

Translation

In case of discrepancies between the Danish original legal text and the English translation, the Danish version applies.

»Schedule Xd
The Systemic Risk Council
Part 20d
The Systemic Risk Council

343s. The Danish Minister for Business and Growth shall establish a Systemic Risk Council consisting of ten members. The Council shall be composed as follows:

- 1) Two members are nominated from Danmarks Nationalbank¹, of whom one shall be the chairman of the Board of Governors of Danmarks Nationalbank. The chairman of the Board of Governors of Danmarks Nationalbank will be chairman of the Council.
- 2) Two members shall be nominated by the Danish Financial Supervisory Authority (Danish FSA).
- 3) One member shall be nominated from each of the Ministries: Ministry of Business and Growth, the Ministry of Finance and the Ministry of Economic Affairs and the Interior.
- 4) Three members shall be nominated by the Ministry of Business and Growth after consultation with Danmarks Nationalbank. The members have to be independent experts possessing knowledge about financial affairs.

(2) The Minister for Business and Growth shall appoint members of the Systemic Risk Council as well as alternates. Members are appointed for a period of up to four years at a time and may be reappointed.

(3) The Systemic Risk Council is an advisory Council commissioned to

- 1) identify and monitor systemic risks in the financial sector in Denmark,
- 2) make statements through observations on systemic financial risks,
- 3) issue warnings about the development of systemic financial risks,
- 4) recommend initiatives in the financial area, which may reduce or prevent the development of systemic financial risks, and
- 5) be consulted on warnings and recommendations from the European Systemic Risk Board (ESRB).

(4) Generally, warnings and recommendations from the Systemic Risk Council issued pursuant to subsection (3), nos. 3 and 4 may be directed towards the Danish FSA, and if they concern legislation towards the Government.

(5) The Systemic Risk Council decides to issue observations, warnings and recommendations by a simple majority of votes. In the event of parity of votes, the chairman shall have the decisive vote. Representatives from the Ministry of Business and Growth, the Ministry of Finance, the Ministry of Economic Affairs and the Interior, and the Danish FSA shall not have voting rights in relation to

¹ The Danish central bank.

observations, warnings and recommendations directed towards the Government. When the Council issues observations, warnings and recommendations directed towards the Government, such observations, warnings and recommendations must include a statement by the representatives of the ministries.

(6) Observations, warnings and recommendations issued pursuant to subsection (3), nos. 2-4 shall be made public. However, on the grounds of e.g. financial stability, the Systemic Risk Council may decide that a warning or recommendation is confidential and shall not be made public.

(7) The Danish FSA, relevant ministries and Danmarks Nationalbank shall be obliged to supply relevant information, including information regarding specific institutions etc., as well as to supply relevant documents etc. at the request of the Council, if the Council deems such information necessary in order for the Council to fulfill its duties. At the request of the Council, Danmarks Nationalbank may pass on confidential statistical information collected by Danmarks Nationalbank pursuant to section 14a (1) and (2) of the Danmarks Nationalbank Act, including information regarding individuals, where it is possible directly or indirectly to identify individuals or enterprises, if the Council deems such information to be necessary in order for the Council to fulfill its duties.

(8) Danmarks Nationalbank provides secretariat services for the Systemic Risk Council. The Ministry of Business and Growth, the Ministry of Finance, the Ministry of Economic Affairs and the Interior, and the Danish FSA participate in the secretariat.

(9) The Minister for Business and Growth lays down rules of procedure for the Systemic Risk Council on recommendation by the Council.

General observations

In Denmark as well as internationally, the focus on the management of systemic risks in the financial area and the use of specific tools to counter systemic risks are relatively new.

Today work on financial stability in Denmark is carried out by Danmarks Nationalbank, the Danish FSA and the economic ministries (the Ministry of Business and Growth, the Ministry of Finance and the Ministry of Economic Affairs and the Interior). Coordination takes place under the auspices of the Coordination Committee for Financial Stability (KFS) together with the Prime Minister's Office and the Financial Stability Company A/S. This coordination is primarily about crisis management.

The Danish FSA is responsible for supervision of financial undertakings and markets, and in this connection, also considers ensuring financial stability. Similarly, one of Danmarks Nationalbank's primary objectives is to contribute to ensuring financial stability. The economic ministries also monitor financial stability and the macro economy in general. The Ministry of Business and Growth is responsible for financial legislation and management of failing institutions and acts as chairman of KFS.

