



## Parliamentary questions

28 July 2016


E-006108-16

Question for written answer  
to the Commission

Rule 130

Mairead McGuinness (PPE)

### ► Subject: Consumer protection following the liquidation of Enterprise Insurance

 Answer(s)

Enterprise Insurance, a Gibraltar-based insurance company, went into liquidation last week, leaving thousands of policy holders across Europe in limbo. 14 000 Irish consumers have been affected by the liquidation.

Although the insurance contracts remain in force legally, it is unclear whether pending or future claims can be paid by the company given its financial situation. Irish consumers appear to be safe for now because the relevant underwriter has agreed to repay the insurance premiums.

However, this is a cross-border issue affecting consumers from all over Europe. Are there any safeguards in EC law to protect consumers whose insurers go into liquidation, by means of refunds or alternative cover?

Additionally, many affected consumers were not immediately aware of their situation because they were sold insurance by a broker, and were unaware that Enterprise Insurance was their insurance provider. Under EC law, are there any reporting obligations on brokers to inform consumers of their potential lack of insurance in such a situation?

Last updated: 8 August 2016

[Legal notice](#)

EN  
E-006108/2016  
Answer given by Vice-President Dombrovskis  
on behalf of the Commission  
(26.9.2016)

Title IV of Solvency II<sup>1</sup> lays down rules on the reorganisation and winding-up of insurance undertakings. In cross-border situations, Article 270 requires supervisory authorities of the home Member State to inform other Member States of the decision to adopt reorganisation measures or winding-up proceedings. There is no specific EU legislation on recovery and resolution.

Under EU law, insurance brokers have no obligation to inform consumers of a change in their insurance provision, such as in the case of liquidation. Under Article 281 of Solvency II, a written notice must be produced by the competent authority or the liquidator regarding the general effects of the winding-up proceedings on insurance claims, in particular the date on which the insurance contracts will cease and the rights and duties of the insured persons. Directive 2016/97/EC<sup>2</sup>, applicable in 2018, will significantly increase the transparency of information provided by insurance distributors to clients.

Only a few EU Member States have general insurance guarantee schemes in place. A Commission White Paper<sup>3</sup> discussed the possible introduction of legislation to ensure that insurance guarantee schemes exist in all EU Member States. However, a public consultation revealed insufficient interest in such a measure.

Although guarantee funds under Directive 2009/103/EC<sup>4</sup> are only for accidents caused by uninsured drivers, in national law they can also be used for other related purposes such as claims outstanding with failed motor insurers, which is a possibility in the present case, as long as the purpose set out in Directive 2009/103/EC continues to be effectively achieved.

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<sup>1</sup> Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (recast)

<sup>2</sup> Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (recast)

<sup>3</sup> White Paper On Insurance Guarantee Schemes, COM(2010) 0370 final

<sup>4</sup> Directive 2009/103/EC of the European Parliament and of the Council of 16 September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability