10 October 2013

Agreement between the Government (Socialdemokraterne, Radikale Venstre and Socialistisk Folkeparti) and Venstre, Dansk Folkeparti, Liberal Alliance and Det Konservative Folkeparti concerning the regulation of systematically important financial institutions (SIFIs), as well as requirements imposed on all banks and mortgage-credit institutions to have more capital and capital of a higher quality as well as higher liquidity

A healthy, stable and efficient financial sector is a prerequisite for growth and employment in Denmark. A stable financial sector strengthens the confidence in the Danish economy and is capable of providing financing to enterprises and private households on competitive terms.

Generally speaking, Denmark's financial sector is sound and stable at present. A number of initiatives have been taken to strengthen financial regulation in the wake of the financial crisis. The strengthened financial regulation has helped to restore confidence in the Danish financial sector. However, additional initiatives are needed to underpin financial stability and reduce the risk of future crises.

In the first place, this involves special regulation of "Systemically Important Financial Institutions" (SIFIs). Special risks are associated with SIFIs, as these institutions are so large that, if they encounter difficulties, this could have far-reaching negative consequences for households, enterprises and the national economy in general. Therefore, there is a need to impose requirements on SIFIs that are stricter than those imposed on other institutions. This agreement lays down the rules for identifying SIFIs in Denmark and the requirements to be imposed on them. This is based on the report submitted to the Danish Government by the Committee on Systemically Important Financial Institutions in March 2013, which was in turn based on the agreement between the Parties of 25 August 2011 (Bank Package 4).

Secondly, there is a general need to tighten the capital requirements etc., for all banks and mortgage-credit institutions. Agreement has been reached in the EU in the form of the Capital Requirements Directive and Regulation (CRD4) which must also be transposed into Danish law. CRD4 was adopted in June 2013 and requires banks and mortgage-credit institutions to have more capital and capital of a higher quality and maintain higher liquidity coverage. In addition, the directive contains requirements that it must be possible to establish both a countercyclical buffer and a systemic capital buffer, and requirements for corporate governance.

According to the Agreement, a capital requirement of at least 10.5 per cent of the risk-weighted assets will generally apply to Danish banks and mortgage-credit institutions and a significantly larger share of capital must be Common Equity Tier 1 capital. A higher capital requirement of at least 11.5-13.5 per cent of the risk-weighted assets will apply to SIFIs, depending on the systemic importance of the individual SIFI. In addition, there will also be a possible additional and individual solvency requirement that will apply to all SIFIs, depending on how systemic the SIFIs are. Additionally, an individual capital requirement can be set for all institutions depending of the risk profile of the institution. This currently amounts to just below 2 per cent for SIFIs and slightly more than 3 per cent for other banks and mortgage-credit institutions.

The purpose of these tighter requirements is to make the banks and mortgage-credit institutions more robust and to boost confidence in the financial sector in general. In the future, the institutions must be better prepared at bearing losses and coping with crises without this constituting a risk for the national economy in general. A more robust financial sector is an important prerequisite for long-term growth and employment in Denmark.

The Agreement seeks to ensure equal terms of competition, both between SIFIs and other banks and mortgage-credit institutions in Denmark, and between SIFIs in Denmark and abroad. In this context, the capital requirements that are expected to be set for SIFIs in comparable European countries have been taken into account. Furthermore, flexibility has been incorporated into the Agreement in relation to the final international regulations, and in relation to other countries' introduction of SIFI regulations. This has been done to ensure a sound Danish financial sector which is internationally competitive at the same time.

The Parties have also given priority to ensuring that the phasing-in of new requirements for capital and liquidity is balanced to give the institutions time to adjust and to ensure that the phasing-in is in line with developments in comparable European countries.

The Parties agree that regulations for the crisis management of SIFIs and other banks and mortgage-credit institutions will not be established until forthcoming common EU crisis-management regulations have been agreed upon. It is not the intention that Danish SIFIs shall be resolved pursuant to Bank Package 3, as these institutions are systemically important.