Context of the proposal

In December 2010, the then Minister for Economic and Business Affairs set up the Committee on the Structure for Financial Supervision in Denmark ("*Udvalg om Struktur for Finansielt Tilsyn i*

Danmark"). The committee was tasked to examine the organization of Danish financial supervision and to evaluate this in relation to possible alternatives, e.g. based on how supervision is organized in other relevant EU countries. This part of the committee work was set on hold. In the autumn of 2011, the committee was requested by the Minister for Business and Growth also to review the management of systemic financial risks and the need to establish a systemic risk council in Denmark.

In December 2011, the European Systemic Risk Board (ESRB) recommended that all member states appoint authorities to be responsible for management of systemic risks, e.g. in the form of a national systemic risk council. Further to this, the Committee on the Structure for Financial Supervision in Denmark issued "Report on the establishment of a systemic risk council in Denmark"².

In January 2012, the Minister for Business and Growth set up a committee on systemically important financial institutions (SIFIs) to review the criteria for identifying SIFIs in Denmark, the requirements to be set for SIFIs in Denmark as well as the management of SIFIs encountering problems. The committee is expected to conclude its work in 2012.

Due to the financial crisis and in order to support financial stability, there has, internationally and at EU level, been increased focus on work on management of systemic risk, including limitation and containment of systemic financial risks and the ramifications hereof. As of 1 January 2011, at EU level, the Council and the European Parliament established the European Systemic Risk Board (ESRB), which is to contribute to identifying and managing the building up of systemic risks in the EU.

The ESRB comprises national Central Bank Governors and representatives from the European Central Bank, the Commission, the EU supervisory authorities, as well as the chairperson and the two vice-chairpersons of the Advisory Scientific Committee in the ESRB (consisting of external experts) with voting rights. Representatives from the national supervisory authorities and the Council participate without voting rights. The President of the European Central Bank will be chairman of the ESRB until 2016. The ESRB's task is to prevent and reduce systemic risks in the EU. The ESRB has been tasked to identify risks and, where relevant, to make recommendations and warnings to limit such risks.

In December 2011 the ESRB, which has an advisory function in relation to the EU countries, recommended that all EU countries establish authorities to manage systemic risks in the form of either a specific authority or a Council composed of various authorities. The basis for the ESRB's recommendation is that, according to the ESRB, effective management of systemic risks in the EU depends on appropriate institutional frameworks for this management in each member state, as the specific tools are applied at national level and not at EU level. Furthermore, management of financial stability and the framework for this is being discussed in the member states, and accordingly, there is a need for guidelines to help ensure consistency between countries.

Several EU countries have already taken initiative to strengthen the management of systemic risks. Countries such as the UK and Germany have thus already announced their intention to set up Councils to monitor and address systemic risks, and e.g. Sweden has similar considerations.

² Issued in June 2012

However, there is a difference between the organizational setup chosen by the various countries, including the importance of the role to be played by the Central Bank and the Government, respectively in the Councils.

In Denmark too, there is a need to consider how the building up of systemic risks can be limited in the future, and how possible systemic risks can be managed most effectively. This is in continuation of the work already launched on strengthening the Danish FSA and tightening financial regulation to better prepare Denmark for a future financial crisis.

It appears from the committee's report that the committee finds that, further to the financial crisis, Denmark too has a need for increased public efforts to monitor and prevent systemic financial risks. Moreover, not least the EU's new Capital Requirements Directive (CRD IV) contemplates national authorities to have a number of new tools to prevent and manage systemic risks at their disposal. The basis for using these tools may be strengthened through a stronger knowledge base and closer dialogue between the relevant authorities. Against this background and in order to strengthen focus on systemic financial risks in Denmark, the committee recommends setting up a systemic risk council with representation from the relevant authorities.

The content of the proposal

The bill proposes setting up a systemic risk Council. The Council shall have an advisory function. The Council will be addressing systemic risks in the financial area, including areas which today, only to a limited extent or not at all, may be subject to regulation. The Council will not be addressing developments in general economic policy (e.g. finance policy, tax policy and monetary policy) or sector policy beyond the financial area.

