

# MEMORANDUM



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## **General Good Rules according to the Insurance Distribution Directive (IDD)**

### **Introduction**

In accordance with article 11 (1) of the Directive 2016/97 (EU) on insurance distribution, Member States shall ensure appropriate publication by their competent authorities of the relevant national legal provisions protecting the general good, including information about whether and how the Member State has chosen to apply the stricter provisions provided for in Article 29 (3), which are applicable to the carrying on of insurance and reinsurance distribution in their territories<sup>1</sup>.

This document sets out general good provisions which insurance intermediaries and insurance undertakings from the EEA need to comply with while performing insurance distribution activities in Sweden.

### **Key laws, regulations and definitions**

Lag (2018:1219) om försäkringsdistribution [Act (2018:1219) on insurance distribution] (IDA), in Swedish here: [SFS 2018:1219](#)

Finansinspektionens föreskrifter om försäkringsdistribution [Finansinspektionen's regulations on insurance distribution] (FFFS 2018:10), in Swedish here: [FFFS 2018:10](#)

*insurance distributor* means an insurance intermediary or an insurance undertaking (Chapter 1 Section 9 p.10 (IDA)).

*insurance intermediary* means a natural or legal person, with the exception of insurance undertakings or their employees, who conducts insurance distribution for remuneration (Chapter 1, Section 9 p.11 (IDA)).

In Sweden three additional categories of insurance intermediaries exist: *ancillary insurance intermediaries* (Chapter 1 Section 9 p.20 (IDA)), *tied*

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<sup>1</sup> DIRECTIVE (EU) 2016/97 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 January 2016 on insurance distribution (recast)

*insurance intermediaries* (Chapter 1 Section 9 p. 1 (IDA)) and *tied ancillary intermediaries* (Chapter 1 Section 9 p.2 (IDA)).



IDD	Act on Insurance Distribution <i>(general good rules are in italics)</i>	Regulatory Code FFS 2018:10	Applicable to:
INFORMATION REQUIREMENTS AND CONDUCT OF BUSINESS RULES			
<b>Article 17.2 General principle</b>	<b>Chapter 5 Section 14 IDA</b>  All information, including marketing communications, which an insurance distributor provides to the customer shall be fair and may not be misleading. The marketing communications shall always be clearly identifiable as such.  <i>Separate provisions regarding a trader's marketing of products and services and the information which must be provided to the customers are set forth in the Marketing Practices Act (SFS 2008:486) and the Distance and Off-Premises Contracts Act (SFS 2005:59).</i>		Insurance distributors

<p><b>Article 18 General information provided by the insurance intermediary or insurance undertaking</b></p>		<p><b>Chapter 11 Sections 2-4 FFFS 2018:10</b> sets out supplementary requirements on information duty.</p>	<p>Insurance distributors</p>
<p><b>Article 18 General information provided by the insurance intermediary or insurance undertaking</b></p>	<p><b>Chapter 5 Section 2 p.2 IDA</b></p> <p>An insurance intermediary shall, in good time before the conclusion of a contract of insurance, disclose information to the customer regarding:</p> <ol style="list-style-type: none"> <li>1. the register in which the intermediary is included and the means for verifying that it has been registered;</li> <li>2. <i>liability insurance</i>; and</li> <li>3. whether the intermediary is acting on behalf of the customer or an insurance undertaking.</li> </ol> <p><b>Comment:</b> In Swedish law, liability insurance of the intermediary must be</p>	<p><b>Chapter 11 Sections 5-9 FFFS 2018:10</b> sets out supplementary requirements information duty for insurance intermediaries.</p>	<p>Insurance intermediaries</p>

	included in the pre-contractual information to the customer.		
<b>Article 19.1 and 19.2 Conflicts of interest and transparency</b>	<b>Chapter 5 Section 7 IDA</b> An insurance intermediary shall, in good time prior to the conclusion of a contract of insurance, <i>disclose information to the customer regarding the form of remuneration which the intermediary is receiving for the contract of insurance, who is paying the remuneration and the amount of the remuneration or, if this is not possible, the bases for determination of the remuneration.</i>		Insurance intermediaries
<b>Article 19.3 and 19.5 Conflicts of interest and transparency</b>	<b>Chapter 5 Section 10 IDA</b> Information referred to in sections 1–9 shall also be disclosed to the customer in conjunction with <i>renewal or modification of the contract of insurance where necessary.</i>  <b>Comment:</b> In Swedish law, the information disclosure must also be		Insurance distributors Insurance intermediaries Insurance undertakings

