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I

(Resolutions, recommendations and opinions)

RESOLUTIONS

EUROPEAN PARLIAMENT

Insurance guarantee schemes

P7_TA(2011)0435

European Parliament resolution of 13 October 2011 on Insurance Guarantee Schemes (2011/2010(INI))

(2013/C 94 E/01)

The European Parliament,

- having regard to the Commission Communication of 12 July 2010, entitled ‘White Paper on Insurance Guarantee Schemes’ (COM(2010)0370),
 - having regard to 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) ⁽¹⁾,
 - having regard to Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority) ⁽²⁾,
 - having regard to its resolution of 4 July 2006 on the crisis of the Equitable Life Assurance Society ⁽³⁾,
 - having regard to the final report of 23 May 2007 of its Committee of Inquiry into the crisis of the Equitable Life Assurance Society (A6-0203/2007),
 - having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs and the opinions of the Committee on Legal Affairs and the Committee on the Internal Market and Consumer Protection (A7-0243/2011),
- A. whereas the financial crisis has demonstrated that consumer confidence in the financial system can be quickly undermined in the absence of adequate compensation processes for consumer losses incurred as a result of the failure of financial institutions,
- B. whereas Insurance Guarantee Schemes (IGSs) can be a valuable tool in reducing the risks facing policyholders or, where appropriate, beneficiaries in the event of the failure of an insurance entity,

⁽¹⁾ OJ L 335, 17.12.2009, p. 1.⁽²⁾ OJ L 331, 15.12.2010, p. 48.⁽³⁾ OJ C 303 E, 13.12.2006, p. 108.

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- C. whereas the necessity, function and structure of IGs are not analogous with those of either deposit guarantee schemes or investor compensation schemes, on account of the different business model used by insurers and the different degree to which consumers are exposed to risk in the event of the failure of an insurer,
- D. whereas a wide range of IGs exist in the Member States, offering varying degrees of consumer protection across various product lines on the basis of various funding models,
- E. whereas there have been no notable insurance policy-holder or, where appropriate, beneficiary losses as a result of the financial crisis, and whereas the European insurance industry has emerged from the crisis comparatively unscathed,
- F. whereas Solvency II introduces a ladder of supervisory intervention minimising the likelihood of an insurer going bankrupt and the disruption to policyholders or, where appropriate, beneficiaries resulting from such an event,
- G. whereas the introduction of Solvency II and IGs will contribute to the establishment of a level playing field on the European insurance market and help to bring about the completion of the internal market,
- H. whereas under Solvency II policy-holder or, where appropriate, beneficiary claims are secure when an insurer enters into insolvency (when the insurer breaches its Solvency Capital Requirement), and only become at risk if the insurer goes bankrupt (when its assets are insufficient to cover its liabilities),
- I. whereas cross-border provision of insurance in the EU is low but likely to grow as a result of the introduction of Solvency II, owing to the capital benefits offered by a branch-based pan-European structure,
- J. whereas the lack of harmonised IGs at European level and the diversity of regimes in Member States have led to ineffective and uneven protection for insurance policy-holders and have slowed down the functioning of the insurance market by distorting cross-border competition,
- K. whereas consumer trust in the functioning of the internal market in financial services can only be assured by a consistent level of consumer protection regardless of the origin of the service provider, primarily through the consistent application of sound prudential rules and effective supervision by the European Insurance and Occupational Pensions Authority (EIOPA) and, where appropriate, national competent authorities,
- L. whereas taxpayers' exposure to the failure of financial institutions must be kept at a minimum through effective and proportionate oversight by national and European supervisors,
 - 1. Recognises that the new supervisory regime and the forthcoming Solvency II framework will further enhance consumer protection;
 - 2. Calls on the Commission, with regard to the rules and definitions set out in Solvency II and the new supervisory framework, to come forward with proposals for a cross-border standardisation directive establishing a coherent and consistent cross-border framework for IGs across Member States, providing only last-resort protection to consumers when insurance undertakings are unable to fulfil their contractual commitments owing to insolvency;

