



Room document

Insurance Guarantee Schemes – Progress report

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I Background

In November 2001 the Insurance Committee agreed on the creation of a Commission Working Group with the aim of examining the problems arising from the lack of harmonisation of insurance guarantee schemes.

Two meetings of the Working Group have taken place (on 4th February and on 15th July 2002). The Commission Services sent a questionnaire (MARKT/2056/02) to Member States. On the basis of the replies, the Commission services prepared a discussion paper (MARKT/2517/02 and Annexes I and II).

II Current situation in light of analysis made by the Commission

The survey considered guarantee schemes other than those limited to one or only a few classes of insurance. From the survey, it emerged that:

- § At the moment only a few Member States have insurance guarantee schemes in place.
- § The scope of coverage of the existing schemes varies very much from one country to another with regard to the categories of policyholders protected, the type of insurance contracts included in the coverage, the territorial scope of the scheme, etc.
- § In case of winding up of an insurance undertaking, this situation of non harmonisation leads to a lack of protection for a large number of policyholders, and to gaps and overlaps in the coverage of the existing schemes, a lack of equivalent treatment between insurance creditors, as well as a lack of *a level playing field* among the insurance undertakings in the different Member States and between the insurance sector and the other financial sectors.

III Main issues examined by the Working Group

At the moment the main questions examined by the Working Group have been as follows:

1. “*Moral hazard*” (for policyholders, insurers and supervisors). At this stage no delegation has provided evidence that the existence of guarantee schemes in the banking and securities sectors, or, when they exist, in the insurance sector has created any case of “moral hazard” . This problem seems to be more theoretical than real, especially when the functioning of the scheme involves a maximum amount of coverage;
2. *Costs of financing* the scheme for industry. In this context mechanisms can be found in order to avoid unfair burdens on soundly managed insurance undertakings. No substantial increase of premiums have been observed in the Member States because of the setting up of guarantee schemes;

3. *Possible options for Community action* in this area. The following possibilities have been examined:
- a) remaining in the current situation of non harmonisation;
 - b) establishing non binding principles (recommendation);
 - c) adopting a legal binding instrument which ensures a home Member State approach, with mutual recognition of national schemes and harmonisation of essential standards. This was the same approach followed in the Directives adopted some years ago in the banking and the securities sectors;
 - d) establishing a fully harmonised system, equal across all the EU.

IV Working approach and next steps

Most delegations in the Working Group have considered option c) above, based on a binding instrument which ensures mutual recognition of national schemes and harmonisation of minimum standards as the most appropriate “working option” at this stage. Even delegations which are opposed at the moment to setting up insurance guarantee schemes have accepted to explore this approach and to examine the potential problems arising from the current lack of harmonisation.

Currently the Working group is in the process of identifying the possible elements susceptible to be harmonised such as the territorial scope of the scheme, the kind of risks to be covered, the categories of policyholders and types of claims to be guaranteed, the minimum level of protection, the information requirements, etc. On the basis of the contributions provided by the Member States with regard to the elements to be harmonised and on the experience concerning the application of the banking and the securities directives, the Commission services will produce a new discussion paper for a next meeting. It is expected that the work of the Group will continue at least until end 2003.