

Finansinspektionen's Regulatory Code

Publisher: Finansinspektionen, Sweden, www.fi.se
ISSN 1102-7460



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Finansinspektionen's regulations and general guidelines regarding liability coverage in Swedish insurance undertakings and occupational pension funds;

FFFS 2008:7

Published on
5 May 2008

decided on 25 April 2008.

Finansinspektionen prescribes¹ the following pursuant to section 49 of the Insurance Business Ordinance (1982:790).

Below the paragraphed regulations, Finansinspektionen provides *General guidelines*.

Chapter 1 Scope and definitions

Scope

Section 1 Swedish insurance undertakings and mutual benefit societies providing occupational pension insurance shall apply these regulations.

However, Chapters 7–8 only apply to insurance undertakings and Chapters 4–6 only apply to insurance undertakings conducting direct insurance business.

Mutual benefit societies providing occupational pension insurance shall also apply the general guidelines in Chapter 8, section 3.

Section 2 These regulations contain provisions regarding

– the valuation of different assets and how these assets are used for liability coverage (Chapters 2–7),

¹ Cf. European Parliament and Council Directive 2005/68/EC of 16 November 2005 on reinsurance and amending Council Directives 73/239/EEC and 92/49/EEC and Directives 98/78/EC and 2002/83/EC (EUT L 323, 9.12.2005, p.1, Celex 32005L0068). European Parliament and Council Directive 2003/41/EC of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision (EGT L 235, 23.09.2003, p. 10, Celex 32003L0041). Council Directive 88/357/EEC of 22 June 1988 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and laying down provisions to facilitate the effective exercise of freedom to provide services and amending Direktiv 73/239/EEC (EGT no. L 172, 4.7.1988, p. 13, Celex 388L0357), Council Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC (EGT no. L 228, 11.8.1992, p. 1, Celex 392L0049), Council Directive 92/96/EEC of 10 November 1992 on the coordination of laws, regulations and administrative provisions relating to direct life assurance and amending Directives 79/267/EEC and 90/619/EEC (EGT no. L 360, 9.12.1992, p. 25, Celex 392L0096).

- the requirements placed on the register and the special register that an insurance undertaking in accordance with Chapter 7, section 11 of the Insurance Business Act shall maintain of the assets used for liability coverage (Chapter 8), and
- exceptions to these regulations (Chapter 9).

Definitions

Section 3 For the purposes of these regulations:

direct insurance undertaking: insurance undertakings that conduct direct insurance business,

required disclosures: those disclosures required to give a fair presentation of the liability coverage and enable an assessment of the fulfilment of the investment regulations.

insurance undertakings: undertakings formed in accordance with the Insurance Business Act that provide direct insurance and/or reinsurance.

guaranteed insurance commitments: insurance commitments other than guaranteed bonuses, conditional bonuses and insurance commitments for which the policy holder bears the risk,

guaranteed bonuses: bonuses that are guaranteed in nominal or real amounts via insurance agreements or a unilateral commitment from the undertaking,

register: the register that an insurance undertaking is obligated to maintain in accordance with Chapter 7, section 11, first paragraph, first line of the Insurance Business Act (1982:713),

special purpose entities: an undertaking in accordance with Chapter 1, section 9h of the Insurance Business Act,

special register: the register that a life insurance undertaking is obligated to maintain in accordance with Chapter 7, section 11, first paragraph, second sentence of the Insurance Business Act for the assets used as liability coverage in business related to occupational pension insurance,

occupational pension fund: mutual benefit societies that provide occupational pension insurance,

occupational pension business: business related to occupational pension insurance,

conditional bonuses: agreed or unilaterally guaranteed bonus which is conditional upon changes in value and yield on assets or upon a certain technical result in respect of which the policy holders or other persons entitled to payment bear the risk, and

reinsurance undertaking: an insurance undertaking that received a concession only for business related to reinsurance and that may not conduct any business other than reinsurance business and activities related thereto.

