

To the management

November 2018

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Notice of statutory requirement of membership of the Danish Guarantee Fund for non-life insurance undertakings

In 2002, the Danish Parliament adopted the Guarantee Fund for Non-life Insurance Undertakings Act establishing a Guarantee Fund for non-life insurance undertakings in Denmark (hereinafter “the Fund”). The Fund covers certain claims and refunds premiums for the unexpired period of the insurance cover, if a Danish non-life insurance undertaking (reinsurance undertakings excluded) is declared bankrupt.

All Danish non-life insurance undertakings (reinsurance undertakings excluded) are required to be members of the Fund and to make contributions to the Fund to ensure that the Fund has sufficient funds to make payments in the event of a bankruptcy. Non-life insurance undertakings (reinsurance undertakings excluded) with their head office in the EU/EEA that carry out insurance business either by establishment of a branch or by freedom to provide services in Denmark may join the Fund by paying an entrance fee to the Fund.

On 1 May 2018, the Danish Parliament adopted an amendment to the Danish Guarantee Fund for Non-life Insurance Undertakings Act (hereinafter “the Act”).¹ The Act makes it compulsory for non-life insurance undertakings (reinsurance undertakings excluded) which have their head office in the EU/EEA to become member of the Fund, if they want to carry out insurance business either by establishment of a branch or by freedom to provide services in Denmark. The Act enters into force on 1 January 2019.

This means that as of 1 January 2019 membership of the Fund is a prerequisite to carry out insurance business (reinsurance business excluded) either by establishment of a branch or by freedom to provide services in Denmark.

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¹ Cf. Act no. 375 of 1 May 2018 (in Danish only):

<https://www.lovtidende.dk/Forms/L0700.aspx?s31=10&s19=375&s20=2018>

The Act exercises the option granted to host Member States in Article 189 of Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (hereinafter the Solvency II Directive) to require non-life insurance undertakings to join and participate, on the same terms as non-life insurance undertakings authorized in their territories, in any scheme designed to guarantee the payment of insurance claims to insured persons and injured third parties.

The enclosed Annex gives a short description of the Funds coverage in the event of a bankruptcy.

Entrance fee

According to section 5 of the Act, non-life insurance undertakings (reinsurance undertakings excluded) with their head office in the EU/EEA, that on 1 January 2019 are notified to carry out insurance business either by establishment of a branch or by freedom to provide services in Denmark, cf. Articles 146 and 148 of the Solvency II Directive, **shall no later than 1 March 2019 pay an entrance fee to the Fund.**

The entrance fee is 50 DKK per insurance policy for the following types of private line insurance policies written in Denmark, which are in force on 1 January 2019:

- Motor liability insurance (in Danish “motorforsikring”)
- Household contents insurance (in Danish “familieforsikring”)
- Property insurance (in Danish “husejerforsikring”)
- Health insurance (in Danish “sundhedsforsikring”)
- Latent defect insurance – Change-of-ownership (in Danish “ejerskiftforsikring”)
- Property sellers liability insurance (in Danish “sælgeransvarsforsikring”)
- Structural warranty insurance – New build (in Danish “byggeskade-forsikring”)

Notwithstanding the above, the entrance fee shall be no less than 100,000 DKK, cf. section 5, subparagraph 4, of the Act. **Following this, insurance undertakings that are notified to carry out insurance business in Denmark, but have either not written any insurance policies in Denmark or not written any of the mentioned types of insurance policies in Denmark are obliged to pay an entrance fee to the Fund of 100,000 DKK.**

The entrance fee payment shall be accompanied by an auditor’s statement declaring that the entrance fee has been calculated correctly. However, if the entrance fee does not exceed 100,000 DKK, a statement from the management is sufficient, cf. section 5, subparagraph 6, of the Act.

Information on how to enroll can be found on the Fund's website <http://www.skadesgarantifonden.dk/english/Sider/Membership.aspx>

Contribution for 2019

Moreover, all members of the Fund shall in 2019 make a contribution to the Fund of 40 DKK on the above mentioned private line insurance policies which are being written or renewed in Denmark in 2019. This is due to the fact that the Fund currently does not have the necessary funds required by law.

Members of the Fund shall, when submitting the annual report, file an auditor's statement to the Fund declaring that the contribution paid to the Fund in 2019 has been calculated correctly. However, if the contribution does not exceed 50,000 DKK, a statement from the management is sufficient.

The Danish Financial Supervisory Authority (Finanstilsynet) will in the course of 2019 make public the size of the contribution, which has to be paid to the Fund in 2020, if any.

During the enrollment, the Fund will give further information on how to make the 2019 payments.

Next step?

It is important that you notify your local supervisory authority as soon as possible, if you do not wish to maintain your possibility to carry out insurance business in Denmark.

Non-life insurance undertakings (reinsurance undertakings excluded) that on 1 January 2019 are notified to carry out insurance business in Denmark are expected to pay the abovementioned contributions to the Fund.

Finanstilsynet will activate the procedure prescribed in Article 155 of the Solvency II Directive should an insurance undertaking not make the required contributions to the Fund. This may result in an order to stop writing new insurance business in Denmark.

Contact information

General information on the Fund can be found on the Fund's website: www.skadesgarantifonden.dk

Questions regarding contributions to the Fund may be sent directly to the Fund info@skadesgarantifonden.dk.

Annex

Coverage of the Fund

As of 1 January 2019, the Fund covers claims from:

1. Policyholders with private insurances (e.g. motor liability insurance, homeowners insurance, insurance for theft, property damage, personal liability and illness).
2. Third parties insured against personal injury or damage to property under motor liability policies (regardless of whether they have been taken out for commercial purposes).
3. Third parties insured against personal injury under any other liability policies (regardless of whether they have been taken out for commercial purposes).
4. Policyholders and those insured under collective insurances to the extent that an insurance corresponds to the individual private insurances covered.
5. Policyholders with property fire insurances regardless of the type of property and class of policyholders (coverage of damage caused by fire is not limited to private insurance, but also covers fire damage to commercial properties).

The fund covers claims on the above mentioned insurance policies, when they are written in Denmark for risks in Denmark.

The Guarantee Fund refunds premiums for the unexpired period of the insurance cover (commercial liability insurances excluded) with a deductible of DKK 1,000 per insurance policy.