

Form for  
"Statutory report on foundation governance, cf. section 77a of the  
Danish Financial Statements Act"

*[Name of the commercial foundation]*

## What should this form be used for?

This form is meant as a tool for commercial foundations that wish to submit the statutory report on foundation governance as a form, cf. section 77a of the Financial Statements Act<sup>1</sup>.

The report on foundation governance must be published in the management commentary, in the notes to the annual report, or on the foundation's website, if any, with a reference to its location in the management commentary or in the notes.

Publication of the report on foundation governance on the foundation's website, if any, with a precise reference in the management commentary establishes the highest level of transparency, as it is easier to access for the general public.

Publication on the foundation's website, if any, requires that the URL address on which the report on foundation governance is published is stated in the management commentary or in the notes. The URL address must be the internet address which is used to access the report **directly**.

For more information about publication of the report on foundation governance on the foundation's website, the Committee refers to the Executive Order on the publication of a number of reports pursuant to the Financial Statements Act<sup>2</sup>.

**Note:** The form below contains the Recommendations of the Committee on Foundation Governance of June 2020. These Recommendations are available on the Committee's website: [www.godfondsledelse.dk](http://www.godfondsledelse.dk). **The form can be used to prepare a report on foundation governance in the annual report.**

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<sup>1</sup> In Danish Årsregnskabsloven, LBK nr. 838 af 8. august 2019 with later amendments.

<sup>2</sup> In Danish Bekendtgørelse om offentliggørelse af en række redegørelser efter årsregnskabsloven, BEK nr. 959 af 13. september 2019

## “Comply or explain”

Section 77a of the Financial Statements Act states that foundations which are covered by the Commercial Foundations Act<sup>3</sup> must include a report by the board of directors on foundation governance, cf. section 60 of the Commercial Foundations Act, in the management commentary or in the notes.

According to section 60 of the Commercial Foundations Act, the board of directors must specify in the report how the commercial foundation has addressed the Recommendations. The board of directors can choose to comply with the Recommendations or explain what they have chosen to do instead.

*Failure to comply with a Recommendation is **not** considered as a breach of the rules but merely implies that the board of directors has chosen a different approach due to reasons that it has explained.*

Reporting must reflect the current type of management at the date of the annual report. In the event of significant changes during the year or after the balance sheet date, this should be described in the report on foundation governance.

It is important that the board of directors addresses each individual recommendation.

## Statutory report on foundation governance, cf. section 77a of the Financial Statements Act

### Note!

The report is an integrated part of the management commentary in the annual report of the foundation for the following accounting period:

***[the foundation's accounting period]***

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<sup>3</sup> In Danish Lov om erhvervsdrivende fonde, LBK nr. 984 af 20. september 2019

# Recommendations on Foundation Governance

The foundation is covered by the Recommendations on Foundation Governance, which are available on the website of the Committee on Foundation Governance [www.godfondsledelse.dk](http://www.godfondsledelse.dk).

Recommendation	The foundation complies	The foundation <u>explains</u> <sup>4</sup>		Not applicable
		<i>why</i>	<i>how</i>	
<b>1. Transparency and communication</b>				
<b>1.1</b> It is <b>recommended</b> that the board of directors adopt principles for external communication that address the need for transparency and stakeholders' needs and possibilities to obtain relevant up-to-date information about the circumstances of the foundation.				
<b>2. Tasks and responsibilities of the board of directors</b>				
<b>2.1 Overall tasks and responsibilities</b>				

<sup>4</sup> In case of lack of compliance with a recommendation, the foundation must explain *why* this recommendation was not followed and *how* the foundation has acted differently. An adequate explanation answers both questions and categorises the answer as being in compliance with the recommendation. It is therefore important that the foundation answer both questions in its explanation.

Recommendation	The foundation complies	The foundation <u>explains</u> <sup>4</sup>		Not applicable
		<i>why</i>	<i>how</i>	
<p><b>2.1.1</b> It is <b>recommended</b> that, in order to secure the activities of the commercial foundation in accordance with the purposes and interests of the foundation, the board of directors should, at least once a year, take a position on the overall strategy and distribution policy of the foundation on the basis of the articles of association.</p>				
<p><b>2.1.2</b> It is <b>recommended</b> that the board of directors regularly address whether the foundation's asset management is in line with the purpose of the foundation and its long- and short-term needs.</p>				
<b>2.2 Chairman and vice-chairman of the board of directors</b>				
<p><b>2.2.1</b> It is <b>recommended</b> that the chairman of the board of directors organise, convene and chair meetings of the board of directors in order to ensure effective board work and to establish the best conditions for the work of the board members, individually and collectively.</p>				

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		<i>why</i>	<i>how</i>	
<p><b>2.2.2</b> It is <b>recommended</b> that if the board of directors, in exceptional cases, asks the chairman of the board of directors to perform special activities for the commercial foundation which extend beyond the duties of chairman, a board resolution to that effect be passed to ensure that the board of directors maintains its independent, general management and control function. Appropriate allocation of responsibilities should be ensured between the chairman, the vice-chairman, the other members of the board of directors and the executive board, if any.</p>				
<b>2.3 Composition and organisation of the board of directors</b>				
<p><b>2.3.1</b> It is <b>recommended</b> that the board of directors regularly, and at least every second year, assess and stipulate the competences that the board of directors needs to possess in order to best perform the tasks incumbent upon the board of directors.</p>				

