

## MEMORANDUM

16 February 2015

- 1. Briefly explain the broader legal landscape regarding the obligations that a company has to its stakeholders or with regard to its impact on stakeholders, and in particular whether its primary duty is or is not to shareholders over all other stakeholders**

Consolidation Act 2011-04-11 No. 322 on Public and Private Limited Companies (The Danish Companies Act) regulates private and public limited liability companies in Denmark. The Companies Act contains rules regarding e.g. the duties of the members of the management, and the rights and obligations for shareholders, registration of the company, articles of association, general meetings, auditing and scrutiny and penalty provisions. The Companies Act divides limited companies into two categories; *private companies* (in Danish: “Anpartsselskaber” or “ApS”) and *public companies* (in Danish: “Aktieselskaber” or “A/S”).

The management is required to act in the best interest of the company. Furthermore they have a duty to ensure, that a transaction is not highly likely to provide certain shareholders or others with an undue advantage over the other shareholders or the limited liability company. Members of management who, in the performance of their duties, have intentionally or negligently caused damage to the limited liability company are personally liable to pay damages. The same applies where the damage has been caused to the shareholders or any third party.

The Financial Statements Act (Consolidation Act 2013-11-10 No. 1253) contains rules about the companies preparation of annual accounts. The Financial Statements Act should be considered in conjunction with the Auditors Act, which establishes rules governing quality control of audit companies and their associated auditors.

The Financial Statements Act recommends that companies make supplementary reports on the companies' social responsibility, knowledge and employee conditions, environmental issues as well as ethical objectives cf. section 14 of the Financial Statements Act. The preparation of the supplementary report is voluntary for smaller companies but a requirement for medium-sized and large companies, state-owned public limited companies and companies whose shares, debt instruments or other securities are admitted to trading on a regulated market in an EU/EEA country cf. section 99 b and section 99 a of the Financial Statements Act.

The Companies Act is complemented by soft-law recommendations on corporate governance drafted by the Danish Corporate Governance Committee and OECDs Principles of Corporate Governance. The recommendations drafted by the Corporate Governance Committee includes recommendations on Corporate Social Responsibility. A listed company is required by the Financial Statements Act to explain whether it is subject to the recommendations drafted by the Corporate Governance Committee pursuant to the principle of "comply or explain". The latter reflects to some extent best practice. The recommendations concerns e.g. the board of directors business and responsibility, the composition of the board of directors, and the communication between the company and their investors and other stakeholders.

**2. To what legal tradition does the jurisdiction belong, i.e. civil/ common law, mixed?**

Denmark is a civil law country. Danish law is based on codified law and the Danish courts are only allowed to interpret the law. The Danish courts do not have the lawmaking role compared to courts in common law systems. Denmark has one law which is above all other laws – a supreme law – The Constitutional Act of Denmark of June 5, 1953. The Constitutional Act describes the fundamental rules of the society. The Danish Parliament enacts laws in Denmark, and the Parliament cannot enact laws that are contrary to The Constitutional Act.

**3. Are corporate/securities laws regulated federally/nationally, provincially or both**

Corporate and securities laws are regulated and executed nationally. The main statutes regulating the public offering of securities in Denmark is the Securities Trading Act of June 12, 2014 and the Companies Act – Please refer to question 1.

#### **4. Who are the government corporate/securities regulators and what are their respective powers (in summary only)**

The Danish Parliament has the legislative authority and decides the overall regulatory framework.

There is one main government agency that has a fundamental role in creating effective regulation, digital solutions and access to corporate data. The agency is called the Danish Business Authority and is part of the ministry of Business and Growth. The Danish Business Authority functions as the secretariat for councils and boards in the corporate area. The Danish Business Authority maintains the national business register and other registers which is required according to the Danish Companies Act and other company law.

In addition to the Danish Business Authority the Danish Financial Supervisory Authority (the DFSA) exists which is also a part of the ministry of Business and Growth. The Financial Supervisory Authority has the supervision with the compliance of the financial legislation. The DFSA e.g. makes sure that prospectuses are made public when securities are offered to the public and ensures that listed companies comply with their obligation to disclose inside information and other relevant information. The FSA supervises the Danish Stock Exchange.