Chapter 2 Fair value valuation

Section 1 The provisions in this chapter apply to insurance undertakings and occupational pension funds.

Section 2 Fair value in accordance with Chapter 7, section 10f of the Insurance Business Act shall be determined based on the asset's market value.

General guidelines

General provisions regarding fair value are laid down in the Annual Accounts for Insurance Companies Act (1995:1560) and in Finansinspektionen's regulations and general guidelines (2006:17) regarding annual accounts at insurance undertakings.

Guidance for the calculation of fair value for financial instruments is also available in International Accounting Standard (IAS) 39², points 48–49 and in points VT69–VT82 in Appendix A – Guidelines for applying IAS 39.

Derivatives affecting the value of assets providing liability coverage may be taken into account during the valuation of such assets.³

Chapter 3 Value of property, site-leasehold rights and buildings in the liability coverage

Section 1 The provisions in this chapter apply to insurance undertakings and occupational pension funds.

Section 2 Property, site-leasehold rights and buildings, with respect to liability coverage, may be recognised at an amount no larger than the per cent of fair value set out below.

a) Agricultural, residential, office or commercial properties and corresponding site-leasehold rights may be recognised at no more than 70 per cent of fair value.

b) Property that in full or in part is established for industrial operations and corresponding site-leasehold rights may be recognised at no more than 60 per cent of fair value.

c) Other properties or site-leasehold rights may be recognised at the value determined by Finansinspektionen on a case-by-case basis.

Section 3 Insurance undertakings and occupational pension funds, when calculating the value of property, shall deduct an amount corresponding to the sum of mortgages actually utilised as collateral and add 15 per cent to the total.

Chapter 4 Liens on property or site-leasehold rights

Section 1 Direct insurance undertakings shall apply the provisions in this chapter. However, the provisions do not apply to assets corresponding to technical provisions in activities related to occupational pension business. The provisions

² See Financial instruments: Recognition and Measurement.

³ Cf. Chapter 7, section 17b of the Insurance Business Act.

also do not apply to assets corresponding to provisions for conditional bonuses and insurance commitments for which the policy holder bears the investment risk.

Section 2 In order to use a debt commitment in accordance with Chapter 7, section 10, first paragraph, line 14 of the Insurance Business Act as liability coverage, the lien on collateral for the debt commitment must lie between the values set out in Chapter 3, section 2 of these regulations.

Section 3 The tax assessment value for property and site-leasehold rights may be used for a lien on a property or site-leasehold rights if it is obvious that an individual valuation of the property would result in a higher value than the tax assessment value. However, an individual valuation of an industrial property shall always be conducted for an industrial property.

Chapter 5 Foreign states, foreign central banks and international organisations

Section 1 Direct insurance undertakings shall apply the provisions in this chapter. However, the provisions do not apply to assets corresponding to technical provisions in activities related to occupational pension business. The provisions also do not apply to assets corresponding to provisions for conditional bonuses and insurance commitments for which the policy holder bears the investment risk.

Section 2 Foreign states that can be accepted following an application of Chapter 7, section 10, first paragraph, lines 2, 3, 7 and 9–12 of the Insurance Business Act are

- Member States within the EEA, or
- any of the following states: Australia, Japan, Canada, Mexico, New Zealand, Saudi Arabia, Switzerland, South Korea, Turkey or the USA.

Section 3 *Foreign central bank* within the meaning of Chapter 7, section 10, first paragraph, line 2 of the Insurance Banking Act refers to a central bank in any of the states set out in section 2.

Section 4 *International organisation* within the meaning of Chapter 7, section 10, first paragraph, line 4 of the Insurance Business Act refers to an international organisation in which at least one of the states set out in section 2 is a member.

General guidelines

Examples of international organisations responsible for bonds or other debt commitments that can be used as liability coverage include the World Bank Group, the International Monetary Fund (IMF), the European Investment Bank and the European Union.

