

GUIDELINES ON  
CONFLICT EXEMPTION  
EFFECTIVE FOR THE COLLECTIVE BARGAINING PROCESS 2023

## List of contents

PREFACE .....	3
I. INTRODUCTION .....	4
1. Briefly about the agreement.....	4
2. Who are covered by the agreement? .....	4
3. What does the agreement mean?.....	4
4. Local agreement and quantitative restrictions.....	5
5. The two main objectives of the agreement.....	5
II. BLOCKING OF PAYMENTS .....	6
III. EXEMPTED EMPLOYEES .....	7
1. General IT-related work functions .....	7
A. The FA member's own IT systems, servers, etc. ....	8
B. Operation/maintenance for external customers in Denmark .....	8
2. IT-related transactions .....	9
3. Liquidity management in Denmark.....	10
4. Other countries – support of foreign entities .....	11
5. Other countries – clearing operations etc.....	14
6. IT functions in relation to external customers in other countries .....	15
7. Maintenance and monitoring functions .....	16
8. Managers and employees with responsibility for collective agreements.....	16
IV. IMPLEMENTATION .....	18
V. PAY AND WORK DURING THE CONFLICT .....	22
VI. SUBSTITUTE EMPLOYEES .....	24
ANNEX 1.....	25
ANNEX 2.....	26
ANNEX 3.....	27

## PREFACE

In the course of the collective bargaining process 2008, the Danish Employers' Association for the Financial Sector (*FA*) and the Financial Services Union (*Finansforbundet*) entered into a new agreement on the rules governing any stoppage of work in connection with renewal of the standard collective agreement.

The agreement reflects the technological and global developments that have taken place, and the work functions are therefore the deciding factor as to which employees are eligible for exemption from conflict.

The agreement balances the interests of the contracting parties: On the one hand, the agreement is intended to safeguard the employees' need for effective conflict – and on the other hand, the employers' need for the conflict not to be unnecessarily harmful.

The effectiveness of the conflict is secured by the major part of the employees striking/being precluded from performing their work functions and by all payment flows being frozen. This applies to branches, cash dispensers, in-store terminals, internet banks, business banking, etc.

On the other hand, the agreement provides for the necessary operation and maintenance of business critical IT applications, allows foreign entities of FA members to be serviced to a certain extent and ensures that certain specified transactions and cash management activities can be performed.

These guidelines, which have been prepared jointly by FA and the Financial Services Union, provide detail and clarification of the many new concepts and rules that are introduced with the new agreement on conflict exemption.

The guidelines address the issues that were raised in connection with the collective bargaining process 2008, but are obviously not an exhaustive document. Also, it is impossible to have a very high level of detail due to the differences in nature between FA members. As a result, not all sections in these guidelines are equally relevant for all members. The individual sections of the guidelines therefore begin with an indication of whether it discusses matters of relevance to all FA members – or whether the contents primarily concern some members.

The guidelines only concern Appendix 1 to the Main Agreement. The guidelines therefore address traditional conflict issues such as pay, leave of absence, holiday, health insurance, etc. only to a very limited extent. In this regard, reference is made to the general conflict guidelines issued by FA and the Financial Services Union.

# I. INTRODUCTION

## 1. Briefly about the agreement

Under the agreement on conflict exemption, employees are eligible for exemption only to perform specific work functions – and only subject to some quantitative restrictions. The question of which employees are to be exempted must be agreed locally.

These guidelines describe which work functions employees may be exempted to perform, how many employees may be exempted and which procedure to follow when concluding a local agreement in this regard.

## 2. Who are covered by the agreement?

The agreement applies to FA members which are covered by the standard collective agreement, including FA members which have entered into their own collective agreement as they are covered by the standard collective agreement as well.

The agreement on conflict exemption does not apply to insurance companies. Even if an insurance company forms part of a financial group which is covered by the agreement on conflict exemption, the agreement does not apply to the insurance company.

In addition, a number of entities are exempted from conflict. They are entities of the FA members listed in appendix A to the agreement. The entities in question are defined entities which exclusively service foreign customers, see section III. par. 4.

## 3. What does the agreement mean?

The agreement makes it possible to enter into a local agreement to exempt employees who perform specified work functions (sections III.1-III. par. 7), employees engaged in collective bargaining and similar activities (section III. par. 8) as well as managers (section III. par. 8).

More specifically, the following work functions are eligible for exemption:

1. General IT-related work functions
2. IT-related transactions
3. Liquidity management in Denmark
4. Other countries – Support of foreign entities
5. Other countries – Clearing operations etc.
6. IT functions in relation to external customers in other countries
7. Maintenance and monitoring functions
8. Managers and employees with responsibility for collective agreements

The rules are discussed individually in sections III. par. 1-8. The list of exempted work functions/employees in sections III. par. 1-8 is exhaustive.

The employees who are not exempted under a valid agreement will participate in the conflict, if any.

#### **4. Local agreement and quantitative restrictions**

A local agreement must be entered into by the management of the FA member and the union representative and must identify the work functions and, secondly, the employees to be exempted from conflict.

There are some quantitative restrictions with regard to the number of employees who are eligible for exemption to perform the exempted work functions. The quantitative restrictions, procedures, time-limits, etc. are discussed in section IV below.

#### **5. The two main objectives of the agreement**

The agreement on conflict exemption allows banks to use a wider group of employees (than under the former agreement) in order to enable them to have the work functions performed which are necessary to avoid unnecessary harm with regard to IT systems, and to allow for the continued operation of foreign entities.

