

2021-10-19

DECISION

Danske Bank A/S, Danmark, Sverige Filial
Chief Executive Officer
Box 7523
103 92 Stockholm

FI Ref. 20-13007
Notification No. 1

CC: Chair of the Board of Directors



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Injunction to take remedial action

Decision by Finansinspektionen

1. Finansinspektionen issues an injunction for Danske Bank A/S, Danmark, Sverige Filial, CIN 516401-9811, no later than 30 June 2022, to assess how the products and services the bank provides in Sweden, and that the bank has not yet fully risk assessed, can be used for not only money laundering but also terrorist financing and assess how large the risk is that this is occurring.
2. Danske Bank A/S, Danmark, Sverige Filial, no later than 29 July 2022, shall report in writing to Finansinspektionen that the measures have been implemented and how the measures resulted in compliance with the injunction.
3. The decisions set out in points 1 and 2 shall apply immediately.

(Chapter 15, section 15a and Chapter 17, section 1, fifth paragraph of the Banking and Financing Business Act [2004:297])

For information on how to appeal, see the appendix.

1. The matter

In June 2020, Finansinspektionen opened an investigation into Danske Bank A/S, Danmark, Sverige Filial's (the bank) compliance with the Anti-Money Laundering and Counter-Terrorist Financing Act (2017:630) (Anti-Money Laundering Act) and Finansinspektionen's regulations (FFFS 2017:11) regarding measures against money laundering and terrorist financing (anti-money laundering regulations). The investigation was limited to a review of the bank's

general risk assessment, risk assessment of customers, and customer due diligence measures.

Finansinspektionen sent a verification letter to the bank on 22 December 2020 in which the authority accounted for its observations and preliminary assessments. The bank's response to the verification letter was received on 8 February 2021, and the bank presented action plans. Since then, Finansinspektionen and the bank have met a number of times, and during these meetings the bank presented the measures that were specified in the response. The bank also submitted additional written clarifications regarding its action plans.

Finansinspektionen decided on 21 May 2021 to initiate an intervention assessment regarding the bank and the three investigated areas. Finansinspektionen provided the bank with an opportunity to comment on the authority's observations and preliminary assessments until 13 August 2021.

The bank submitted on 3 September 2021 a response to Finansinspektionen's request for statement. In its statement, the bank presented more detailed action plans and accounted for the timetable within which the various measures would be implemented.

This decision targets the deficiencies identified in the bank's general risk assessment.

During the investigation, Finansinspektionen also took the position that the bank's model for risk classification of customers was deficient since the bank did not sufficiently consider circumstances that, according to the Anti-Money Laundering Act, may indicate a high risk of money laundering or terrorist financing. Finansinspektionen also noted that the bank, through 31 May 2020, did not have sufficient and relevant customer due diligence information for a large majority of its customers. In addition, the bank has not sufficiently considered information about the nature and purpose of the business relationship. However, during the investigation, the bank either rectified the deficiencies or presented action plans for rectifying them. The action plans appear to be reasonable in terms of both their scope and their implementation timetable. There are therefore no grounds in respect of these matters to issue an injunction on the bank.

2. Finansinspektionen's assessment

2.1 Applicable provisions

Chapter 2, section 1 of the Anti-Money Laundering Act states that a company shall conduct an assessment of how the products and services it provides can be used for money laundering or terrorism financing and how large the risk is that this occurs (general risk assessment). The second paragraph of the provision states, in part, that the general risk assessment shall consider in particular the

types of products and services that are provided, existing customers and distribution channels, and any geographic risk factors present.

2.2 Assessment

The provisions regarding the general risk assessment are central to the Anti-Money Laundering Act. Under the general risk assessment, the bank, based on its specific activities, must identify how the products and services it provides can be used for money laundering and terrorist financing. In its risk assessment, the bank must also assess how large the risk is that this is occurring. The general risk assessment is key for a bank's work to combat money laundering and terrorist financing since it serves as a basis for significant portions of the bank's other measures in this area.

When the investigation was opened, Finansinspektionen noted that the bank could not account for all of the products and services the bank provided in Sweden. The bank thus had not risk assessed all of its products and services, either. The bank had conducted a brief risk assessment of a few product classes, but there was no comprehensive assessment of how the bank's different product classes, or individual products and services, could be used for either money laundering or terrorist financing. As part of the investigation in question, Finansinspektionen made the preliminary assessment that the bank did not meet the requirements of the Anti-Money Laundering Act with regard to the general risk assessment.

The bank, not having questioned the assessment, thereafter presented an action plan that aims to rectify the deficiencies in question. The action plan was clarified during the handling of the matter, and Finansinspektionen makes the assessment that the deficiencies as such can be assumed to be rectified via the action plan.