The forthcoming common EU regulations are scheduled to take effect on 1 January 2015. As of that date, the Danish regulations in this area (Bank Package 3) should transition into harmonised EU regulations. All EU Member States will be subject to the same general set of crisis-management regulations going forward. When the Parties to the Agreement discuss the implementation of EU crisis-management regulations, this will include the size of the crisis management buffers, which the individual institutions will have to establish and the building up of a resolution fund. In this respect, the Parties agree that if an agreement on common EU crisis-management regulations is not reached in the years ahead, the parties will discuss the need to revise the resolution scheme currently in effect in Denmark.

In response to the financial crisis and with a view to being able to counteract crises in the future, the parties have agreed to give the Danish Financial Supervisory Authority (Danish FSA) a series of necessary new supervisory instruments and powers. It is important to have a well-regulated, active and efficient Danish FSA. Strengthened powers should go hand in hand with a strong, efficient organisational set-up for the Danish FSA. Therefore, the Parties agree to strengthen the Danish FSA's supervisory efforts by establishing a governing board tasked with providing technical, organisational and managerial assistance to the management team of the Danish FSA and taking supervisory decisions in cases of principle etc.

The Government will engage in discussions with the Faroese Home Government and the Government of Greenland concerning the identification of SIFIs in the Faroe Islands and Greenland and the requirements imposed on their SIFIs for the purpose of incorporating an agreement to this effect in the forthcoming legislation.

To follow up on the agreement, the Government will as soon as possible introduce the legislation required to amend the financial regulations. It is expected that SIFIs will be identified no later than 30 June 2014 and that the SIFI regulations can take effect from 1 January 2015. The legislation transposing CRD4 etc. into Danish law is expected to come into force in the first quarter of 2014.

Appendix 1: Regulation of SIFIs

1. Identification

A SIFI is a bank or mortgage-credit institution which is so large that if it encounters any difficulty, this could have far-reaching negative consequences for households, enterprises and the national economy in general. In Denmark, SIFIs will be identified on the basis of the following objective criteria:

- The size of the balance sheet is equivalent to more than 6.5 per cent of Denmark's GDP;
- Loans comprise more than 5 per cent of total sector loans; and
- Deposits comprise more than 5 per cent of total sector deposits.

To be defined as an SIFI, the institution must exceed one of the limits for two consecutive years. SIFIs will be identified by the Danish FSA no later than 30 June, on the basis of the most recent financial statements. The first identification will take place in 2014. New SIFIs must meet the SIFI requirements at the end of the following year, i.e. at least 18 months after having been identified.

If an institution which was not identified as a SIFI, but which as the result of acquisition or similar substantially exceeds one of the limits, the Minister for Business and Growth may decide that the institution is a SIFI before these two years have passed.

An institution will cease to be defined as an SIFI if it is below the SIFI identification limits for three consecutive years. However, the Minister for Business and Growth may decide that an institution is no longer a SIFI before these three years have passed if the institution files a request to this effect and if the institution is substantially below the limits e.g. as a result of divestment of significant parts of the business or similar.

Based on existing data, the following institutions will be identified as SIFIs at 30 June 2014: Danske Bank, Nykredit, Nordea Bank Danmark, Jyske Bank, BRFkredit, Sydbank and DLR Kredit.

2. Capital requirements

It is important for SIFIs to increase their capital reserves, also in addition to the requirements generally imposed on banks and mortgage-credit institutions. This requirement will be implemented as a significant element of the follow-up of the financial crisis and should be seen in the light of these institutions' systemic importance to the national economy. Therefore, both Denmark and other European countries are taking steps to increase the equity ratio of their SIFIs, which will make it possible, *inter alia*, for small countries to have large credit institutions, and thus better facilitate development and growth.

