a public limited liability company, cf. sections 326-337. The conversion is not subject to consent by the creditors.

*Conversion plan*

**326.-(1)** The central governing body in the undertaking must jointly draw up and sign a conversion plan, without prejudice to subsection (2).

**(2)** The members may agree on a resolution that no conversion plan is to be drawn up, without prejudice to section 335(2) and (3).

**(3)** The conversion plan must include information and provisions on

- 1) the name and any secondary name(s) of the undertaking before and after the conversion,
- 2) the registered offices of the undertaking,
- 3) the consideration for the members,
- 4) the date from which the shares in the public limited liability company will confer on the holders a right to receive dividends,
- 5) the rights in the public limited liability company that accrue to any holders of ownership interests and debt instruments carrying special rights in the undertaking before the conversion,
- 6) any other measures taken for the benefit of holders of the ownership interests and debt instruments referred to in no. 5,
- 7) registration of shares offered as consideration and any handing over of share certificates,
- 8) any special benefits accruing to members of the undertaking's management in connection with the conversion, and
- 9) draft statutes, cf. sections 28 and 29, for the public limited liability company after the conversion.

#### *Conversion statement*

**327.-(1)** The central governing body in the undertaking must draw up a written statement explaining and justifying the planned conversion, including the conversion plan, if applicable, without prejudice to subsection (2). The statement must include information about how the consideration for members was determined, including any particular difficulties in connection with such determination.

**(2)** The members may agree on a resolution that no conversion statement is to be drawn up.

#### *Interim balance sheet*

**328.-(1)** If the conversion plan is signed more than six months after the end of the financial year to which the most recent annual report or exemption statement of the undertaking relates, an interim balance sheet must be prepared, without prejudice to subsection (4).

**(2)** Where it has been decided not to draw up a conversion plan, cf. section 326(2), an interim balance sheet must be prepared for the relevant limited liability undertaking, if the resolution not to draw up a conversion plan was made more than six months after the end of the financial year to which the most recent annual report or exemption statement relates, without prejudice to subsection (4).

**(3)** The date of the interim balance sheet, which must be prepared in accordance with the regulatory framework according to which the undertaking prepares annual reports, must not be more than three months before the date that the conversion plan was signed. The interim balance sheet must be audited if the undertaking is subject to audit obligations under the Financial Statements Act or any other legislation.

**(4)** The members may agree on a resolution that no interim balance sheet is to be prepared, notwithstanding that the conversion plan, if applicable, has been signed more than six months after the

end of the financial year to which the most recent annual report or exemption statement of the undertaking relates.

*Valuation report on consideration other than in cash*

**329.-(1)** In connection with the conversion, a report must be obtained from a valuation expert. The valuation expert must be appointed under section 37(1). Section 37(2) and (3) apply correspondingly to the valuation experts' activities in relation to the undertaking that is to be converted.

**(2)** The valuation report must include

- 1) a description of each contribution,
- 2) information on the valuation method applied,
- 3) specification of the agreed consideration, and
- 4) a declaration that the value of the assets estimated in the report corresponds at least to the consideration agreed, including the nominal value of the shares to be issued, if applicable, plus any premium.

**(3)** The valuation report may not be drawn up more than three months before the date of any conversion resolution, cf. section 334. If this time limit is exceeded, the conversion cannot be validly approved.

*Statement by valuation expert(s) on the planned conversion, including the conversion plan, if applicable*

**330.-(1)** One or more independent valuation experts must make a written statement on the conversion plan, including the consideration, cf. subsection (4). Where it has been decided not to draw up a conversion plan, cf. section 326(2), the valuation expert must make a written statement on the planned conversion, including the consideration, cf. subsection (4). The members may agree on a resolution not to obtain a statement by a valuation expert on the planned conversion.

**(2)** The valuation experts must be appointed as specified in section 37(1).

**(3)** Section 37(2) and (3) apply correspondingly to the valuation experts' activities in relation to the undertaking that is to be converted.

**(4)** The statement must include a declaration as to whether the consideration for the members of the undertaking is reasonable and based on objective grounds. The declaration must specify the method(s) used to determine the consideration, and assess whether such methods are appropriate. The declaration must also specify the values that result from each method and the relative importance that should be attached to each individual method when making the valuation. Where the valuation has been associated with particular difficulties, these must be described in the declaration.

*Declaration by valuation expert(s) on the creditors' position*

**331.** In addition to the declaration described in section 330, the valuation experts must make a declaration as to whether the creditors of the undertaking can be considered to be secured by sufficient collateral after the conversion relative to the present situation of the undertaking. However, the members may agree on a resolution not to obtain a declaration by a valuation expert on the creditors' position.

*Possibility for creditors to file their claims*



**332.-(1)** If, in their declaration on the position of creditors, cf. section 331, the valuation experts conclude that the creditors of an undertaking will not be secured by sufficient collateral after the conversion, or if no declaration has been made by a valuation expert on the creditors' position, creditors whose claims arose prior to the Danish Business Authority's publication under section 333 may file their claims with the undertaking by no later than four weeks after the date of publication. However, no claims for which adequate collateral has been provided may be filed.

**(2)** Repayment may be demanded for claims filed if they are due, and adequate collateral may be demanded for claims filed that are not yet due.

**(3)** Unless otherwise established, collateral under subsection (2) is not required if repayment of the claims is secured by a statutory arrangement.

**(4)** If the undertaking and any creditors who have filed claims disagree as to whether collateral is to be provided, or whether the collateral offered is adequate, either party may, by no later than two weeks after the claim has been filed, bring the matter before the probate court with jurisdiction over the place where the registered office of the undertaking is situated in order for the court to settle the matter.

**(5)** In the agreement on which the claim is based, creditors may not, with binding effect, waive their rights to demand collateral under subsection (2).

*Submission of information on the planned conversion, including the conversion plan, if applicable, and declaration by valuation expert(s) on the creditors' position, if applicable*

**333.-(1)** A copy of the conversion plan, if applicable, must be received by the Danish Business Authority by no later than four weeks after it has been signed, without prejudice to subsection (2). If this time limit is exceeded, notification that the conversion plan has been received cannot be published and the conversion can thereby not be adopted.

**(2)** If the undertaking has decided not to draw up a conversion plan, cf. the option provided under section 326(2), this must be notified to the Danish Business Authority, stating the name and Central Business Register (CVR) number of the undertaking.

**(3)** The declaration by a valuation expert on the creditors' position, cf. section 331, 1st sentence, must be submitted to the Danish Business Authority, without prejudice to subsection (4).

**(4)** If it has been decided not to obtain a declaration by a valuation expert on the creditors' position, cf. the option provided under section 331, 2nd sentence, this must be notified to the Danish Business Authority, stating the name and Central Business Register (CVR) number of the undertaking.

**(5)** Notification that the Danish Business Authority has received information as well as any documents, cf. subsections (1)-(4), will be published in the IT system at the Danish Business Authority. If the creditors are entitled to file claims, cf. section 332, the publication by the Danish Business Authority will include information to this effect.

**(6)** The Danish Business Authority may lay down more detailed regulations on publication by undertakings of a conversion plan and any accompanying documents.

*Resolution to carry out a conversion*

**334.-(1)** A resolution to carry out a conversion may be passed no earlier than four weeks after publication by the Danish Business Authority, cf. section 333(5), of a notification that it has received information on the

planned conversion, without prejudice to subsections (2) and (3). If publication pertaining to section 333(1) or (2), and publication pertaining to section 333(3) and (4) have taken place separately, the time limit stipulated in the 1st sentence must be calculated from the most recent date of publication.