The insurance undertaking should consult Finansinspektionen before using debt commitments issued by any other international organisations as liability coverage.

Chapter 6 Managing foreign exchange rate risk

Section 1 Direct insurance undertakings shall apply the provisions in this chapter. However, the provisions do not apply to assets corresponding to technical provisions in activities related to occupational pension business. The provisions

also do not apply to assets corresponding to provisions for conditional bonuses and insurance commitments for which the policy holder bears the investment risk.

Matching and other hedges of foreign exchange rate risk

Section 2 For coverage of technical provisions on own account, commitments payable in a specific currency shall correspond to assets in the same currency. The coverage can also consist of assets realisable in the same currency without a risk for exchange loss. The requirements set out in sections 3–9 shall be fulfilled at all times. However, a direct insurance undertaking may utilise a reasonable adjustment period to avoid unnecessary exchange losses.

Shares and participations adopted for trade on a regulated market, MTF or other market place outside the EEA shall be considered to be denominated in the currency of the country in which the market place is located. Other shares and participations shall be considered to be denominated in the currency of the country in which the issuer has its headquarters.

An asset can be considered realisable without risk for exchange loss if the insurance undertaking uses a currency hedge.

General guidelines

Agreements for currency hedges should be regularly traded on a regulated market or drawn up with a counterparty with high creditworthiness.

The liability coverage register should indicate if the assets are covered by currency hedges.

For shares and participations, the undertaking should make a general assessment of how the liability coverage is affected by changes in the foreign exchange rate.

Section 3 For each currency, at the most 20 per cent of the undertaking's technical provisions on own account in respect of this currency may be covered by assets in other currencies.

Determining the currency for the commitment

Section 4 When the commitment is denominated in the insurance agreement in a specific currency, the direct insurance undertaking's obligations shall be considered payable in the same currency. If the commitment set out in a non-life insurance agreement is not denominated in a specific currency, the undertaking's obligations shall be considered payable in the currency of the country in which the risk is located.

However, the undertaking may choose the currency in which the premium is stated if there are reasonable grounds for such a choice. This can be the case if, when entering into the agreement, it is probable that the insurance compensation will be paid out in the premium's currency and not the currency of the country in which the risk is located.

Section 5 The currency in which the insurance compensation shall be paid may be presumed to be either the currency used pursuant to non-life statistics or, if such

statistics are not available, the currency of the country in which the direct insurance undertaking is established, with regard to:

- a) agreements for risks attributable to insurance classes 4–7, 11 and 12 and, with regard to product responsibility, insurance class 13,
- b) agreements for risks attributable to other insurance classes where the compensation, based on the nature of the risk, shall be paid in a currency other than the currency that would be chosen given the application of the rules mentioned above.

Section 6 When a non-life insurance claim has been reported to the insurance undertaking and the compensation is payable in a specified currency other than the currency that would have applied under sections 4 or 5, the undertaking's commitments shall still be considered payable in the first-mentioned currency.

This applies in particular if the currency in which the compensation shall be paid was determined via court judgements or an agreement between the direct insurance undertaking and the policy holder.

Section 7 When non-life insurance claims are valued in a currency that is known in advance by the insurance undertaking but is different than the currency that would apply under sections 4, 5 or 6, the undertaking may consider its commitments payable in the first-mentioned currency.

Liability coverage in a currency other than the currency of the commitment

Section 8 The technical provisions do not need to be covered by currency-matched assets if the provisions set out in sections 4–7 entail that the insurance undertaking is forced to hold its assets in a currency that does not correspond to seven per cent of the assets in other currencies, including SEK.

Section 9 Technical provisions relating to commitments in a currency other than an EEA currency may be covered pursuant to sections 2–7 by assets not payable in such a currency if the currency is unsuitable as liability coverage because it is:

- a) settled,
- b) subject to significant transfer limitations, or
- c) unsuitable for other grounds similar to a) or b).