	made at renewal or modification of the insurance where necessary.		
<b>Article 19 Conflicts of interest and transparency</b>		<b>Chapter 11 Sections 1-4 FFFS 2018:10</b> sets out supplementary requirements on information.	Insurance distributors
<b>Article 19 Conflicts of interest and transparency</b>		<b>Chapter 11 Section 1, subsection 2 and Sections 3-9 FFFS 2018:10</b> sets out supplementary requirements on information.  <b>Chapter 11 Sections 10-12 FFFS 2018:10</b> sets out additional requirements on price and remuneration.	Insurance intermediaries
<b>Article 20.3 Advice, and standards for sales where no advice is given</b>	<b>Chapter 4 Section 2 IDA</b>  Where an insurance intermediary has informed the customer, pursuant to Chapter 5, section 6, first paragraph, subsection 1, that it is providing advice based on impartial and personalised analysis, the intermediary shall provide the advice after an analysis of a	<b>Chapter 9 Sections 2-4 FFFS 2018:10</b> sets out supplementary requirements on advice and standards for sales where no advice is given for insurance intermediaries.	Insurance intermediaries

	<p>sufficiently large number of contracts of insurance on the market, which shall be sufficiently diversified with regard to their type and product providers to ensure that the customer’s objectives can be suitably met.</p> <p><i>An analysis pursuant to the first paragraph may not include insurance products manufactured by the insurance intermediary itself, by undertakings with which the insurance intermediary has close links, or by other undertakings to whom the intermediary has a legal or financial relationship which is such that there is a risk that the advice is not based on an impartial and personalised analysis.</i></p> <p><b>Comment:</b> Please note that Chapter 4 Section 2 is applicable for all products, not only IBIPS.</p>	<p><b>Comment:</b> These rules are part of the implementation of article 20.3 and 29.3 IDD (see below in 29.3).</p>	
<p><b>Article 20.7 and 20.8 Advice, and standards for</b></p>	<p><b>Chapter 5 Section 14 IDA</b></p>		<p>Insurance distributors</p>

<p><b>sales where no advice is given</b></p>	<p>All information, including marketing communications, which an insurance distributor provides to the customer shall be fair and may not be misleading. The marketing communications shall always be clearly identifiable as such.</p> <p><i>Separate provisions regarding a trader's marketing of products and services and the information which must be provided to the customers are set forth in the Marketing Practices Act (SFS 2008:486) and the Distance and Off-Premises Contracts Act (SFS 2005:59).</i></p>		
<p><b>Article 20 Advice, and standards for sales where no advice is given</b></p>		<p><b>Chapter 12 Sections 1-6 FFFS 2018:10</b> sets out documentation requirements for insurance distributors.</p>	<p>Insurance distributors</p>
<p><b>Article 21 Information provided by ancillary insurance intermediaries</b></p>	<p><b>Chapter 5 Section 3 IDA</b></p> <p>An ancillary insurance intermediary shall, in lieu of the provisions of sections 1 and 2, in ample time prior to the conclusion of a contract of</p>		<p>Tied ancillary intermediaries</p>



	<p>insurance, disclose such information as referred to in section 1, subsections 1, 2, and 4, as well as section 2, subsections 1 and 2. <i>The aforesaid shall apply to a tied ancillary intermediary with the exception of information as referred to in section 2, subsection 2.</i></p> <p><b>Chapter 5 Section 8 IDA</b></p> <p>An ancillary insurance intermediary and a <i>tied ancillary insurance intermediary</i> shall, in lieu of the provisions of section 7, in ample time prior to the conclusion of a contract of insurance, disclose information to the customer regarding the form of remuneration that the intermediary is receiving for the contract of insurance.</p>		
<p><b>Article 22.1 Information exemptions and flexibility clause</b></p>	<p><b>Chapter 1 Section 8, subsection 2 IDA</b></p> <p><i>The provisions of Chapter 6, sections 4–6, 10–12, 14, and 15 regarding information which must be provided in conjunction with distribution of</i></p>		<p>Insurance distributors</p>

