

Order on the Investment and Management of the Foundations' Capital

Pursuant to Sec. 9, (3) and Sec. 10 of Act No. 938 governing foundations and certain associations, dated 20 September 2012, Section 14 of Act No. 637 regarding the transition of entailed family estate to the public domain, dated 15 September 1986, and Sec. 4 (4) of the Act on the transition of entailed estate, property and goods and the associated entailed capital to the public domain, cf. Legislative Decree 638 of 16 September 1986, as amended by Act No. 389 of 14 June 1995, it is established that:

Section 1. The provisions of this order apply to

- 1) foundations, trusts, foundations and other self-owned institutions (foundations) that are subject to the Act on foundations and certain associations,
- 2) affirmed foundations that are, according to Section 1 (4) of the Act on foundations and certain associations, are not subject to this Act, and
- 3) successor foundations established in accordance with Section 4 of the Act on the transition of entailed estate, property and goods and the associated entailed capital to the public domain and foundations subject to the Act relating to the transition of entailed family estate, with the derogations provided for by the particular nature of the aforementioned foundations.

(2). For the foundations covered by (1) no 3, permission is granted in accordance with this order by the Department of Civil Affairs.

General Provisions

Section 2. Funds belonging to foundations shall be invested responsibly and as effectively as possible.

(2) The funds shall be invested in securities in accordance with the provisions of Sections 5-13, but see (3) and Sec. 3.

(3) The provision in (2) does not apply if a different provision is stipulated in the foundation's articles of association. Nor does the provision apply to interest and other return on the foundation's assets, and to inheritance and gifts where the testator or donor has determined that it should be distributed. Foundations that are donated or assigned through the division of an estate may remain in the form in which they are received.

(4). The foundation authority may allow the funds to be invested in another manner.

Section 3. Cash funds acquired through the withdrawal of bonds, the sale of assets, the repayment or redemption of mortgages or in a similar manner shall be deposited on a separate bank or savings bank account (capital account). The funds on the account shall be invested as soon as possible in accordance with the provisions of Sections 5-13 or special provisions of the articles of association.

Section 4. Provisions in articles of association stipulating that funds are to be invested as the funds of a minor will not prevent the funds from being invested in accordance with the rules of this order, provided that the articles of association or the memorandum of association are established prior to 1 October 1966.

Investment in Securities

Section 5. Investment may be made in interest-bearing bonds if these are traded on a regulated market, cf. (2), and issued in the currency of one of the countries mentioned in (2).

(2). If the market is located within an EU/EEA country, the market must be included in the list mentioned in Article 47 of Directive 2004/39/EC of 21 April 2004 on markets in financial instruments, on amendments to Council Directive 85/611/EEC, and 93/6/EEC and the European Parliament and Council Directive 2000/12/EC and on repealing Council Directive 93/22/EEC. If the market is located outside an EU/EEA country, the market must be a member of the World Federation of Exchanges and be located in a country that is a full member of the Organisation for Economic Cooperation and Development (OECD).

(3) Irrespective of the limit stated in Section 6, all funds may be invested in interest-bearing corporate bonds that have achieved a credit rating by a credit rating agency, cf. Item 3, equivalent to at least investment grade. If several credit rating agencies have been used for rating the same corporate bond, the condition in Item 1 must be met in respect of all ratings. The credit rating agency shall be registered in accordance with Regulation (EC) 1060/2009 of 16 September 2009 on credit rating agencies.

(4) The rule contained in Sec. 11, (1) 1st sent. shall apply similarly if investments are made in corporate bonds and convertible bonds.

Section 6. No more than half of the funds, but see Sec. 5, (3), Sec. 8, (2), Sec. 10, (3) and Sec. 12, may be invested in

- 1) corporate bonds and convertible bonds,
- 2) profit-making UCITS or divisions of these,

- 3) savings banks' capital guarantee certificates and cooperative banks' share capital certificates, and
- 4) shares.

Section 7. No more than 15 per cent of the funds may be invested in shares, corporate bonds and convertible bonds issued by the same company. The same applies to investment in corporate bonds, convertible bonds and capital guarantee certificates or share capital certificates issued by the same savings bank or cooperative bank.

Section 8. Investment may be made in shares in profit-making UCITS or divisions of these that are subject to the act on investment funds, etc. or other national implementation measures in accordance with European Parliament and Council Directive 2009/65/EC of 13 July 2009 on the coordination of acts, regulations and administrative provisions relating to certain undertakings for collective investment in transferable securities (investment undertakings) (the UCITS Directive). It is a condition that the UCITS' articles of association do not contain provisions to the effect

- 1) that the foundation may contribute an annual amount of its wealth to humanitarian or not-for-profit organisations,
- 2) that the foundation may distribute part of its wealth in those years when the return on investments does not meet the need for earnings, or
- 3) that redemption is not permitted in pre-determined period.

(2) Irrespective of the limit specified in Section 6, all funds may be invested in shares in UCITS or divisions of these if the articles of association of the UCITS or division thereof allow it to invest solely in bonds that fulfil the provisions of Section 5, (1) and (2), if the articles of association allow a maximum of 50 per cent investment in corporate bonds, unless the corporate bonds fulfil the provisions of Section 5, (3), and if investment in convertible bonds is not possible. It is also a condition that the UCITS' articles of association do not contain the provisions mentioned in (1), Item 2 no 1-3.

Section 9. Investment may be made in savings banks' capital guarantee certificates or cooperative banks' share capital certificates if the certificates are transferable according to the savings bank's or cooperative bank's articles of association.

- (2). The rule in Section 11, (1) applies accordingly.

Section 10. Investment may be made in shares if these are traded on a regulated market, cf. (2), and issued in the currency of one of the countries mentioned in (2).

