Translation from Danish prepared by Jyske Bank of a decision dated 21 December 2020 issued by the Danish Financial Supervisory Authority (Finanstilsynet). In the event of any discrepancy between the Danish version and the English version, the Danish version shall prevail.

Minimum requirement for own funds and eligible liabilities

1. Decision

The FSA **determines** the minimum requirement for own funds and eligible liabilities for Jyske Bank A/S at a consolidated basis at resolution group level on 28 December 2020 at 10.1% of Jyske Bank A/S' total liabilities and own funds. This corresponds to 26.3% of Jyske Bank A/S' risk-weighted exposures. The requirement is based on figures at the end of 2019. At the end of 2019, the requirement corresponded to DKK 27.3 bn. As at 28 December 2020, only the requirement expressed as a percentage of the risk-weighted exposures will be binding on Jyske Bank A/S.

Jyske Realkredit A/S is exempt from the minimum requirement for own funds and eligible liabilities and is not included in the consolidation, neither in respect of the calculation of the risk-weighted exposures, on the basis of which the requirement is calculated, nor in the statement of the liabilities and own funds of which the requirement is expressed as a percentage.

The FSA **determines** that of the requirement for own funds and eligible liabilities (26.3% of REA) plus the combined capital buffer requirement (which on 30 June 2020 was at 4.0% of REA), an amount corresponding to 26.3% of Jyske Bank A/S' risk-weighted exposures shall be covered by capital instruments and debt, which under resolution and bankruptcy shall be written down and converted before unsecured claims. In order to meet this requirement, Jyske Bank A/S may use both the capital instruments and the debts that are applied to the fulfilment of the MREL requirement and the Common Equity Tier 1 capital ratio instruments that are applied to meeting the combined capital buffer requirement.

2. Legal basis

2.1. Minimum requirement for own funds and eligible liabilities

Current regulation
According to S.266(1), paragraph 1 of the Danish Financial Business Act, the FSA determines, after consulting with Finansiel Stabilitet (the Danish resolution authority), the requirement of the size of a financial institution's own funds and eligible liabilities.

The minimum requirement for own funds and eligible liabilities is determined as a percentage of the company's total liabilities and own funds, according to S.266(1), paragraph 3, of the Danish Financial Business Act.

A consolidated requirement is determined for parent companies that are subject to consolidated supervision, according to S.266(3). Mortgage credit institutions are exempt from the requirement, cf. S.266(1) of the Danish Financial Business Act. Mortgage credit institution

must instead meet a debt buffer requirement, cf. S.125 of the Danish Financial Business Act. Hence mortgage credit institutions are not subject to the consolidation at the determination of the minimum requirement for own funds and eligible liabilities, cf. S.266(3), paragraph 2, of the Danish Financial Business Act.

The minimum requirement for own funds and eligible liabilities is determined on the basis of the following criteria, cf. s.268(1) of the Danish Financial Business Act.

1) The group can be resolved through the use of resolution tools.
2) If bail-in is applied, the group has sufficient own funds and eligible liabilities to ensure that the losses can be absorbed and the group's Common Equity Tier 1 capital can be restored to a level at which the undertaking can continue to meet the requirements for a licence, and to sustain sufficient market confidence.
3) The group has sufficient own funds and eligible liabilities to ensure that, if certain categories of own funds and eligible liabilities are excluded from bail-in, the losses can be absorbed and an undertaking's Common Equity Tier 1 capital can be restored to a level at which the undertaking can continue to meet the requirements for a licence.
4) The group's size, business model, funding model and risk profile
5) The extent to which the depositor and investor guarantee scheme can help finance the resolution in accordance with S.2a of the Act on a Depositor and Investor Guarantee Scheme (lov om en indskyder- og investorgarantiordning).
6) To which extent the group is in distress, has a negative effect on financial stability, including spillover effects on other financial services companies and/or groups.

The Commission Delegated Regulation (EU) 2016/1450[1] (the regulation), which specifies the criteria relating to the method applied when determining the minimum requirement of own funds and eligible liabilities, further specifies the criteria stated in S.268(1) of the Danish Financial Business Act.