The Systemic Risk Council will be identifying and monitoring systemic financial risks as it is important to identify systemic financial risks at an early stage. Thus initiatives may be taken to counter such risks and thus avoid that they reach a level where they may have significant adverse effects on the financial system and the real economy. In its monitoring of systemic financial risks, the Council must e.g. look at how systemic financial risks build up over time and across sectors.

The Systemic Risk Council is to have an advisory function. The relevant authorities will thus preserve their current competences.

The Systemic Risk Council will be able to make statements about financial affairs, including developments in systemic financial risks and financial regulation, which, according to the Council, may lead to systemic risks and thereby threaten financial stability. The Council may propose initiatives in the financial area which may reduce or prevent the building up of systemic risks. Such statements can differ in strength and can be in the form of observations, warnings and recommendations.

A statement in the form of an observation means that the Systemic Risk Council states that it is the Council's assessment that there is a risk that systemic financial risks may build up and that this should be closely monitored. Observations are not necessarily directed towards specific public authorities, neither do they trigger a duty to act for the recipients of such observations.

A statement in the form of a warning means that the Systemic Risk Council states that there are clear indications of the building up of financial risks. Warnings will be issued against such risks,

and statements will be made that consideration should be rendered to mitigating such risks. Warnings may be directed towards one or more authorities, and within a period of three months, the recipients will be obligated to present a report addressing the warning, including whether the warning has induced the recipient to make further assessments, implement initiatives or similar.

A recommendation is a specific proposal on implementation of an initiative which, according to the assessment of the Systemic Risk Council, will be appropriate in order to mitigate or counter identified systemic financial risks. Recommendations may be directed towards one or more authorities, and within a period of three months, the recipients will be obligated either to act on the recommendation or to present a report explaining why such recommendation is not being followed. This means recommendations must be addressed according to a "follow-or-explain" principle. In case of a confidential recommendation, the basis for not following the recommendation shall not be published, but solely be directed towards the Council.

Furthermore, it will be relevant that the Systemic Risk Council is consulted about any warnings or recommendations from the ESRB.

The Systemic Risk Council must be able to communicate observations and warnings to relevant authorities, the Government and to the public. Warnings by the Council on the building up of systemic financial risks and recommendations proposing management of systemic financial risks may generally be directed towards the Danish FSA, and if they concern legislation, towards the Government. The Council may also direct warnings and recommendations to the Danish FSA on matters in Greenland and on the Faeroe Islands. Observations will always be published. The Council will not be able to direct warnings or recommendations towards Danmarks Nationalbank. Recommendations and warnings will, as a general rule, be published unless the Council decides that a recommendation or warning must be confidential for reasons of e.g. financial stability.

In order to involve authorities and institutions with special knowledge and expertise in the area the Danish FSA, Danmarks Nationalbank and the economic ministries shall nominate members to the Systemic Risk Council. The members must be employees in the relevant institutions. In addition, it will be relevant to include independent experts with knowledge about financial affairs, and at least one of these experts should have knowledge about the insurance and pension area. Against this backdrop, the Council shall consist of two representatives from Danmarks Nationalbank, two representatives from the Danish FSA, three representatives from the economic ministries (the Minister for Business and Growth, the Ministry of Finance, and the Ministry of Economic Affairs and the Interior) and three independent experts nominated by the Minister for Business and Growth after consultation with Danmarks Nationalbank. The chairman of the Board of Governors of Danmarks Nationalbank shall chair the Council. In order to strengthen the effect of recommendations made, the Systemic Risk Council shall strive for consensus.

A personal alternate will be appointed for each member of the Systemic Risk Council, except for the independent experts. In the absence of a member, the relevant alternate must participate on behalf of the member. Regarding the independent experts, two joint alternates will be appointed to participate in the Council if one or more independent experts are absent. Further regulations on appointment and participation of alternates, e.g. the relevant deputy director general responsible in the Danish FSA, will be laid down in the Council's rules of procedure.