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3. Calls on the Commission rapidly to put forward the proposal for a directive on Insurance Guarantee Schemes to complement Deposit Guarantee Schemes, Investor Compensation Schemes and Solvency II;
4. Acknowledges that the potential for an uneven playing field could cause regulatory arbitrage, which would affect IGSs; calls on the Commission to examine the interplay between harmonisation and the application of schemes from across the EU and the home state principle to clarify whether or not a significant distortion of the market occurs; considers that this review should be conducted three years after the full implementation of Solvency II;
5. Agrees that the Solvency II Directive does not create a zero-failure environment for insurance companies and does not protect consumer losses in the event of the failure of insurance undertakings; calls, therefore, on the Commission to ensure that the common IGS to be adopted is consistent and coherent with the Solvency II Directive;
6. Supports the adoption of the 'home' country principle – whereby policies written by an insurer, regardless of location of sale, are covered by the 'home' IGS – recognising (a) that under Solvency II the cross-border provision of insurance services will increase, and (b) that the failure of an insurer will be linked to the inadequacy of supervision by the 'home' supervisor, so that the burden of responsibility for failure should be borne by the 'home' IGS, which should provide last-resort protection to consumers only when insurance undertakings are unable to fulfil their contractual commitments owing to insolvency; calls on the Commission to conduct an impact assessment and public consultation with stakeholders on the inclusion of life insurance as a matter of priority and on the practicality of including non-life insurance in a cross-border IGS to ensure an appropriate level of consumer protection and a level playing field between Member States; believes that a rationale should be established by the Commission and the EIOPA in order to ensure that the additional costs of an IGS are weighed against the objective of consumer protection; notes that the current EU regulation on deposit guarantee schemes and investor protection schemes covers only savings products;
7. Insists that the funding model for national IGSs should be covered by the subsidiarity principle, reflecting the 'home' country principle of supervision and the diversity of models used by existing IGSs; urges the Commission not to advocate a uniquely ex-ante approach to funding, given the absence of compelling arguments in favour of such an approach and the disruption it could cause;
8. Insists that Member States should ensure that tests are carried out on their IGSs and that they are informed should the competent authorities detect problems in an insurance company that are likely to give rise to intervention under the relevant scheme; suggests that such tests should take place at least every three years, or when circumstances so require; considers, further, that the EIOPA should periodically conduct peer reviews to examine the long-term financial sustainability of schemes and call for improvements wherever necessary;
9. Acknowledges that the application of the subsidiarity principle in relation to the choice of ex-ante or ex-post funding models may result in competitive distortions between Member States; believes that such distortions have an equal bearing on both consumer and taxpayer protection and that the Commission should take a cautious, long-term approach to addressing such distortions;
10. Recognises that there are different ways of ensuring consumer protection:
 - compensation: losses faced by policy-holders or beneficiaries in the event of the insolvency of an insurer are directly compensated following an orderly claims-settlement process;
 - continuity: the continuity of insurance contracts is secured through portfolio transfers to the remaining insurers in the market or to a special entity created for this purpose;

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recommends that both approaches should be permitted under the future IGS framework, taking into account the differences between national markets in terms of size, concentration, product design and range of insurance products offered;

11. Insists that the information available to consumers in the event of an insurer's insolvency should be easily accessible, comprehensive and easy to follow, with clear indications as to which authority the consumer should approach when making claims or enquiries; is convinced that setting up a single point of contact for all financial guarantee or compensation schemes would ensure that the existing legislation genuinely benefited consumers, especially as regards the provision of information and the facilitation of cross-border contact and payments;

12. Stresses that the 'home' country approach to IGSs can only be credible from a consumer perspective if there is consistency of consumer experience for both IGS functions (portfolio transfer and policy-holder compensation claims); calls on the Commission to stipulate a single own-language process and point of contact for consumers within their national supervisor for all insurance-guarantee compensation claims, regardless of the location of the 'home' IGS; recommends that EIOPA develop a harmonised and transparent approach based on simplicity and best practice, and, where necessary, through binding technical standards;