	<p><i>insurance-based investment products need not be applied where an insurance distributor and a professional client have so agreed. Following such an agreement, the provisions of Chapter 6, sections 10 and 13–15 also need not be applied in accordance with Chapter 7, section 1 in conjunction with distribution of certain pension insurance policies.</i></p>		
<p><b>Article 22.2 Information exemptions and flexibility clause</b></p>	<p><b>Chapter 5 Section 1 IDA</b></p> <p>An insurance distributor shall, in good time before the conclusion of a contract of insurance, disclose information to the customer regarding:</p> <p>1. its identity and address and whether the distributor is an insurance intermediary or insurance undertaking,</p> <p>2. <i>the public authority or authorities that exercise supervision of the insurance distributor,</i></p>		<p>Insurance distributors</p>

	<p>3. whether the distributor provides advice regarding the insurance products that the distributor distributes, and</p> <p>4. the possibilities for the customer to register complaints about the distributor and for extra-judicial dispute resolution.</p> <p><b>Chapter 5 Section 23 IDA</b></p> <p>Where information is not provided in accordance with sections 1–19, <i>the Marketing Practices Act (SFS 2008:486) shall also apply, with the exception of the provisions of sections 29–36 regarding fines for disruptive marketing practices. Such information shall be deemed material pursuant to section 10, third paragraph, of the Marketing Practices Act.</i></p>		
<p><b>Article 22.2 Information exemptions and flexibility clause</b></p>	<p><b>Chapter 5 Section 2 IDA</b></p> <p>An insurance intermediary shall, in good time before the conclusion of a contract</p>	<p><b>Chapter 11 Sections 10-13 FFFS 2018:10</b> sets out additional requirements on price – and remuneration provisions.</p>	<p>Insurance intermediaries</p>

	<p>of insurance, disclose information to the customer regarding:</p> <ol style="list-style-type: none"> <li>1. the register in which the intermediary is included and the means for verifying that it has been registered,</li> <li>2. <i>liability insurance</i>, and</li> <li>3. whether the intermediary is acting on behalf of the customer or an insurance undertaking.</li> </ol> <p><b>Chapter 5 Section 7 IDA</b></p> <p>An insurance intermediary shall, in good time prior to the conclusion of a contract of insurance, disclose information to the customer regarding <i>the form of remuneration which the intermediary is receiving for the contract of insurance, who is paying the remuneration and the amount of the remuneration or, if this is not possible, the bases for determination of the remuneration.</i></p> <p><b>Chapter 5 Section 20 IDA</b></p>		
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	<p><i>An insurance intermediary shall communicate to the customer any information regarding the contract of insurance that an insurance undertaking is obligated to disclose to a policyholder.</i></p>		
<p><b>Article 22.2 Information exemptions and flexibility clause</b></p>	<p><b>Chapter 5 Section 3 IDA</b></p> <p>An ancillary insurance intermediary shall, in lieu of the provisions of sections 1 and 2, in good time prior to the conclusion of a contract of insurance, disclose such information as referred to in section 1, subsections 1, 2, and 4, as well as section 2, subsections 1 and 2.</p> <p><i>The aforesaid shall apply to a tied ancillary intermediary with the exception of information as referred to in section 2, subsection 2.</i></p>		<p>Tied ancillary insurance intermediaries</p>

<p><b>Article 22.3 Information exemptions and flexibility clause</b></p>	<p><b>Chapter 4 Section 2 IDA</b></p> <p>Where an insurance intermediary has informed the customer, pursuant to Chapter 5, section 6, first paragraph, subsection 1, that it is providing advice based on impartial and personalised analysis, the intermediary shall provide the advice after an analysis of a sufficiently large number of contracts of insurance on the market, which shall be sufficiently diversified with regard to their type and product providers to ensure that the customer's objectives can be suitably met.</p> <p><i>An analysis pursuant to the first paragraph may not include insurance products manufactured by the insurance intermediary itself, by undertakings with which the insurance intermediary has close links, or by other undertakings to whom the intermediary has a legal or financial relationship which is such that there is a risk that the advice is not</i></p>	<p><b>Chapter 11 Section 9 FFFS 2018:10</b></p> <p>sets out supplementary requirements for the insurance intermediary on the selection of criteria in order to comply with the impartial and personalised advice provision.</p>	<p>Insurance intermediaries</p>
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	<i>based on an impartial and personalised analysis.</i>		
<b>Article 22.5 Information exemptions and flexibility clause</b>	<p><b>Separate information in conjunction with joining a mandatory occupational pension scheme</b></p> <p><b>Chapter 5, Section 17</b></p> <p>Where an employee joins a mandatory occupational pension scheme, the <i>insurance undertakings</i> that are included in the scheme shall <i>ensure that the information referred to in sections 1, 7, and 9</i>, as well as section 11, first paragraph, subsection 2, is disclosed to the employee without delay following joining.</p>	<p><b>Chapter 11 Section 15 FFFS 2018:10</b></p> <p>An insurance company may, when carrying out the information duty provision in Chapter 5 Section 17 IDA, grant a third party to fulfil such information duty to an employee.</p>	Insurance undertakings
<b>Article 23.7 Information conditions</b>	<p><b>Chapter 5 Section 16 IDA</b></p> <p>When the contract of insurance is concluded by telephone, sections 1–9, 11, 13, and 15 shall not apply. <i>However, the insurance distributor shall always inform the customer of the type of</i></p>		Insurance distributors