In order to avoid conflicts of loyalty, representatives from the economic ministries have no voting rights (but they may speak) in respect of observations, warnings and recommendations directed towards the Government. If the Council issues observations, warnings and recommendations directed towards the Government, such observations, warnings and recommendations must include a statement by the representatives of these ministries. This is to ensure that the public gains knowledge about the views of the ministries, even though the representatives of the ministries have no voting rights in the relevant matter. Similarly, as the Danish FSA prepares financial regulation on behalf of the Minister for Business and Growth, representatives from the Danish FSA have no voting rights (but they may speak) in relation to observations, warnings and recommendations directed towards the Government. The Danish FSA carries out supervisory activities independently, and representatives from the Danish FSA thus have voting rights in all other matters. Representatives from Danmarks Nationalbank and the independent experts may vote in all matters. In the event of equality of votes, the chairman will have the decisive vote.

Danmarks Nationalbank performs secretariat services for the Systemic Risk Council. The Danish FSA, the Ministry of Business and Growth, the Ministry of Finance and the Ministry of Economic Affairs and the Interior participate in the secretariat.

The Minister for Business and Growth is authorized to lay down rules of procedure for the Systemic Risk Council based on a proposal made by the Council.

The Minister for Business and Growth will evaluate the Systemic Risk Council three years after establishment of the Council on the basis of experience with the Council's function and international developments.

It will also be relevant for the Systemic Risk Council to monitor building up of systemic risks in Greenland and on the Faeroe Islands, as well as to make recommendations etc. concerning matters in Greenland and on the Faeroe Islands. Provisions on the Systemic Risk Council laid down by the Act may therefore be put into force on the Faeroe Islands and in Greenland by Royal Decree. In addition, the Minister for Business and Growth is authorized to enter into an agreement with the Government of the Faeroe Islands to the effect that the Systemic Risk Council may also act in the insurance area on the Faeroe Islands. Competence has been transferred from Denmark to the Faeroe Islands in the insurance area, and therefore the provisions may solely be used in this area on the Faeroe Islands according to agreement with the Faeroese Government, which is to adopt the legislation necessary in this connection. If the Systemic Risk Council may also act in the insurance area on the Faeroe Islands, the Systemic Risk Council will be able to make recommendations to the insurance supervisory authority on the Faeroe Islands, and to the Government, if they concern legislation, and it will be ensured that the Systemic Risk Council is able to receive the information necessary for the Council's work from the authorities and the insurance supervisory authority on the Faeroe Islands.

Explanatory notes

The proposed insertion of *section 343s* in the Financial Business Act authorizes the Minister for Business and Growth to set up the Systemic Risk Council. The Systemic Risk Council is an advisory body which is to monitor and recommend initiatives in order to prevent and manage systemic financial risks, but which cannot take a position on crisis management efforts in the form of bank packages or specific banks in distress. Responsibility for crisis management will remain

with the Ministry of Business and Growth, as efforts for failing credit institutions will continue to be coordinated between the relevant authorities within the frameworks of the Coordination Committee for Financial Stability which will not be affected by the establishment of the Systemic Risk Council.

Pursuant to the proposed *subsection (1)* the Council shall comprise ten members. Danmarks Nationalbank shall nominate two members for the Council, of which one must be the chairman of the Board of Governors of Danmarks Nationalbank. The chairman of the Board of Governors of Danmarks Nationalbank shall chair the Council. Furthermore, the Danish FSA shall nominate two members for the Council. In addition, one member shall be nominated by each of the following ministries: the Ministry of Business and Growth, the Ministry of Finance, and the Ministry of Economic Affairs and the Interior. Representatives from these ministries must be employees in the relevant institutions. Finally, after consultation with Danmarks Nationalbank, the Ministry of Business and Growth will recommend an additional three members who shall all be independent experts. The independent experts must have sufficient knowledge about the financial sector, including the interaction between macroeconomic developments and the financial sector, either through research or from their employment in the financial sector. The experts must be independent of the institutions to which the activities of the Systemic Risk Council relate. The Systemic Risk Council will lay down further regulations on capacity to act in its rules of procedure.

Pursuant to the proposed *subsection (2)* the members will be appointed for a period of up to four years at a time. Members may all be reappointed. A personal alternate will be appointed for each member of the Systemic Risk Council, except for the independent experts. In the absence of a member, the relevant alternate shall participate for the member. In relation to the independent experts, two joint alternates will be appointed to participate in the Council if one or more independent experts are absent. Further regulations on appointment and participation by alternates shall be laid down in the rules of procedure of the Council.

The Systemic Risk Council must identify and monitor systemic financial risks, cf. the proposal for *subsection (3), no. 1*, including in areas which today, only to a limited extent or not at all, are subject to financial regulation.

