

Denmark

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1. Fintech regulatory framework: a summary of the most relevant laws and regulations concerning fintech and financial innovation.

The regulatory landscape for financial activities in Denmark is characterised by comprehensive regulations heavily influenced by European Union standards. However, when it comes to fintech and financial innovation, Denmark lacks specific regulations explicitly governing or prohibiting such activities. Instead, the permissibility of these activities hinges on whether they fall within established regulatory frameworks governing financial businesses and services.

The Danish Financial Supervisory Authority (FSA) has clarified that most fintech models introduced in the Danish market are covered by the existing legal framework. The primary legislative pillars include the Danish Financial Business Act, which outlines general licensing requirements for financial activities, and the Danish Capital Markets Act, which oversees securities trading and incorporates various European Directives. Additionally, the Danish Payments Act holds significant importance as it implements the Revised Payment Services Directive (PSD2) and the E-Money Directive.

Certain financial activities may necessitate obtaining a licence to operate in Denmark. This applies, in particular, to activities related to:

- accepting deposits;
- performing payment services (as defined in the Annex to the Danish Payments Act implementing Annex I of the PSD2);
- issuing electronic money;
- offering foreign exchange services;
- engaging in investment services and/or providing investment advice; and
- conducting insurance activities.

Therefore, anyone considering launching a fintech business in Denmark must conduct a thorough analysis of the relevant regulatory framework. It is crucial to ascertain whether the planned activities fall under the purview of, for example, the Danish Financial Business Act, the Danish Capital Markets Act or the Danish Payments Act. The FSA has issued further guidelines and supplements to the regulations above are available at its website: www.finanstilsynet.dk. Several supplemental executive orders have been issued and contain additional regulation for financial institutions. Danish legislation and executive orders are available in Danish at www.retsinformation.dk.

Additionally, there are other notable regulations that may apply to the business, such as the (1) Danish Act on Measures to Prevent Money Laundering and Financing of Terrorism, the (2) EU General Data Protection, and the (3) Danish Marketing Practices Act.

2. Regulations on crypto assets: a summary of the legal framework regarding crypto assets and how they are regulated.

Crypto assets have historically not been within scope of the existing legislative framework in Denmark. For this reason, there has been uncertainty about the classification and categorisation of different crypto assets pursuant to Danish law and the framework applicable for crypto asset service providers. The introduction of the EU Markets in Crypto-Assets Regulation (MiCAR) has resulted in a new set of regulations applicable on a variety of crypto assets and service providers in Denmark. Comprehensive requirements for crypto asset service providers (CASPs) include authorisation, governance, prudential and conduct-of-business obligations, and standards for operational resilience and safeguarding.

The Danish Financial Business Act has also been amended to include a new chapter 19 IX b, which supplements MiCAR to ensure that the Danish FSA is the supervisory authority. The Danish Act on Measures to Prevent Money Laundering is also applicable to service providers of crypto assets.

CASPs operating in Denmark are also subject to the Danish Anti-Money Laundering Act. It requires them to comply with obligations that relate to customer due diligence, risk assessment, record-keeping, monitoring and reporting of suspicious transactions.

If crypto assets qualify as financial instruments within the scope of the Danish Capital Markets Act, they will be regulated under the same framework as traditional securities. In such cases, the crypto assets confer rights comparable to those of traditional securities, such as shares or bonds, and are treated as financial instruments. As the applicable framework is then the Danish Capital Markets Act, activities such as trading and the provision of investment services in relation to such crypto assets may require authorisation. Additionally, a wide range of financial regulations, such as the Prospectus Regulation, the second Markets in Financial Instruments Directive (MiFID II), the Market Abuse Regulation (MAR) and the Short Selling Regulation, may apply to CASPs, including issuers, exchanges, trading platforms, wallet providers and more.

The three main areas of regulation of crypto assets are then MiCAR, the Danish Financial Business Act and the Danish Act on Measures to Prevent Money Laundering.

Additionally, there are a number of relevant legislations within other areas that apply to both crypto assets and their service providers. The Danish Marketing Practices Act is applicable to the marketing practice done in Denmark, and Danish contract and property law applies on contracting, ownership and perfection requirements. This supplements the above regulations and provides investor protection in relation to marketing practice or the contractual set up.

The tax treatment of crypto assets has been a hot topic. This assessment is done pursuant to the Act on Taxation of Income and Property from 1922 or supplemental regulation, which does not contain specific regulation of crypto assets. If the crypto assets are considered as financial contracts as categorised pursuant to applicable tax law then the Gains on Securities and Foreign Currency Act may apply.

