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Chairman

Mr Jonathan Faull
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EIOPA-TFIGS-12/008

Subject: Report on the Role of Insurance Guarantee Schemes in the Winding-Up Procedures of Insolvent Undertakings in the EU/EEA

Dear Mr Faull



It is my pleasure to enclose the above report which was approved at the EIOPA Board of Supervisors meeting on 14th June 2012.

This report is complementary to the previous report (Report on cross-border cooperation mechanisms between Insurance Guarantee Schemes in the EU/EEA) published by the EIOPA Task Force on Insurance Guarantee Schemes (TF-IGS) in July 2011 under Article 26 and Article 27 of the EIOPA Regulation, as input to the European Commission's policy-making on IGS.

The aim of this report, also specified in the mandate of the TF-IGS, is to summarize the findings of a mapping exercise carried out, on the role of IGSs in the winding-up procedures of insolvent undertakings across the EU/EEA. A questionnaire was used for this exercise and sent to 30 EU/EEA Member States. 24 Member States replied.

Broadly speaking, the cover provided by IGSs is wide ranging across Member States, from non-existent to the slightly expanded Motor Guarantee Scheme to cover insolvency cases to the fully-fledged IGSs providing wide cover for policyholders in the life and non-life sectors. Although nearly all Member States provide some form of coverage, comprehensive coverage however is scarce and often limited to the motor insurance sector.

The same level of fragmentation also applies to how winding-up procedures are designed in different jurisdictions within Directive 2001/17/EC on the reorganization and winding-up of insurance undertakings to fit with respective legal and institutional frameworks.

Findings from this report highlight the lack of harmonization in areas such as:

- Which authority takes decision to intervene when an insurance undertaking becomes insolvent;
- The ability to provide for portfolio transfer;
- A lack of pre-warning systems when an insurance undertaking is in difficulty; and
- The role of the supervisory authority when an insurance undertaking becomes insolvent.

This is the final chapter in EIOPA's (and its predecessor CEIOPS) work on IGS to date which includes:

2009, General recommendations on high-level principles for a possible IGS directive from the European Commission

2010, Response to the European Commission's White Paper on IGS

2011, Report on cross-border cooperation mechanisms between IGSs in the EU.

From the previous report of 2011, the five conclusions drawn were:

- There is a need for clear cooperation procedures to be in place;
- The exchange of information by IGSs is a prerequisite for effective policyholder protection;
- Provision of legal certainty for the purpose of confidentiality;
- Provision of the infrastructure for the exchange of information; and
- The need for a mechanism to solve disputes.

The findings of the current report highlight that policyholders can be at risk of inconsistent treatment across Member States and little or no insurance cover due to lack of a harmonized approach to IGS across the EU/EEA.

With best regards,



Gabriel Bernardino