The minimum requirement for own funds and eligible liabilities consists of a loss absorption amount, cf. Art.1 of the regulation, and a recapitalisation amount, cf. Art.2 of the regulation with the necessary adjustments as appear from Art.3-6, cf. Art.7(1) of the regulation.

The loss absorption amount is generally determined according to the company's solvency requirement plus the combined capital buffer requirement, cf. Art.1(4) of the regulation.

The recapitalisation amount is determined on the basis of the expected resolution strategy identified in the institution's resolution plan. The recapitalisation amount is generally determined at 0 if the resolution strategy is bankruptcy, cf. Art.2(2) of the regulation. If the resolution strategy is not bankruptcy, the recapitalisation amount is generally determined at the solvency requirement plus capital buffers, cf. Art.2(5)(7) and (8) of the regulation.

The FSA may decide to adjust the loss absorption and the recapitalisation amount upwards as well as downwards, cf. Art.1(5) and Art.2(3) and (9) of the regulation. Moreover, the FSA may make adjustments according to Art. 3-6 of the regulation.

Future regulation

[1] The Commission Delegated Regulation (EU) 2016/1450 of 23 May 2016 on supplementary rules on the European Parliament's and the Council's regulation 2014/59/EU on regulatory technical standards specifying the criteria applicable to the method of determining the minimum requirements of own funds and eligible liabilities

On 28 December 2020, bills for the amendment of the Danish Financial Business Act, the Danish Act on Restructuring and Resolution of Certain Financial Enterprises and the Danish Capital Market Act and bills for the repeal of the Danish Act on Financial Stability (draft bill) and the executive order on minimum requirement for own funds and eligible liabilities shall take effect. The bill and the executive order will implement part of the European Parliament's and the Council's regulation (EU) 2019/ 879 of 20 May 2019 on the amendment of executive order 2014/59/EU as regards credit institutions' and investment firms' loss absorbing and recapitalisation capacity and of executive order 98/26/EF (BRRD II).

With the coming into force of the executive order on the minimum requirement for own funds and eligible liabilities, the loss absorption amount shall be determined at an amount sufficient to secure that the losses that the company is expected to incur will be absorbed in full, cf. S.3(1), No.1, of the draft for the executive order.

2.2. Requirement for subordination of the minimum requirement for own funds and eligible liabilities.

Current regulation
The FSA may require that own funds and eligible liabilities shall in full or in part consist of the liabilities that can be converted, cf. S.268(2), paragraph 2, of the Danish Financial Business Act.

Future regulation
With the coming into force of the bill, the FSA must after consulting with Finansiel Stabilitet (the Danish resolution authority) determine that a proportion of the minimum requirement for own funds and eligible liabilities shall be fulfilled through own funds, subordinated eligible instruments or liabilities subject to S. 267 a(1), No. 5, (requirement for subordination) for resolution units that are not global systemically important financial institutions (G-SIFIs) and that are included in a resolution group of which total assets are below EUR 100 bn, but which the FSA has assessed will, with a reasonable degree of probability, pose a systematic risk, should they be in distress, cf. the proposed S.267 c(1), cf. S.1, No. 80 of the bill.

However, after consulting with Finansiel Stabilitet, the FSA may determine that the requirement for subordination is to be an amount that as a maximum corresponds to the higher amount of either 8% of the resolution group's total liabilities and own funds or the amount calculated on the basis of the formula stated in appendix 9, No. 3, if one of the following conditions have been met, cf. the proposed S.267 c(4), cf. S.1, No. 80, of the bill.

1) The FSA and Finansiel Stabilitet have established material obstacles for resolution, cf. S.262 and S.263, and no remedial measures have been taken in accordance with orders given by the FSA according to S.264(5) by the deadline stipulated, or the established material obstacles cannot be remedied through the orders mentioned in S.264(5) and the determination of the proportion mentioned in (1) according to this stipulation offsets the negative impact of the material obstacle on the possibilities of resolution.
2) It is implied in the resolution plan for the resolution unit that the preferred resolution strategy for the resolution unit to a limited extent is feasible and credible, taking into account the size of the resolution unit, the nature, the extent and the complexity of the activities of the resolution unit, the risks entailed with the activities of the resolution unit, the interrelationship, as well as the legal status and shareholding structure of the resolution unit.