3. Payment service providers and digital wallets: a summary of regulations applying to payment service providers and/or digital wallets.

Payment service providers (PSPs) are subject to the Danish Payments Act, which is the primary legal framework governing payment services in Denmark. As mentioned in Section 1, it implements the provisions of PSD2 and provides detailed rules and requirements for PSPs, including licensing requirements, conduct-of-business rules and consumer protection measures. Similarly, digital wallet providers must adhere to the same regulations as PSPs when offering services that fall within the scope of PSD2.

The Danish FSA provides additional insight on its website. As an example, the Danish FSA published a memo on good practice for PSD2 application programming interfaces (APIs) in February 2025, as there have been questions on interpretation and application of the PSD2 APIs in Denmark. Additional guidance also includes advisory opinion on the interpretation of commercial agents and of the payment initiation services. A separate theme on their website related to payment services and E-money is available in Danish at: www.finanstilsynet.dk/finansielle-temaer/betalingstjenester-og-e-penge.

Supplementing the Danish Payments Act, the Danish Anti-Money Laundering Act applies to relevant providers, including those offering crypto asset services. These providers must conduct customer due diligence and report suspicious transactions to the relevant authorities. This also includes PSPs and digital wallets as they are determined to be providers of crypto asset services pursuant to the Danish Financial Business Act which correspond to the definition found in MiCAR Article 3(1)(15). Further, any business intending to conduct these cryptocurrency-related activities must first register with the Danish FSA prior to initiating operations.

The third Payment Services Directive (PSD3) and the Payment Services Regulation (PSR) are a new set of legislative proposals from the European Commission that are currently being negotiated. They could include changes to the framework of the payments market within the EU, and the proposed content is likely to have a significant impact on PSPs and digital wallets.

4. Special support for fintechs: a description of special programmes supporting the fintech ecosystem, fintech startups (eg, regulatory sandboxes and accelerator programmes) and regulations regarding special support.

Danish policymakers widely acknowledge the significance of fintech as a mechanism for innovation. The Danish government has articulated its commitment to enhancing the fintech sector's ecosystem and has established various initiatives, often coordinated through entities such as Innovation Fund Denmark (www.innovationsfonden.dk) and the Danish Export and Investment Fund (www.eifo.dk).

These schemes encompass research projects and startup ventures. Additionally, Denmark has entered into global partnerships and alliances through the FSA. These partnerships serve dual objectives: supporting fintech companies engaged in cross-border operations, and attracting foreign businesses and talent to the Danish fintech landscape.

Recognising the importance of regulatory clarity, the FSA has instituted a dedicated fintech team. This team works towards mitigating regulatory ambiguities and offers guidance to fintech entrepreneurs during the licensing and authorisation processes.

To enhance its understanding of fintech businesses and the regulatory challenges they face, the Danish FSA introduced an experimental sandbox programme known as FT Lab in 2018. The primary aim of FT Lab is to provide a secure testing environment for fintech firms, enabling them to trial new technologies and business models with customers. The FSA continues to support FT Lab, collaborating with numerous fintech enterprises in the development of innovative technologies and business models over the past few years. It has become an integral part of the FSA's innovation strategy and enables the FSA to inform of supervisory practice and regulatory developments.

5. Open banking: a summary of regulations regarding open banking and direct or indirect regulations that affect open banking.

As mentioned in Section 1, Denmark, like several other European countries, has implemented PSD2 in the Danish Payments Act, which encompasses open banking by establishing rules related to payment initiation and account information services.

Since payment initiation services and account information services fall under the category of payment services according to the Danish Payments Act, operators of these services are obligated to acquire a licence or, in the case of account information services, register with the FSA. Moreover, any third-party entity must secure customer consent before accessing the customer's financial data.

Under the Danish Payment Act, third-party providers are obliged to implement robust security measures for the protection of customer data, following the guidelines outlined in the Commission Delegated Regulation (EU) 2018/389. Furthermore, they must ensure compliance with data protection regulations, including the General Data Protection Regulation (GDPR).

PSD3 and PSR, referred to in Section 3, will also have an impact on open banking in its current form.

6. Regulation of virtual asset service providers.

Denmark regulates CASPs through MiCAR. Under MiCAR, entities providing crypto asset services in Denmark are required to obtain authorisation from the FSA pursuant to Article 63 of MiCAR.