#### **5. Does the jurisdiction have a stock exchange(s)**

NASDAQ OMX Copenhagen A/S (located in Copenhagen) operates the securities market, where shares, bonds, investment certificates, and derivatives are listed and traded.

NASDAQ OMX Copenhagen A/S now operates the Copenhagen Stock Exchange as a result of a merger between OMX and NASDAQ in 2008. NASDAQ OMX Copenhagen A/S operates as a subsidiary of The NASDAQ OMX Group, Inc.

NASDAQ OMX Copenhagen A/S also operates the smaller exchange First North, where smaller Nordic companies are listed. The companies are subject to less burdensome rules than on NASDAQ OMX Copenhagen. The Corporate Governance Committee has the task to define the framework for corporate governance of companies that are admitted to trading on NASDAQ OMX Copenhagen A/S.

In addition to NASDAQ OMX Copenhagen, the stock exchange GXG Markets (formerly known as the Danish OTC), exists. Danish OTC has a market place for “Over The Counter trading” with unquoted Danish companies. OTC has a list – the

OTC list – which shows tenders and initial offering prices for the listed shares. Purchase and sale of company securities are admitted to trading on either GXG Official List or GXG Main Quote. The securities are settled through a central securities depository (CSD). The central securities depository could be VP Securities, CREST, Clearstream or Euroclear.

**6. Do the concepts of “limited liability” and “separate legal personality” exist?**

Danish law uses the concepts of limited liability and separate legal personality and the concepts are applicable to various types of legal entities regulated by the Companies Act.

The Companies Act divides limited liability companies in private companies (Anpartsselskaber, ApS) and public companies (Aktieselskaber, A/S). The two categories of companies (A/S and ApS) are similar to the limited liability companies (LLCs) as used in the United States. Please refer to question 1.

Limited liability companies are separate legal entities/personalities, which means that the company’s assets are separate from the owners assets. The owners are not personally liable for the debts of the company. The owners are only liable to the extent of their capital contribution. This is the same case from a fiscal point of view, where the limited company is a separate legal entity, thus the company must pay taxes of any potential profit and will similarly be entitled to a deduction for any potential deficit.

As a consequence of the separate legal personality the assets of the company are not available for the private creditors of the company owners.

The limited liability concept protects the owners of the company and their assets because the liability is limited to those of the company.

The partnership companies in Denmark do not have the concept of limited liability. Partnerships are characterized by the fact that all partners are jointly and severally liable.

The doctrine of piercing the corporate veil is hardly recognized in Denmark. The owners or/and management however can incur management liability. The liability requires proof of intentionally or negligently cause injury to the company or its creditors. The courts in Denmark will rarely question the judgment of the management (the business judgment rule) when there is no self-dealing transactions. If

the courts sentence liability, the liability is not limited to the owners/managements capital contribution.

**7. Did incorporation or listing historically, or does it today, require any recognition by the company or its directors of a duty to society, an obligation to take account of the company’s social or environmental impacts, or to respect its stakeholders?**

The Financial Statements Act (Consolidation Act 2013-11-10 No. 1253) contains rules regarding companies’ preparation of annual accounts. Section 14 recommends the companies to make supplementary reports on the companies social responsibility, knowledge and employee conditions, environmental issues as well as ethical objectives. The preparation of the supplementary report is voluntary for smaller companies but a requirement for medium-sized and large companies, state-owned public limited companies and companies whose shares, debt instruments or other securities are admitted to trading on a regulated market in an EU/EEA country cf. section 99 b and section 99 a of the Financial Statements Act.

The Companies Act does not require the company or its directors to take into account the social or environmental impacts. The recommendations drafted by the Corporate Governance Committee includes recommendations on Corporate Social Responsibility, but the recommendations are only soft law and therefore not binding.

The Companies Act section 139 a includes a provision on gender representation in state-owned public limited companies, in companies whose shares, debt instruments or other securities are admitted to trading on a regulated market in an EU/EEA country and in large limited liability companies. The supreme management body is required to set target figures for the share of the under-represented gender in the supreme management body and the central management body must draft a policy to increase the share of the under-represented gender at other management levels of the limited liability company.