	<p><i>information which is available pursuant to this Chapter before an agreement is concluded in such way. The customer shall always be entitled, upon request, to be given the information orally prior to conclusion of the contract. Separate provisions regarding information which must be provided to the consumer prior to conclusion of a contract by telephone are set forth in Chapter 3 of the Distance Agreement and Off-Site Sales Act (SFS 2005:59). As soon as possible after the contract of insurance has been concluded by telephone, the insurance distributor shall provide to the customer the information referred to in sections 1–9, 11, and 12 in the manner set forth in section 15 and a product information document pursuant to section 13.</i></p>		
<p><b>Article 23 Information conditions</b></p>		<p><b>Chapter 12 Sections 1-6 FFFS 2018:10</b> sets out supplementary requirements on documentation.</p>	<p>Insurance distributors</p>



<p><b>Article 24.3 Cross-selling</b></p>	<p><b>Chapter 4 Section 13 IDA</b></p> <p>When an insurance distributor offers the customer the opportunity of concluding a contract of insurance together with another service or a product (cross-selling) or as a condition for the agreement (product tying) and the contract of insurance is of ancillary significance, the distributor shall offer the other service or product to the customer without concluding the contract of insurance.</p> <p><i>The first paragraph shall not apply where the contract of insurance is offered together with: investment services or investment activities which are referred to in Chapter 1, section 4 c of the Securities Market Act (SFS 2007:528); or a payment account with basic functions as referred to in Chapter 4 a, section 1 of the Payment Services Act (SFS 2010:751).</i></p>		<p>Insurance distributors</p>
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	<b>Comment:</b> Swedish law does not permit product tying of mortgage credits (Directive (EU) 2014/17).		
<b>Article 24.6 Cross-selling</b>		<b>Chapter 11 Sections 16-20 FFS 2018:10</b> sets out specific supplementary requirements on information duties on cross-selling.	Insurance distributors
<b>Article 25.1 Product oversight and governance requirements</b>	<b>Chapter 4 Section 7 IDA</b> <i>An insurance distributor who manufactures insurance products for distribution to customers shall establish, apply, and regularly review a process for approval of the insurance products that it manufactures. The process shall also apply to significant changes of existing insurance products. An insurance product or a significant modification of an insurance product must be approved pursuant to the process referred to in the first paragraph before it is marketed or</i>		Insurance distributors

	<p>distributed to customers (product approval).</p> <p><b>Comment:</b> In Swedish law, all insurance distributors must comply with the requirements.</p>		
<b>ADDITIONAL REQUIREMENTS IN RELATION TO INSURANCE-BASED INVESTMENT PRODUCTS</b>			
<p><b>Article 26 Scope of additional requirements</b></p>	<p><b>Chapter 6 Section 1, subsection 1 IDA</b></p> <p>This Chapter shall apply when <i>insurance distribution</i> relates to insurance-based investment products. The provisions shall apply in addition to those of Chapters 4 and 5. Insurance-based investment products may not be distributed by ancillary insurance intermediaries or tied ancillary insurance intermediaries.</p> <p><b>Comment:</b> In Swedish law these requirements applies to all forms of</p>		<p>Insurance distributors</p>

	insurance distribution and not only in conjunction with sales as in article 26.		
<b>Article 29.1 and 29.2 Information to customers</b>		<b>Chapter 13 Sections 1-2, 4-6 FFFS 2018:10</b> sets out supplementary requirements when distributing insurance based investment products.	Insurance distributors
<b>Article 29.1 and 29.2 Information to customers</b>		<b>Chapter 13 Sections 3 and 4, subsection 3 FFFS 2018:10</b> sets out supplementary requirements on distribution of insurance-based investment products.	Insurance intermediaries
<b>Article 29.3 Information to customers</b>  Restrictions on remunerations	<b>Chapter 6 Section 9 (IDA)</b>  <i>An insurance distributor, in connection with distribution of insurance-based investment products or ancillary services, may not offer or receive remuneration from a party other than the customer where the remuneration:</i>	<b>Chapter 14 FFFS 2018:10</b> sets out further details regarding certain pension insurance policies exposed to market fluctuations.	Insurance distributors