**(2)** Where, in their declaration on the creditors' position, the valuation experts assume, cf. section 331, that the creditors of the undertaking will be secured by sufficient collateral after the conversion, the members may, following publication by the Danish Business Authority, cf. section 333(5), of a notification that it has received information on the planned conversion, agree on a resolution to disregard the time limit under subsection (1).

**(3)** Where it has been decided not to draw up a conversion plan, cf. section 326(2), there is no requirement for the Danish Business Authority to have published a notification, cf. section 333(5), before the members may resolve to carry out the conversion, if a declaration by a valuation expert on the creditors' position has been made, cf. section 331, and if the valuation experts conclude in their declaration on the creditors' position that the creditors of the undertaking will be secured by sufficient collateral after the conversion.

**(4)** Creditors must, upon request, be informed about the date on which a resolution to carry out the possible conversion is to be passed.

**(5)** The conversion must be carried out in accordance with the conversion plan if such plan has been drawn up. If the conversion is not approved in accordance with the published conversion plan, if applicable, the proposal will be considered to have lapsed.

**(6)** If the following documents have been prepared, they must be made available to the members at the registered office of the undertaking or on its website by no later than four weeks before the date on which the resolution to carry out the conversion is to be passed, unless the members agree on a resolution that such documents are not to be made available to the members prior to or at the general meeting, without prejudice to subsection (7):

1) The conversion plan.

2) Approved annual reports for the undertaking for the last three financial years or any shorter period in which the undertaking has existed.

3) Conversion statement.

4) An interim balance sheet.

5) A valuation report on consideration other than in cash.

6) Statement by valuation expert(s) on the planned conversion, including the conversion plan, if applicable.

7) The valuation experts' declaration on the creditors' position.

**(7)** Members must, upon request, be provided with access to the documents specified in subsection (6), free of charge.

**335.-(1)** A resolution on conversion must be passed by the body authorised to amend the statutes. The resolution must be passed by the majority required for resolutions to dissolve the undertaking, however by no less than four-fifths of the members, or their votes where voting is based on turnover or similar. If the undertaking is in liquidation, a conversion resolution may only be passed if the members have not yet received any distributions, and if the members resolve at the same time to suspend the liquidation process.

Section 31 applies correspondingly to conversion of a limited liability undertaking into a public limited liability company.

**(2)** Where it has been decided not to draw up a conversion plan, cf. section 326(2), the central governing body must provide information about any significant events, including any significant changes in assets and liabilities, that have occurred in the period between the balance sheet date in the most recent annual report or the exemption statement of the undertaking and the date of the general meeting.

**(3)** In connection with passing the resolution to carry out the conversion, the following matters must be addressed, if it has been decided not to draw up a conversion plan, cf. section 326:

- 1) The name and any secondary name(s) of the undertaking.
- 2) The consideration for shares in the converted undertaking.
- 3) The date from which any shares offered as consideration will confer on the holders a right to receive dividends.
- 4) Statutes, cf. sections 28 and 29.

**(4)** At the meeting at which the resolution to carry out the conversion is to be passed, the central governing body of the undertaking must provide information about any significant events, including any significant changes in assets and liabilities, that have occurred after the date of signing the conversion plan.

**(5)** Notification of the conversion must be provided to all members by no later than two weeks after the date of the resolution.

**(6)** If the supreme governing body and an auditor, if applicable, are not elected immediately after the resolution to carry out the conversion, a general meeting to elect the supreme governing body and an auditor, if applicable, must be held in the public limited liability company by no later than two weeks after the date of the resolution. In connection with the conversion or at the subsequent general meeting, the members must resolve whether the future financial statements of the undertaking are to be audited if the undertaking is not subject to audit obligations under the Financial Statements Act or other legislation.

#### *Possibility to claim compensation*

**336.-(1)** The members may claim compensation from the undertaking if the consideration to the members is not reasonable and not based on objective grounds, and if the members have made a reservation to this effect at the meeting at which the resolution to carry out the conversion was passed.

**(2)** Any legal proceedings pursuant to subsection (1) must be commenced by no later than two weeks after passing the resolution to carry out the conversion.

**(3)** If a reservation is made under subsection (1), the implementation of the conversion may not be registered until after expiry of the two-week time limit, cf. subsection (2), unless, in their statement on the plan, including the consideration, cf. section 330, the valuation experts conclude that the consideration for the members is reasonable and based on objective grounds.

#### *Registration of implementation of a conversion*

**337.-(1)** The approved conversion must be registered with, or an application for registration, cf. section 9, must be submitted to the Danish Business Authority by no later than two weeks after the conversion

resolution has been passed. The registration or application for registration must be accompanied by the documents specified in section 334(6), nos. 3-7, if such documents have been prepared.

**(2)** The approved conversion must be registered or an application for registration, cf. section 9, must be submitted by no later than one year after the Danish Business Authority has published notification, cf. section 333(5), of receipt of information on the planned conversion. If this time limit is exceeded, the resolution to carry out the conversion will be invalid, and any conversion plan prepared under section 326 will be considered to have lapsed.

**(3)** The conversion of an undertaking into a public limited liability company may be registered when:

1) The members have passed a resolution on the conversion, cf. section 335(1).

2) The claims filed by creditors under section 332 have been settled.

3) The requirements in section 335(4) concerning election of members of the supreme governing body and election of auditor have been met.

4) The members' claims for compensation under section 336 have been settled, unless adequate collateral has been provided in respect of the claims. If valuation experts have drawn up a statement on the planned conversion, including the consideration, and the statement is based on the assumption that the consideration is reasonable and based on objective grounds, the valuation experts must also have declared that their statement on the consideration is not disputed to any significant degree. The valuation experts determine whether the collateral is adequate.

5) An executive board has been employed.

**(4)** Conversion of an undertaking into a public limited liability company is deemed to have been carried out when the statutes of the undertaking have been amended to comply with the requirements for public limited liability companies and when the conversion has been registered in the IT system at the Danish Business Authority.

**(5)** No registration may be made in the register of shareholders, and no share certificates, if applicable, may be surrendered until the conversion has been registered.

**(6)** If more than three years have passed since the conversion, and all those entitled to be registered in the register of members of the undertaking have still not made a request to such effect, the central governing body may, by publication of a notification in the IT system at the Danish Business Authority, request that the relevant member(s) contact the company within six months. Where the company has not been contacted by expiry of the time limit, the board of directors may dispose of the shares at the shareholder's expense. The company may deduct from the proceeds of the sale the costs incurred in connection with the notification and sale of the shares. Any proceeds not claimed within three years after the sale will accrue to the company.

**(7)** Sections 42-44 apply correspondingly where the converted public limited liability company acquires assets from a shareholder known to the public limited liability company, during the 24 months following registration of the conversion.

**338.** The provisions of this Part apply to public limited liability companies that have one or more share classes with voting rights that are admitted to trading on a regulated market in a Member State of the European Union or in a country with which the Union has entered into an agreement for the financial area, without prejudice to section 340(4).

*Special approval from the general meeting*

**339.-(1)** The general meeting may resolve to introduce a procedure whereby the central governing body of a public limited liability company whose shares are the subject of a takeover bid, cf. Part 8 of the Capital Markets Act, must obtain the approval of the general meeting before taking any action that may hinder or frustrate a takeover bid, other than resolving to seek alternative bids.