3) The individual solvency requirement laid down pursuant to S.124(3) or individual solvency requirements laid down pursuant to S.124(2) reflect that the resolution unit is among the 20% most risky companies for which the FSA determines a minimum requirement for own funds and eligible liabilities.

2.3. Resolution plan and interest of the general public

According to S.259 and S.260, the FSA shall prepare, adopt and maintain a resolution plan.

The resolution plan assesses whether the interest of the general public necessitates implementation of resolution measures, as this is a precondition for restructuring or resolution, cf. S.4(1), No.3, of the Danish Act on Restructuring and Resolution of Certain Financial Enterprises.

According to S.5 of the Act on Restructuring and Resolution of Certain Financial Enterprises, the interest of the public includes the following:

1) to ensure the continuity of critical functions, the discontinuance of which is likely to lead to the disruption of services that are essential to the real economy or likely to disrupt financial stability;
2) to avoid a significant adverse effect on the financial stability, in particular by preventing contagion, including to market infrastructures, and by maintaining market discipline;
3) to protect public funds by minimising reliance on extraordinary public financial support;
4) to protect depositors and investors covered by the Act on a Depositor and Investor Guarantee Scheme;
5) to protect client funds and client assets.

Moreover, it is a condition that the resolution objectives in question cannot be met to the same extent in the event of bankruptcy proceedings, cf. the comments to S.4(1), No. 3, of the Danish Act on Restructuring and Resolution of Certain Financial Enterprises.

3. The assessment of the FSA

The FSA determines the minimum requirement for own funds and eligible liabilities, cf. S.266 of the Danish Financial Business Act, on the basis of the criteria laid down in S.268(1) of the Danish Financial Business Act and the resolution plan for Jyske Bank A/S.

3.1. The resolution plan

Interest of the public
Jyske Bank A/S has as a consolidated company been appointed a systemically important financial institution, and also the group has critical functions that must be continued during a situation of resolution.

Therefore the resolution plan assesses that, if it is necessary in the interest of the public, one or more resolution measures must be initiated if the group is in distress, cf. S.4(1), No. 3 of the Danish Act on Restructuring and Resolution of Certain Financial Enterprises.

Resolution strategy
The resolution strategy is that of a single-point-of-entry, where the group is seen as one unit in the event of resolution. The point of departure is that Jyske Bank A/S will remain in the market and be re-established as a viable enterprise.

This will be ensured through recapitalisation of the group at a consolidated level through write-downs and conversion of the claims of creditors.

3.2. Minimum requirement for own funds and eligible liabilities

The minimum requirement for own funds and eligible liabilities will be determined as a loss absorption amount, cf. Art. 1 of the regulation, and a recapitalisation amount, cf. Art. 2 of the regulation.

Loss absorption amount
With the coming into force of the bill, the minimum requirement for own funds and eligible liabilities and the combined capital buffer requirement will have to be met as two separate requirements, as Common Equity Tier 1 capital, which is applied to meet the combined capital buffer requirement cannot at the same time be applied to meet the minimum requirement for own funds and eligible liabilities.

The FSA assesses that, for Jyske Bank A/S, the loss absorption amount is to be determined according to the solvency requirement.

Recapitalisation amount
The point of departure is that the group will be re-established as a viable enterprise by Finansiel Stabilitet, cf. section 3.1. Therefore, the FSA assesses that, for Jyske Bank A/S, the recapitalisation amount is to be determined according the solvency requirement plus the combined capital buffer requirement except for the countercyclical buffer.

Determination of minimum requirement for own funds and eligible liabilities
Hence the FSA assesses that the minimum requirement for own funds and eligible liabilities must be twice the solvency requirement plus one time the combined capital buffer requirement except for the countercyclical buffer (loss absorption and recapitalisation).