**8. Do any stock exchange have a responsible investment index, and is participation voluntary? (See e.g. FTSE4Good, Dow Jones Sustainability Index, the Johannesburg Stock Exchange’s Socially Responsible Investment Index)**

NASDAQ OMX operates with two relevant indexes; including “OMX GES Sustainability Nordic Index” and ”OMX GES Ethical Denmark Index”.

The former index is not effective only for Denmark, but for the Nordic countries in general.

The OMX GES Sustainability indexes are created for responsible investments and are calculated by NASDAQ OMX in cooperation with GES. The indexes comprise the leading companies in terms of sustainability and are selected based on how well they meet the criteria for environmental, social and governance issues.

OMX GES Sustainability Nordic consists of the 50 shares with the highest GES Sustainability ranking of the 200 most traded shares on the stock exchanges of Denmark, Finland, Sweden and Norway.

OMX GES Ethical indexes have been constructed with the objective of creating indexes based on market development of all companies listed in Sweden, Norway, Finland and Denmark, with companies classified as unethical excluded.

GES screens the listed companies and makes a selection based on “GES Global Ethical Standard” and “GES Controversial”. Companies who do not meet the ethical requirements cannot qualify as index constituents. A review is made on a semi-annual basis.

## **9. To whom are directors’ duties generally owed?**

The Companies Act states different management structures though the company must always be led by an executive board.

The management of a Danish company will often exist of a board of directors and an executive management and thus a dual-executive system. The public company is required to have a dual-executive system and in cases where the public company has elected not to have a board of directors, the company can elect to have a supervisory board.

The general duties of the Board of Directors, the executive board and supervisory board are stated in the Companies Act sections 115-117. The duties of the Board of Directors, the executive board and supervisors are generally the same but the responsibility varies. The duties are primary addressed to the company itself - however the relevant bodies do have a responsibility to make sure that no transaction is clearly likely to provide certain shareholders or others with an undue advantage over the other shareholders. In general the executive board has to ensure that the fund management is adequately managed. In addition to that, the executive board has to ensure that the capital reserves are adequate at all times.

The board of directors will be appointed at the general meeting of the company. The board of directors is responsible for the overall and strategic management of the company and appoints the executive board which is responsible for the daily operations of the company. Directors are personally liable in carrying out management duties and owe a duty of loyalty to the company. Persons who are not formally registered as a director, but de facto acts as a director, can become liable as a director.

If there is not a board of directors (but a supervisory board) the executive board has the same obligations as the board of directors would have had in regards to the daily management. The supervisory board is only supervising the executive board.

The shareholders are able to influence the management and the governance of the company as they have the right to attend the general meeting, where some decisions are required to take place. The shareholders have thus active ownership, but they are not obliged to participate in this way. Please refer to question 20 and 22.

The executive management and the shareholders have a close cooperation, for example in relation to capital outflow, where the shareholder at the annual general meeting cannot decide to pay out a higher share dividend than the limit set by the executive management.

**10. What are the duties owed by directors – please state briefly. Please indicate if there are express or implied duties to avoid damage to the company’s reputation.**

The directors are subject to provisions regarding disqualification and confidentiality.

The directors are not allowed to wrongfully reveal information attained in carrying out their profession.

A member of the management is not allowed to participate in discussions or in the execution concerning agreements between the company and the member of the management. This is the same with regard to agreements concerning the company and a third person, provided that the member of the management has an significant interest, and the interest can be regarded as being contrary to the interest of the company.

There is no duties to avoid damage to the company's reputation. However – when the members management causes damage to the company the management will be personally liable to pay damages.

Every member of the executive board as well as every member of the board of directors in companies in the financial sector is required to be approved by the Danish Financial Supervisory Authority (FSA). The FSA evaluates whether the member is “fit and proper”. The “fit and proper” evaluation of the members of the executive board as well as the members of the board of directors is not only based on whether the member is involved in actual criminal activity, but instead it is an overall moral evaluation of the member. The “fit and proper” evaluation and decision by the FSA is non-legal – however it still affects the public limited companies and overall major companies.