Chapter 7 Securities and debt commitments issued by special purpose entities

Section 1 The provisions in this chapter apply to insurance undertakings. However, they do not apply to liability coverage related to occupational pension insurance, conditional bonuses and insurance commitments for which the policy holder bears the risk.

Section 2 Bonds and other debt commitments and shares or other securities issued by a special purpose entity authorised in another EEA country may be used as liability coverage under the conditions set out in sections 3–7.

Section 3 Bonds and other debt commitments issued by special purpose entities may be used as liability coverage only if they receive no lower than an A rating or the equivalent from an external credit rating institution.

The rating shall have been issued by an institution approved by the supervisory authorities in the home country of the special purpose entity.

Section 4 An insurance undertaking, for bonds or other debt commitments issued by special purpose entities, may report liability coverage of no more than 50 per cent of fair value.

Section 5 Bonds or other debt commitments issued by special purpose entities may correspond to at the most ten per cent of the amount that shall be covered.

Section 6 The value of bonds or other debt commitments issued by special purpose entities may correspond to at the most five per cent of the amount that shall be covered if the investment consists of bonds or other debt commitments. This limit shall also be applied in a similar manner for groups of issuers or connected borrowers.

Section 7 Shares or securities other than those set out in sections 2–6 that are issued by special purpose entities may be used as liability coverage provided Finansinspektionen on a case-by-case basis grants permission.

Chapter 8 Coverage register

Scope

Section 1 The provisions in this chapter apply to direct insurance undertakings for the coverage of

- guaranteed bonuses and guaranteed insurance commitments with regard to life insurance business excluding occupational pension business in accordance with sections 3–10 and 12–16,
- guaranteed bonuses and guaranteed insurance commitments with regard to occupational pension business in accordance with sections 3–11, first paragraph and sections 13–16,
- conditional bonuses and insurance commitments in which the policy holder bears the risk, excluding occupational pension business in accordance with sections 3–10 and 16,
- conditional bonuses and insurance commitments in which the policy holder bears the risk for the occupational pension business in accordance with sections 3–10, section 11, second paragraph and section 16, and
- other insurance in accordance with sections 3–9 and 12–16.

Section 2 Reinsurance undertakings shall apply sections 3–9 and 16.

General requirements for the liability coverage register

Section 3 These provisions refer to both the register an insurance undertaking is obligated to maintain of assets used liability coverage and the special register a life insurance undertaking that provides occupational pension insurance shall maintain of assets for liability coverage in its occupational pension business.

General guidelines

Insurance undertakings and occupational pension funds should prepare a written policy for their liability coverage. This should include information about

- internal liability coverage ratio target, and
- how often internal liability coverage reports shall be prepared and under which circumstances (for example new business, large claims and foreign exchange rate losses) more frequent reporting is required to ensure sufficient coverage.

The board of directors or managing director should appoint a liability coverage manager and ensure that there are written instructions for this person. The instruction should describe the liability coverage manager's tasks, responsibilities and authorisations.

Occupational pension funds should maintain a list of the assets used to cover liabilities and group the assets in this list in such a manner as to facilitate follow-up with regard to the investment provisions in section 24b, fifth paragraph of the Mutual Benefit Societies Act (1972:262).

Section 4 The register shall be maintained in writing or electronically. The handling of the register shall fulfil strict safety requirements with regard to damages caused by fire or other events. The register may consist of separate subregisters.

General guidelines

The liability coverage policy should specify which asset register and subregisters constitute the liability coverage register.

The liability coverage manager or another person should be responsible for the liability coverage register. The responsibility should be allocated in an instruction. As a part of its internal governance and control, the insurance undertaking should ensure that the liability coverage register is regularly and properly updated.

The register should specify where the assets for the undertaking's liability coverage are stored and where the undertaking's accounting is located.