In return, the employers guarantee that customers will be precluded from access to their funds, thus accommodating the employees' need for effective conflict.

## II. BLOCKING OF PAYMENTS

Appendix 1 to the Main Agreement provides as follows in the introduction:

### **"Blocking of payments**

When a stoppage of work has been notified in accordance with the provisions of the Main Agreement in connection with renewal of the collective agreement, FA and its members guarantee – with effect from the start of the conflict – that all access to funds from transactions in Denmark as well as transfers from Denmark to other countries will be blocked for business as well as private customers.

This means, among other things, that all branches (entities/offices/customer centres/departments and cash dispensers) will be closed and it will not be possible to pay using *dankort* or any other payment/credit cards via in-store terminals etc. Similarly, access to internet banking and business banking will be blocked. This means that FA members will be prevented from delivering financial services (including IT services) externally during the conflict."

The central obligation imposed on the employers under this provision is the employers' guarantee that all payments will be blocked.

This means that when a stoppage of work has been notified in accordance with the provisions of the Main Agreement in connection with renewal, FA and its members guarantee – with effect from the start of the conflict – that all access to funds from transactions in Denmark as well as transfers from Denmark to other countries will be blocked for business as well as private customers.

This provision means that employers are required to ensure that all branches, entities, offices, customer centres, departments, cash dispensers and in-store terminals will be closed. All access to internet banking and business banking must be blocked. It also means that FA members will be prevented from delivering financial services (including IT services) externally during the conflict.

Customers etc. will be notified in the course of the steps in preparation for the conflict which will be taken – in relation to customers – by Finance Denmark (*Finans Danmark*) on behalf of the employers.

With this provision, FA and its members thus guarantee that all payments to and from member banks will be blocked. Neither private nor business customers will therefore be allowed to receive any physical or electronic services for the duration of the conflict. The question of which measures to implement in each individual case in order to block payments will depend on the circumstances of each individual FA member and will be decided by each FA member at management level.

Failure by an FA member to implement the necessary measures to block payments will constitute a breach of the collective agreement.

### III. EXEMPTED EMPLOYEES

The employees who are exempted from conflict will be allowed to perform the work functions listed in sections III.1-III.7 of the agreement. The list is exhaustive and will apply, regardless of whether the employees are organised or not. In addition, managers and certain key employees engaged in collective bargaining and similar activities are eligible for exemption, see section III. par. 8. The rules are discussed individually in sections III. par. 1-8 below.

This means that any requirement by the Financial Services Union for employees exempted from conflict by agreement to cease working would constitute a breach of the collective agreement. Conversely, any requirement for exempted employees to perform other work functions than those they have been exempted to perform, including (other) normal functions, would also constitute a breach of the collective agreement. The above applies, regardless of whether the employees are organised or not.

In addition, refusal to perform the work functions may constitute a breach of the collective agreement and/or the individual employment contract, which may be sanctioned in accordance with the general rules in this regard.

#### 1. General IT-related work functions

This section is relevant for all FA members – however, para 1(B) below is only relevant for FA members with responsibility for the operation and maintenance of external customers' IT systems in Denmark.

Section 1.1 of Appendix 1 to the Main Agreement reads as follows:

"During the conflict, employees will be allowed to perform work functions which are necessary to ensure:

- Necessary operation and necessary maintenance of business critical IT applications.

This means that during the conflict such employees will be allowed to ensure that there is no system breakdown/loss of data in the FA member's own central IT functions/systems. However, the employees in question will not be allowed to perform development tasks etc.

In relation to external customers in Denmark, employees will not be allowed to perform development tasks or input new data which will become known to customers. However, FA members will be allowed to protect themselves against breakdown/loss of data as mentioned above.

IT services to external customers in other countries are described in section 1.6."

The right to have work functions performed which are necessary to ensure the necessary operation and maintenance of business critical IT applications covers:

- (A) Preventing breakdowns in the FA member's own IT systems
- (B) Preventing breakdowns in external customers' systems in Denmark

It is only the protection of own – and in some cases customers' – IT functions/systems which may render work functions eligible for exemption. As a result, IT-related work functions in connection with effecting payment flows cannot be performed as payment flows must be blocked. Employees may be exempted to a limited extent to perform functions relating to transactions and clearing operations scheduled in advance. Any such exemption must be capable of being justified on the basis of section

1.2 and 1.3 of the agreement on conflict exemption, see paras 2 and 3 below. The two situations in which employees are eligible for exemption to perform work functions are described below.

#### A. The FA member's own IT systems, servers, etc.

This paragraph is relevant for all FA members covered by the standard collective agreement and thus applies to banks, savings banks, cooperative savings banks, mortgage-credit companies, finance companies and IT companies, etc.

According to this part of the provision, employees are eligible for exemption to prevent breakdowns in the member's own IT functions/systems. In other words, it is the member's platform that must be capable of functioning.

Thus, employees are eligible for exemption to perform work functions intended to prevent system breakdowns.

The following tasks are operational tasks that will be permitted:

- Breakdown monitoring of the member's own IT functions/systems
- Troubleshooting in own IT functions/systems, provided that this is necessary to avoid breakdown

Development tasks, however, will not be permitted. This distinction between development tasks and operational tasks to prevent breakdowns is entirely crucial to understanding this part of the agreement.

