

Peter Braumüller
Vice- Chairperson

João Leão
President
Economic and Financial Affairs Council
Council of the European Union
Wetstraat 175
1048 Brussels
Belgium



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Implications of insurers' failures to the protection of European policyholders

Dear Mr Leão,

In its Opinion on the 2020 Review of Solvency II, EIOPA proposes to introduce a European network of national Insurance Guarantee Schemes (IGS) or alternative mechanisms that should meet a minimum set of harmonised features for the benefit of policyholders – thereby ensuring compensation payments and/or continuation of insurance policies – and financial stability as a whole.

At present, Member States choose their own approach towards policyholder protection schemes, which can diverge quite substantially. Although a majority of Member States have set up an IGS, the approach they have followed for the design of the IGSs diverges quite substantially from each other in terms of *inter alia* coverage level, geographical coverage, lines of business covered, and funding. As a result, policyholders may receive different levels of protection in the event of an insurer's failure operating within the European Single Market, depending on the country insurance policies originate from. This issue needs to be tackled as it may seriously undermine the functioning of and trust in the European Single Market.

This issue was recently illustrated by a real case. The Gefion Insurance A/S (Gefion), originating from Denmark, operated in France, Germany, Ireland, Italy, Poland and the United Kingdom under “freedom of services” offering mainly motor insurance and motor liability insurance. Following Gefion’s bankruptcy on 7 June 2021, the Danish IGS restricts its cover to insurance policies written in Denmark, meaning that the outstanding claims outside of Denmark are not covered.

This situation clearly leads to unequal treatment of Gefion’s policyholders, and could have serious implications for the trust that EU citizens have in the proper functioning of the single market. It also distorts the level playing field between the different sectors in the financial market as the banking and investment sectors have harmonised EU rules for the protection of deposits and investment funds.

EIOPA greatly appreciates your attention to this matter and would welcome if the European Commission continues to discuss the need for harmonisation of national IGSs at EU level under the current review of the Solvency II framework with urgency, ensuring a European network of national IGSs, which is sufficiently harmonised. European policyholders should be able to rely on the European Union safeguards, protecting their interests in an equal and fair way across the Single market.

Yours sincerely,

Peter Braumüller

[signed]