The FSA assesses that the minimum requirement for own funds and eligible liabilities for Jyske Bank A/S at a consolidated basis at resolution group level on 28 December 2020 shall be determined at 10.1% of Jyske Bank A/S' total liabilities and own funds. This corresponds to 26.3% of Jyske Bank A/S' risk-weighted exposures. The requirement is based on figures at the end of 2019. At the end of 2019, the requirement corresponded to DKK 27.3 bn.

As at 28 December 2020, only the requirement expressed as a percentage of the risk-weighted exposures will be binding on Jyske Bank A/S.

As mortgage credit institutions are exempt from the minimum requirement for own funds and eligible liabilities, Jyske Realkredit A/S is not included in the consolidation on which the consolidated requirement for Jyske Bank A/S is based, according to S.266 (3), paragraph 2, of the Danish Financial Business Act.

3.3. Requirement for subordination of the minimum requirement for own funds and eligible liabilities.

The bill implies that, after consulting with Finansiel Stabilitet, the FSA must determine a subordination requirement for Jyske Bank A/S, cf. the proposed S. 267 c(1), No. 2, cf. the S.1, No. 80 of the bill.

The FSA may, as a maximum, determine the requirement for subordination to be the higher amount of either 8% of the group's total liabilities and own funds or twice the solvency

requirement plus one time the combined capital buffer requirement, cf. the proposed S.267 c(4), cf. S.1, No. 80, of the bill. The subordination requirement includes both the minimum requirement for own funds and eligible liabilities and the combined capital buffer requirement, which according to the bill and the executive order on requirements for own funds and eligible liabilities must be fulfilled as a separate requirement.

The FSA **determines** that of the requirement for own funds and eligible liabilities (26.3% of REA) plus the combined capital buffer requirement (which on 30 June 2020 was at 4.0% of REA), an amount corresponding to 26.3% of Jyske Bank A/S' risk-weighted exposures shall be covered by capital instruments and debt, which under resolution and bankruptcy shall be written down and converted before unsecured claims. In order to meet this requirement, Jyske Bank A/S may use both the capital instruments and the debts that are applied to meet the MREL requirement and the Common Equity Tier 1 capital ratio instruments that are applied to meet the combined capital buffer requirement.

This will ensure that, due to the decision, Jyske Bank A/S will as of the 28 December 2020 not be bound by a higher subordination requirement than the one that, as a maximum, can apply according to the regulation in force as of 28 December 2020.

4. Consultation

On 23 November 2020, Jyske Bank A/S was consulted regarding the decision and was given a deadline until 9 December 2020.

5. Complaints

The decision of the FSA can, no later than four weeks after receipt, be brought before the Danish Commerce and Companies Appeal Board, cf. S.372(1) of the Danish Financial Business Act. The complaint must be sent by e-mail to ean@naevneneshus.dk or by post to Erhvervsankenævnets sekretariat, Toldboden 2, 8800 Viborg.

A fee of DKK 4,000 is payable for filing a complaint with the Commerce and Companies Appeal Board, cf.S.7(2) of the Danish Executive Order on the Commerce and Companies Appeal Board. The fee amounts to DKK 2,000 in connection with complaints that do not pertain to current or future business activities. The Commerce and Companies Appeal Board or the Chairman can make a decision about full or partial repayment of the fee paid if the complaint is sustained in part or in full, cf. S.15(4) of the Danish Executive Order on the Commerce and Companies Appeal Board. The fee will be refunded if the Danish Commerce and Companies Appeal Board rejects the complaint.

6. Publication

This decision was made by the FSA's Governing Board. It is a condition that the decision is to be published, cf. S.354 a of the Danish Financial Business Act. However, publication can be omitted if such publication would result in disproportionate damage to the company, cf. S.354 a(4) of the Danish Financial Business Act. Has publication been omitted, publication must take place when the consideration that necessitated the omission no longer applies, cf. S.354(5) of the Danish Financial Business Act.

The FSA does not find any grounds for delaying publication of the decision, as the FSA assesses that such publication will not result in any disproportionate damage to Jyske Bank A/S. Hence the decision must be published, cf. S.354 a of the Danish Financial Business Act;

Yours sincerely,

Uffe Mikkelsen

Deputy Administrative Head of Department