Although the general principles are quite clear, in practice there will be a number of tasks which must be analysed in more detail in order to determine in each case whether the task is developmental or operational in nature. Initially, this analysis will have to be made at the local level.

#### B. Operation/maintenance for external customers in Denmark

This paragraph is relevant for FA members with responsibility for the operation and maintenance of external customers' IT operations. The paragraph is only relevant for members with Danish customers. Customers in other countries are covered by section III.6 and, as a general rule, members are not allowed to service those customers. Reference is made to section III.6 in this regard.

When defining whether a customer is Danish or foreign, weight will be given to whether the company has its primary registration with the Danish Business Authority. The external customers that will be permitted to be serviced to some extent are customers which do not

belong to the same group of companies as the FA member.

The rule may be applied in the situation where an FA member covered by the agreement provides IT operation services to a customer such as a hospital or a real estate agent. Employees are eligible for exemption with a view to avoiding a breakdown, but the real estate agent will not be allowed to implement updates on its website that will be accessible to third parties.

Basically, the permitted work functions are the same as those described above with regard to the member's own IT functions/systems, see para (A). To the extent that it is necessary to input data to avoid a breakdown, such activity will thus be permitted. It is expected to be relevant only in a limited number of cases, and it is an absolute condition that the information will not become known to the customer.

## 2. IT-related transactions

This section is relevant for all FA members covered by the standard collective agreement and thus applies to banks, savings banks, cooperative savings banks, mortgage-credit companies, finance companies and IT companies, etc.

Section 1.2 of Appendix 1 to the Main Agreement reads as follows:

"During the conflict, employees will be allowed to perform the following functions:

- National data registration of financial transactions to a national account, if the individual registrations were already scheduled before the conflict
- Interest, bond draws, dividends and other returns, and similar transactions in connection with securities and payments."

Payment flows will be blocked, which is one of the two main objectives of the agreement. However, there are certain transactions which, if initiated before the conflict, will be permitted to be effected for IT purposes at the scheduled date and time. As can be seen from the wording quoted above, those transactions consist of the following two groups of work functions:

- (A) National data registration of financial transactions to a national account, if the individual registrations were already scheduled before the conflict
- (B) Interest, bond draws, dividends and other returns, and similar transactions in connection with securities and payments

### A. National data registration of financial transactions to a national account, if the individual registrations were already scheduled before the conflict

The registrations in question include registrations which do not take place automatically, but require a manual effort by an employee. It also includes transactions under powers of attorney and portfolio agreements if the transaction in question has been registered for data purposes before the conflict. By way of example, this could be a transaction for the purpose of settling or transferring a payment in connection with the completion of a real estate deal. It could also be a Nets payment which has been registered for payment for data purposes before the start of the conflict, but which is scheduled for payment during the period of the conflict. The transaction must be agreed in advance and be registered for data purposes before the start of the conflict, and the transaction must not be made available to the

customer.

**B. Interest, bond draws, dividends and other returns, and similar transactions in connection with securities and payments**

The transactions mentioned may be effected for IT purposes, but may not be made available to the customer. The list of transactions is not exhaustive. In case of any doubt as to interpretation, the parties must initially seek to clarify the issue locally.

### 3. Liquidity management in Denmark

This section is relevant for all FA members covered by the standard collective agreement and thus applies to banks, savings banks, cooperative savings banks, mortgage-credit companies, finance companies and IT companies, etc.

Section 1.3 of Appendix 1 to the Main Agreement reads as follows:

"During the conflict, employees will be allowed to perform the following work functions:

- Clearing operations between financial institutions in Denmark, including the Danish central bank (*Nationalbanken*)
- Liquidity and risk management for the purpose of procuring, monitoring and allocating the liquidity resources necessary to support the transactions permitted under this agreement may be performed during the conflict by the employees who have been exempted from the conflict
- Liquidity and risk management relating to own holdings for the purpose of preventing substantial losses which may adversely affect FA members' basis for maintaining their currently available liquidity resources and/or own funds."

This provision provides for the exemption of employees to perform three different types of work functions – all of which relate to clearing operations and liquidity management:

**A. Clearing operations between financial institutions in Denmark, including the Danish central bank (Nationalbanken)**

"Clearing" means the settlement of obligations and rights in connection with an agreed transaction. The provision means that the clearing operations which are usually made between financial institutions in Denmark, including also with players such as the Danish central bank, VP Securities and Nets, must be capable of continuing in the same way as before during the period of a conflict. The provision includes clearing of securities transactions, periodic runs to settle interest, dividends and other returns and bond draws, as well as sum clearing, paperless clearing and PBS clearing.

**B. Liquidity and risk management for the purpose of procuring, monitoring and allocating the liquidity necessary to support the transactions permitted under this agreement may be performed during the conflict by the employees who have been exempted from the conflict**

This provision provides for the exemption of employees to perform work functions which, in terms of liquidity, support the other work functions that are permitted during the period of a conflict. There are no monetary thresholds or other quantitative limits, as the crucial factor is whether the work function in question is permitted.

**C. Liquidity and risk management relating to own holdings for the purpose of preventing substantial losses which may adversely affect FA members' basis for maintaining their currently available liquidity resources and/or own funds**

Under this provision, employees are eligible for exemption to monitor the FA member's available liquidity resources and own funds. In case of a specific risk of substantial losses which may adversely affect the basis for maintaining the FA member's currently available liquidity resources and/or own funds, the exempted employees will be allowed to perform the necessary liquidity and risk management activities with a view to avoiding such losses.