**(2)** The general meeting must pass the resolution under subsection (1) in accordance with the requirements for a majority of votes laid down in section 106(1). The resolution must also comply with any other regulations laid down in the statutes of the public limited liability company pursuant to section 106(1). This also applies to any subsequent amendments to the resolution.

**(3)** Approval by the general meeting, cf. subsection (1), is required from the time the offeror announces its intention to bid and until the result of the bid is available and has been made public in accordance with the provisions of Part 8 of the Capital Markets Act, or the bid has lapsed. Approval by the general meeting must be obtained irrespective of whether it was resolved to take the relevant action before the central governing body received notice of the takeover bid.

**(4)** Notwithstanding section 94(2) and irrespective of any longer time limit prescribed by the statutes, the central governing body of the public limited liability company may convene the general meeting at no less than two weeks' notice in order to obtain the approval by the general meeting of any action referred to in subsection (1).

**(5)** If the general meeting of a public limited liability company has introduced a procedure whereby the approval of the general meeting must be obtained, cf. subsection (1), the general meeting may resolve that this procedure only applies if the shares of the public limited liability company become the subject of a bid from a company in a Member State of the European Union or a country with which the Union has entered into an agreement for the financial area that has introduced a similar procedure or is directly or indirectly controlled by a parent company, cf. sections 6 and 7, that has introduced a similar procedure.

**(6)** The public limited liability company must, as soon as possible, notify a resolution by the general meeting to introduce a procedure as specified in subsection (1) to the Danish Business Authority, and to the supervisory authorities in a Member State of the European Union or a country with which the Union has entered into an agreement for the financial area if the shares in the public limited liability company have been admitted to trading on a regulated market or if admission to trading has been applied for. Information about the resolution of the general meeting must be announced in the IT system at the Danish Business Authority.

*Suspension of special rights*

**340.-(1)** The general meeting may resolve to introduce a procedure whereby special rights or restrictions attaching to shareholdings in the public limited liability company or attaching to individual shares will be suspended if the shares of the public limited liability company become the subject of a takeover bid, cf. Part 8 of the Capital Markets Act.

**(2)** The general meeting must pass the resolution under subsection (1) in accordance with the requirements for a majority of votes laid down in section 106(1). The resolution must also comply with any other regulations laid down in the statutes of the public limited liability company pursuant to section 106(1). If the public limited liability company has more than one share class, the resolution must also satisfy the majority requirements prescribed by section 107(3). These requirements also apply to any subsequent amendments to the resolution.

**(3)** The public limited liability company must, as soon as possible, notify a resolution by the general meeting on such a procedure to the Danish Business Authority, and the supervisory authorities in a Member State of the European Union or a country with which the Union has entered into an agreement for the financial area if the shares in the public limited liability company have been admitted to trading on a regulated market or if admission to trading has been applied for. Information about the resolution of the general meeting must be announced in the IT system at the Danish Business Authority.

**(4)** Subsections (1)-(3) do not apply to public limited liability companies in which the Danish State holds voting shares that have special rights that are compatible with the EC Treaty.

#### *Legal effects of suspension*

**341.-(1)** The resolution on suspension passed by the general meeting in accordance with section 340(1) entails that any restrictions on the right to transfer or acquire shares provided by the statutes of the public limited liability company or by agreement cannot be enforced against the offeror during the time allowed for acceptance of the bid, without prejudice to section 342(1). If the offeror has stipulated special conditions in the offer document, the restrictions are suspended until the offeror has decided, in accordance with the offer document, whether the bid can be completed.

**(2)** At the general meeting referred to in section 339, a resolution on suspension under section 340(1) has the effect

1) that any restrictions on voting rights provided by the statutes of the public limited liability company or by agreement cannot be enforced, without prejudice to section 342(2), and

2) that any shares with higher voting power pursuant to the statutes of the public limited liability company, cf. section 46(1), or pursuant to an agreement only carry voting rights in proportion to their share of the aggregate capital carrying voting rights, without prejudice to section 342(2).

**(3)** At the general meeting referred to in section 343, a resolution on suspension under section 340(1) has the effect

1) that any restrictions on voting rights provided by the statutes of the public limited liability company or by agreement cannot be enforced, without prejudice to section 342(2),

2) that any shares with higher voting power pursuant to the statutes of the public limited liability company, cf. section 46(1), or pursuant to an agreement only carry voting rights in proportion to their share of the aggregate capital carrying voting rights, without prejudice to section 342(2), and

3) that special rights conferred on certain shareholders to appoint members of management under the statutes of the public limited liability company cannot be enforced.

**(4)** The general meeting may resolve that subsections (1)-(3) only apply if the public limited liability company's shares become the subject of a bid from a public limited liability company in an EU or EEA

Member State that has passed a similar resolution on suspension or is directly or indirectly controlled by a parent company that has passed a similar resolution on suspension of special rights or restrictions attaching to shareholdings or to individual shares.

**342.-(1)** Any agreement restricting the right to transfer or acquire shares that was entered into before 31 March 2004 may, notwithstanding section 340(1), be enforced against an offeror.

**(2)** Any agreement on the exercise of voting rights that was entered into before 31 March 2004 may, notwithstanding section 340(1), be enforced at the general meetings referred to in sections 339 and 343.

*Amendments to the statutes following a successful takeover bid*

**343.** Where an offeror has acquired 75% or more of the capital carrying voting rights in a public limited liability company, and such company has passed a resolution on suspension under section 340(1), the offeror may require the central governing body to convene a general meeting after the expiry of the bid with the objective of amending the statutes and appointing or replacing members of management. This first general meeting may be convened with at least two weeks' notice, notwithstanding section 94(2), and irrespective of whether the statutes stipulate a longer notice period.

*Compensation to certain shareholders*

**344.-(1)** Where companies have passed a resolution on suspension under section 340(1), the offeror must, if the takeover bid is successful, pay compensation to any shareholders suffering an economic loss because special rights or restrictions attaching to shareholdings or to individual shares according to the statutes of the public limited liability company cannot be enforced, cf. section 341(1)-(3).

**(2)** The offer document must detail the compensation to be provided by the offeror to the shareholders, and the basis for calculating such compensation. The amount of the compensation must be based on the market value of the relevant shares.

**(3)** If an agreement cannot be reached on the amount of compensation, the compensation must be determined by experts appointed by the court with jurisdiction over the place where the registered office of the public limited liability company is situated. The decision by the experts may be brought before the court. Such legal proceedings must be commenced within three months of receipt of the experts' declaration on the compensation amount.

**(4)** Shareholders are also entitled to compensation under subsections (1)-(3) if, during the period between 31 March 2004 and 26 June 2005, they entered into an agreement for special rights or restrictions, and such rights or restrictions cannot be enforced because of a takeover bid, cf. section 341(1)-(3).

Part 19

*Branches of foreign limited liability companies*

**345.-(1)** Foreign public limited liability companies, limited partnership companies, private limited liability companies and companies with a similar corporate form resident in an EU or EEA Member State may operate via a branch in Denmark.

**(2)** Other foreign public limited liability companies, limited partnership companies, private limited liability companies and companies with a similar corporate form may operate via a branch in Denmark if so authorised by international agreement, or if the Danish Business Authority considers that Danish limited

liability companies enjoy a corresponding right in the home country of the foreign company, or the Authority otherwise grants permission.