- 11. More generally, are directors required or permitted to consider the company's impacts on non-shareholders, including impacts on the individuals and communities affected by the company's operations? Is the answer the same where the impacts occur outside the jurisdiction? Can or must directors consider such impacts by subsidiaries, suppliers and other business partners, whether occurring inside or outside jurisdiction?**

The Financial Statements Act recommends the companies to make supplementary reports on the companies social responsibility, knowledge and employee conditions, environmental issues as well as ethical objectives cf. section 14 of the Financial Statements Act. The preparation of the supplementary report is voluntary for smaller companies but a requirement for medium-sized and large companies, state-owned public limited companies and companies whose shares, debt instruments or other securities are admitted to trading on a regulated market in an EU/EEA country cf. section 99 b and section 99 a of the Financial Statements Act.

When elaborating the report the company has to consider the company's influence on its surroundings including communities and non-shareholders.

The company's considerations must be taken towards impacts outside the jurisdiction as the courts of Denmark are able to decide on a matter, when the defendant is a resident in Denmark or when the claim arises from an act preformed in Denmark, even though the impacts of the act occurs outside Danish jurisdiction.

- 12. If directors are required or permitted to consider impacts on non-shareholders to what extent do they have discretion in determining**



**how to balance different factors including such impacts. What additional liabilities, if any, do the board or individual directors assume in exercising such discretion?**

The directors are left with a wide discretion when balancing the considerations of non-shareholders and the company's own interests. This discretion is a result of the fact that there is no strict regulation in Danish company law regarding this matter. The directors are only obliged to take into account the impacts of non-shareholders when elaborating the supplementary report (please refer to questions 1, 7 and 11) and there is no regulation towards their actions de facto.

The directors however are obliged to always prioritize the company's interests seeing that they could be liable to pay damages, when they in the performance of their duties, have intentionally or negligently caused damage to the company.

**13. What are the legal consequences for failing to fulfil any duties described above; and who may take action to initiate them? What defenses are available? Can these issues give rise to other causes of action or regulatory routes whereby a stakeholder can exert pressure on a company with regard to its actions?**

The Companies Act includes provisions regarding the executive board, the board of directors and supervisory board when they fail to fulfil their duties.

Pursuant to Danish law the overriding rule in relation to liability of members of the executive board or the board of directors is "The business judgment rule". The business judgment rule is applicable under Danish law, however it is not codified.

In addition a general provision under the Danish Company Act section 361 regulates the liability of members of the executive board, the board of directors and the supervisory board (if any). The provision states that a member is liable for the intentional or negligent performance of their duties, which inflicts losses to the company.

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 has been caused to shareholders or any third party.

Damages may be reduced if deemed reasonable, having regard to the degree of fault, the amount of the damage inflicted and the circumstances in general.

If the management - as a whole - or individual members hereof are held liable, the company can commence legal proceedings against the members of management. The decision to commence legal proceedings should be approved at the general meeting. However, legal proceedings may be commenced even if the general meeting has previously granted an exemption from liability or waived the right to commence legal proceedings if the information concerning the resolution or the cause of action which had been provided to the general meeting before the passing of the resolution was not correct or complete in all essentials.

Where shareholders representing at least one-tenth of the share capital oppose a resolution to grant an exemption from liability or waive the right to commence legal proceedings, any shareholder may commence legal proceedings for the purpose of making the person(s) liable for the loss suffered pay damages to the company. Shareholders commencing legal proceedings must pay legal costs, but may have such costs reimbursed by the company to the extent that the costs do not exceed the damages recovered by the company as a result of the proceedings.

Companies may incur criminal liability themselves pursuant to the provisions of Part 5 of the Danish Criminal Code.

**14. Are there any other directors' duties which are relevant to the interests of stakeholders?**

There are no other duties which are relevant to the interest of stakeholders. However the Companies Act includes provisions on remuneration of members of management. The amount of such remuneration must not exceed an amount deemed to be usual, taking into account the nature and extent of duties, and an amount deemed to be reasonable with regard to the financial position and in the case of a parent company, the consolidated financial position.