(2) If the market is located within an EU/EEA country, the market must be included in the list mentioned in Article 47 of Directive 2004/39/EC of 21 April 2004 on markets in financial instruments, on amendments to Council Directive 85/611/EEC, and 93/6/EEC and the European Parliament and Council Directive 2000/12/EC and on repealing Council Directive 93/22/EEC. If the market is located outside an EU/EEA country, the market must be a member of the World Federation of Exchanges and be located in a country that is a full member of the Organisation for Economic Cooperation and Development (OECD).

(3) If shares are increased, the subscription right associated with the shares may be exercised even if the limit specified in Section 6 is exceeded, and even if the shares do not fulfil the provisions of (1) and (2). The same applies to the receipt of bonus shares.

Section 11. The shares acquired in one company may not exceed 15 per cent of the company's share capital. Furthermore, only shares that have produced a profit according to a decision adopted at either the company's most recent ordinary general meeting or an extraordinary general meeting that has been held after the most recent ordinary general meeting may be acquired, see (3), however.

(2). The rules stipulated in (1) and Sec. 7 do not apply to bonus shares or shares that are acquired through the exercising of the subscription right associated with the shares, when the shares are increased.

(3) In the event of the restructuring of saving banks or cooperative banks to private limited companies in accordance with Sec. 207-213 of the Financial Business Act, the savings bank's capital guarantee certificates or the cooperative banks' share capital certificates may be converted to shares in accordance with Sec. 208, (2) of the above Act and irrespective of (1), 2nd sent. If, as a result of the restructuring, a holding company is established which is to continue the savings bank private limited company or the cooperative bank private limited company, the certificates may be converted to shares in the holding company irrespective of (1), 2nd sent.

Section 12. Amounts acquired from the sale of assets as mentioned in Sec. 6 may be reinvested in similar assets, regardless whether the limit specified in Sec. 6 is observed.

Section 13. Where assets are acquired, the limits mentioned in Sec. 6 and Sec. 7 are calculated on the basis of the trade value (market value or, for real estate, the most recent public cash value) of the wealth owned by the foundation at the time of acquisition. In the absence of an official determination of the price, the price most recently approved by SKAT is used as a basis.

Section 14. Sections 15-19 apply to those foundations that are subject to Sec. 1, (1), no 1.

(2) Section 15 does not apply, however, to foundations that are managed by the state, a district administration or a municipality. These foundation's assets shall be provided with an endorsement as referred to in Sec. 17 and Sec. 18.

(3). Capital subject to Sec. 1, (1) no 3 shall be managed in an approved administrative section as mentioned in Sec. 15, (1).

Section 15. Unless otherwise determined in its articles of association, a foundation's securities and cash funds, see Sec. 3, however, shall be managed in an administrative section of a financial institution approved by the Ministry of Justice pursuant to Sec. 35, (1) of the Guardianship Act or Sec. 54, (1) of the Inheritance Act. Bonds may, however, be registered with a mortgage institution approved by the state.

(2) Unless otherwise determined in its articles of association, a foundation's capital may not be managed in more than one administrative section or in more than one mortgage institution. Similarly, a foundation's capital may not be managed in both an administrative section and a mortgage institution.

Section 16. Deposits in an administrative section and registration accounts in a mortgage institution, as referred to in Sec. 15, shall be provided with an endorsement prohibiting the disposing of assets through sale, mortgaging or otherwise without the permission of the foundation authority.

(2). If a foundation's assets are not managed in an approved administrative section or registered with a mortgage lending institution, the foundation's account with the Central Securities Depository shall be provided with an endorsement as mentioned in (1). Other securities shall be submitted to the foundation authority and provided with an endorsement as mentioned in (1).

(3). The capital account mentioned in Sec. 3, shall be provided with an endorsement as referred to in (1).

Section 17. A provision is registered against real estate to the effect that the real estate cannot be disposed of through transfer or mortgage without the permission of the foundation authority.

Section 18. The endorsement referred to in Sec. 16, (1) will not prevent the conversion of the assets if the funds acquired from the conversion are invested in accordance with the rules stipulated in Sections 5-13 or with special provisions of the articles of association. It is also a condition that the assets that are acquired as a result of the conversion are managed in the administrative section or registered with the mortgage institution where the assets have hitherto been managed or registered.

(2) Conversion as referred to in (1) means a transformation of the capital acquired from the sale of securities and the purchase of other securities.

Section 19. If the capital account is set up in an administrative section, the endorsement mentioned in Sec. 16, (3) will not prevent the funds on the capital account from being invested in accordance with the rules contained in Sec. 5-13 or with special provisions of the articles of association.

(2). If the capital account is not set up in an administrative section, the endorsement mentioned in Sec. 16, (3) will not prevent the funds in the capital account from being invested in mortgage bonds registered with a mortgage institution, provided that all of the foundation's capital is registered with a mortgage institution and provided that the capital account is provided with an endorsement stipulating that the funds on the account may only be invested in mortgage bonds registered with a mortgage institution.

Effective Date and Transition Provisions

Section 20. The order becomes effective on 22 July 2013.

(2). Order No. 367 of 11 May 2004 on the investment and management of the foundation's capital is revoked.

Section 21. The rule specified in Sec. 2 will not prevent the foundation's capital from being invested in the form it was in on 30 March 1985 or when the order became effective.

(2) If the foundation has invested capital in shares in a profit-making investment fund or a division thereof at the time the order comes into force, the foundation may retain the shares also after the investment fund was obliged to bring its operations into line with Chapter 23 of the Act governing administrators of alternative investment funds, etc. and amend its articles of association at a general meeting. The value of the shares is included in the calculation of whether the limit specified in Sec. 6 is observed.