The Systemic Risk Council must not express opinions about overall economic policy (e.g. finance, tax and monetary policies) or about sector policy beyond the financial area, e.g. agricultural, environmental, labor market and industrial policies.

The work of the Systemic Risk Council shall focus on initiatives which can prevent or reduce systemic financial risks that may put pressure on all or parts of the economic development, as seen during the recent financial crisis. It is important to identify systemic financial risks at an early stage so that initiatives can be taken to counter development of such risks before they reach a level where it becomes impossible to avoid significant adverse effects on the financial system and the real economy. This will result in general monitoring of the entire financial system, both in areas regulated by national or international legislation, and in areas which are less regulated today.

In its monitoring of systemic financial risks, the Systemic Risk Council may look at how risks build up over time and across sectors. For example, it may be particularly relevant to look at the building up of risks in areas which have only recently been regulated as a result of the financial crisis, e.g. capital and hedge funds, as well as areas which have not yet been closely regulated, such as the

shadow banking system, which resembles investment or banking activities, but which is not carried out by regulated credit institutions. The Council shall e.g. collect information which may contribute to monitoring systemic financial risks, including information in areas where data is not systematically being collected today.

Financial stability is the foundation for a well-functioning real economy and supports growth and employment through effective provision of credit etc. However, in its work the Systemic Risk Council should also keep in mind that there may be a need to balance financial stability and other political objectives. For example, can too much focus on financial stability, in the form of very high capital requirements for banks, have adverse effects on growth and employment.

Pursuant to the proposed *subsection (3), no. 2*, the Systemic Risk Council will be in a position to make statements about systemic financial risks in the form of observations. A statement in the form of an observation means that, according to the Systemic Risk Council's judgment, there is a risk of developing systemic financial risks which should be closely monitored. Observations are not necessarily directed towards specific public authorities, neither do they imply a duty to act for the recipients of such observations.

Furthermore, according to the proposed *subsection (3), no. 3*, the Systemic Risk Council can issue warnings about the building up of systemic financial risks. A statement in the form of a warning means that, according to the Systemic Risk Council, there are clear indications of systemic risks and consideration should be rendered to mitigating such risks. Warnings may be directed towards one or more authorities, and within a period of three months, the recipients will be obliged to issue a report addressing the warning, including whether the warning gives the recipient reason to make further assessments, implement initiatives or similar. In the case of a confidential warning, the reasons for not following the recommendation, is not obligated to be published, but must solely be directed towards the Council.

Observations and warnings pursuant to nos. 2 and 3 will not necessarily be directed towards a specific authority and will typically not be connected to accompanying proposals for follow-up initiatives. In the event of a warning, the Systemic Risk Council may request one or more authorities to take a position on it.

Furthermore, pursuant to *subsection (3), no. 4*, the Systemic Risk Council will be able to make recommendations with proposals for management of systemic financial risks. As a general rule, the recommendations shall be directed towards the Danish FSA, and if they concern legislation, towards the Government. A recommendation is a specific proposal on implementation of an initiative which, according to the assessment of the Systemic Risk Council, will be appropriate in order to mitigate or counter identified systemic financial risks. Recommendations may be directed towards one or more authorities, and within a period of three months, the recipients will be obligated either to act on the recommendation or to present a report explaining why such recommendation is not being followed. This means that recommendations must be addressed according to a "comply-or-explain" principle. In the case of a confidential recommendation, the basis for not following the recommendation shall not be published but solely directed towards the Council.

The Council may also direct warnings and recommendations to the Danish FSA for matters in Greenland and on the Faeroe Islands. The Minister may thus, by Royal Decree, put into force the

proposal on the Faeroe Islands and in Greenland. In addition, the Minister for Business and Growth is authorized to enter into an agreement with the Government of the Faeroe Islands to the effect that the Act be put into force by Lagtinget in relation to insurance activities, as competence has been transferred from Denmark to the Faeroe Islands in relation to insurance activities. If the Act is put into force for the Faeroe Islands, the Systemic Risk Council will be able to make recommendations to the insurance supervisory authority on the Faeroe Islands, and if they concern legislation, to Lagtinget.

As there will be no binding instructions from the Systemic Risk Council to the authorities, the competency and independence of the Danish FSA laid down by law will not be restricted, cf. section 344(3) of the Financial Business Act.