The subsequent issue is whether the bank's planned measures will be taken promptly enough. According to the action plan, the bank intends to rectify the deficiencies in three stages. The bank as a first step has prepared a repository of all of its products and services. The bank will have entered 80 per cent of its products and services in this repository by December 2021. All products and services will then have been entered into the repository by December 2022. As a final step, the bank will also risk assess all of the products and services. This step will be completed no later than March 2023. Finansinspektionen notes that the deficiencies in the bank's risk assessment of products and services existed at the beginning of the inspection period in January 2020. Finansinspektionen notified the bank about the deficiencies for the first time in a verification letter in December 2020. According to the bank's action plan, the risk assessment of products and services will be completed two years and three months after the bank received the verification letter.

As described above, the general risk assessment is of key importance for the bank's work to combat money laundering and terrorist financing. The

completion of the risk assessment of the products and services provided by the bank is required for significant parts of the bank's other money laundering measures. It is therefore incumbent on the bank to promptly rectify the deficiencies in question. Finansinspektionen finds it noteworthy that the deficiencies have existed for so long and takes the position that the bank's timetable for rectifying them cannot be considered acceptable. Given this background, Finansinspektionen makes the assessment that the bank does not comply with Chapter 2, section 1 of the Anti-Money Laundering Act.

3. Prerequisites for intervention

3.1 Applicable provisions

Chapter 15, section 15a of the Banking and Financing Business Act (2004:297) states that Finansinspektionen may issue an injunction on a foreign credit institution that conducts business in Sweden pursuant to Chapter 4, section 1 or 3 to take remedial action if the institution does not conduct its business in accordance with the provisions of the Anti-Money Laundering Act or of regulations issued pursuant to the Act. If the institution does not follow the injunction, Finansinspektionen shall notify the competent authority in the institution's home country. If a correction does not occur thereafter, the authority may ban the institution from beginning more transactions in Sweden. Before a ban is issued, the authority must inform the competent authority in the institution's home country.

Chapter 17, section 1, fifth paragraph of the Banking and Financing Business Act states that an authority may in decide that a ban, injunction or withdrawal shall apply immediately.

3.2 Assessment

Finansinspektionen notes that the bank has demonstrated deficiencies in its compliance with Chapter 2, section 1 of the Anti-Money Laundering Act. With regard to foreign branches, Finansinspektionen does not have the same intervention possibilities as it does with a Swedish bank. The intervention measure that Finansinspektionen has at its disposal at this stage is to issue an injunction on the bank to take remedial action.

The bank has failed to comply with Chapter 2, section 1 of the Anti-Money Laundering Act by not having risk assessed all of the products and services it provides in Sweden. The bank has presented an action plan to rectify this deficiency. Finansinspektionen takes the position that the bank's timetable to rectify the deficiencies is not acceptable. The deficiency therefore cannot be considered to have been rectified. Therefore, there are grounds on which to issue an injunction that the bank take remedial action in accordance with that set out in the decision to rectify the situation.

Finansinspektionen makes the assessment that it is reasonable to allow the bank through 30 June 2022 to take action. Finansinspektionen will follow up on the implementation of the measures. The bank therefore must report in writing to Finansinspektionen that the bank has taken relevant measures as a result of the injunction and how these measures have resulted in the bank complying with the injunction.

There are grounds on which to declare that the decision must apply immediately.

This matter was decided by Executive Director Karin Lundberg following a presentation by Senior Legal Counsellor Ulrika Båth Bertram. Deputy Department Director Erik Blommé, Deputy Department Director Linda Löfgren and Senior Legal Counsellor Mika Tuominen also participated in the final proceedings.

FINANSINSPEKTIONEN

Karin Lundberg
Executive Director
Banks

Ulrika Båth Bertram
Senior Legal Counsellor
Bank Law

This document has been signed digitally.

How to appeal

It is possible to appeal the decision if you consider it to be erroneous by writing to the Administrative Court. Address the appeal to the Administrative Court in Stockholm, but send the appeal to Finansinspektionen, Box 7821, 103 97 Stockholm or finansinspektionen@fi.se.

Specify the following in the appeal:

- Name, personal ID number or corporate ID number, postal address, email address and telephone number
- The decision you are appealing against and the case number
- What change you would like and why you believe the decision should be changed.

If you engage an agent, specify the name, postal address, email address and telephone number of the agent.

Finansinspektionen must receive the appeal within three weeks from the day you received the decision.

If the appeal was received on time, Finansinspektionen will assess whether the decision will be changed and then send the appeal, the documents in the appealed matter and the new decision, if relevant, to the Administrative Court in Stockholm.