**346.-(1)** The branch must be managed by one or more branch managers.

**(2)** Branch managers must have full legal capacity and may not be under guardianship pursuant to section 5 of the Guardianship Act or under co-guardianship pursuant to section 7 of the Guardianship Act. All of the provisions in this Act that regulate members of management apply correspondingly, with any necessary derogations, to branch managers.

**(3)** The branch is bound by the signature of one branch manager or the joint signatures of several branch managers. Branch managers may grant power of procuration.

**347.-(1)** A branch must have a name and may have secondary names. A branch must include in its name and any secondary names the name of the foreign principal company with the word "*filial*" (branch) added to it, and clearly indicate the nationality of the foreign company. Section 2(1)-(3) and section 3 apply correspondingly to names and any secondary names of branches.

**(2)** Branches must specify their name, registered office, Central Business Register (CVR) number, and the name of any register and registration number of the limited liability company in its home country, on all letters and other business documents, including electronic communication, and on the branch website, if any. If the size of the share capital is stated on these documents, both the subscribed and the paid-up share capital amounts must be stated.

**348.** The limited liability company is subject to Danish law and to the jurisdiction of the Danish courts for all legal matters arising out of its business activities in Denmark.

**349.-(1)** The establishment of a branch must be registered in the IT system at the Danish Business Authority or an application for registration must be filed with the Authority. Part 2 applies correspondingly.

**(2)** The branch may not commence any activities until registration is complete or an application for registration has been filed. If registration is refused, or an existing branch is deregistered, cf. section 350, the branch may not continue its activities in Denmark.

**(3)** Where bankruptcy, financial reconstruction or similar proceedings have been commenced against the foreign company, this must be registered in the IT system at the Danish Business Authority or an application for registration must be filed with the Danish Business Authority by no later than two weeks after the commencement of such proceedings. Information about the status of the foreign company must be added to the name of the company, cf. section 347(1).

**350.-(1)** A branch must be struck off the register at the IT system at the Danish Business Authority if

- 1) the company deregisters the branch or files an application to have the branch deregistered,
- 2) the branch has no branch manager, and this is not rectified by no later than the expiry of a time limit stipulated by the Danish Business Authority,
- 3) the branch manager has failed to submit the audited annual report of the foreign company, if applicable, to the Danish Business Authority in accordance with sections 143 and 144 of the Financial Statements Act, and this is not rectified by no later than the expiry of a time limit stipulated by the Authority, or



4) a creditor of a branch of a company not resident in an EU or EEA Member State establishes that its claim cannot be satisfied out of the company's assets in Denmark.

**(2)** If, after the deregistration, it transpires that the matters giving rise to the deregistration no longer exist, the Danish Business Authority may re-register the branch upon request from the foreign company. The Danish Business Authority may lay down more detailed regulations on reregistration of branches.

**(3)** In the circumstances referred to in subsection (1), no. 4, the foreign company may not establish a new branch, and the branch may not be re-registered, until the creditor's claim has either been satisfied or the creditor has consented to the establishment of a new branch.

## Part 20

### *State-owned public limited liability companies*

#### *Definition, etc.*

**351.** The regulations on public limited liability companies and the special regulations on state-owned public limited liability companies under this Act, without prejudice to sections 352 and 353, apply to state-owned public limited liability companies.

**352.-(1)** The special regulations on state-owned public limited liability companies under this Act do not apply to public limited liability companies that are subsidiaries of state-owned public limited liability companies.

**(2)** State-owned public limited liability companies whose shares are admitted to trading on a regulated market in a Member State of the European Union or in a country with which the Union has entered into an agreement for the financial area are exempted from the special regulations on state-owned public limited liability companies in this Act.

**353.** The Danish Business Authority may lay down regulations that exempt companies from the special regulations on state-owned public limited liability companies, if this is necessary to ensure equality between these regulations and the corresponding regulations applicable to limited liability companies whose securities are admitted to trading on a regulated market in a Member State of the European Union or in a country with which the Union has entered into an agreement for the financial area.

#### *Special disclosure requirements, etc.*

**354.** State-owned public limited liability companies must notify the Danish Business Authority as soon as possible about any significant matters relating to the company that can be assumed to affect the company's future, or its employees, shareholders or creditors. In parent companies, cf. sections 6 and 7, notification must be given of significant matters relating to the group that can be assumed to affect the future of the group, or its employees, shareholders or creditors.

**355.** The Danish Business Authority lays down regulations on publication of notifications under section 354 as well as other documents, etc. that state-owned public limited liability companies are required to publish in the IT system at the Danish Business Authority pursuant to this Act.

**356.** A state-owned public limited liability company must publish its statutes and annual reports on the company website.

**357.-(1)** The board of directors or the supervisory board of a state-owned public limited liability company must oversee the establishment of guidelines to ensure that the company complies with the special regulations on state-owned public limited liability companies in this Act and in the Financial Statements Act.

**(2)** The Danish Business Authority may require that the company submits the guidelines referred to in subsection (1) to the Authority.

#### Part 20a

*(Repealed)*

**357a.** (Repealed)

**357b.** (Repealed)

**357c.** (Repealed)

**357d.** (Repealed)

#### Part 21

##### *Limited partnership companies*

**358.** The regulations of this Act on public limited liability companies also apply to limited partnership companies, with such changes as are necessary.

**359.** Limited partnership companies have an obligation and an exclusive right to include the words "*kommanditaktieselskab*" (limited partnership) or "*partnerselskab*" (limited partnership company), or the abbreviation "*P/S*" in their name.

**360.-(1)** In addition to the information required for public limited liability companies, the memorandum of association of a limited partnership company must include the following information:

- 1) The full name(s), residential address(es), country/countries of residence and Central Business Register (CVR) number(s), if any, of the fully liable member(s).
- 2) Whether the fully liable member(s) is/are liable to make contributions, and if so, the amount of each contribution. If the contribution has not been fully paid up, the regulations governing payment must be stated. If shares have been issued for a contribution other than in cash, the basis for the valuation must be described.
- 3) Any provisions in the statutes regarding the influence held by the fully liable member(s) on the company's affairs, and their share in the profits or losses.

**(2)** In addition to the regulations in sections 28 and 29, the statutes of a limited partnership company must lay down regulations on the legal relationship between the shareholders and the fully liable members.

#### Part 22

*Damages, forced transfer, etc.*

**361.-(1)** Founders and members of management who, in the performance of their duties, have intentionally or negligently caused damage to the limited liability company are liable to pay damages. The same applies where the damage is caused to shareholders or any third party.

**(2)** Subsection (1) applies correspondingly with regard to the liability for damages of auditors, valuation experts, keepers of the register of shareholders and scrutinisers.

**(3)** If an auditing firm has been elected as the auditor, both the auditing firm and the auditor performing the audit are liable for damages.

**362.-(1)** Shareholders must make good any losses caused, intentionally or by gross negligence, to the company, other shareholders or third parties.

**(2)** If a shareholder, intentionally or by gross negligence, has inflicted a loss on the company, other shareholders, the limited liability company's creditors or other third parties, and there is a risk of continued abuse, the court may order the shareholder causing such loss to redeem the shares of the shareholder suffering a loss at a price fixed with due regard to the financial position of the company and what is generally considered reasonable under the circumstances.

