

ROADMAP

Title of the initiative: **White Paper on Insurance Guarantee Schemes**
Type of initiative: **CWP**
Lead DG: **DG MARKT, Unit/H2**
Expected date of adoption of the initiative: **July 2010**
Date of modification: March 2010
Version No: 2

Initial IA screening & planning of further work

A. Context and problem definition

(i) What is the political context of the initiative? (ii) How does this initiative relate to past and possible future initiatives, and to other EU policies?

The Commission has announced in its Communication of 4 March 2009 "Driving European Recovery" that it would review the adequacy of existing guarantee schemes in the insurance sector and make appropriate legislative proposals. To this end the Commission will adopt in 2010 a White Paper setting out a European solution on Insurance Guarantee Schemes including appropriate follow-up measures. This initiative builds on relevant work undertaken since 2001. The White Paper is intended to be adopted in package with amendments on Investor Compensation Schemes and Deposit Guarantee Schemes

What are the main problems identified?

As opposed to other financial sectors it does not exist an EU-wide approach on IGS protection and where relevant protection is in place, there exist significant loopholes and overlaps within and across Member States. As a consequence, in the event of insurance failure substantial losses can be passed on to large groups of domestic and non-domestic policyholders. Moreover, due to the presence of cross-border insurance business, differences in policyholder protection within Member State may affect consumer demand and may even result in distorted competition.

Who is affected?

Primarily policyholders and beneficiaries but also insurance undertakings and public authorities (supervisors and existing IGS).

(i) Is EU action justified on grounds of subsidiarity?

Yes. History shows that Member States tend to be reactive and not proactive to financial risks: only after the failure of important insurance undertakings Member States have introduced IGS. But as not all Member States have already experienced these failures, there is an insufficient consumer protection in some Member States and the possibility that substantial losses are passed on to large groups of consumers in other Member States. This would create an important loss of confidence in the Internal Market, and would make it difficult to settle disputes between member States that should and can be avoided by introducing a European solution for IGS

(ii) Why can the objectives of the proposed action not be achieved sufficiently by Member States (necessity test)?

Even if Member States are made conscious of the problem, acting on their own they would not be able to address the problem of existing inconsistencies (total lack / overlaps / loopholes) within and across Member States with regard to crucial design features of IGS.

(iii) As a result of this, can objectives be better achieved by action by the Community (test of EU Value Added)?

EU action, based on a minimum core of harmonised features, can effectively address both the issue of non-existent or insufficient policyholder protection and that of uneven policyholder protection due to inconsistent IGS design features.

B. Objectives of EU initiative

What are the main policy objectives?

To ensure comprehensive and even policy holder protection; to establish a level playing field for industry.

Do the objectives imply developing EU policy in new areas or in areas of strategic importance?

Yes.

C. Options

(i) What are the policy options?

The nature of possible EU intervention (improved transparency / solvency requirements / IGS); The legal quality of possible EU intervention (non-binding / case-by-case legally binding interventions / legally binding EU-wide approach); The type of possible EU binding intervention (EU-Regulation / EU-Directive / Lamfalussy structure). Options regarding detailed design features: Level of centralisation (single pan-EU scheme vs national scheme); Role of IGS (last resort / failure prevention), Geographic scope (home state principle vs host state principle); Policies covered (life / non-life policies); Eligible claimants (natural persons / legal persons); Funding (ex-post vs ex-ante funding); Nature of intervention (portfolio transfer vs compensation).

(ii) What legislative or 'soft law' instruments could be considered?

Directive, Regulation, Recommendation, Communication, enhancing transparency, increasing capital requirements for insurers (depending on the degree of legal bindingness which shall be achieved);

(iii) Would any legislative initiatives go beyond routine up-date of existing legislation?

Currently there does not exist any EU legislation on IGS

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

It is thematically linked to proposals on legislative amendments with regard to the Deposit Guarantee Scheme Directive and the Investor Compensation Scheme Directive.

Explain how the options respect the proportionality principle:

Possible EU action in the field of IGS shall not go beyond what is necessary to achieve the objective outlined above. However, due to panoply of different IGS design features available to individual Member States, guaranteeing even consumer protection within and across Member States in the event of failure of an insurance undertaking as well as a level playing field for industry, cannot be satisfactorily achieved by Member States on their own. Neither will non-binding soft-law instruments (e.g. Communication/Recommendation) or enhanced capital requirements for insurance undertakings (too costly) ensure achievement of the necessary benefits. Costs related to the establishment of a (minimum) harmonised IGS system at EU level shall be minimised and commensurate with the objective to be achieved. EU action shall be based on minimum harmonisation leaving Member States as much scope as possible.

D. Initial assessment of impacts

What are the significant impacts likely to result from each policy option (cf. list of impacts in the Impact Assessment Guidelines pages 32-37), even if these impacts would materialise only after subsequent Commission initiatives?

Concerted action at EU level is likely to result in enhancing the consumers' ability to benefit from the internal market; it would ensure appropriate (and even) protection of policyholders and beneficiaries in the event an insurance undertaking fails in a cross-border and domestic setting; In addition it is likely to impose additional adjustment, compliance and transaction costs on industry, which however is also likely to benefit from a more integrated and competitive internal market. Due to its positive impact on market confidence, relevant action might also have direct impact on macro-economic stabilisation, particularly in times of crisis.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No impacts on the EU budget expected

**Could the options have significant impacts on
(i) simplification**

Given that there does not exist EU legislation on IGS we cannot assess the potential for simplification

(ii) administrative burden

In Member States where no IGS is in place, or where its design features deviate from the possibly proposed EU initiative, undertakings and public authorities are likely to face new information obligations and thus an increase in the administrative burden.

(iii) relations with third countries

A number of third countries have already established IGS (e.g. Japan, Korea, USA and Canada). The likely impact of relevant EU action on relations with third countries is likely to be insignificant, but it will be again considered in the course of follow-up measures

E. Planning of further impact assessment work

When will the impact assessment work start?

It has started in spring 2009.

(i) What information and data are already available?

OXERA Report; Methodological Report of the JRC

(ii) Will this impact assessment build on already existing impact assessment work or evaluations carried out? Yes: the Oxera Report, and the preparatory work done with JRC

(iii) What further information needs to be gathered?

Information from supervisors at firm level and on cross-border activity

(iv) How will this be done (e.g. internally or by an external contractor) and by when?

With the JRC after adoption of the White Paper

(v) What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

Flows of cross-border activity
Distribution of claims per firm

Which stakeholders & experts have been/will be consulted, how and at what stage?

OXERA Report ((November 2007); Report submitted by CEIOPS (June 2009); Public Consultation (2008), Public Hearing (2 June 2008), Meetings with representatives of CEA, FINUSE, AMICE,

CEIOPS, EFRF (8 May+11 June 2009); Inter-Service-Steering Group (4 meetings in 2009/2010).