In the light of this, differentiated capital requirements comprising Common Equity Tier 1 capital are imposed on Danish SIFIs. The capital requirement is determined on the basis of a measure of an SIFI's "systemic importance" and a quantitative scale (an SIFI scale) which converts the calculated measure of systemic importance into a capital requirement, cf. Table 1. Both factors will be stipulated in the legislation. With this model, the capital requirement for SIFIs will constitute 1 to 3 per cent of the risk-weighted assets, based on the institutions' 2012 financial statements.

Table 1: Scale for the SIFI capital requirement						
		Capital requirement, per cent				
Systemic importance		1.0	1.5	2.0	2.5	3.0
	≤ 5	DLR Kredit (1.9) BRFkredit (3.0) Sydbank (3.1)				
	5–15		Jyske Bank (5.1)			
	15–25			Nordea (16.8) Nykredit (18.8)		
	25–35				-	
	35–40					Danske Bank (37.5)

Note: Data from financial statements end of 2012.

The capital requirement of SIFIs will be phased in gradually during the period from 2015 to 2019, cf. Table 2. If any changes are made to a SIFI's systemic importance, the SIFI must comply with any changes to its capital requirement by the end of the year concerned.

Table 2: Phasing-in of the SIFI capital requirement					
Year/ Capital requirement	2015	2016	2017	2018	2019
1.0	0.2	0.4	0.6	0.8	1.0
1.5	0.3	0.6	0.9	1.2	1.5
2.0	0.4	0.8	1.2	1.6	2.0
2.5	0.5	1.0	1.5	2.0	2.5
3.0	0.6	1.2	1.8	2.4	3.0

From 2019, a combined capital requirement of at least 11.5-13.5 per cent of risk-weighted assets will be required of Danish SIFIs, depending on the individual institution's systemic importance. The capital requirement will comprise both the pillar I requirement (minimum capital requirement) of 8 per cent, which will be the same for all institutions, and a combined buffer requirement. The combined buffer requirement will consist of a capital conservation buffer of 2.5 per cent, which will apply to all institutions after the transposition of CRD4 into Danish law, and the unique SIFI capital requirement of 1–3 per cent, depending on the individual institution's systemic importance.

In addition, there will be a possible pillar II requirement (individual solvency requirement), depending on the institution's risk profile; currently this is just below an average of 2 per cent for SIFIs.

Finally, it will be possible to set a countercyclical capital buffer, which could amount to up to 2.5 per cent in 2019, during periods of high loan growth, cf. Section 4 of Appendix 2.

The intention is for the capital requirements imposed on Danish SIFIs to be on a par with the requirements set in other comparable European countries. The final level of the Danish SIFI capital requirement will be assessed no later than 2017. If it turns out that the final level of the Danish SIFI capital requirement is not on a par with the final level in comparable European countries (Sweden, Norway, the UK, Germany, France, the Netherlands, Austria and Switzerland), the final level of the SIFI capital requirement will be adjusted accordingly.

3. Trigger levels

Insofar as the level for restrictions (triggers) on bonuses, dividends and interest payments on hybrid-capital for SIFIs is concerned, this will conform to the general rules stipulated in CRD4, cf. Section 2 of Appendix 2, as higher capital requirements for SIFIs will imply a higher trigger level.

4. Liquidity requirements

Access to liquid assets can be crucial for the possibility of surviving for particularly large institutions during a crisis. The recent financial crisis exposed the need for setting liquidity requirements. This is in accordance with the recommendations of the Financial Stability Board (G20) whereby SIFIs should not only be subject to stricter capital requirements but also to stricter requirements in other areas as well, including liquidity.

CRD4 implies that requirements for a short-term liquidity cover ratio (LCR) must be set to ensure that the institutions covered always have an adequate holding of liquid assets to cover imbalances arising between incoming and outgoing cash flows in stressful situations over a thirty-day period.

In Sweden, SIFIs must fully comply with this LCR requirement already today, even though CRD4 allows for a gradual phasing-in of the LCR up until 2018. Today, Danish SIFIs generally meet the LCR requirement, if Danish covered bonds are included in the calculation of liquid assets. The Parties to the Agreement agree that a position on the LCR requirement for Danish SIFIs awaits the European Commission's decision in 2014 on the final definition of the LCR requirement, which includes the need to clarify which assets can be used in complying with the LCR requirement. The point of departure is that Danish SIFIs must comply with the LCR requirement from 2015.

