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## **Insurance & Reinsurance - Sweden**

### **Implementation of EU Reinsurance Directive**

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**New Definitions**  
**Removal of Exemptions**  
**Valuation of Assets**  
**Placement Rules**  
**Foreign Reinsurers**  
**Additional Regulation**

The EU Reinsurance Directive (2005/68/EC) was implemented in Swedish law on April 1 2008 - three months after the intended date - by amendments to the Insurance Business Act 1982 and the Foreign Insurance Activities Act 1998. As a result, reinsurance businesses are now subject to practically all business rules that apply to direct insurance companies. Furthermore, they are now prohibited from providing direct insurance cover.

#### **New Definitions**

Before the implementation of the directive, reinsurance was already considered a form of insurance business and was thus subject to the regulations of the Insurance Business Act. As part of the directive's implementation, definitions of 'reinsurance' and 'reinsurance companies' have been added to the act. The term 'insurance company' now includes undertakings which have been formed in accordance with the act and which provide direct insurance or reinsurance cover. Furthermore, a definition of 'reinsurance' has been added to the Foreign Insurance Activities Act. Previously, reinsurance was referred to in the two acts as "indirect insurance". Following the insertion of the new definitions, this term has been removed.

A definition of 'special purpose vehicles' has also been added - they are defined as foreign undertakings that, although not insurance undertakings, assume risks from such undertakings and fund their operations entirely from the proceeds of debt issuance or other financing mechanisms in which repayment rights are subordinated to the reinsurance obligations of such a vehicle under a risk assumption agreement. Amounts outstanding from a special purpose vehicle may now be used as assets covering technical provisions. Although they are now defined, special purpose vehicles still may not be incorporated under Swedish law.

#### **Removal of Exemptions**

The former - generously applied - opportunities for exemption from the solvency and business conduct requirements of the Insurance Business Act for reinsurance business and certain fronting activities have now been removed. Thus, all reinsurance business, whether provided by a reinsurance company or a direct insurance company, will be subject to all applicable regulations of the act.

#### **Valuation of Assets**

A new rule for all insurance companies provides that all assets will generally be valued at their actual value, rather than their acquisition value, for the purpose of matching assets. This rule is new to two kinds of asset: bonds held until maturity and stocks and shares in subsidiaries. Other types of asset were already valued at their actual value. The new rule means that undertakings must be able to establish the actual value of the assets at all times, not merely when preparing annual accounts and quarterly statements. As larger undertakings can already establish the actual value of all asset types, this rule will mostly affect smaller companies.

#### **Placement Rules**

Specific and more qualitative placement rules have been enacted for reinsurance companies. Derivative instruments, which have previously been permitted only as matching assets for institutions for occupational

retirement provision, are now permitted as matching assets, provided that they reduce the financial risk of the company or increase the efficiency of the company's matching assets (ie, the assets that match the insurance technical debts). For companies which provide both non-life insurance cover and reinsurance to a significant extent, the minimum asset base (ie, the guarantee sum) has been raised from €2 million to €3 million. Furthermore, reinsurance companies and reinsurance claims now fall within the scope of the priority rights defined by the Right of Priority Act 1970.

The former restriction on investments in securities, bonds and other instruments issued, guaranteed or insured by any one person and pertaining to shares of investment funds managed by one fund company has been removed. Instead, a maximum of 25% of matching assets may now be placed in the asset-backed securities of any one issuer.

### Foreign Reinsurers

As a general rule, identical requirements are imposed on foreign and Swedish insurers and reinsurers for the purpose of conducting reinsurance business in Sweden. A distinction is made between insurers and reinsurers from other European Economic Area (EEA) member states, which are subject to home state supervision and the EU freedom of establishment and freedom of services regulations, and those from third countries, which fall under the scope of Swedish rules to a greater degree and therefore need official authorization to conduct business.

### Additional Regulations

The Swedish Financial Supervisory Authority is charged with issuing regulations and guidelines to complement the statutory changes mentioned above. The authority generally avoids detailed regulations and applies a principle of minimum implementation to EU legislation, refraining from going beyond directive requirements unless particular grounds exist. It has so far issued implementing regulations regarding:

- business plans for the establishment of a branch or agency in another EEA country (FFFS 2008:10);<sup>(1)</sup>
- matching assets in Swedish insurance companies and institutes of retirement provisions (FFFS 2008:7);
- business plans for Swedish insurance companies (FFFS 2008:8); and
- business plans for insurance providers from a third country (FFFS 2008:9).

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### Endnotes

(1) Amending Regulation FFFS 2005:27.

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