#### **4. Other countries – support of foreign entities**

**This section is only relevant for FA members with a group entity in other countries.**

Section 1.4 of Appendix 1 to the Main Agreement reads as follows:

"FA members with a particular entity in Denmark which services exclusively foreign customers, see Appendix A, will be allowed to support such entity from its other entities in accordance with the principles set out in sections 1.4 and 1.5.

FA members with a foreign entity will be allowed to exempt employees in order to support the foreign entity and allow it to service its foreign customers, e.g. in connection with the following functions:

- Banking support
- IT operations and support of the group's IT systems
- Liquidity management and reporting to regulatory authorities for the purpose of avoiding a scenario where the foreign entity is unable to operate due to insolvency or non-compliance with essential regulatory requirements.

The FA member in Denmark which is affected by the conflict will not be allowed to support the foreign entity by engaging in direct sales or advisory services to the latter's customers/business partners. This applies to advisory services in connection with specific transactions/trading and advisory services of a more general nature.

In any case, it is a condition that the order in question is an order which has been initiated in the foreign entity. Orders which are sought to be initiated in Denmark will thus be affected by the conflict in any event – regardless of whether the order has been submitted from abroad.

Similarly, all handling/operational activities with foreign players in the absence of such customer relations in a foreign entity will be affected by the conflict, which also applies to authorisations of Danish card transactions initiated from abroad. As a specific exception, authorisation and routing of card transactions via NETS will be permitted in relation to foreign customers, even if they involve payment via an account in a Danish financial institution."

Below follows a discussion of the following two questions:

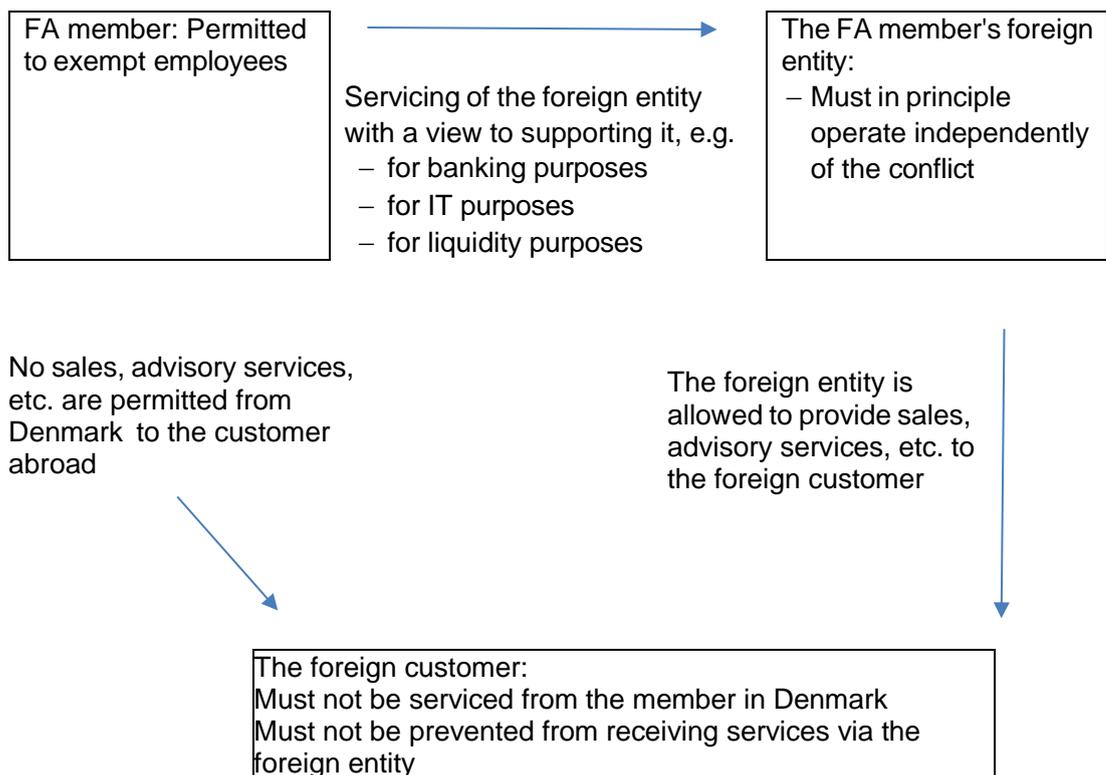
- (A) What does "foreign entities" mean?
- (B) Which work functions are eligible for exemption?

A. What does "foreign entities" mean?

The first condition for exemption of employees to perform work functions under this part of the agreement on conflict exemption is that the Danish FA member has a foreign entity. A foreign entity means that the foreign business forms part of the same group of companies as the Danish FA member and is located outside Denmark. Based on an assessment in each individual case, the provision may also be applicable to the Danish part of an international group of companies if the Danish entity services the entities of the foreign group. This applies to Nordea, for example.

Accordingly, this part of the agreement does not apply to FA members which have no foreign entities.

This may be graphically illustrated as follows:



The purpose of this part of the agreement is to ensure that members with a foreign entity are able to service this foreign entity to such an extent as to allow the foreign entity to operate independently of the conflict in which the entity providing the services is involved, see below for more details.

