

## Legal position

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# Insurance against fines and administrative fines

## Summary

Providing insurance for fines<sup>1</sup> or administrative sanction fees is not consistent with good insurance standards. This applies to both Swedish insurance undertakings and foreign insurers conducting business in Sweden.

The position in this document does not cover marine insurance.

## Question

In this document, Finansinspektionen states its position on whether the provision of insurance against fines and administrative sanction fees is consistent with good insurance standards.

## Governing law

An insurance undertaking's business must be conducted in accordance with good insurance standards; see Chapter 4, section 3 of the Insurance Business Act (2010:2043).<sup>2</sup> This principle also applies to foreign insurers' activities in Sweden; see Chapter 8, section 1 of the Undertakings of Foreign Insurers and Institutions for Occupational Retirement Provision in Sweden Act (1998:293).

*Good insurance standard* means that the business must be consistent with a satisfactory standard among a representative circle of insurers. A good insurance standard should apply to the business in its entirety, and the requirement on the insurance undertakings should be stricter than that actions may not be improper (Bill 1998/99:87 p. 180). The legislator

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<sup>1</sup> In this document, *fines* also refers to the special legal effect in the form of corporate fines.

<sup>2</sup> The provision on good insurance standards was introduced through Bill 1998/99:87 in Chapter 1, section 1a, third paragraph of the now repealed Insurance Business Act (1982:713).

has assumed that the more detailed implications of the term *good insurance standard* are supplemented through, for example, supervisory practice (same bill, p. 390f).

According to Chapter 6, section 1, first paragraph of the Insurance Contracts Act (2005:104), insurance compensation can be paid for each legal interest covered by the policy. For the insurance contract, the provision is a clarification of the general principle that contracts in violation of the law and good practice lack legal effect (Bill 2003/04:150 pp. 192 and 438). The provision is actualised, for example, when it comes to compensation for activities that the insured is aware have been criminal or otherwise in violation of the law.

## Assessment

A fine is a penalty issued for a criminal act. Administrative sanction fees are issued by an administrative authority or a court of law following a regulatory infringement. Insurance against fines and administrative sanction fees lowers the incentive to comply with laws and other rules since it eliminates legal consequences for infringements.

In other words, these types of insurance policies counteract the purpose of fines and administrative sanction fees.

Finansinspektionen therefore makes the assessment that the provision of insurance against fines and administrative sanction fees is not consistent with good insurance standards. This applies to both Swedish insurance undertakings and foreign insurers conducting business in Sweden.

Marine insurance is unique within the area of insurance because it is subject to strong international influence and therefore requires special consideration. This insurance is thus not covered by Finansinspektionen's position.

This legal position applies until further notice.

## Contact

Questions related to this position should be sent to [finansinspektionen@fi.se](mailto:finansinspektionen@fi.se).