

Translation. Only the Danish version has legal validity.

*Order no. 288 of 27 March 2014
issued by the Danish Financial Supervisory Authority*

Order on the valuation of liens and loans in ships as security for the issue of specially covered bonds

Pursuant to section 152h(i)-(iii) and section 373(4) of the act on financial activities (*lov om finansiel virksomhed*), cf. consolidated act no. 948 of 2 July 2013, as amended by act no. 268 of 25 March 2014 and section 5(3)(ii)-(v) and section 14(2) of the act on a ship finance institute (*lov om et skibsfinansieringsinstitut*), cf. consolidated act no. 886 of 8 August 2011, as amended by act no. 1231 of 18 December 2012, the following provisions are laid down:

General provisions on valuation

Section 1. This order applies to the valuation of liens and loans in ships, cf. article 129(1)(g) of regulation no. 575/2013 of 26 June 2013 of the European Parliament and of the Council (CRR), as well as building loans for financing new-buildings or conversions of ships that are given without liens in ships as security for the issue of specially covered bonds.

Subsection 2. In order that ships, cf. subsection 1, may be given as security for the issue of specially covered bonds, they shall be:

- 1) Approved by the Danish Maritime Authority or classified by a recognised classification society that is a member of the International Association of Classification Societies and recognised by the European Commission, cf. Commission decision 2007/421/EC repealing decision 96/587/EC on the publication of the list of recognised organisations which have been notified by Member States in accordance with Council Directive 94/57/EC. If a ship loses its classification or approval by the Danish Maritime Authority, it cannot be given as security for the issue of specially covered bonds.
- 2) Registered in the Danish Register of Shipping, the Danish International Register of Shipping or in another internationally recognised register of shipping providing similar security.

Section 2. When determining loans, the institute shall estimate a reasonable cash value for the ship without considering its prioritization.

Subsection 2. The valuation of the security shall be made on the basis of the extent of the lien, cf. however section 4(5) and (6).

Section 3. For loans secured by liens in ships, the institute may give loans within 60 per cent of the value at which the ship is determined in connection with the security. The life of the loans given shall not be more than 15 years on the date of the payment of the loan. For building loans, the life of the loan shall not be more than four years calculated from the date of the first payment. The determination of the life of loans shall be made in consideration of the average life of the ship type and the age and condition, etc. of the specific ship.

Subsection 2. Otherwise, the amount and life of the loan shall be determined taking into account the safety issues considered necessary under the given conditions, including an evaluation of the expected depreciation of the lien.

Section 4. Valuation for use in connection with security shall be within the estimated amount at which the ship can be traded during a sales period of no more than 12 months from the valuation date in connection with an independent transaction between an interested buyer and an interested seller on normal market conditions, where each of the parties has acted on a well-informed basis, with caution and voluntarily (market value). Conditions stipulating an especially high price shall not form part of the valuation. When making the valuation in connection with security, the institute shall take into consideration any risk of changes to market and structural conditions.

Subsection 2. The value of the ship in connection with security shall be determined at the earliest when the institute presents an offer for a loan and at the latest when the institute pays the loan.

Subsection 3. On the basis of a specific assessment, the valuation of a ship may be used as the basis for a valuation in connection with a sister ship.

Subsection 4. The value of employment contracts shall not be included in the market value.

Subsection 5. For ships registered in the Danish Register of Shipping or in the Danish International Register of Shipping, only accessories covered by section 47(1) of the merchant shipping act (*søloven*) and section 54(1) of the order on the Danish International Register of Shipping shall be included.

Subsection 6. For ships registered in another internationally recognised register of shipping, similar accessories, cf. subsection 5, shall be included only if a registered right in the ship similarly includes the accessories.

Section 5. Valuation shall be made only by a professional valuation expert who is independent of the borrower, has the necessary qualifications, skills, thorough knowledge of the relevant market and experience to make a valuation of the relevant ship type.

Subsection 2. If the valuation of a ship is made by an employee of the institute, he shall meet the requirements of subsection 1 and be independent of the credit granting process.

Subsection 3. If an internal valuation is associated with great uncertainty due to a lack of comparable transactions during a period of one year, the institute shall acquire a valuation by an external valuation expert who meets the requirements of subsection 1.

Subsection 4. An external valuation expert shall mean a person who is independent of the lender and meets the requirements of subsection 1.

