



AMENDMENTS TO THE DANISH INVESTMENT SCREENING ACT

04 July 2023

Introduction

The Danish Act on Screening of Foreign Investments (the “Act”) has been amended with effect from 1 July 2023.

The main amendments are related to the Danish Business Authority’s processing and processing time. Further, additional screening requirements have been implemented relating specifically to the establishment of the North Sea Energy Island (in Danish: *Energiøen*).

Introducing Phase-divided Case Processing

Until now, the review period has been 60 business days with the possibility of an extension up to 90 business days.

As of 1 July 2023, the case processing by the Danish Business Authority has been divided into a two-phased processing contrary to the former one-phased processing.

The intention of the system is that non-complicated cases are to be cleared in phase one. Phase one includes a review period of 45 business days and will require that less information is to be provided to the Danish Business Authority than what has been required up until 1 July 2023. The information will primarily focus on the ownership structure of the foreign investor.

If the Danish Business Authority is unable to make a decision based on the information provided during the phase one review, a phase two review will be initiated. However, the phase two review is only intended for special cases. In such cases, the Danish Business Authority will request further information to the extent deemed necessary. Once the information required has been provided, a review period of 125 business days will start, meaning that the case processing for phase one and phase two could potentially add up to a total of 170 business days.

Specific Screening of Parties in Relation to the Establishment of *Energiøen* in the North Sea

The proposal, as described in our [newsletter](#) dated 24 March 2023, suggested a general screening mechanism of all parties—regardless of their nationality—contracting with public customers active within management, servicing, and/or delivery of any service defined as critical infrastructure.

However, the final amendments to the Act only set out a specific screening process for parties entering into the public tender process regarding the establishment of *Energiøen*. The screening process applies to both Danish and non-Danish parties.

It is the intention that the general screening mechanism of all parties contracting with public customers within critical infrastructure will be adopted at a later stage.

Our Comments

Introducing shorter review periods for non-issue filings is a positive initiative. Further, the new 45-day review period corresponds to some extent to the review processing currently experienced with the Danish Business Authority. On the opposite, the phase two review period of 125 business days is a significant extension of the current time frames, and the potential total of 170 business days should be taken into consideration during the investment negotiations.

The scope of the expansion of the Act as proposed in March 2023 in terms of public contracts was not defined more in depth and could have led to uncertainties in the sectors that would be covered. It seems prudent enough to begin by limiting the scope to only apply to contracts related to the establishment of *Energiøen* and to hold off the introduction of a general screening scheme until more expedient ways to process have been found, including which sectors are to be covered and whether any thresholds should apply.

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



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