**(3)** If a shareholder, intentionally or by gross negligence, has inflicted a loss on the company, other shareholders or a third party, and there is a risk of continued abuse, the court may order such shareholder to sell its shares to the other shareholders or to the company at a price fixed with due regard to the financial position of the company and what is generally considered reasonable under the circumstances.

**363.-(1)** Damages under sections 361 and 362 may be reduced if this is considered reasonable in view of the degree of fault, the amount of the loss and other circumstances of the case in general.

**(2)** If multiple persons are simultaneously liable, they will be jointly and severally liable in damages. However, any person whose liability is reduced under subsection (1) is only liable for the reduced amount. If one of the persons liable for damages has paid the damages, this person may demand that each of the other persons liable pay their part of the damages, having due regard to the degree of fault attributable to each person and the circumstances of the case in general.

**364.-(1)** Any resolution that the limited liability company is to take legal action against its founders, members of management, valuation experts, auditors, scrutinisers, keepers of the register of shareholders or shareholders under sections 361 and 362 must be passed by the general meeting.

**(2)** Legal proceedings may be commenced notwithstanding any previous resolution by the general meeting granting exemption from liability or waiving the right to take legal action, if the information about such resolution or about the matter giving rise to legal proceeding provided to the general meeting before the resolution was passed was not essentially correct or complete.

**(3)** If shareholders representing at least one-tenth of the share capital oppose any resolution to grant exemption from liability or waive the right to take legal action, any shareholder may commence legal proceedings to recover damages for the limited liability company from the person(s) liable for the loss suffered. Shareholders commencing such legal proceedings must pay the legal costs involved, but may have such costs reimbursed by the limited liability company to the extent that the costs do not exceed the amount recovered by the company as a result of the proceedings.

**(4)** If the limited liability company is declared bankrupt, and the date of presentation of the bankruptcy petition is no later than 24 months after the date on which the general meeting resolved to grant

exemption from liability or waive the right to take legal action, the estate in bankruptcy may, however, bring an action for damages without regard to this resolution.

**365.-(1)** Legal proceedings pursuant to section 364(3) must be commenced by no later than six months after the date of the resolution by the general meeting to grant exemption from liability or waive the right to take legal action. If a scrutiny procedure has been initiated in accordance with section 150, legal action must be brought within six months of completion of the scrutiny.

**(2)** Legal proceedings pursuant to section 364(4) must be commenced by no later than three months after the limited liability company has been declared bankrupt.

## Part 23

### *Penalty provisions, etc.*

**366.-(1)** In the absence of a more severe penalty pursuant to other legislation, any contravention of the regulations of this Act regarding registrations in the IT system at the Danish Business Authority or regarding submission of applications for registration, valuation reports under section 43 or notifications to the Authority is punishable by a fine.

**(2)** Where members of the management of a limited liability company, the liquidator or the branch manager of a foreign limited liability company fail(s) to meet, in a timely manner, their obligations to the Danish Business Authority under this Act or in accordance with provisions stipulated under this Act, the Authority may, by way of sanction, impose fines that accrue on a daily or weekly basis.

**367.-(1)** Contravention of section 1(3), section 2, section 3(1), sections 10, 15 and 17, section 24(2), section 30, section 32(2) and (3), section 33(4), section 38(2), section 42a, section 44(1), section 49(3), section 49a(1)-(4), section 50(1), section 51(1), (2) and (6), section 52, section 53(1) and (2), sections 54-56, section 57a(1)-(3), section 58, section 58a(3), (5) and (6), sections 59-61, 89, 98 and 99, section 101(3), (4), (7) and (8), sections 108 and 113-119, section 120(3), sections 123, 125, 127-134, 138, 139-139b, section 139c(1), no. 1, and section 139d(1)-(4) and (6), section 160, 3rd sentence, section 179(2), section 180, section 181, 3rd sentence, section 182(3), section 190(2), 3rd sentence, section 192(1), section 193(2), sections 196, 198 and 202-204, section 205(1), section 206, section 207(3), section 210, section 214(2) and (3), section 215(1), section 218(2), section 227(2), sections 228 and 234, section 339(6), section 340(3), section 347, section 349(2) and (3), and sections 354, 356, 357 and 359 is punishable by a fine. If a company continues to participate in transactions that contravene section 206 or section 210, this will be punishable by a fine.

**(2)** In the absence of a more severe penalty under other legislation, any person who unjustifiably discloses or uses a password or other means of access to attend or participate electronically in an electronic meeting of the board of directors, cf. section 125(2), or an electronic general meeting, cf. section 77(1) or (2), including electronic voting, will be punished by a fine.

**(3)** In the absence of a more severe penalty under other legislation, any person who unjustifiably discloses or uses a password or other means of access to read, modify or send electronic messages, etc. covered by the provisions on electronic communication in section 92 will be punished by a fine.

**(4)** In regulations issued pursuant to section 4(3), section 12(1) and (2), section 55(3), section 56(2), section 57, section 57a(6), section 58a(9), section 71(4), section 143, section 172, section 244(6), section 262(6), section 279(5), section 299(5), section 318f(5), section 333(6) and section 372(1), a fine may be imposed for contravention of the provisions in the regulations.

**368.-(1)** Any contravention of section 312, section 313 and section 318, cf. section 3, section 36(4), section 37, section 38, 2nd sentence, and section 39, of the Act on Employee Involvement in European Companies (SEs) is punishable by a fine.

**(2)** In the absence of a more severe penalty under other legislation, any person disclosing information which is provided as confidential pursuant to section 312 and section 318, cf. section 41(1), of the Act on Employee Involvement in European Companies (SEs) will be punished by a fine.

**(3)** Where a person makes false representations to employees or their representatives before or after a cross-border merger or division, cf. Part 16, whether intentionally or by gross negligence, and such false representations are of major importance to the employees' participation in the surviving company, said person will be punished by a fine.

**369.-(1)** Companies etc. (legal persons) may incur criminal liability according to the regulations in Part 5 of the Criminal Code.

**(2)** The period of limitation for contravention of the provisions in this Act or regulations issued pursuant to this Act is five years.

#### Part 24

##### *Right of appeal*

**370.** The Minister for Industry, Business and Financial Affairs may lay down regulations governing appeals against decisions made pursuant to this Act, including regulations stipulating that appeals may not be filed with any other administrative authority.

**371.-(1)** Decisions made by the Danish Business Authority under this Act or regulations issued pursuant to this Act may be brought before the Danish Commerce and Companies Appeals Board no later than four weeks after notification of the decision, without prejudice to subsection (2).

**(2)** Decisions by the Danish Business Authority in response to failure to comply with time limits stipulated in section 40(1), section 165(5), section 177(2), section 191, section 225(2), and section 231(2) of this Act on the setting of time limits pursuant to section 23g(2), and section 23h(1), as well as decisions pursuant to section 93(2)-(4), section 225(1), section 226, section 232(2), section 350(1), nos. 2-4, and decisions made in accordance with regulations issued pursuant to section 8a, cannot be brought before any other administrative authority.

#### Part 25

##### *Entry into force*

**372.-(1)** <sup>2</sup>The Minister for Industry, Business and Financial Affairs sets the date of entry into force of this Act. At the same time, the Minister may decide that different parts of this Act are to enter into force on different dates. At the same time, the Minister is authorised to repeal the Public Companies Act (*lov om aktieselskaber*), cf. Consolidated Act no. 649 of 15 June 2006, as amended, and the Private Companies Act (*lov om anpartsselskaber*), cf. Consolidated Act no. 650 of 15 June 2006, as amended. The Minister may lay down regulations that derogate from the provisions in this Act that require adjustments to the IT system at the Danish Business Authority in respect of registration and publication, until all necessary adjustments to the IT system have been completed.