Thus, it is the servicing of the foreign entity which may justify exemption of employees from conflict by agreement. Work functions in connection with direct servicing of the foreign customer cannot therefore justify exemption of employees.

In addition, it is a condition for the foreign entity to be serviced that the customer is foreign and that the order which has been placed from abroad is not sought to be performed in Denmark – or that the order would not usually be performed in Denmark. In other words, this provision must not be used for the purpose of having work functions affected by a conflict performed in Denmark.

However, a special exception applies to Nets, which permits authorisation and routing of card transactions to a limited extent.

## B. Which work functions are eligible for exemption?

According to the agreement, the permitted work functions in terms of servicing the foreign entity include:

- Banking support
- IT operations and support of the group's IT systems
- Liquidity management and report to regulatory authorities for the purpose of avoiding a scenario where the foreign entity is unable to operate due to insolvency or non-compliance with essential regulatory requirements.

The list of work functions is not exhaustive, and other work functions may thus be permitted. However, it is a condition that the functions in question are intended to service the foreign entity. General work functions to be performed in the normal course of business between the FA member affected by the conflict and its foreign entity will thus be prevented by the conflict.

Below follows a more detailed description of the work functions which will usually be eligible for exemption by agreement as well as the work functions which fall outside the scope of the agreement on conflict exemption.

### ***Banking support***

Overall, the purpose of providing banking support is to allow the foreign entity to service its customers. This means that employees of the Danish entity are eligible for exemption to allow them – in line with normal practice – to prepare the necessary papers in this connection and to provide advisory services to the employees of the foreign entity.

There can be no sales or advisory services from Denmark directly to the customer.

### ***IT operations and support of the group's IT systems***

The foreign entity's IT systems must be allowed to run. This means that employees are eligible for exemption to perform work functions – during a conflict – which are intended to prevent breakdowns in the same way as with the member's own IT systems, see para (A) of section III.1. Similarly, advisory services and support to employees of the foreign entity are permitted with a view to preventing breakdowns.

Liquidity management and reporting to regulatory authorities for the purpose of avoiding a scenario where the foreign entity is unable to operate due to insolvency or non-compliance with essential regulatory requirements

Employees are eligible for exemption to assist foreign entities in their compliance with essential regulatory requirements and/or to ensure that the foreign entity is solvent.

This provision will presumably be limited in scope, but the situation could arise, by way of example, where a foreign regulatory authority imposes stricter capital requirements on the FA member in order to regard it as solvent and the FA member lacks the necessary funds.

## 5. Other countries – clearing operations etc.

This section is relevant for all FA members involved in international clearing and settlement activities, and for FA members which are responsible for freezing international payment cards.

Section 1.5 of Appendix 1 to the Main Agreement reads as follows:

"With regard to the settlement of transactions/trading entered into before the start of the conflict as well as transactions/trading initiated in foreign entities during the conflict, the following work functions will be permitted:

- International clearing operations between financial institutions
- International settlement systems
- SWIFT
- Freezing of international payment cards."

Below follows a discussion of:

- (A) International clearing and settlement activities, settlement systems and SWIFT
- (B) Freezing of international payment cards

### A. International clearing and settlement activities, settlement systems and SWIFT

The work functions which are eligible for exemption are those that relate to international clearing and settlement activities.

For clearing and settlement purposes, the FA member will be allowed to exempt employees for the use of SWIFT as well as special clearing and settlement systems. However, exemption is not limited to this purpose, as employees are eligible for exemption to perform all functions which are necessary for international clearing and settlement purposes. This also applies to international clearing which involves the Danish central bank (*Nationalbanken*).

Only clearing and settlement tasks in relation to transactions concluded before the start of the conflict will be permitted. With regard to transactions in the foreign entity of an FA member, clearing and settlement is not subject to any requirement that the transaction must be concluded before the start of the conflict. Accordingly, this provision does not apply to transactions initiated in a foreign business which does not belong to the same group of companies as an FA member.

Employees are not eligible for exemption to perform registration tasks such as electronic filing and internal reporting which are not necessary for the process. Such tasks must await the end of the conflict.

### B. Freezing of international payment cards

Employees are also eligible for exemption for the purpose of freezing international payment cards. This applies to employees whose functions include receiving calls from customers to freeze cards, e.g. call centre employees etc., as well as any other employees necessary to ensure that cards are frozen.

## 6. IT functions in relation to external customers in other countries

This section is relevant for FA members which are responsible for the operation/maintenance of foreign customers' IT systems. It is a condition, however, that the foreign customer must be an entity belonging to the same group of companies as the FA member.

Section 1.6 of Appendix 1 to the Main Agreement reads as follows:

"Employees may be exempted:

- To prevent operational breakdown/loss of data for customers that are foreign entities of an FA member within the area of the Main Agreement.

All development tasks will be affected by the conflict."

Below follows a discussion of:

- c. What does "external customers" mean?
- d. Which work functions are eligible for exemption?

### A. What does "external customers" mean?

This section concerns FA members which are responsible for the operation/maintenance of IT systems for foreign entities of other FA members.

If an FA member wishes to service its own entity in another country, this will fall with the scope of section III.4.

This section concerns the scope allowed for FA members – to a limited extent – to service the foreign entities of other FA members. By way of example, it could be the operation by an IT company of a foreign bank branch which constitutes an entity of an FA member covered by the standard collective agreement.