The insurance undertaking should ensure that it has access to the liability coverage register. If the undertaking outsources the register to a third party, the outsourcing agreement shall clearly state that the principal holds the ownership rights to the register.

Information about the register should, within an appropriate timeframe, be furnished to an auditor appointed either by the Annual General Meeting or in another manner and an auditor appointed by Finansinspektionen.

It is important that the register is suitable and designed in such a manner as to facilitate review of its content.

Section 5 Finansinspektionen shall have access to the register. If the register can no longer be maintained in the intended manner, or if the register does not include

assets corresponding to at least the amount that shall be covered, Finansinspektionen shall be notified immediately.

Section 6 Registered assets shall be stored or, when this is not possible or appropriate, recorded in such a manner that an inventory can be carried out without undue delay.

Section 7 The register shall contain information about the individual assets that enables unambiguous identification.

In addition to the current value in SEK in accordance with Chapter 2 or Chapter 3, the register or subregisters shall as a minimum contain the following:

- for bonds and other debt obligations and for shares and participations, information about the issuer and any identifying features,
- for funds on account with a bank, information about the account operator and account number,
- for property, site-leasehold rights and buildings, information about the designation, type of property, value of the most recent valuation, sum of utilised mortgages and ownership,
- for units in investment funds and in fund management companies as referred to in Chapter 1, section 7 of the Investment Funds Act (2004:46) and investments with foreign fund managers, the name of the fund and the name and registered office of the manager,
- for reinsurance providers' claims, information about the ceding undertaking and how the claim was invested,
- for other assets, information about the issuer or other counterparty and any identifying information.

General guidelines

Information about an issuer should be presented clearly and distinctly and be easily accessible for the person using the register.

Section 8 A security pledged for debt commitments used as liability coverage shall be specified in the register in such a manner as to enable unambiguous identification.

Section 9 Information about derivative agreements influencing the value of the assets covering liabilities shall be recorded in the register.

Register for life insurance undertakings

Section 10 The register and the special register shall be maintained separately and shall show the liability coverage for the following types of provisions:

- a) guaranteed bonuses and guaranteed insurance commitments,
- b) conditional bonuses and insurance commitments for which the policy holder bears the risk.

Occupational pension business

Section 11 The special register for guaranteed bonuses and guaranteed insurance commitments shall contain required disclosures about the value of the assets,

allocated in such a manner as to enable comparison with Chapter 7, section 12, second paragraph of the Insurance Business Act.

The special register for provisions for conditional bonuses and insurance commitments for which the policy holder bears the risk shall contain required disclosures about the value of the assets, allocated in such a manner as to enable comparison with Chapter 7, section 12, second paragraph, points 3 and 4 of the Insurance Business Act.

General guidelines on the allocation of the value of the assets per asset class

Section 12 Required disclosures shall be available about the value of the assets, allocated as per the following⁴:

- a) assets set out in Chapter 7, section 10, first paragraph, points 1–6 of the Insurance Business Act,
- b) assets set out in Chapter 7, section 10, first paragraph, points 7–10 of the Insurance Business Act, with a list of the investments in accordance with section 10, first paragraph, point 10,
- c) assets set out in Chapter 7, section 10, first paragraph, point 11 of the Insurance Business Act, including unsecured debentures and partly unsecured debentures issued by the same issuer,
- d) assets set out in Chapter 7, section 10, first paragraph, points 12–14 of the Insurance Business Act, including unsecured debentures and partly unsecured debentures issued by the same issuer,
- e) assets set out in Chapter 7, section 10, first paragraph, point 15 of the Insurance Business Act,
- f) assets set out in Chapter 7, section 10, first paragraph, point 16 of the Insurance Business Act,
- g) assets set out in Chapter 7, section 10, first paragraph, points 18 and 19 of the Insurance Business Act, and
- h) other classes of assets for which the undertaking has received permission from Finansinspektionen to use as coverage.