If Danish covered bonds cannot be included to a sufficient extent as liquid assets in the LCR, or if the European Commission's decision otherwise makes it difficult for Danish SIFIs to fully comply with the LCR requirement, the Parties agree that the LCR requirement for Danish SIFIs will be phased in gradually up until 2018, on a par with smaller Danish banks and mortgage-credit institutions, cf. Section 3 of Appendix 2.

It is important that SIFIs have stable funding so that an inappropriate dependence on funding in the capital markets and the development of large deposit shortfalls can be avoided. The Ministry of Business and Growth and the Danish FSA will in cooperation with Danmarks Nationalbank make proposals for specific requirements for stable funding for banks which will be discussed by the Parties to this agreement with a view of incorporating such requirements into the law at a later stage. It is the intention that requirements in Denmark shall be in line with requirements in the above mentioned comparable countries.

5. Tighter supervision of SIFIs

It is crucial to tighten the supervision of SIFIs, to give authorities a better basis on which to assess whether supervisory responses to SIFIs are required at an earlier point in time. This should also be seen in the light of SIFIs' significant complexity and the substantial consequences that could be inflicted on the national economy if a SIFI were to fail. Tighter supervision will also be in accordance with the international guidelines issued by the Financial Stability Board, which gives high priority to substantial tightening of the supervision of SIFIs.

It will be explicitly stated in the legislation that the Danish FSA must conduct tighter supervision of SIFIs in the form of:

- Enhanced examination activities (more frequent inspections);
- Benchmarking of Danish SIFIs, also in relation to foreign SIFIs;
- Enhanced focus on corporate governance and risk management; and
- Enhanced focus on model risk and capital allocation.

6. Corporate governance

Requirements for corporate governance shall contribute to ensuring that the institutions have internal procedures and guidelines in place which as far as possible contribute to responsible and efficient operation of the institution and thus to reducing the risk of the institution getting into difficulty. This is particularly important for SIFIs, in the light of their systemic importance to the national economy.

Therefore, stricter requirements for good corporate governance at SIFIs are laid down as follows:

- Existing requirements for adherence to "fit and proper principles" must also apply to the institution's managerial employees (the risk manager, the compliance officer, and the manager of auditing and accounting), i.e. not only to the board and management team;
- Special requirements are imposed on the organisation and staffing of risk-management functions;
- Special requirements are imposed in the IT-area.

A working group, which includes participants from the financial sector, is to be appointed and tasked with submitting proposals for how these initiatives can be implemented in practice. The Parties agree to follow up on the results of the working group's work with a view to subsequently incorporating the results in the legislation.

7. Raising capital in mortgage-credit institutions owned by associations and foundations
Mortgage-credit institutions owned by associations and foundations do not have the same possibility of obtaining capital from the share market as other SIFIs, unless these institutions significantly change their existing ownership structure. As a general rule, therefore, their possibility of increasing equity depends on transferring profits to equity.

To make it possible for institutions owned by associations and foundations to raise the requisite capital to comply with the SIFI capital requirements, statutory authority is granted to previously converted mortgage-credit institutions whose principal shareholders are foundations and associations to issue shares without voting rights ("non-voting shares").

8. Resolution plans
Resolution plans shall underpin an efficient and appropriate crisis management of any failing banks or mortgage-credit institutions. In the light of the systemic importance of SIFIs, it is crucial that resolution plans be prepared for each SIFI. Resolution plans shall make it possible to continue critical functions at a SIFI while other parts are being wound up.