Since it cannot be predicted where systemic risks in the financial system will occur in the future, it is deemed appropriate that the Systemic Risk Council be allowed a degree of freedom to choose the areas in which the Council wishes to make a statement. However, it is deemed appropriate that a general framework is defined under which the Council can act. The Council should be able to make recommendations about, for example:

- The countercyclical capital buffer, the capital conservation buffer etc.
- Risk weights on the exposures of credit institutions towards the property sector, rules on calculation of the solvency need of credit institutions, the contents of insurance undertakings' own risk assessment, etc.
- Disclosure requirements of credit institutions, insurance undertakings, etc.
- Requirements for financing and liquidity of credit institutions,
- Introduction of leverage measures,
- Exposures to specific sectors,
- Requirements for transparency and safety measures in connection with systemic risks on the capital markets etc.

Whether or not the authorities are able to carry out recommendations from the Systemic Risk Council depends on the extent to which forthcoming EU regulations (e.g. the Capital Requirements Directive) within a relevant area provides the possibility of national flexibility to implement the proposed initiatives. Therefore, as a general rule, an assessment of European Union law should be made prior to all recommendations from the Council.

The work of the Systemic Risk Council will be covered by the general rules in the Access to Public Administration Files Act. Thus, the general rules on public access laid down by the Access to Public Administration Files Act apply, however, the right of access to documents is limited by the duty of confidentiality of the Danish FSA, cf. section 354 of the Financial Business Act.

Finally, pursuant to the proposed *subsection (3), no. 5*, the Systemic Risk Council must be consulted in respect of any recommendations and warnings from the ESRB.

Common for the instruments of the Systemic Risk Council under the proposed subsection (3) is that statements by the Council may differ in strength. However, the instruments of the Council do not include the power to give instructions to other authorities and accordingly, there is no need for the Council to be accountable to the Danish Parliament (the Folketing). The Folketing may therefore

continue to exercise its parliamentary control in relation to financial regulation and supervision through the Minister for Business and Growth.

Under the proposed *subsection (4)*, the Systemic Risk Council may generally make recommendations to the Danish FSA and to the Government, if they concern legislation. It may prove relevant to direct recommendations to other authorities. In this context, legislation refers to acts and executive orders issued by ministers. If recommendations are made for amendments to executive orders issued by e.g. the Danish FSA, such recommendations must be directed towards the Danish FSA.

The proposed *subsection (5)* states that the Systemic Risk Council decides on observations, warnings and recommendations pursuant to subsection (3) through simple majority, however, in the event of parity of votes, the chairman will have the decisive vote.

In order to avoid conflicts of loyalty, it is deemed appropriate for representatives from the economic ministries to have no voting rights (but they may speak) in respect of observations, warnings and recommendations directed towards the Government. If the Council issues observations, warnings and recommendations directed towards the Government, such observations, warnings and recommendations must include a statement by the representatives of these ministries. This is to ensure that the public gains knowledge about the views of the ministries, even though the representatives of the ministries have no voting rights in the relevant matter. Without such requirement, it is likely that the public in any event would believe that the representatives of the ministries were in agreement on observations, warnings or recommendations directed towards the Government, as nothing else would be stated in the observation, warning or recommendation.

Similarly, as the Danish FSA prepares financial regulation on behalf of the Minister for Business and Growth, members recommended by the Danish FSA have no voting rights (but they may speak) in relation to observations, warnings and recommendations directed towards the Government. The Danish FSA carries out supervisory activities independently, and thus has voting rights in all other matters.

Members recommended by Danmarks Nationalbank and the independent experts may, pursuant to the proposal, vote on all matters.

In order to strengthen the effect of the recommendations made, the Systemic Risk Council should strive for consensus.

Observations will always be published. As a general rule, recommendations and warnings will be published, cf. the proposed *subsection (6)*, unless the Systemic Risk Council decides at the meeting that the processed information is confidential due to e.g. financial stability.

The recipient of a warning will within a period of three months be obliged to present a public report wherein the warning is addressed, including whether the warning induces the recipient to make further assessments, carry out initiatives or similar. The report must also be presented to the Council. The report must be presented to the Council within three months after the recommendation is notified to the recipient. In special cases however, the Council may decide that the report shall be presented earlier.

