



## THE DANISH ACT ON SCREENING OF FOREIGN INVESTMENTS COMES INTO FORCE TODAY 1 JULY 2021

1 July 2021

### Introduction

As mentioned in our previous [newsletter](#) from 25 May 2021, the Danish Act on Screening of Foreign Investments (the “Act”) will come into force on 1 July 2021.

The Danish Business Authority has adopted an executive order for consultation, (see our [newsletter](#) from 10 June 2021) and an executive order regarding the notification process in connection with the investment (the “Executive Order”). The Executive Order was adopted 24 June 2021.

It is now clear that the process for the investment will be digital, and the notification for approval should be submitted through <http://www.virk.dk/> and must be signed by digital

signature. If the notifying party does not have a Danish social security number, or the investor applying for approval is a foreign investor the notification must include a document which proves the identity of the notifying party.

The notification form is made by the Danish Business Authority and may be filled in either in Danish or in English.

### **Pre-Screening**

A pre-screening scheme has been adopted in the executive order for consultation, whereby a foreign investor can request the Danish Business Authority to assess whether a contemplated foreign investment concerns critical technology or critical infrastructure.

Such request must include the following:

- 1) The purpose of the request, including a description of the technology or infrastructure which the investment concerns;
- 2) The purpose of the investment, e.g. active ownership or passive investment;
- 3) The approximate value of the investment;
- 4) The timing of the investment, including when the investment will be concluded;
- 5) Contact information on the foreign investor and the Danish target; and
- 6) The NACE code for the Danish target.

If, based on the received information, the Danish Business Authority concludes that the foreign investment does not concern critical technology or critical infrastructure, the Danish Business Authority can issue a confirmation to the notifying part.

In this connection, the Danish Business Authority has the authority to require that the foreign investor make a formal notification, if it is assessed that further information is required.

### **The Notification Process**

The notification process to obtain approval from the Danish Business Authority must also include the above-mentioned information. In addition, notification must include the following information regarding the investment:

- 7) How the investment is funded, including by whom the investment is funded;

- 8) The percentage of the shares, the share class, the nominal value and the voting rights of the shares that will be acquired by the foreign investor if the investment will cause a direct or indirect control, or a substantial impact at the Danish target;
- 9) Whether the investment will require a merger filing that must be approved by the Danish Competition Authority and/or in the EU; and
- 10) A description of why the investment must be approved by the Danish Business Authority.

In addition to the above-mentioned, the following information regarding the Danish target of the investment must be included in the notification:

- 11) A group chart, if applicable;
- 12) The critical sector which made the notification mandatory (voluntary if applicable); and
- 13) The business activities, including competitor and market share.

Further, the notification must include the following information regarding the foreign investor:

- 14) The function of the foreign investor in connection with the investment: direct investor, holding company or global ultimate owner;
- 15) A description of the ownership of the foreign investor, if the foreign investor is a legal entity;
- 16) A description of the business activities of the foreign investor; and
- 17) A copy of the agreement or letter of intent between the parties.

If the Danish Business Authority deems it necessary to conclude whether the investment will constitute a threat to national security or public order, the Danish Business Authority has the authority to request further information from the foreign investor. As such, there are no limitations to what information can be requested by the Danish Business Authority.

Further, the Danish Business Authority has the authority to collect information from the Danish target company to verify the information which the foreign investor has provided. The Danish Business Authority may require that the information provided by the foreign investor is accompanied by a statement from an accountant stating that the provided information is correct.

If the Danish Business Authority concludes that the foreign investment may constitute a threat to national security or public order, the approval can be rectified by terms, such as a limitation of the foreign investor's ownership of the Danish Target or a limitation of the

foreign investor's involvement in the management of the Danish target company. Such undertaking must be done by filling out a form made by the Danish Business Authority in the same way as the notification.

If the Danish Business Authority has no concerns about the foreign investment, the approval will be granted within 60 business day from full notification. However, this deadline can be extended to 90 business days if the notification requires further investigation as mentioned above.

**If you have any questions or require further information regarding any of the above, please do not hesitate to contact us:**



Pernille Nørkær  
Partner  
[pernille.noerkaer@moalemweitemeyer.com](mailto:pernille.noerkaer@moalemweitemeyer.com)



Jeanette Kjeldgaard Rasmussen  
Associate  
[Jeanette.rasmussen@moalemweitemeyer.com](mailto:Jeanette.rasmussen@moalemweitemeyer.com)

*The above does not constitute legal counselling and Moalem Weitemeyer does not warrant the accuracy of the information. With the above text, Moalem Weitemeyer has not assumed responsibility of any kind as a consequence of any reader's use of the above as a basis for decisions or considerations.*

*This news piece has been produced in the English language only. Are you a client or a prospective client, and should you require a Danish version, please email us at [news@moalemweitemeyer.com](mailto:news@moalemweitemeyer.com) with a link to the article that you would like to request to receive in Danish, and we will attend to your request without undue delay.*