The Parties agree that resolution plans must be drawn up for all Danish SIFIs by no later than 1 January 2016. For groups, a resolution plan must be drawn up for the entire group and for each individual institution in the group. In accordance with coming EU regulations, the resolution plans for SIFIs must be reviewed at least once a year to assess whether the plans should be updated. As a minimum, the resolution plans must include a position on the specific crisis-management powers which may be exercised by the resolution authority if a SIFI enters into crisis management. The resolution plans are to be drawn up by the national resolution authority, in close dialogue with the SIFI and with the involvement of the Danish FSA and Danmarks Nationalbank.

In accordance with CRD4, each country must designate a national resolution authority. The Parties to the agreement concur that Finansiel Stabilitet A/S, in an adapted form, should manage the task as the national resolution authority, as Finansiel Stabilitet has amassed expertise and knowledge in this area through previous activities. In the start-up phase, Finansiel Stabilitet will have to prepare resolution plans for SIFIs and subsequently for other institutions. Subsequently, the Finansiel Stabilitet organisation will have to be adapted to handle its regular on-going tasks. If, in a situation of failing institutions, additional resources are needed, an effort will be made to set up schemes in which employees from other relevant authorities are seconded to Finansiel Stabilitet.

Appendix 2: Requirements for all banks and mortgage-credit institutions to have more capital and capital of a higher quality as well as higher liquidity coverage

Requirements must be imposed on all banks and mortgage-credit institutions to have more capital and capital of a higher quality as well as higher liquidity coverage etc. This flows from the revised Capital Requirements Directive (CRD4).

1. Capital requirement

Pursuant to CRD4, Danish banks and mortgage-credit institutions must from now on, as previously, live up to a basic capital requirement of at least 8 per cent of the risk-weighted assets (minimum capital requirement). From now on, the Common Equity Tier 1 capital (share capital) must comprise at least 4.5 per cent of risk-weighted assets, after a transitional period. Previously, this type of capital should only comprise at least 2 per cent, and the previous definition also permitted the inclusion of capital of lower quality than that permitted in the new definition. The Tier 1 capital which, in addition to Common Equity Tier 1 capital, also includes Additional Tier 1 capital (hybrid capital), should in the future amount to at least 6 per cent of risk-weighted assets. The current requirement is at least 4 per cent.

In addition to changes to the minimum capital requirement, a capital conservation buffer is to be introduced which must constitute 2.5 per cent of risk-weighted assets out of Common Equity Tier 1 capital. In addition, the implementation of a countercyclical capital buffer is also required. The countercyclical capital buffer can be set by national authorities during periods of above-normal loan growth in the economy. With the countercyclical capital buffer, the institutions can be ordered to have up to 2.5 per cent of extra Common Equity Tier 1 capital in relation to the basic capital requirement.

2. Trigger levels

In accordance with CRD4, restrictions must be placed on the payment of bonuses, dividends and interest payments on hybrid-capital, when the combined buffer requirement is not met. The individual pillar II requirement will not be included in the calculation of the trigger. An institution must submit a capital conservation plan to the Danish FSA whenever the total capital requirement (pillar I + II, and the combined buffer requirement) is not met.

If, in the years ahead, a more uniform EU-practice for determining these triggers emerges, the Parties agree to consider the need for adjusting the trigger model.

3. Phasing in of the requirement for a short-term liquidity cover ratio (LCR)

According to CRD4, requirements for a short-term liquidity cover ratio (LCR) must be implemented to ensure that the institutions covered have an adequate holding of liquid assets at all times to cover imbalances between incoming and outgoing cash flows in stressful situations over a thirty-day period. CRD4 grants authority to the European Commission to set and detail the LCR regulations no later than mid-2014, so that the requirement can take effect on 1 January 2015.

In Denmark, the LCR will be phased in, for other banks and mortgage-credit institutions than SIFIs, pursuant to the minimum requirement in CRD4, i.e. a gradual phasing-in of 60 per cent of the full requirement in 2015, 70 per cent in 2016, 80 per cent in 2017 and 100 per cent in 2018. The existing Danish liquidity requirement is to be maintained as a “floor” (a minimum requirement) up to and including 2016, provided that the final definition of LCR means that some institutions can be granted relief in relation to their existing liquidity requirements. Institutions which undertake to comply fully with the LCR already from 2015 will be exempted from the floor.