**(2)** The Minister may lay down regulations providing for special transitional arrangements for companies, including affected employees covered by this Act and governing bodies, including their duties.

**373.-(1)** Applications for registration pursuant to the Public Companies Act or the Private Companies Act received by the Danish Business Authority before entry into force of this Act will be considered according to the regulations previously in force.

**(2)** All executive orders and regulations issued pursuant to this Act and all information registered, including statutes and authorisations of the company management, permissions granted, approvals, etc. will remain in force until they are changed, withdrawn, terminated or expire pursuant to the provisions of this Act.

**374.** The Minister for Economic and Business Affairs will review this Companies Act, in full or in part, two years after the entry into force of the provisions in section 4.

**375.** This Act does not apply to Greenland and the Faroe Islands, but may, by Royal Decree, be put into effect for Greenland with any derogations necessitated by the specific conditions prevailing in Greenland.

Act no. 739 of 1 June 2015 (Implementation of part of the Package of Measures to Combat Cross-Border Tax Evasion and Use of Tax Havens)<sup>3</sup> contains the following provisions on entry into force:

#### 5.

**(1)** This Act enters into force on 1 July 2015.

**(2)** Where, prior to entry into force of this Act, companies have adopted authorisations pursuant to section 155(1) and (2) of the Companies Act, providing for the possibility to issue bearer shares, these companies may exploit such authorisations according to their content until 1 July 2016.

**(3)** Bearer shares issued prior to entry into force of this Act in accordance with section 48(2), 3rd sentence, of the Companies Act previously in force, or issued according to the authorisations referred to in subsection (2) may continue to exist after entry into force of this Act.

#### 6.

(Omitted)

Act no. 631 of 8 June 2016 (Implementation of amendments to the Audit Directive and options in the regulation on specific requirements regarding statutory audit of public-interest entities)<sup>4</sup> contains the following provisions on entry into force:

#### 12.

**(1)** This Act enters into force on 17 June 2016, without prejudice to subsection (2).

**(2)-(7)** (Omitted)

**(8)** Section 2, no. 4, and section 3, no. 2, apply from the date of the first election of one or more auditors to audit of the financial statements following entry into force of this Act. Any agreements restricting the election of one or more approved auditors to audit the financial statements, and any alternates for these,

to specific categories or lists of auditors or audit firms remain valid until the date of the first election of one or more auditors.

**13.**

(Omitted)

**14.**

The Minister for Industry, Business and Financial Affairs proposes a revision of the Act or parts of the Act two years after its entry into force.

**15.**

**(1)** This Act does not apply to the Faroe Islands and Greenland, without prejudice to subsection (2).

**(2)** This Act may, by Royal Decree, be put into effect, fully or in part, for Greenland with any amendments necessitated by the specific conditions prevailing in Greenland.

Act no. 1547 of 13 December 2016 (Amended requirements for registration of owners, conditional legalisation of loans to shareholders, etc.) [5\)](#) contains the following provisions on entry into force:

**3.**

**(1)** This Act enters into force on 1 January 2017.

**(2)** Section 1, nos. 3-7, and section 2, no. 1, apply to decisions on granting or maintaining financial assistance taken on 1 January 2017, or later, without prejudice to subsection (3).

**(3)** Financial assistance that was granted before 1 January 2017 and that was illegal under the regulations applicable at that time may be made legal if, by no later than at the first general meeting after 31 December 2016, the company passes a resolution to maintain such financial assistance as legal financial assistance by complying with the conditions in section 1, no. 4. By no later than at the deadline for submitting the first annual report submitted after 31 December 2016, the company must be able to document to the Danish Business Authority that the financial assistance complies with the conditions laid down in section 1, no. 4. Notwithstanding the 1st and 2nd sentence, in exceptional circumstances, the Danish Business Authority may order a company to legitimize financial assistance granted before 1 January 2017, and to document this to the Danish Business Authority within a reasonable time.

**4.**

This Act does not apply to the Faroe Islands and Greenland, but may, by Royal Decree, be put into effect, fully or in part, for Greenland with any amendments necessitated by the specific conditions prevailing in Greenland.

Act no. 369 of 9 April 2019 (Implementing amendments to the shareholder rights directive on the encouragement of long-term shareholder engagement) [6\)](#) contains the following provisions on entry into force:

**9.**

**(1)** This Act enters into force on 10 June 2019, without prejudice to subsection (2).

**(2)** Section 1, nos. 2 and 3, section 2, no. 3, and sections 101c-101g of the Financial Business Act in the wording of section 3, no. 3, of this Act, and sections 66c-66g of the Alternative Investment Fund Managers etc. Act in the wording of section 4, no. 3 of this Act enter into force on 3 September 2020.

**(3)** Sections 139-139b of the Companies Act in the wording of section 1, no. 4, of this Act apply to the first annual general meeting, as convened in the financial year commencing on 10 June 2019 and later.

**(4)** (Omitted)

## 10.

This Act does not apply to the Faroe Islands and Greenland, but section 1 may, by Royal Decree, be put into effect, fully or in part, for Greenland with any amendments necessitated by the specific conditions prevailing in Greenland.

Act no. 445 of 13 April 2019 (Abolishing entrepreneurial companies and reducing the minimum requirement for the share capital of private limited liability companies)<sup>7|8|</sup> contains the following provisions on entry into force:

## 3.

**(1)** This Act enters into force on the day after publication in the Danish Law Gazette.

**(2)** (Omitted)

## 4.

**(1)** The regulations of the Companies Act on private limited liability companies apply to entrepreneurial companies formed before the entry into force of this Act, unless otherwise stipulated in subsections (2)-(9) and sections 5-7.

**(2)** Upon entry into force of this Act, entrepreneurial companies may not be formed pursuant to the Companies Act.

**(3)** Upon entry into force of this Act, no new entrepreneurial companies may be formed as part of a merger, cf. section 236, 2nd sentence, of the Companies Act, or a division, cf. section 254(1) of the Companies Act.

**(4)** Upon entry into force of this Act, no new entrepreneurial companies with registered offices in Denmark may be formed as part of a cross-border merger, cf. section 271 of the Companies Act, a cross-border division, cf. section 291(1) of the Companies Act, or a cross-border conversion, cf. section 318a(1) of the Companies Act.

**(5)** The capital of an entrepreneurial company must be at least DKK 1. An increase of share capital may only be in cash, including in connection with a transfer to share capital of the company's reserves (bonus share issue). In connection with reregistration, cf. section 5(1), 1st sentence, or subsection (3), 2nd sentence, contributions of assets other than cash may be made.

**(6)** When registering the company in the IT system at the Danish Business Authority, entrepreneurial companies formed prior to entry into force of this Act with a share capital of DKK 25,000 or less may



enclose, as documentation for cash payment of the share capital, a declaration from the founders stating that the capital is available.

**(7)** Only entrepreneurial companies may and must use the term "*iværksættelseskab*" (entrepreneurial company) or the abbreviation "*IVS*" in their name.

**(8)** An entrepreneurial company must annually transfer at least 25% of the company's profit to an undistributable reserve to build up the company's capital base, until this undistributable reserve, together with the share capital, amounts to at least DKK 40,000. The reserve may not be eliminated by company losses or reduced in any other way. However, the reserve must be dissolved or reduced to the extent that the share capital is increased.