At present, there are no additional national laws, regulations or binding guidelines supplementing MiCAR or the secondary legislation issued or issued by the European Banking Authority (EBA) and the European Securities and Markets Authority (ESMA), insofar that these are not categorised as financial instruments. The secondary legislation will be applicable in Denmark and of relevance for the FSA's interpretation and enforcement of the regulation.

However, the FSA provides supplementary information on its website, including its practice relating to the crypto asset market and guidance on principles for assessing decentralisation in relation to crypto assets and decentralised protocols. The Danish FSA has described its current practice for

crypto assets in Danish at www.finanstilsynet.dk/finansielle-temaer/fintech/finanstilsynets-praksis-paa-markedet-for-kryptoaktiver.

While no additional domestic regulation has been introduced specifically for virtual asset service providers (VASPs)/CASPs beyond MiCAR, other Danish laws remain relevant and may apply depending on the activity, including (1) the Danish Marketing Practices Act, (2) the Danish Act on Measures to Prevent Money Laundering, and (3) the Danish Financial Business Act, as outlined above.

The FSA is the supervisory authority of MiCAR and related financial regulation in Denmark. While other applicable regulation may be enforced by other authorities, such as the Danish Consumer Ombudsman or the Danish Business Authority.

7. AML and the Travel Rule in crypto asset transactions.

The Danish Act on Measures to Prevent Money Laundering and Financing of Terrorism, which implements EU anti-money laundering and counter-financing of terrorism (AML/CFT) directives, applies to VASPs and CASPs. In addition, Regulation (EU) 2023/1113 on information accompanying transfers of funds and certain crypto assets (the Transfer of Funds Regulation) applies directly in Denmark and implements the Travel Rule for crypto asset transfers.

In July 2024, the EBA issued guidance on the 'Travel Rule' and the information that should accompany transfers of funds and certain crypto assets, and on the steps that should be taken to detect missing or incomplete information accompanying a transfer of funds or crypto assets. The FSA refers to this guidance when assessing whether the procedures put in place to comply with Regulation (EU) 2023/1113 are adequate and effective.

Under this framework, service providers are required to comply with standard AML obligations, including customer due diligence (KYC), risk assessments, policies and procedures, ongoing monitoring, and suspicious transaction reporting. They are also subject to periodic supervisory reporting to the FSA, covering detailed risk and compliance data. These obligations apply to both domestic and cross-border transactions involving crypto assets.

The regulatory framework is fully implemented and enforceable, with the FSA as the competent authority responsible for supervising and enforcing compliance with both national AML requirements and directly applicable EU regulations, including Regulation (EU) 2023/1113.

8. Enforcement and cross-border recognition of tokenisation and structuring of secured transactions involving crypto assets.

Under Danish law, the procedure for creating and perfecting a security interest depends on the legal categorisation of the underlying asset, as well as if the asset constitutes real estate, claims or movables. While the classification of crypto assets is uncertain and is individually determined for each crypto asset, it could be suggested to resemble movables the most as this category also includes intangible items. A security interest can then be established in accordance with the same rules that apply to movables. This is then done by way of pledge, where the pledgee takes possession of the asset, or by way of mortgage which requires registration in the Danish Personal Register maintained by the Registration Court.

Under Danish law, parties to a contract are generally free to choose foreign law as the governing law of their agreement. This will be recognised and applied by the Danish courts as this has validly been subjected to the foreign law, provided that the choice of law is validly made. This is limited to the extent that:

- any term of the agreement or provision of the foreign law is manifestly incompatible with Danish public policy (*ordre public*);
- mandatory provisions of Danish law apply to the transaction irrespective of the chosen law; or
- the transaction has a close connection with another country, and the Danish courts consider it appropriate to give effect to that country's mandatory rules, in accordance with Articles 3(3), 7 and 16 of the Rome Convention (where applicable).

Parties invoking a foreign governing law must provide the Danish courts with satisfactory information about the content and interpretation of that law; failing that, Danish courts may apply Danish law instead.

In the event of default, enforcement procedures depend on the form of security taken; these are primarily governed by the Administration of Justice Act. Where the security interest has been perfected by pledge, the pledgee must provide the pledgor with at least one week's notice to remedy the default before proceeding with a forced public auction. In contrast, if security is created by way of mortgage, enforcement proceeds through the bailiff's court. A properly executed mortgage deed satisfies the formal requirements for distraint, meaning that no separate court judgment is necessary. Upon the creditor's application, the bailiff's court will seize the secured asset, after which the creditor can apply for a forced auction to satisfy the outstanding claim.