4. Countercyclical capital buffer
A countercyclical capital buffer will be implemented as a new instrument. The countercyclical capital buffer is a supplementary requirement for all banks' and mortgage-credit institutions' equity which must be implemented if loans from banks and mortgage-credit institutions grow substantially faster than the national economy as a whole. The buffer amounts to 0-2.5 per cent and can be further increased in extraordinary situations. It must contribute to ensuring that the institutions build up extra capital, in addition to the minimum requirements in years with high economic growth.

Based on a proposal from the Danish FSA, the Minister for Business and Growth will be able to trigger and set the level of the countercyclical capital buffer. The setting of the countercyclical capital buffer must be based on total lending trends as a percentage of GDP, but could also include any other factors deemed relevant. The Minister for Business and Growth's triggering and setting of the buffer can be based on a recommendation from the Systemic Risk Council.

The framework for the countercyclical capital buffer will be phased in gradually so that the buffer can be set up to 0.5 per cent in 2015, 1 per cent in 2016, 1.5 per cent in 2017, 2 per cent in 2018 and 2.5 per cent in 2019. Buffer rates set in other countries in which Danish institutions have exposure will be recognised up to 2.5 per cent from 2015.

5. Systemic tools and the possibility of setting higher requirements
In selected areas, CRD4 permits Member States to temporarily set requirements which are higher than the standard requirements in CRD4 to counteract the build-up of systemic risks in the financial sector. This involves *inter alia* the capital requirement, the LCR, risk weights in relation to loans for real property with a view to counteracting the formation of housing price bubbles and exposure vis-à-vis other financial institutions.

The Minister for Business and Growth sets higher requirements for handling systemic risks by means of executive order. The Systemic Risk Council must be consulted prior to this.

6. Remuneration
Current Danish regulations are upheld concerning a 50 per cent ceiling for the variable salary for members of board and management of financial institutions.

Requirements will be implemented whereby the variable salary of other significant "risk-takers" throughout the financial sector may not exceed 100 per cent of the fixed salary. However, the variable salary can be increased to 200 per cent by the entity's general meeting or similar. The definition of risk-takers in the area of insurance and pension is set by the Minister for Business and Growth.

7. Directorships and committees
The lessons learned from the financial crisis show that financial institutions are complex institutions. Therefore, there is a need for listed banks and mortgage-credit institutions or

institutions with more than 1,000 employees to set up nominating and risk committees to underpin the board's work.

For SIFIs, a restriction will also be placed on the number of directorships and executive management positions for which a member of the institution's board may be responsible. Thus, a board member for a SIFI may at most, i.e. including the directorship for the SIFI in question, have one executive management position combined with two directorships or have four directorships. The Danish FSA may permit one extra directorship.

8. Whistle-blower schemes
All financial institutions will be required to establish in-house whistle-blower schemes for all violations of financial regulation committed by the institution. It must be possible for employees to report violations or potential violations of financial legislation through a special, impartial and independent channel. In-house whistle-blower schemes can also be set up by means of collective agreements. Financial enterprises with five employees or less are exempt from the requirement to set up a whistle-blower scheme, provided that this is compatible with EU regulations. A whistle-blower scheme will also be established at the Danish FSA.

For the purpose of providing sufficient time to set up the whistle-blower schemes, including securing approval from the Data Protection Agency, the Minister for Business and Growth is authorised to set the commencement date for the establishment of whistle-blower schemes.

9. Sanctions
The new EU regulations imply a more uniform level of sanctions for violations of the financial legislation in the Member States. Administrative penalties are widely used in most other EU Member States. It is agreed that a committee should be appointed and tasked with studying the possibility of incorporating the CRD4 framework for assessing administrative penalties into Denmark's criminal code. The committee's report will be discussed by the Parties to the agreement.