Thus, FA members will not be allowed to assist customers which are not a foreign entity of their own. This means that if, for example, a Danish FA member is responsible for the operation/maintenance of an independent foreign bank, the relevant work functions will thus be prevented by the conflict, regardless of whether there is a risk of operational breakdown and loss of data for the customer and regardless of whether the potential consequences involved for the customer are serious.

### B. Which work functions are eligible for exemption?

The work functions which are eligible for exemption are exclusively those that are intended to prevent operational breakdowns in the foreign entity of the FA member. Thus, the exemptions available under this provision are stricter than with regard to the servicing of the member's own foreign entity, see section III.4.

Accordingly, the work functions which are eligible for exemption under this section are basically the same as those that are eligible for exemption for purposes of preventing breakdowns in the FA member's own IT systems in Denmark. See para (A) of section III.1.

The following tasks are operational tasks that will be permitted:

- Preventing breakdowns of the foreign entity's IT functions/systems
- Troubleshooting, if necessary to avoid breakdowns

Accordingly, all development tasks will be affected by the conflict.

Nor will IT-related work functions in connection with money transactions etc. be permitted, since funds transfers from Denmark to other countries will be blocked and work functions in this connection will thus not be exempted from the conflict.

Clearing operations in connection with earlier transactions, however, may be exempted to a limited extent – but only if they fall within the scope of the Main Agreement, Annex 1, section 1.5, see section III, 5 above.

## **7. Maintenance and monitoring functions**

This section is relevant for all FA members covered by the standard collective agreement and thus applies to banks, savings banks, cooperative savings banks, mortgage-credit companies, finance companies and IT companies, etc.

Section 1.7 of Appendix 1 to the Main Agreement reads as follows:

"Employees may be exempted:

- To perform monitoring functions, maintenance and repair of technical installations as well as necessary work in connection with maintenance and repair of technical installations."

Under the agreement, FA members may exempt employees to "perform monitoring functions, maintenance and repair of technical installations as well as necessary work in connection with maintenance and repair of technical installations". This part of the agreement largely corresponds to the equivalent provision of the former agreement, according to which a limited number of employees at the head office and other head offices were eligible for exemption to perform work in connection with monitoring functions, maintenance and repair of technical installations as well as necessary work in connection with preservation of physical assets.

Notwithstanding the slightly changed wording, no change has been intended in the agreement, which means that, in line with usual practice, mailboxes, including SWIFT mailboxes, may be emptied and the necessary steps to preserve physical assets may be taken.

The only difference is that there is no limitation as to the number of employees who are eligible for exemption under this provision. In this context, it should be noted that the exempted employees will only be allowed to perform maintenance and monitoring functions.

## **8. Managers and employees with responsibility for collective agreements**

This section is relevant for all FA members covered by the standard collective agreement and thus applies to banks, savings banks, cooperative savings banks, mortgage-credit companies, finance companies and IT companies, etc.

Section 1.8 of Appendix 1 to the Main Agreement reads as follows:

"The following employees may be exempted:

- Managers with designated responsibility for one of the FA member's defined organisational entities, including branches and departments, such as heads of department, area managers or other managers
- Key employees whose areas of responsibility include collective bargaining, specific organisations-related matters and conflict contingency planning (internally and under the auspices of FA)."

The agreement covers both managers and key employees involved in collective bargaining, specific organisations-related matters and conflict contingency planning (internally and under the auspices of FA).

Under this provision, branch managers, departmental managers, area managers/managers and similar employees with responsibility for special organisational units, including HR, media relations, board of directors secretariat services, etc., are eligible for exemption.

The exempted employees will be allowed to perform their usual work functions.

## IV. IMPLEMENTATION

This section is relevant for all FA members.

Section 1.9 of Appendix 1 to the Main Agreement reads as follows:

"Having regard to the need to locally enter into up-to-date and factually correct agreements on conflict exemption, FA and the Financial Services Union may issue joint guidelines, such guidelines to be available at least 7 months before the date when the standard agreement would terminate subject to proper notice being given by either party.

As soon as possible and at least 6 months before the date when the standard agreement would terminate subject to proper notice being given by either party, each FA member must take initiative to open local negotiations as to which employees to exempt from the conflict in accordance with the above provisions. For purposes of the local negotiations, the FA member must submit a document specifying:

- Which work functions it wishes to exempt
- Which of the above exemptions each such work function belongs under
- Which employees are to be exempted to perform the work functions in question

If the negotiations have not been completed at least 5 months before the date when the standard agreement would terminate subject to proper notice being given by either party, the matter will be escalated to central negotiations between FA and the Financial Services Union. The same applies if a local agreement is concluded for an FA member to exempt more than 5% of its employees or for an FA member which mainly provides IT services and support to exempt 50% of its employees.

If the Financial Services Union and FA have not reached agreement at least 3 months before the date when the standard agreement would terminate subject to proper notice being given by either party, the matter may be submitted to industrial arbitration, and the arbitration tribunal must complete the proceedings at least 1½ month before the date when the standard agreement would terminate subject to proper notice being given by either party, and must issue its award at least 1 month before the same date."

### General rule: All FA members must negotiate locally

Banks and other FA members which are covered by the Main Agreement between FA and the Financial Services Union are covered by the agreement on conflict exemption as well (Appendix 1 to the Main Agreement). This means that the FA member will only have manpower available during the conflict if it has entered into a local agreement. Thus, it is without relevance if the FA member's employees are not all members of the Financial Services Union.