**(9)** An entrepreneurial company may not resolve to distribute dividends, including extraordinary dividends, before the reserve to build up the company's capital base, together with the share capital, amounts to no less than DKK 40,000.

## 5.

**(1)** Where an entrepreneurial company is not in liquidation, in bankruptcy or under compulsory dissolution, the general meeting of the entrepreneurial company must, by no later than 15 October 2021 and with the majority of votes required to amend the statutes, pass a resolution to reregister the entrepreneurial company as a private limited liability company. As a condition for reregistering the company, the remaining capital, i.e. the difference between the registered share capital of the entrepreneurial company and the minimum requirement for share capital in private limited liability companies, must be paid. Payment of the remaining capital must be in accordance with the regulations on capital increases in Part 10 of the Companies Act.

**(2)** Where an entrepreneurial company does not comply with the reregistration requirement in subsection (1), 1st sentence, the Danish Business Authority may stipulate a time limit within which the company must comply with the reregistration requirement. Where the entrepreneurial company does not comply with this requirement by no later than the expiry of the time limit stipulated by the Authority, the Authority may request that the probate court dissolve the company, cf. section 225 of the Companies Act.

**(3)** Where an entrepreneurial company is subject to compulsory dissolution, a condition for resumption of the company's activities is that the circumstances that caused the entrepreneurial company to be subject to compulsory dissolution have been rectified, and that the conditions in section 232 have been complied with. A further condition for resumption of the company's activities is that, by no later than at the time of resolving to resume the company's activities, cf. section 231(1) of the Companies Act, and with the majority of votes required to amend the statutes, the general meeting passes a resolution that the entrepreneurial company must reregister as a private limited liability company, cf. subsection (1), 1st sentence. An application for reregistration must be submitted to the Danish Business Authority by no later than at the time of applying for resumption of the company's activities, cf. section 232(1) of the Companies Act.

**(4)** The reregistration of an entrepreneurial company as a private limited liability company, cf. subsection (1), 1st sentence, and subsection (3), 2nd sentence, will be deemed to have taken place when the company's statutes have been amended with respect to the company name and the amount of capital, so that the statutes comply with the general requirements for private limited liability companies stipulated in the Companies Act, and the reregistration has been registered in the IT system at the Danish Business Authority. As part of the reregistration, the reserve to build up the company's capital base must be transferred to share capital through a bonus share issue.

**(5)** Reregistration of an entrepreneurial company as a private limited liability company, cf. subsection (1), 1st sentence, and subsection (3), 2nd sentence, in the IT system at the Danish Business Authority is free of charge for the company. The fee for application for registration of resumption of the activities of an entrepreneurial company, cf. subsection (3), amounts to DKK 350.00. The fee for application for registration of other changes in the IT system at the Danish Business Authority by the entrepreneurial company amounts to DKK 180.00. The fee for application for registration of other changes by the entrepreneurial company by other means than application for registration in the IT system at the Danish Business Authority amounts to DKK 340.00.

## **6.**

**(1)** Decisions made by the Danish Business Authority under section 4 may be brought before the Danish Company Appeals Board no later than four weeks after notification of the decision.

**(2)** Decisions by the Danish Business Authority resulting from non-compliance with the time limits laid down in pursuance of section 5(2) may not be brought before a higher administrative authority.

## **7.**

**(1)** Non-compliance with section 4(5) and (7)-(9) is punishable by a fine.

**(2)** Companies etc. (legal persons) may incur criminal liability according to the regulations in Part 5 of the Criminal Code. The period of limitation for non-compliance with the provisions in this Act is five years.

## **8.**

This Act does not apply to the Faroe Islands and Greenland, but sections 1, 2 and 4-7 may, by Royal Decree, be put into effect, fully or in part, for Greenland with any amendments necessitated by the specific conditions prevailing in Greenland.

Act no. 554 of 7 May 2019 (Amendment of the regulations on beneficial owners as a consequence of the 5th Anti-Money Laundering Directive) [9](#) contains the following provisions on entry into force.

## **13.**

**(1)** This Act enters into force on 10 January 2020, without prejudice to subsection (2).

**(2)** Section 1, nos. 6 and 7, section 2, nos. 2, 7 and 8, section 3, nos. 6 and 7, section 4, no. 2, section 17c of the SE Act, in the wording of section 4, no. 6, of this Act, section 5, no. 3, section 14c of the SCE Act, in the wording of section 5, no. 5 of this Act, section 1c of the Act on management of the regulations of the European Economic Community on European Economic Interest Grouping, in the wording of section 6, no. 3, and section 6, nos. 4 and 5 of this Act, enter into force on 1 July 2019.

**(3)** Regulations laid down pursuant to section 58a(5) of the Companies Act, section 15g(5) of the Certain Commercial Undertakings Act, section 21a(4) of the Commercial Foundations Act, section 17a(5) of the Act on the European Company (SE Act), section 14a(5) of the Act on the European Cooperative Society (SCE Act), section 1a(4) of the Act on management of the regulations of the European Economic Community on European Economic Interest Grouping, section 23(6), section 81b(4), section 85b(4), and section 336a(4), of the Financial Business Act, section 68(5) of the Supervision of Company Pension Funds Act, section 136a(5) of the Alternative Investment Fund Managers etc. Act, and section 14a(5) of the Investment Funds etc. Act,

will remain in force until they are repealed or replaced by regulations issued pursuant to sections 58a(9) of the Companies Act, section 15g(9) of the Certain Commercial Undertakings Act, section 21a(8) of the Commercial Foundations Act, section 17a(9) of the Act on the European Company (SE Act), section 14a(9) of the Act on the European Cooperative Society (SCE Act), section 1a(8) of the Act on management of the regulations of the European Economic Community on European Economic Interest Grouping, section 23(10), section 81b(8), section 85b(8), and section 336a(8) of the Financial Business Act, section 111(8) of the Company Pension Funds Act, section 136a(9) of the Alternative Investment Fund Managers etc. Act, and section 14a(9) of the Investment Funds etc. Act.

#### **14.**

**(1)** This Act does not apply to the Faeroe Islands and Greenland, but may, by Royal Decree, be put into effect, fully or in part, for the Faeroe Islands and Greenland with any amendments necessitated by the specific conditions prevailing in the Faeroe Islands and Greenland, respectively, without prejudice to subsections (2) and (3).

**(2)** Sections 1-3, 8 and 12 may not be put into effect for the Faeroe Islands.

**(3)** (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, whistle-blower scheme for undertakings with a restricted authorisation, auditor's duty to notify the Danish FSA and changes to the procedure for redemption of minority interests, etc.)<sup>10)</sup> contains the following provisions on entry into force:

#### **19.**

**(1)** This Act enters into force on 1 January 2020, without prejudice to subsections (2)-(4).

**(2)-(4)** (Omitted)

**(5)** Section 72(1), 2nd sentence, and section 72(2), of the Companies Act, in the wording of section 13, nos. 1 and 2, of this Act do not apply to minority shareholders in limited liability companies which have received a request to transfer their shares to the shareholder to which the shares are to be redeemed, cf. section 70(1) of the Companies Act, before entry into force of this Act.