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		<i>why</i>	<i>how</i>	
<p><b>2.3.2</b> It is <b>recommended</b> that, with due respect of any right in the articles of association to make appointments, the board of directors approves a structured, thorough and transparent process for selection and nomination of candidates for the board of directors.</p>				
<p><b>2.3.3</b> It is <b>recommended</b> that members of the board of directors are appointed on the basis of their personal qualities and competences, taking into account the collective competences of the board, and when composing and nominating new members of the board the need for introducing new talent is weighed against the need for continuity and the need for diversity in relation to commercial and grants experience, age and gender.</p>				

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		<i>why</i>	<i>how</i>	
<p><b>2.3.4</b> It is <b>recommended</b> that in the management commentary in the annual report and on the commercial foundation's website, if any, there is an account of the composition of the board of directors, including its diversity, and that the following information is provided on each board member:</p> <ul style="list-style-type: none"> <li>• the name and position of the member,</li> <li>• the age and gender of the member,</li> <li>• date of original appointment to the board whether the member has been re-elected, and expiry of the current election period,</li> <li>• any special competences possessed by the member,</li> <li>• other managerial positions held by the member, including positions on executive boards, boards of directors and supervisory boards and board committees in Danish and foreign foundations, enterprises and institutions, as well as other demanding organisation tasks,</li> </ul>				



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		<i>why</i>	<i>how</i>	
<ul style="list-style-type: none"> <li>• whether the member owns shares, options, warrants and similar in the foundation's subsidiaries and/or associated companies,</li> <li>• whether the member has been appointed by authorities/providers of grants etc., and</li> <li>• whether the member is considered independent.</li> </ul>				
<p><b>2.3.5</b> It is <b>recommended</b> that the majority of the members of the board of directors of the commercial foundation are not also members of the board of directors or executive board of the foundation's subsidiary(ies), unless it is a fully owned actual holding company.</p>				
<b>2.4 Independence</b>				

Recommendation	The foundation complies	The foundation <u>explains</u> <sup>4</sup>		Not applicable
		<i>why</i>	<i>how</i>	
<p><b>2.4.1</b> It is <b>recommended</b> that an appropriate proportion of the board of directors be independent.</p> <p>If the board of directors (excluding employee representatives) is composed of</p> <ul style="list-style-type: none"> <li>• up to four members, at least one member should be independent,</li> <li>• between five and eight members, at least two members should be independent, or</li> <li>• nine to eleven members, at least three members should be independent, and so on.</li> </ul> <p>To be considered independent, this person may not, for example:</p> <ul style="list-style-type: none"> <li>• be or within the past three years have been member of the executive board, or senior employee in the foundation, or an essential subsidiary or associated company to the foundation,</li> </ul>				

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		<i>why</i>	<i>how</i>	
<ul style="list-style-type: none"> <li>• within the past five years have received larger emoluments, including distributions or other benefits from the foundation/group or a subsidiary or associated company to the foundation in other capacity than as member of the board of directors or executive board of the foundation,</li> <li>• within the past year have had a significant business relationship (e.g. personal or indirectly as partner or employee, shareholder, customer, supplier or member of the executive management of companies with corresponding connection) with the foundation/group or a subsidiary or associated company to the foundation,</li> <li>• be or within the past three years have been employed or partner at the external auditor,</li> <li>• have been a member of the board of directors or executive board of the foundation for more than 12 years,</li> </ul>				

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		<i>why</i>	<i>how</i>	
<ul style="list-style-type: none"> <li>• be a close relative of, or in some other way be especially close to, persons who are not considered independent,</li> <li>• be the founder or a significant donor if the purpose of the foundation is to grant support to this person's family or others who are especially close to this person, or</li> <li>• be a member of the management of an organisation, another foundation or similar, which receives or repeatedly within the past five years has received significant donations from the foundation.</li> </ul>				
<b>2.5 Appointment period</b>				
<b>2.5.1</b> It is <b>recommended</b> that members of the board of directors be appointed for a minimum period of two years and a maximum period of four years.				

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		<i>why</i>	<i>how</i>	
2.5.2 It is <b>recommended</b> that an age limit for members of the board of directors be set, which is published in the management commentary or on the foundation's website.				
<b>2.6 Evaluation of the performance of the board of directors and executive board</b>				
2.6.1 It is <b>recommended</b> that the board of directors establish an evaluation procedure in which the board of directors, the chairman and the contributions and performance of individual members are evaluated annually, and the result is discussed by the board of directors.				
2.6.2 It is <b>recommended</b> that once a year the board of directors evaluate the work and performance of the executive board and/or the administrator (where relevant) in accordance with predefined clear criteria.				
<b>3. Remuneration of management</b>				

Recommendation	The foundation complies	The foundation <u>explains</u> <sup>4</sup>		Not applicable
		<i>why</i>	<i>how</i>	
<p><b>3.1.1</b> It is <b>recommended</b> that the members of the board of directors of commercial foundations be remunerated with a fixed remuneration and that members of an executive board, if any, be remunerated with a fixed remuneration, possibly combined with a bonus which should not be dependent upon accounting results. The remuneration should reflect the work and responsibilities consequential to the position.</p>				
<p><b>3.1.2</b> It is <b>recommended</b> that the financial statements provide information about the full remuneration received by each member of the board of directors and any executive board from the commercial foundation and from the foundation's subsidiaries and associated companies. Furthermore there should be information on any other remuneration which members of the board of directors and any executive board have received for performing other work or tasks for the foundation, the foundation's subsidiaries or associated</p>				

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		<i>why</i>	<i>how</i>	
companies, except for the remuneration of employee representatives as employees.				