### Exception: "Appendix A members" are exempt from conflict and therefore not required to negotiate

The entities listed in appendix A to the agreement are fully exempt from conflict. They are defined entities which exclusively service foreign customers. The list is based on the data available when the collective agreement 2008 was entered into, and revised in preparation for the collective agreement 2012, 2014, 2017, 2020 and the coming agreement in 2023.

The list may be supplemented as well as reduced, if so agreed by the organisations. If an FA member believes that one of its entities satisfies the conditions for inclusion on the list or should be removed, it must notify FA on or before **30 August 2022** for purposes of the collective agreement 2023. FA will then request a discussion with the Financial Services Union before **31 August 2022** in order to allow the discussions for a revision of the appendix to be completed by **30 September 2022**.

#### [The contracting parties to local agreements on conflict exemption](#)

For FA members, it is always the management of the individual member who must enter into the local agreement on exemption of employees. For the employees, the identity of the contracting party will depend on whether the individual FA member has an elected union representative.

#### **FA members with an elected union representative**

The agreement will be entered into by the management of the FA member and the union representative.

#### **FA member with no elected union representative**

In the absence of an elected union representative, the agreement will be entered into by the FA member and the Financial Services Union.

FA members with no elected union representative must contact the Financial Services Union and request a meeting to discuss an agreement on conflict exemption. Please send an e-mail to [post@finansforbundet.dk](mailto:post@finansforbundet.dk) with a copy to [fa@fanet.dk](mailto:fa@fanet.dk) on or before **30 September 2022**.

#### [Procedure for local negotiations](#)

Well before the central collective bargaining process, the management of the FA member should analyse the extent to which its needs to exempt employees from conflict – having regard to the scope for exemption allowed by the agreement.

On or before **30 September 2022**, the FA member must take the initiative to open local negotiations to identify the employees to be exempted. By way of example, this could be done by inviting the union representative to a meeting or contacting the Financial Services Union.

It may be a good idea to start the local negotiation process early, given the fact that a number of employees will be away on holiday in week 42.

For purposes of the negotiations, the FA member must submit a document specifying:

- Which work functions does management wish to exempt?
- Which provision of the agreement on conflict exemption does each individual work function belong under?
- Which employees does management wish to exempt to perform the work functions in question?

Annex 1, p. 24 is an example of a name list for use in local negotiations, and Annex 2, p. 25 is a template local agreement. For FA members with an IT organisation of their own (as defined in the collective agreement), a separate list must be prepared for the bank organisation and for the IT organisation, respectively, see example 3, p. 19.

The local negotiations must end with a written agreement – or a conclusion by the parties

that they were unable to reach agreement. The local negotiations for purposes of the renewal of the collective agreement 2023 must be completed by **31 October 2022**.

### Central negotiations

In two situations the local negotiations will be escalated to central negotiations between FA and the Financial Services Union.

### No local agreement

This happens if the local parties are unable to reach agreement. In that case, the FA member must notify FA of the unsuccessful negotiations by e-mail to [fa@fanet.dk](mailto:fa@fanet.dk) on or before **1 November 2022**.

### Local agreement, but the number of exempted employees exceeds the permitted percentages

Even if the parties have reached agreement locally, the negotiations will be taken over by FA and the Financial Services Union if the number of employees exempted under the agreement exceeds the number allowed under a local agreement, see below for more details.

### Quantitative restrictions

Banks and other finance providers which do not have an IT organisation of their own as defined in the collective agreement are allowed to agree locally to exempt up to 5% of their employees from a conflict – without being required to submit the agreement to the central organisations.

FA members which primarily provide IT services and support may agree locally to exempt up to 50% of their employees – without being required to submit the agreement to the central organisations. The same applies to banks with an IT organisation of their own as defined in the collective agreement.

Under the general rules, however, the central organisations are entitled to overrule any local agreement that clashes with the agreement on conflict exemption.

### Examples of how to calculate exemption percentages

Example 1: A local bank whose IT systems are operated by an external service provider expects to have 500 employees when the collective agreement expires on 31 March 2023. The bank is therefore allowed to conclude a local agreement to exempt up to 25 employees from conflict – without being required to submit the agreement to the central organisations.

Example 2: A regional bank whose IT systems are operated by an external service provider expects to have 4,000 employees on expiry of the term of the collective agreement. The bank is therefore allowed to conclude a local agreement to exempt up to 200 employees from conflict – without being required to submit the agreement to the central organisations.

Example 3: A bank with 15,000 bank employees and its own 1,000 employee-strong IT organisation is allowed to conclude a local agreement to exempt up to 5% for the banking organisation (= 750 employees) and up to 50% for the IT organisation (= 500 employees), i.e. a total of 1,250 employees – without being required to submit the agreement to the central organisations.

Example 4: An IT service provider with 1,500 employees is allowed to conclude a local agreement to exempt up to 750 employees from conflict – without being required to submit the agreement to the central organisations.

It is possible to exempt a greater number of employees than the 5% and 50% mentioned above. However, any such agreement must be approved by the central organisations to be effective.

#### Industrial arbitration

The negotiations, if any, between FA and the Financial Services Union must take place in November and December 2022. If the organisations have not reached agreement by **30 December 2022**, the matter may be submitted to industrial arbitration. The oral proceedings must then take place on or before **15 February 2023** to ensure that an award will be available by **28 February 2023**.

## V. PAY AND WORK DURING THE CONFLICT

This section is relevant for all FA members which conclude a local agreement to exempt one or more employees from conflict.