**(6) and (7)** (Omitted)

#### **20.**

**(1)** This Act does not apply to the Faroe Islands and Greenland, without prejudice to subsections (2) and (3).

**(2)** (Omitted)

**(3)** Sections 1-8, 12, 13 and 18 may, by Royal Decree, be put into effect, fully or in part, for Greenland with any amendments necessitated by the specific conditions prevailing in Greenland.

Act no. 642 of 19 May 2020 (Control/Supervision package)<sup>11)</sup> contains the following provisions on entry into force:

## 7.

**(1)** This Act enters into force on 1 July 2020, without prejudice to subsections (2) and (3).

**(2)** Section 2, nos. 1-11 and 13-18, and section 3 enter into force on 1 January 2021.

**(3)** and **(4)** (Omitted)

**(5)** Sections 17-19 of the Companies Act, in the wording of section 2, no. 7, of this Act, and sections 15c-15e of the Certain Commercial Undertakings Act, in the wording of section 3, no. 10, of this Act, apply to documents drawn up in financial years commencing on 1 January 2021, or later.

**(6)-(8)** (Omitted)

**(9)** Regulations laid down pursuant to section 18(3) of the Companies Act, cf. Consolidating Act no. 763 of 23 July 2019, remain in force until they are repealed or replaced by regulations laid down pursuant to section 16(5) of the Companies Act, cf. section 2, no. 7, of this Act.

**(10)** and **(11)** (Omitted)

## 8.

**(1)** This Act does not apply to the Faroe Islands and Greenland, without prejudice to subsections (2) and (3).

**(2)** (Omitted)

**(3)** Sections 1-5 of this Act may, by Royal Decree, be put into effect, fully or in part, for Greenland with any amendments necessitated by the specific conditions prevailing in Greenland.

Act no. 2199 of 29 December 2020 (More lenient requirements for reregistration of entrepreneurial companies as private limited liability companies and authorisation for temporary derogation from the provisions on physical attendance at general meetings in statutes or similar agreements in connection with Covid-19, etc.)<sup>12)</sup> contains the following provisions on entry into force:

## 4.

**(1)** This Act enters into force on 1 January 2021, without prejudice to subsection (2).

**(2)** The Minister for Industry, Business and Financial Affairs sets the date of entry into force of section 2.

## 5.

**(1)** This Act does not apply to the Faroe Islands and Greenland, without prejudice to subsections (2) and (3).

**(2)** This Act may, by Royal Decree, be put into effect, fully or in part, for Greenland with any amendments necessitated by the specific conditions prevailing in Greenland.

**(3)** Section 1(1), no. 2, and section 1(2) of the Act on authorisation for temporary derogation from corporate and accounting obligations in connection with Covid-19, in the wording of section 3, no. 2, of this Act may, by Royal Decree, be put into effect, fully or in part, for the Faeroe Islands with any amendments necessitated by the specific conditions prevailing in the Faeroe Islands.

FOR THE MINISTER

Henning Steensig

/ Katja Søder

Official notes

<sup>1)</sup> The Act contains provisions implementing parts of Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids, OJ 2004, no. L 142, page 12, as amended by Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council, OJ 2014, no. L 173 page 190, parts of Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC, OJ 2006, no. L 157, page 87, as amended by Directive 2014/56/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts, OJ 2014, no. L 158, page 196, parts of Directive 2007/36/EC of the European Parliament and of the Council of 11 July 2007 on the exercise of certain rights of shareholders in listed companies, OJ 2007, no. L 184, page 17, as amended most recently by Directive (EU) 2017/828 of the European Parliament and of the Council of 17 May 2017 amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement, OJ 2017, no. L 132, side 1, parts of Directive 2009/102/EC of the European Parliament and of the Council of 16 September 2009 in the area of company law on single-member private limited liability companies, OJ 2009, no. L 258, page 20, parts of Council Directive 2013/24/EU of 13 May 2013 adapting certain directives in the field of company law, by reason of the accession of the Republic of Croatia, OJ 2013, no. L 158, page 365, as amended by Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law, OJ 2017, no. L 169, page 46, parts of Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC, OJ 2013, no. L 182, page 19, parts of Directive 2013/50/EU of the European Parliament and of the Council of 22 October 2013 amending Directive 2004/109/EC of the European Parliament and of the Council on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market, Directive 2003/71/EC of the European Parliament and of the Council on the prospectus to be published when securities are offered to the public or admitted to trading and Commission Directive 2007/14/EC laying down detailed rules for the implementation of certain provisions of Directive 2004/109/EC, OJ 2013, no. L 294, page 13, parts of Directive 2015/849/EU of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC, OJ 2015, L 141, page 73, as amended by Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU, OJ 2018, no. L 156, page 43, Directive 2017/1132/EU of the European Parliament and of the Council of 14 June 2017 relating to certain

aspects of company law (codification), OJ 2017, no. L 169, page 46, and Directive (EU) 2019/1151 of the European Parliament and of the Council of 20 June 2019 amending Directive (EU) 2017/1132 as regards the use of digital tools and processes in company law, OJ 2019, no. L 186, page 80.

<sup>2)</sup> The following executive orders on entry into force etc. have been issued in pursuance of the provision mentioned: Executive Order no. 172 of 22 February 2010, as amended by Executive Order no. 142 of 22 February 2011, and Executive Order no. 135 of 22 February 2011, Executive Order no. 1322 of 10 December 2014 and Executive Order no. 242 of 11 March 2015.

<sup>3)</sup> The amendment concerns section 48(2), 3rd sentence, section 49(2) and (3), section 57a(1) and (4), and section 367(1).

<sup>4)</sup> The amendment concerns the footnote to the title of the Act, section 93(3), section 129, section 144(2)-(6), section 144a, section 146(3), 1st sentence, and subsections (4)-(6), and section 147(2).

<sup>5)</sup> The amendment concerns section 50(1), section 58(1) and (2), section 210(1), 1st sentence, section 210(2) and (3), section 211(1), section 212, section 225(1), and section 357a(2), 2nd sentence.

<sup>6)</sup> The amendment concerns the footnote to the title of the Act, section 49a, section 104(4) and (5), section 139, section 139a-d, section 147(2), 2nd sentence, and section 367(1), 1st sentence.

<sup>7)</sup> The amendment concerns section 4(2), section 5, nos. 14-32, section 33(1), 1st sentence, section 40(2), 1st sentence, Part 20a, and section 367(1), 1st sentence.

<sup>8)</sup> Section 5 of the amendment was amended by Act no. 2199 of 29 December 2020.

<sup>9)</sup> The amendment concerns the footnote to the title of the Act, section 18(2), 1st sentence, and subsection (4), section 58a, section 58c, section 225(1), nos. 4-8, section 367(1), 1st sentence, and subsection (4).

<sup>10)</sup> The amendment concerns section 72(1), 2nd sentence, section 72(2), 1st sentence, and section 72(3), 1st sentence.

<sup>11)</sup> The amendment concerns the footnote to the title of the Act, section 5, no. 24, section 5, nos. 30-33, the heading of Part 2, the heading before section 9, section 14(1), 2nd sentence, sections 16-19, the heading before section 20, the heading after section 23, sections 23a-i, section 58c(2), 1st sentence, section 112(2) and (3), section 139b(3), no. 4, section 174(1), 2nd sentence, section 225(1), no. 1, and nos. 6-11, section 319(1), 2nd sentence, section 324(1), 3rd sentence, section 367(1) and section 371(2).

<sup>12)</sup> The amendment concerns the footnote to the title of the Act.