If the recipient of a recommendation chooses not to follow the recommendation, according to the proposed *subsection (8)*, the recipient must publicly explain the reasons for this in accordance with the comply-or-explain principle. The report must be presented to the Council within three months after the recommendation is notified to the recipient. In special cases, however, the Council may decide that the report shall be presented earlier.

In the event that a decision on confidentiality is made by the Systemic Risk Council, if the recipient chooses not to follow a recommendation, the recipient of the recommendation is only obligated to prepare a written report to be presented to the Council.

The proposed *subsection (7)* states that the Systemic Risk Council has access to collect all relevant information from the Danish FSA, relevant ministries and Danmarks Nationalbank to the extent that this information deals with the financial system, information about specific institutions etc. and that this information is necessary for the Council's performance of its tasks. To the extent that new information is collected from specific financial undertakings, the Council shall collect such information through the Danish FSA, Danmarks Nationalbank or the economic ministries. However, if this information has been submitted to the Danish FSA, this will be covered by the regulations on a duty of confidentiality laid down in section 354 of the Financial Business Act. This possibility of requesting necessary confidential information from public authorities, including Danmarks Nationalbank also means that the duty of confidentiality follows the information and therefore the Council's members and any alternates as well as the secretariat will be covered by e.g. the duty of confidentiality in section 354 (1) of the Financial Business Act. At the request of the Systemic Risk Council, Danmarks Nationalbank may pass on confidential statistical information collected pursuant to section 14a (1) and (2) of the Danmarks Nationalbank Act, including information regarding individuals, where it is possible directly or indirectly to identify individuals or enterprises, if the Council deems such information to be necessary in order for the Council to fulfill its duties. Personal data may only be exchanged between the relevant authorities including by forwarding information to the Systemic Risk Council, if necessary, including if this is necessary for the performance of the activities of an authority, or if it is required for a decision to be made by the authority.

The proposed *subsection (8)* states that the secretariat services of the Council are to be carried out by Danmarks Nationalbank. The Danish FSA, the Minister for Business and Growth, the Ministry of Finance, and the Ministry of Economic Affairs and the Interior will participate in the secretariat. This will ensure involvement of Danmarks Nationalbank, the Danish FSA and the analytical competences and financial insight of the ministries as well as the experience from Danmarks Nationalbank and the Danish FSA from working with the ESRB.

The proposed *subsection (9)* states that the Minister for Business and Growth is authorized to lay down rules of procedure for the Systemic Risk Council based on a proposal made by the Council. The rules of procedure may include explanatory regulations on the Council's composition, procedures for appointment and participation of alternates, e.g. the relevant deputy director general responsible in the Danish FSA, competency, the secretariat services of the Council, duty of confidentiality, publication, possibility of collecting written contributions from or hearing financial undertakings or trade associations etc. as well as the statements by the authorities pursuant to the comply-or-explain principle on warnings and recommendations from the Systemic Risk Council.

The Minister for Business and Growth will evaluate the Systemic Risk Council three years after establishment of the Council on the basis of experience with the Council's function and international developments.

It will be relevant for the Systemic Risk Council to also monitor development of systemic risks in Greenland and on the Faeroe Islands, as well as to make recommendations etc. concerning matters in Greenland and on the Faeroe Islands.

Provisions of this Act on the Systemic Risk Council may therefore by Royal Decree be put into force on the Faeroe Islands and in Greenland, cf. section 19(6) of the bill. Furthermore, the Minister for Business and Growth is authorized to enter into an agreement with the Government of the Faeroe Islands to the effect that the Systemic Risk Council may also act in the insurance area on the Faeroe Islands. As competence has been transferred from Denmark to the Faeroe Islands in the insurance area in terms of the public-law-governed and non-contractual aspects, the provisions may only be applied in this area on the Faeroe Islands according to agreement with the Government which is to adopt the legislation necessary in this connection. If the Systemic Risk Council may also act for the insurance area on the Faeroe Islands, the Systemic Risk Council will also be able to make recommendations to the insurance supervisory authority on the Faeroe Islands, and to the Faeroese Government if they concern legislation, and it will be ensured that the Systemic Risk Council is able to receive the information necessary for the Council's work from the authorities and the insurance supervisory authority on the Faeroe Islands.