10. Taxation of Additional Tier 1 (hybrid) capital
Following CRD3/CRD4, tax law will be adapted to ensure the continuance of fully deductible interest on Additional Tier 1 (hybrid) capital.

11. Secondary legislation
A number of provisions in the CRD4 are framework provisions which must be supplemented by secondary legislation in the form of legislative acts issued by the European Commission. Such legislative acts may involve a need to adapt current Danish law. Once the supplementary legislative acts are available from the European Commission, the Parties to the agreement will discuss how to implement the relevant adjustments of current Danish law.

12. Leverage
Pursuant to CRD4, no later than 31 December 2016, the European Commission must issue a report and – if relevant – submit a proposal for the introduction of binding targets for the leverage ratio (the ratio of capital to unweighted assets, i.e. an indicator of an institution's leverage) of banks and mortgage-credit institutions in the EU. With a view to preparing Denmark's position on this issue, the Government will – in keeping with the report of the Rangvid committee – appoint a group of experts and task them with assessing the need to

implement a leverage ratio target. The group of experts should, *inter alia*, consider whether it would be appropriate to implement a requirement that is higher than 3 per cent, which is the starting point in international standards (Basel III standards). The group of experts must also assess whether the limit for such a leverage ratio should be different for banks and mortgage-credit institutions respectively and for institutions which use internal models for calculating the capital requirements and for those institutions that do not respectively. Finally, the group of experts should assess how higher national capital adequacy ratios would affect the competitive situation of the institutions and national prosperity in general.

Appendix 3: Danish FSA

1. Governing board

In response to the financial crisis and with a view to being able to counteract crises in the future, the Parties have agreed to give the Danish FSA a number of necessary new supervisory instruments and powers. It is important to have a well-regulated, active and efficient Danish FSA. Strengthened authority should go hand-in-hand with a strong, efficient organisational set-up for the Danish FSA.

The Parties agree to the following:

Purpose

- To strengthen the Danish FSA's supervisory efforts by establishing a governing board tasked with providing technical, organisational and managerial assistance to the management team of the Danish FSA and to take supervisory decisions, etc. Following the establishment of this board the Financial Council will be discontinued.

Tasks of the board

- The board is tasked with:
  - Approving the organisation of supervisory activities;
  - Laying down the strategic targets for the Danish FSA's supervisory activities;
  - Approving the annual report of the Danish FSA;
  - Taking decisions in supervisory matters relating to principles and in supervisory matters which have significant and far-reaching consequences;
  - Taking decisions to transfer cases to criminal investigation;
  - Approving executive orders and guidelines in areas where the Danish FSA is authorised to issue regulations.

- Financial entities affected by specific decisions taken by the board may appear before the board prior to the decision.

- The board's decisions in supervisory matters are to be published on the Danish FSA's website.

- The Danish FSA – represented by the director – must obtain authority from the Minister for Business and Growth to initiate discussions with relevant institutions concerning the takeover of a failing bank.

The composition of the board and panel of experts

- The Danish FSA is managed by a board and a managing director who jointly possess legal, economic and financial insight.

- The Minister for Business and Growth appoints 7 members of the board:
  - 3 of whom have a relevant academic background (legal, economic or financial);
  - 2 of whom have a management background from the financial sector;
  - 1 of whom has management experience from the business community in general;
  - 1 of whom is from Danmarks Nationalbank;

  - The Ministry of Business and Growth is an observer on the board.

  - The Minister for Business and Growth appoints a member of the board to serve as chairperson.

- Board members may not be employed by or member of the board of enterprises subject to supervision by the Danish FSA.

- The Consumer Ombudsman is to be summoned to take part in the board's discussion of supervisory matters concerning honest business practices, good practice and price information.

- A panel of experts are to be appointed; the panel should jointly possess broad technical knowledge of the financial sphere (banking business, mortgage-credit business, insurance and pension business, securities trading, stockbroking business, etc., and financial consumer-related matters). As required, the board may request assistance from the panel in conjunction with the discussion of specific supervisory matters.