Unsecured debentures and partly unsecured debentures shall only be included under points c and d.

The value of assets owned via subsidiaries tasked with owning assets set out in Chapter 7, section 10 of the Insurance Business Act, or units in UCITSs and foreign fund management companies shall be allocated across the underlying asset class in accordance with Chapter 7, section 10a, section paragraph and section 10b, third paragraph of the same act.

General guidelines

If the undertaking, via one or more holding companies, owns shares and participations in undertakings tasked with directly or indirectly owning assets set out in Chapter 7, section 10 of the Insurance Business Act, the value of such shares and participations is allocated per asset class in the same manner as in section 12 and per individual underlying investment risk in accordance with section 13.

⁴ The size of the investment permitted in each asset classes is set out in Chapter 7, section 10b of the Insurance Business Act.

Allocation of individual investment risks

Section 13 The register shall contain required disclosures about the value of each individual investment. The investments shall be grouped in such a manner as to enable a comparison with Chapter 7, section 10c of the Insurance Business Act.

The value of shares and participations in subsidiaries tasked with direct or indirect ownership of assets shall be included and allocated in accordance with that set out above with regard to individual underlying investment risks.

Groups of individual issuers or connected borrowers shall be treated as one issuer or borrower in accordance with Chapter 7, section 10c, second paragraph of the Insurance Business Act.

General guidelines

For assets referred to in Chapter 7, section 10, first paragraph, point 1-5 of the Insurance Business Act do not need to be grouped in accordance with points b and c. However, information should be available about the allocation of individual investment risks if this is needed to provide a sound description of the risk profile. This is normally the case if a party other than the Swedish Government is the issuer, borrower or responsible for the claim.

If funds on account constitute a significant portion of the assets, the information should be supplemented with the allocation of these funds per each institution in group c.

Geographic allocation

Section 14 Required disclosures shall be available about the location of the assets used as coverage and an allocation of the assets for each individual country shall be prepared.

General guidelines

Ownership rights that are only available as a note in a register (for example a bond or shares) may be considered to be located at the location where the register is maintained.

If an asset's actual location or situation cannot be decided or is not relevant, the location of the payment or redemption of the corresponding claim, or where such is expected to occur, can be used as a guideline for determining the location.

Allocation across individual currencies

Section 15 Required disclosures shall be available about how assets used as coverage are allocated across individual currencies. The allocation shall occur in such a manner as to fulfil the requirements in Chapter 6 with regard to the management of foreign exchange rate risk.

The value of property, site-leasehold rights or buildings shall be stated in the currency of the country in which the asset is located. The currency allocation shall be reported in cases where the assets are expressed in more than one currency. The

information shall also indicate if an asset has been made payable in a certain currency due to currency hedging agreements.

Information about technical provisions

Section 16 Required disclosures shall be made about the estimated technical provisions on own account with a supplement for the value of a reserve deposit a reinsurance provider has placed with the undertaking in accordance with Chapter 7, section 9 of the Insurance Business Act. For life insurance undertakings, this information shall be allocated in accordance with Chapter 7, section 10 of the Insurance Business Act. An allocation shall also be made for

- with regard to non-life insurance, the country in which the risk is located,
- with regard to life insurance, where activities are carried out, and
- the currency of the insurance commitment.

General guidelines

The actuary registered with Finansinspektionen should be responsible for estimating the technical provisions.

Chapter 9 Exceptions

Section 1 Finansinspektionen decides on exceptions from these regulations where special grounds exist.

These regulations and general guidelines shall enter into force on 15 May 2008, whereupon Finansinspektionen's regulations and general guidelines (FFFS 2002:9) regarding the liability-coverage register, and Finansinspektionen's regulations and general guidelines (FFFS 2001:6) regarding investment of premiums in foreign countries, etc., and foreign exchange rate risk, shall be repealed.

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