**15. For all of the above, if these exist in your jurisdiction, does the law provide guidance about the role of the supervisory board in cases of two tier board structures. What obligations are owed by senior management who are not board directors? Is this determined by law if no specific contractual provisions applies?**

Section 111 and section 116 of the Companies Act determines the role of the supervisory board. The supervisory board conducts a monitoring and supervisory function only.

Please refer to question 9.

- 16. Are companies required or permitted to disclose the impacts of their operations on non-shareholders, as well as any action taken or intended to address those impacts? Is this required as a part of financial reporting obligations or pursuant to a separate reporting regime? Please specify for each reporting route whether it is mandatory or voluntary. Please describe any mandatory reporting requirement, major voluntary initiative or trend towards voluntary reporting with regard to transparency.**

The duty to present an annual report and financial statements is stated in the Financial Statements Act (Consolidation Act 2013-11-10 No. 1253).

The Danish limited liability companies (private and public) must present financial statements pursuant to the Act.

The Financial Statements Act divides the companies in four reporting classes (A-D). The Companies are placed in different accounting classes according to their size, and each accounting class has individual rules which the company must follow. Reporting class A contains less stringent rules and reporting class D includes the listed companies and contains more stringent rules.

Companies placed in reporting class A are the companies who have volunteered to present an annual report and they have thus no obligation to do so. Companies placed in reporting class B-D have an obligation to present an annual report.

The fundamental requirements regarding the annual report are, that it shall illustrate a true and fair view of the assets and debts, financial position and results of the company. Furthermore there are some quality requirements for the annual report according to which the report must be prepared for the purpose of supporting the financial statement users in their economic decision-making. Therefore the annual report shall be prepared with regard to which information are relevant for the financial statement users.

Furthermore in The Financial Statements Act art. 13 (1) includes some fundamental conditions for the preparation of the annual report, e.g. the annual report must be clear and well-arranged.

The annual report must be supplemented by an annual report for the group of companies, management report for both the company and the group of companies and a statement by the executive and supervisory board on the annual report.

It should be noted, that it is the responsibility of the management to ensure the rendering of the annual report.

**17. Do legal reporting obligations extend to such impacts outside the jurisdiction?**

Foreign companies that have registered branch offices in this country, is not subject to Danish accounting legislation. However, the branch has obligations when registered in Denmark. The managers of a branch registered in the Danish Business Authority as a branch of a foreign enterprise must submit the foreign enterprise's audited annual report in time for it to be received by The Commerce and Companies Agency no later than five months after the end of the financial year. If the foreign enterprise is a subsidiary, the branch managers may submit the parent company's consolidated financial statements to the Danish Business Authority if some requirements are met.

**18. Who must verify these reports; who can access reports; and what are the legal or regulatory consequences of failing to report or misrepresentation? Is there a regulator tasked with investigating complaints of misreporting**

The Commerce and Companies Agency lays down rules on the submission of annual reports and the Commerce and Companies Agency conducts - at random - tests on annual reports received. For companies whose securities are admitted to trading on a regulated market in an EU/EEA country, the Danish Financial Supervisory Authority supervises compliance with the requirements set forth in the Financial Statements Act.

The Commerce and Companies Agency may demand from the enterprise, its management or its auditor any information necessary to determine whether the legislation and the company's articles of association has not been complied with or whether such non-compliance has been ceased.

The Commerce and Companies Agency may further demand from the company, its management or its auditor any information necessary to determine whether annual reports presented in accordance with the international accounting standards have in fact been presented in accordance with such standards.

In the absence of a more severe penalty under the Danish Criminal Code, any non-compliance with the duty to present an annual report is punishable by a fine.

To ensure compliance with the legislation the Commerce and Companies Agency may provide guidance, issue reprimands for any non-compliance, and order any errors to be corrected and any non-compliance to cease.

The Commerce and Companies Agency may impose daily or weekly default fines on the members of the enterprise's management if they fail to submit documents, comply with a request for information or comply with an order issued by the Agency

**19. What is the external assurance regime for reporting on stakeholders? Please specify any mandatory requirements and also where reporting is voluntary what the current market practice is as regards third party assurance. Please summarise any regulatory guidance on reporting what relates to impacts on non-shareholder stakeholders.**

There is not an external assurance regime for reporting on stakeholders under Danish law.