Building loans for new-buildings and conversions

Section 6. Building loans for new-buildings and conversions of ships may be given on the basis of the expected market value of the completed ship if security is provided that the loan will be repaid or reduced if the loan could not – after the expiry of the time-limit for completion of the construction – have been granted with the loan given. The security shall be given by a credit institution in a country within the European Union or a country with which the Union has concluded an agreement in the financial area.

Section 7. In connection with security for building loans for new-buildings and conversions of ships, the institute shall require the loan to be repaid if the construction has not been initiated at least six months after the payment of the loan or if it is not proven, within four years from the payment of the loan, that the construction work has been completed legally.

Section 8. Building loans shall be made only if

- 1) the institute is in possession of construction drawings and information about the ship's engineering structure, equipment, the materials used, etc. as well as information about the expected duration of the construction period,
- 2) the institute is in possession of information about the expected purchase price, and
- 3) reservation has been made and sufficient security has been made that the loan will be repaid or reduced if it could not – after the expiry of the time-limit for the final construction – have been provided with the amount given.

Section 9. When the institute has ascertained that the construction has been completed of a ship in which a building loan has been provided, the ship shall be set at a value without consideration of the valuation before the payment of the loan.

Ongoing monitoring

Section 10. At least twice a year, the institute shall value each individual ship in order to ensure that the lending limit is observed. The institute shall value each individual ship more often if special conditions may be assumed to apply, including in case of considerable changes to the market conditions.

Subsection 2. The valuation shall be made at market value, cf. section 4(1), the first sentence.

Subsection 3. The institute may itself value the ship or entrust an external valuation expert with the valuation. In both cases, the valuation expert shall meet the requirements of section 5(1).

Subsection 4. If changes to the market value of a valued ship means that a lien-secured loan herein no longer observes the credit limit, cf. section 3, the institute shall provide supplementary security, cf. section 152a(2) of the act on financial activities (*lov om finansiel virksomhed*) and section 2i(1) of the act on a ship finance institute (*lov om et skibsfinansieringsinstitut*).

Subsection 5. The institute shall value obligations in connection with issued specially covered bonds at the market value of the obligations as determined in the accounting standard for financial undertakings, cf. however subsection 6.

Subsection 6. In connection with valuation pursuant to subsection 5, a reduction in the market value of the obligations shall be disregarded that has been caused by an increased credit risk since the issue of the bonds covered by subsection 5. Changes caused by changes to the credit risk shall be assumed to correspond to the change in the market value of the obligations that cannot be attributed to changes to the risk-free market interest, unless the undertaking can in the specific case identify another method that measures, in a more reliable manner, the impact on the obligations' market value of changes to the credit risk.

Subsection 7. The institute shall institute the asset, cf. article 129(1)(a)-(c) and (g) of regulation (EU) no. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms in connection with the issue of specially covered bonds at their market value as stipulated in the accounting standard of the institute.

Section 11. The institute shall have satisfactory procedures for ongoing monitoring of the ship's physical condition, including procedures on physical inspection.

Documentation and insurance

Section 12. It shall be evident from the loan file under which preconditions the valuation and determination of the loan have been made.

Subsection 2. When paying building loans, documentation that the conditions for paying the loan have been met shall be kept in the loan file.

Section 13. If the ship has been traded less than six months before the date of the loan offer, information about the market price and the terms shall be evident from the loan file.

Section 14. Ships given as security for the issue of specially covered bonds shall be liability and damage insured. In addition, ships shall be sufficiently insured, including war risk insured, etc., if relevant.

Subsection 2. The institute shall introduce procedures for monitoring subsection 1.

Penalty provisions

Section 15. Anyone contravening section 1(2), section 2, section 4(1)-(2) and (4)-(6), sections 5-9, section 10(1), the first sentence, (2)-(3) and (5)-(7), sections 11-13, section 14(1), the first sentence, and (2) shall be liable to punishment by fine.

Subsection 2. Companies, etc. (legal persons) may be liable to punishment in accordance with the provisions of part 5 of the penal code (*straffeloven*).

Entry into force

Section 16. The order shall enter into force on 31 March 2014.

Subsection 2. The order shall also apply to loan offers replacing offers given before the entry into force of the order.

Subsection 3. At the same time, order no. 168 of 1 March 2011 on the valuation of liens and loans in ships as security for the issue of specially covered bonds shall be repealed.

Interim provisions

Section 17. A valuation expert who is, at the entry into force of the order, engaged as a valuation expert in an institute may, irrespective of section 5(1), continue as a valuation expert in the institute or in another institute covered by the order.

Danish Financial Supervisory Authority, 27 March 2014
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