



Room document – EN
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Insurance guarantee schemes

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Question to IC Members:

Should the working group on insurance guarantee schemes include within its scope of analysis the possible harmonisation of guarantee schemes for pension funds? It is understood that the inclusion of pension funds within the scope of examination of the working group would not prejudice in any way the final decision in this regard.

I Background

At its meeting on 9 April 2003 the Insurance Committee had an orientation debate on the provisional results of the work carried out by the ad-hoc group on insurance guarantee schemes. The members of the IC were asked to discuss whether the working group should start to draft a legislative text on this matter. The Committee agreed that further preparatory work was still required before starting to prepare a draft legislative text.

Following the IC decision, the working group met on 9 July 2003. The discussion focused on document [MARKT/2525/03](#) which presented the main arguments in favour and against the setting-up of insurance guarantee schemes. The document also considered some of the main issues relating to such schemes, namely the tasks and scope of the system as well as "moral hazard" and costs.

II State of play

As a result of the working group's discussion it appears that "*moral hazard*" does not seem to be, for the very large majority of delegations, a major difficulty for the establishment of guarantee schemes. However, the main concern for a number of delegations was the problem of the *cost of the system*, even if it was clear that the financing of the scheme would be a matter left to national legislation in the event of future EU harmonisation. Furthermore, the group felt the need to examine the *situation of motor guarantee funds (as provided for in the motor insurance directives) and other, similar bodies which may exist in the Member States within the framework of other forms of compulsory insurance*, with regard to the cover of the risk of insolvency of the insurance undertaking. The problem is the extent to which these special guarantee funds, when they cover insolvency risk, should co-exist with general insurance guarantee schemes.

A questionnaire covering the two afore-mentioned issues – cost of the system and compulsory insurance – was therefore sent¹ by the Commission to the Member States. The replies are currently being analysed and will be examined by the working group at its next meeting, probably in early 2004.

¹ MARKT/2528/03 sent on 17 September 2003.

III A question to the Insurance Committee: possible inclusion of pension funds within the scope of analysis of the working group.

At the request of the Spanish delegation a new issue was submitted for the consideration of the working group. The question was whether the group, in examining the future harmonisation of insurance guarantee schemes in the European Union, should include pension funds within its scope of reflections. The suggestion seems very opportune after the adoption of the new Directive [2003/41/EC](#) on the activities and supervision of institutions for occupational retirement provisions.

It is clear that such inclusion would make more complicated the task assigned to the working group. However, whatever the final conclusion on the opportunity to cover pension funds in a future insurance guarantee schemes directive, it would be difficult for the Commission and the Member States to say that this possibility had not even been considered if, for instance, European citizens or the Parliament made a question in this regard.

As the subject of pension funds is not in principle covered by its mandate – which focuses on guarantee schemes for insurance undertakings – the working group agreed to refer the matter to the Insurance Committee. The Members of the Committee are therefore invited to answer the following question:

Should the working group on insurance guarantee schemes include within its scope of analysis the possible harmonisation of guarantee schemes for pension funds? It is understood that the inclusion of pension funds within the scope of examination of the working group would not prejudice in any way the final decision in this regard.