Other organisational issues

- The Danish FSA will continue as an agency under the Ministry of Business and Growth.

- The managing director of the Danish FSA will be appointed by the Minister for Business and Growth, after consultation with the board.

- The managing director of the Danish FSA reports to the board regarding the independent supervision. The managing director reports to the Minister for Business and Growth concerning tasks in which the Danish FSA is subject to instructions issued by the Minister for Business and Growth, i.e. when preparing legislation and the minister's executive orders, EU negotiations, consumer supervision and serving the minister in general.

- The Ministry of Business and Growth will be responsible for supervising the Danish FSA, corresponding to the supervision exercised in relation to other governmental agencies. In this respect, the Ministry of Business and Growth can obtain all relevant information from the Danish FSA and – without the advance permission of the board – order the Danish FSA's managing director to implement measures, if the Danish FSA's activities are not being conducted in accordance with the prerequisites laid down by, for example, the annual appropriation acts.

Economy

- The overarching framework for the Danish FSA's budget is laid down in the Appropriation Act. The Minister for Business and Growth continues to be responsible for the Danish FSA's budget. The board must submit proposals for the Danish FSA's budget to the Minister for Business and Growth and must continuously monitor the use of the Danish FSA's appropriations.

- As a governmental agency, the Danish FSA must comply with regulations, guidelines, etc., which apply to state institutions, i.e. including the state budget and appropriation rules, collective agreements for state employees, the Danish Public Administration Act and the Danish Public Records Act.

2. Funding for the Danish FSA

The Danish FSA is granted the necessary resources to handle the new tasks following from CRD4, tighter supervision for SIFIs, etc. This will be financed in accordance with customary practice by the financial sector.

Appendix 4: Deposit Guarantee Fund and Resolution Fund

The Guarantee Fund for Depositors and Investors (Deposit Guarantee Fund) is made up of a bank department which provides cover for cash deposits in covered institutions and a resolution and restructuring department which covers losses arising from winding-up or restructuring.

According to legislation in this area, the banks must cover the costs of the deposit guarantee. As part of this, it is determined that capital must be built up in the bank department equivalent to 1 per cent of the net deposits covered (approximately DKK 8 billion). Based on current contributions, the bank department is expected to reach this target level in 2016.

The resolution and restructuring department has separate capital which, however, primarily consists of guarantees issued by banks, not cash payments.

Negotiations are currently under way in the EU – between the Council and the European Parliament – concerning both the deposit guarantee directive and the crisis management directive. The deposit guarantee directive requires the establishment of a deposit guarantee fund and the crisis management directive requires the establishment of a resolution fund. Member States can choose to have two separate funds or to combine them. Regardless of which model is chosen, the targeted level of total capital is the same. The Council reached agreement that the target level for the deposit guarantee fund should be at least 0.5 per cent of gross deposits covered, whereas the target level for the resolution fund should be at least 0.8 per cent of gross deposits covered. Altogether, this implies a target level of at least 1.3 per cent of the gross deposits covered. The European Parliament is seeking a higher level for both funds.

The funds already paid in to the Deposit Guarantee Fund, i.e. to the bank department and the resolution and restructuring department, may be used to meet the target levels in the future EU regulations. Guarantees may only be included to a lesser extent. The contributions to Denmark's existing deposit guarantee scheme are calculated on the basis of net deposits covered, whereas the Council's agreement bases the contributions on the gross deposits covered. The current Danish target level of 1 per cent for the Deposit Guarantee Fund will thus be significantly less than the total target level.

Denmark will in line with other EU Member States phase in the requirements which going forward in relation to the deposit guarantee directive and the crisis management directive (as well as the regulation on the single resolution mechanism for euro Member States and other possible participants in the banking union) will be set for the target level for deposit guarantee and resolution funds. The Parties to the agreement agree that target levels for and the phasing in of the deposit guarantee fund and the resolution fund should be included in the Parties' discussion of the transposition of the crisis management directive in 2014.