9. Litigation and jurisdiction on crypto assets: legal implications of disputes involving crypto assets.

Parties to agreements involving crypto assets are, in principle, free to include forum-selection clauses designating either the courts of a particular jurisdiction (exclusive choice-of-court agreements) or arbitration. Under Danish law exclusive jurisdiction-clause agreements are generally enforceable, subject to the applicable conflict-of-laws and procedural framework. Recently, the Court of Justice of the European Union has issued a decision in C-537/23, which addresses the validity of asymmetric jurisdiction clauses which might impact the enforceability of these clauses. The applicable legal regime for assessing the validity and effect of a forum-selection clause from a Danish law perspective is outlined below.

In disputes involving parties whose habitual residence is within the EU, the Brussels I Regulation provides the framework for party autonomy in matters of jurisdiction, permitting exclusive jurisdiction agreements. Where the Brussels I Regulation does not apply, the Hague Convention on Jurisdiction Agreements may govern, for example in disputes between a Danish party and a party from a non-EU contracting state.

Where neither the Brussels I Regulation, the Lugano Convention nor the Hague Convention on Choice of Court Agreements applies, jurisdiction is determined under the Danish Administration of Justice Act; exclusive jurisdiction clauses are, in principle, valid and enforceable.

10. Intellectual property and crypto assets: legal protection, ownership, enforcement and monetisation of IP rights related to digital and virtual assets.

With respect to crypto assets and other digital and virtual assets, several branches of intellectual property legislation may be engaged.

Danish patent regulation

Patent law protects inventions and is not strictly relevant to the asset as such, but to the inventive aspect that the development of a given asset may involve. Protection is obtained by registration with the competent authority and, under the first-to-file principle, accrues to the first applicant. Registration presupposes that the general patentability criteria, industrial applicability, inventive step, sufficiency of disclosure and reproducibility, and novelty, are satisfied.

Protection in relation to crypto assets and other digital and virtual assets may, for example, be relevant where the development of blockchain technology involves an innovation that provides a previously unknown technical solution to a technical problem. In such cases, patent protection may be pertinent.

Danish copyright regulation

Copyright protects literary and artistic works, ie, works that represent intellectual creation. This includes the source code of a computer program, since this is considered a literary work, while the artistic aspects of a user interface in an operating system may be protected as an artistic work.

The condition for protection is that the work reflects the author's own intellectual creation, involving free and creative choices. Purely AI-generated source code would generally not qualify for copyright protection because it does not embody a human author's own intellectual creation. Copyright arises automatically upon creation and vests in the natural person who creates the work. Unlike patents and trademarks, copyright does not require registration.

It is necessary to distinguish between the digital token and the underlying work, and buyers must understand what is, and is not, being acquired – particularly if the acquisition is made with a view to sub-licensing or licensing. Another current issue concerns copyright protection where a work is created with the assistance of generative AI. Copyright protection will depend on whether there is a human intellectual contribution involving creative choices, as purely AI-generated content will not be protected by copyright.

Danish trademark regulation

Trademark law protects a business's distinctive signs, such as logos, figures, slogans and words. A central criterion is that the sign possesses sufficient distinctiveness, meaning it is capable of distinguishing one company's goods or services from those of others.

In relation to crypto assets and other digital and virtual assets, the names of cryptocurrencies, digital wallets or other virtual phenomena are highly relevant for trademark protection. The same applies to associated logos, slogans and other identifiers that, in the circumstances, qualify as unique business identifiers.

Similar to the patent system, acquisition of trademark rights generally requires registration.

Enforcement

IP laws provide the right holders with a range of enforcement mechanisms in the event of infringement. Under general Danish civil procedural rules, it is possible, inter alia, to seek injunctive relief for example, to restrain use of a logo that infringes a trademark. In addition, the various IP statutes provide for claims for damages and appropriate monetary relief, and in certain cases criminal sanctions may be imposed, including fines and imprisonment.

Whether to seek protection in foreign jurisdictions?

Danish intellectual property legislation is largely EU-harmonised and, to a significant extent, contains similar conditions of protection and rights, but the territorial scope of an IP right depends on the specific acquisition of that right.

A registered Danish patent or trademark is valid only in Denmark. However, it is possible to apply for international and European patents and trademarks. It is therefore important to determine at an early stage the territories in which protection is relevant.

With respect to copyright, as noted above, neither in Denmark nor in the rest of Europe is registration required, and registration as such has no relevance for access to enforcement. In other jurisdictions, such as the United States, however, copyright registration may be of considerable importance for the enforcement of copyright infringements.



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