Section 1.10 of Appendix 1 to the Main Agreement reads as follows:

"The work functions specified in sections 1.1-1.8 are an exhaustive list of the work functions that may be exempted in case of a conflict.

To the extent that employees are exempted from the conflict in accordance with the above provisions, they will thus only be entitled and obligated to perform the above work functions to the extent demonstrated by the FA member to be necessary.

Accordingly, the employees in question will not be allowed to perform any functions other than those specified to a larger extent than permitted by the relevant exemption.

In any case, exempted employees will be entitled to full pay during the conflict, regardless of whether in each individual case there is only limited work to perform or none at all."

### Which work functions will be permitted during a conflict?

The only work functions which will be permitted are those that have been exempted by agreement and only to the extent specified in such agreement.

In other words, employees who have been exempted from conflict by virtue of either a local or central agreement will not be allowed to perform their normal and usual work functions during the conflict – unless, of course, the exempted work functions are the same as the employees' normal and usual work functions. This applies to all employees, whether organised or not.

### Pay during the conflict

Exempted employees will be entitled to full pay for the duration of the conflict.

This also applies to employees who as a matter of fact only perform exempted work functions, even if only for a few hours a day or week – or not at all. The deciding factor is whether the employee has been exempted from participating in the conflict.

Reference is also made to the general conflict guidelines issued by FA and the Financial Services Union.

Specifically with regard to shop stewards etc.

The following employees are not eligible for exemption:

- Members of the Executive Committee of the Financial Services Union
- Members of the Assembly of Representatives of the Financial Services Union
- Elected union representatives

During a conflict, shop stewards are entitled to request access at short notice to the FA member located in the area where the individual shop steward is elected, in order to verify compliance with the agreement on conflict exemption.

## VI. SUBSTITUTE EMPLOYEES

This section is relevant for all FA members which conclude a local agreement to exempt one or more employees.

Section 1.11 of Appendix 1 to the Main Agreement reads as follows:

"If it turns out following the conclusion of a local agreement that an exempted key employee is prevented from performing the exempted work functions because he or she has left the FA member's employment or is on a leave of absence or on long-term sickness leave, the FA member may replace the employee by another, subject to agreement with the union representative. Such agreement must be made no later than one week after the FA member becomes aware that the employee is excused and in any case no later than 3 days before the start of the conflict."

As mentioned, local agreements must be concluded by **31 October 2022**. Since any conflict – after the postponement options available under the Danish Official Conciliator's Act (*forligsmandsloven*) have been exercised – cannot be expected to start until in May 2023, a number of changes will have taken place with regard to the employee situation which could not be anticipated at the time of the agreement. Employees who have been exempted by agreement may have left the FA member for another job or may be on a leave of absence or on sickness leave.

In that case, the FA member and the union representative/the Financial Services Union may agree to replace the employee in question by another employee during the conflict.

Any such agreement must be concluded no later than one week after the FA member becomes aware that the employee is excused and no later than three days before the conflict starts.



## ANNEX 2

### LOCAL AGREEMENT ON CONFLICT EXEMPTION

Pursuant to the agreement on conflict exemption dated 21 February 2008 between FA and the Financial Services Union

This local agreement is made by FA member xxxxxxxxxx and its trade union employee association represented by yyyyyyyyyyyy (chairman). This local agreement will enter into force on 1 April 2023 and will terminate without further notice on completion of the process to renew the collective agreement 2023.

The parties agree that any industrial action commenced in connection with the renewal of the collective agreement 2023 must be conducted in accordance with the objectives of the agreement on conflict exemption, i.e. must ensure the effectiveness of the conflict and that the work functions specified in the agreement on conflict exemption can be performed during the conflict.

For the FA member, the general conflict exemption provisions of the Main Agreement apply, see Appendix 1 to the Main Agreement.

The attached annex to this local agreement contains a list of the employees who have been exempted from conflict by virtue of this agreement.

The total number of exempted employees is zzz for the FA member.

Based on a total headcount of xxx, the exempted employees make up x.y% of the FA member's employees.

....., xx xx 2022

For the FA member

By the union representative/  
For the employee association

\_\_\_\_\_  
xxxxxxx Manager/Director HR

\_\_\_\_\_  
xxxxxxx, chairman

## **ANNEX 3**

### **ADDENDUM TO AGREEMENT ON CONFLICT EXEMPTION**

#### **MAIN AGREEMENT BETWEEN THE DANISH EMPLOYERS' ASSOCIATION FOR THE FINANCIAL SECTOR (FA) AND THE FINANCIAL SERVICES UNION, APPENDIX 1**

The parties agree that in extraordinary cases IT companies are allowed to exempt employees for the purpose of providing IT services to foreign financial customers if necessary for the foreign customer's compliance with absolute statutory and sector requirements. This means statutory and sector requirements which – if not complied with – would lead to a closure order being issued.

If so requested, the FA member must demonstrate the necessity of performing work functions under this agreement, including the foreign statutory requirements and the orders imposed by the foreign authorities on the foreign financial customer.

**Finansforbundet**  
Applebys Plads 5  
Postboks 1960  
1411 København K  
Telefon 32 96 46 00  
post@finansforbundet.dk  
www.finansforbundet.dk

**FA**  
Amaliegade 7  
1256 København K  
Telefon 33 91 47 00  
fa@fanet.dk  
www.fanet.dk