

Introducing a new Swedish Insurance Business Act

A new Insurance Business Act (“**IBA**”) has been introduced in Sweden as of 1 April 2011, replacing the former Insurance Business Act from 1982. Having participated in the circulation proceedings of the IBA, Mannheimer Swartling has gained insight in the possibilities and difficulties the IBA imposes.

The IBA entails a welcomed adjustment to current Swedish company law and a linguistic modernisation. The IBA aims to harmonise the insurance undertakings’ prerequisites for conducting insurance business and the possibilities of providing insurance. As a result, Swedish insurance undertakings are now, with some exceptions, governed under the same legislation.

The IBA governs the regulatory aspects for conducting insurance business but not insurance contract law. With regard to company law, Swedish insurance companies limited by shares are now governed under the Swedish Companies Act, while mutual insurance companies and insurance associations (“friendly societies”) are governed by the Swedish Associations Act with some deviating company law regulations as set out in the IBA.

The insurance associations, which are perhaps the undertakings mostly affected by the IBA, were previously governed by separate legislation and could only conduct insurance business for a limited portfolio but did not need authority from the Swedish Financial Supervisory Authority (“**SFSA**”) to conduct insurance business. Under the IBA, insurance associations must now either seek authority to conduct insurance business by the end of 2014 or otherwise be subject to compulsory liquidation. With a new authority, they may now also conduct any insurance business.

Due to the IBA, the SFSA has proposed several new regulations and general guidelines, as well as proposing amendments to the majority of already existing ones, to be implemented by 1 May 2011. However, a question still remaining is the implementation of the Solvency II Directive in Sweden, which is currently being investigated by a special committee that shall present its report on 31 August 2011. The Solvency II Directive will either be implemented by making larger amendments to the IBA or, more probably, through SFSA’s regulations. Whereas the former solution would entail renewing a newly adopted act, the latter may be questioned as less suitable from a “rule-of-law” perspective.

Although the IBA will require adjustments for the insurance industry, it is highly welcomed due to the modernization it imposes. Considering this new act and the continuing work regarding the upcoming Solvency II Directive, it appears as if the Swedish insurance industry’s busy year has already just begun.

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