**20. Are there any restrictions on circulating shareholder proposals which deal with impacts on non-shareholders, including stakeholder impacts?**

The management has sole and exclusive right and duty to convene and arrange the general meeting. The duty to convene for a general meeting occur when it is time for the annual general meeting ("AGM") and/or when it is appropriate. Furthermore the management are obliged to convene for an extraordinary general meeting (EGM) when requested by the board of directors, the supervisory committee or the auditors elected at the annual general meeting of shareholders.

In a private limited company any shareholder may request a convening for an EGM.

In a public limited company any shareholder holding at least 5 % of the company's share capital – or the less or more percentage determined in the articles of association - may request for the convening of a EGM.

Pursuant to The Companies Act art. 119, if the companies equity capital make up less than half of the share capital, the management is obliged to convene for a gen-

eral meeting. At the general meeting the management must present a statement of the financial position of the company, and if necessary submit proposals for measures to take for the company.

The content of the agenda of the AGM is listed in The Companies Act art. 88, e.g. the adoption of the Annual Report and the resolution concerning the use of the profit or covering the loss according to the adopted Annual Report.

The agenda of the EGM depends on which matters are subject for the meeting.

All shareholders have some positive rights relating to the general meeting, e.g. the right to attend, participate, speak and raise questions. The positive rights includes the inclusion of an item on the agenda for the general meeting, which all shareholders are entitled to.

- 21. Are institutional investors, including pension funds, required or permitted to consider such impacts in their investment decisions? What is legal duty that pension funds owe with regard to investment decisions in this regard? How does the legal duty of the fund align with term and contractual performance criteria of fund managers – does this facilitate or deter consideration of such impacts?**

Largely all pension funds and institutional investors have ethical guidelines regarding their investments. The guidelines are inspired and related to Corporate Social Responsibility (CSR) and an initiative “Principles for Responsible Investment” developed by the UN Global Compact and the UNEP Finance Initiative. The guidelines are a result of the pressure from costumers and members. The guidelines are published.

Besides the above-mentioned there are no mandatory rules regulating the area.

- 22. Can non-shareholders address companies’ annual general meeting? What is the minimum shareholding required for at shareholder to raise a question at the company’s AGM?**

The Companies Act and articles of association regulates the AGM. The Companies Act provides minimum requirements for the AGM.

The auditor elected by the general meeting of the limited liability company is entitled to attend general meetings. Any auditor elected by the general meeting of the

limited liability company must attend the general meeting if so requested by a member of the supreme or central management body or by a shareholder.

General meetings of state-owned public limited companies are open to the press.

The central management body may decide that persons other than those specified in the Companies Act are entitled to attend general meetings, unless otherwise provided in the articles of association.

The shareholders' right to pass resolutions is exercised at the general meetings of the limited liability company.

All shareholders are entitled to attend and speak at general meetings and shareholders are entitled to attend general meetings by proxy.

In public limited companies whose shares are admitted to trading on a regulated market, a shareholder's right to attend a general meeting and to vote in respect of his shares must be determined on the basis of the shares held by the shareholder at the date of registration.

Any shareholder is entitled to have a specific issue included on the agenda for AGM. In public limited companies, shareholders must submit a written request to the central management body in order to have a specific issue included on the agenda for the annual general meeting. Shareholders are entitled to have the issue included on the agenda for the general meeting if the request is made at least six weeks before the general meeting. If the request is received less than six weeks before the general meeting, the central management body will decide whether the request has been made in time for the issue to be included on the agenda. At least eight weeks before the scheduled date of the annual general meeting, public limited companies whose shares are admitted to trading on a regulated market must announce the scheduled date of the meeting as well as the time-limit for any requests by shareholders to have a specific issue included on the agenda, unless both dates are specified in the articles of association.