	<ol style="list-style-type: none"> <li>1. <i>to a material extent, relates to services which have not yet been performed,</i></li> <li>2. <i>in respect of its size, is based on premium payments which have not yet been made, or</i></li> <li>3. <i>is of such size that it is clearly disproportionate to the services which are performed.</i></li> </ol> <p><b>Additional requirements in conjunction with certain pension insurance policies</b></p> <p><b>Chapter 7 Section 1 IDA</b></p> <p><i>An insurance distributor who conducts insurance distribution in respect of pension insurance policies with a maturity value or surrender value which is, directly or indirectly, wholly or partially exposed to market fluctuations shall apply the provisions of Chapter 6, sections 2, 3, 8–10, and 13–15 to the activities. The provision shall apply in</i></p>		
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	<p><i>addition to the provisions of Chapters 4 and 5.</i></p> <p><i>The pension insurance policies referred to in the first paragraph may not be distributed by ancillary insurance intermediaries or tied ancillary insurance intermediaries.</i></p>		
<p><b>Article 29.3 Information to customers</b></p> <p>Independent advice</p>		<p><b>Chapter 9 Sections 2-4 FFS 2018:10</b> sets out further requirements for insurance intermediaries for advice based on impartial and personal analysis.</p>	Insurance intermediators
<p><b>Article 30.3 Assessment of suitability and appropriateness and reporting to customers</b></p> <p>Execution-Only</p>	<p><b>Chapter 6 Section 12 IDA</b></p> <p>An insurance distributor may provide insurance distribution other than that referred to in section 10 without fulfilling the requirements in section 11 where:</p> <ol style="list-style-type: none"> <li>1. the distribution relates to any of the following insurance-based investment products:</li> </ol>		Insurance distributors

	<ul style="list-style-type: none"> <li>a. contracts of insurance which create investment exposure only in respect of such financial instruments as are referred to in Chapter 9, section 25, first paragraph, subsection 1 of the Securities Market Act (SFS 2007:528) and which do not include a structure which makes it difficult for the customer to understand the risk associated with the contract; or</li> <li>b. other non-complex insurance-based investment products;</li> <li>2. the insurance distribution is provided at the customer's initiative; and</li> <li>3. the insurance distributor has clearly informed the customer that the distributor will not assess whether the offered or provided insurance-based investment product or the provided or offered insurance distribution is appropriate for the customer.</li> </ul>		
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	<p>Information pursuant to the first paragraph, subsection 3 may be provided in standardised form.</p> <p><i>Where credit is granted in conjunction with the insurance distribution in order to enable the customer, through the insurance distribution, to implement a transaction in one or more contracts of insurance, the distributor shall satisfy the requirements in section 11.</i></p>		
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## Additional legal provisions

### Insurance distributors

- Försäkringsavtalslagen (2005:104) [the Insurance Contracts Act], especially Chapter 2 and Chapter 10
- Marknadsföringslagen (2008:486) [the Marketing Practices Act], the enactment of Directive 2005/29/EC concerning unfair business-to-consumer commercial practices in the internal market
- Lag (2005:59) om distansavtal och avtal utanför affärslokaler, [Distance and Off-Premises Contracts Act], Chapter 3; which includes the enactment of Directive 2002/65/EC concerning distance marketing of consumer financial services
- Lagen (2017:630) om åtgärder mot penningtvätt och finansiering av terrorism [the Act on Measures against Money Laundering and Terrorism Financing]; enactment of Directive 2015/829/EU on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing



**Insurance undertakings**

- Act (1998:293) on Undertakings of Foreign Insurers and Institutions for Occupational Retirement Provision in Sweden; which governs freedom of services (FOS), freedom of establishment (FOE) as well as non-EEA insurance activities in Sweden.
- Finansinspektionen's regulations and general guidelines (FFFS 2011:39) regarding information about insurance and occupational pensions that complements certain provisions in the Insurance Contract Act.

*Please refer to document Cross-border services in Sweden for further information.*