**23. Are there any other laws, policies, codes or guidelines or standards applied in the context of particular contractual relationships (for example project finance) or through adherence to particular sustainability principles (for example the UN Global Compact, the OECD Guidelines for Multinational Enterprises etc.) related to corporate governance that might encourage companies to consider in a struc-**

**tured way their impacts upon and the interests of their wider stakeholders including through a stakeholder engagement process?**

In general, loan documentation of the major banks the covenants are extended to covering issues like environment, child labour, bribery etc. In case of non-compliance the loan can be terminated.

Furthermore the investment agreements/SPA contain guarantees to comply with the UN Global Compact etc.

Finally Danish prospectuses in general contain detailed references to the UN Global Compact etc.

**24. Are there any laws requiring representation of particular stakeholder constituencies?**

The Companies Act includes provisions on employee representation at company level.

The decision to elect members to the upper management is subject to at least half of the employees of the limited liability company or its subsidiaries voting in favor hereof, unless the management and the employees agree not to vote.

In limited liability companies with an average of at least 35 employees in the preceding three years, the employees are entitled to elect a number of representatives and alternate members to the company's supreme management body, equal to half the number of the other members of management. The employees of a company's foreign branch situated in another EU/EEA country are considered as the company's employees. However, the employees are always entitled to elect at least two representatives and alternate members. If the number of representatives to be elected by the employees is not a whole number, such number must be rounded up. The employees are entitled to elect fewer representatives and alternate members if the number specified cannot be elected.

The Companies Act includes provisions on employee representation at group level. The employee representation at company level applies correspondingly to the employees of a Danish parent and its subsidiaries registered in Denmark as well as the foreign branches of such subsidiaries situated in an EU/EEA country.



**25. Are there any laws requiring gender, racial, ethnic, religious or other stakeholder representation; or non-discrimination generally, on company boards.**

The Companies Act includes provisions requiring under-represented gender in the supreme management body.

In state-owned public limited companies, in companies whose shares, debt instruments or other securities are admitted to trading on a regulated market in an EU/EEA country and in large limited liability companies, the supreme management body are required to set target figures for the share of the under-represented gender in the supreme management body; and the central management body must draft a policy to increase the share of the under-represented gender at the other management levels of the limited liability company.

Large limited liability companies are companies that exceed two of the following thresholds in two consecutive financial years:

- A balance sheet total of DKK 143 million
- A revenue of DKK 286 million; and
- An average number of full-time employees of 250.

In addition the recommendations drafted by the Corporate Governance Committee includes recommendations regarding the composition of the board of directors, including a recommendation for a diverse board of directors in relation to gender, ethnicity etc.

**26. In your jurisdiction is there any legal route whereby a parent company can incur liability with regard to the impacts that one of its subsidiaries has had on stakeholders groups? Are there any serious proposals to impose such responsibility?**

No, except for the situation where the parent company abuse regulation. In these situations the subsidiaries are not liable for the actions of the parent company.

**27. Are you aware of any incoming law or proposals that are relevant to the issues raised in the questionnaire? If do please describe, providing an indication of the anticipated date the legislation will come into force or be adopted.**

The public register of shareholders, which was introduced in Danish law in 2009, has been put into force the 15th of December 2014. In the public register of share-

holders all new and existing Danish public and private limited companies must register information about their shareholders, who owns or controls 5 % or more of its total capital or voting rights. Furthermore the companies are required to register when there is an increase or decrease in a shareholding for an already registered shareholder. The registration must be made when the shareholder reach – or does not reach – the limits of 5, 10, 15, 20, 25, 50, 90 or 100 % and 1/3 or 2/3 of the share capital or the voting rights on a participating interest. The registration of shares/votes are made in intervals, which means that the shareholder have to conduct a new registration in the public register of shareholders when a shareholder crosses the above-mentioned limits.

The shareholder information will be made public 15 June 2015.

The shareholders are obliged to give notice to the company when they cross one of the above-mentioned boarders, while the company's management is responsible for the information being registered in the public register of shareholders. The company has 14 days to conduct the registration.

The public register is as mentioned a summary of the company's "significant owners" and must contain the following information:

- 1) The total shareholding and votes – and the time of the obtainment.
- 2) Identification, including name and address (social security number and the companies registered office). Foreign shareholders or companies must register a clear identification corresponding to the social security number and CBR-number (eg. TIN-number).

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