13. Stresses that consumers' knowledge and awareness of financial services and associated risks should be improved; suggests, therefore, that a mechanism similar to the European Standardised Information Sheet (ESIS) should be introduced for insurance policies, which would include clear, mandatory risk warnings on complex insurance-linked investment products and on the existence of an IGS linked to a specific national authority in order to make it easier for policy-holders to understand insurance products and gain access to all relevant information;

14. Believes that 'home' and 'host' supervisors should cooperate fully with the IGS concerned and the European supervisory framework in order to minimise disruption for policy-holders or, where appropriate, beneficiaries in a 'host' country in the event of the failure of an insurer, acting through the college of supervisors with the participation and oversight of EIOPA to ensure consistency of approach between schemes;

15. Calls on the Commission to clarify the role played by IGSs in relation to intermediaries;

16. Argues that, in order to ensure comprehensive and continuous protection for policy-holders and beneficiaries, the Commission should retain and take into account other protection mechanisms and legislative provisions that are already in place; believes that IGSs should be activated when other protection mechanisms have failed;

17. Insists that new EU legislation should not serve to water down the protection offered by existing IGSs in Member States, and that consumers should not face any losses as a result of regulatory failure to adequately supervise insurers; calls, therefore, on the Commission to ensure that a European framework for IGSs functions as a last resort by providing policy-holders (or, where appropriate, beneficiaries) who are eligible with compensation for losses to the fullest possible extent or the possibility of portfolio transfer within a reasonable period of time should an undertaking declare insolvency;

18. Recognises that insurance undertakings are responsible for their employees' conduct and that intermediaries are obliged to hold professional indemnity insurance; notes that fraud is covered by criminal and tort law; recognises that IGS rules covering mis-selling and fraud could make supervisors less vigilant and less willing to use supervisory powers, thus creating moral hazard;

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19. Notes that in the absence of a legally binding EU definition of what constitutes a small or micro-undertaking, and given the changing nature of such entities over time, the scope of the proposal for a directive on IGSs should be limited to natural persons and that natural persons directly linked to the failed insurer, such as directors, senior managers or voting board members whose area of professional responsibility is connected to the causes of the insolvency, should be excluded from the body of consumers; calls on the Commission to re-evaluate the case for including select legal persons once a legally binding definition has been agreed; stresses that, in keeping with the subsidiarity principle, individual Member States may choose to include legal persons within the scope of their national IGSs;

20. Recognises that market concentration issues could place strains on the ability of an IGS to absorb all policy-holder or, where appropriate, beneficiary claims resulting from the bankruptcy of one or more insurers; believes that rules on IGSs that could impose further strains on concentrated markets must be avoided;

21. Foresees an oversight role for EIOPA in coordinating market-specific stress testing by national authorities and in conducting Europe-wide stress testing of IGSs, issuing recommendations where appropriate, and in conducting regular peer reviews to ensure that approaches based on best practice are shared;

22. Notes that in small and concentrated markets the setting-up of an IGS with inappropriate funding mechanisms could give rise to systemic risks by increasing the degree of interconnectedness between insurers, which would create a non-level playing field between smaller and larger markets, since smaller markets would have greater difficulties in coping with the costs; notes that these difficulties need to be taken into account in order to avoid imposing further strains on concentrated markets; calls on the Commission to leave the Member States free to adapt the rules on funding and other IGS design features to the specific needs of national markets;

23. Instructs its President to forward this resolution to the Council and the Commission.

The future of VAT

P7_TA(2011)0436

European Parliament resolution of 13 October 2011 on the future of VAT (2011/2082(INI))

(2013/C 94 E/02)

The European Parliament,

- having regard to the European Commission's Green Paper on the Future of VAT (COM(2010)0695),
- having regard to the European Commission's Staff Working Document (SEC(2010)1455),
- having regard to the 'Small Business Act' for Europe (COM(2008)0394),
- having regard to the Commission communication entitled 'A Digital Agenda for Europe' (COM(2010)0245),
- having regard to the PWC Study on the feasibility of alternative methods for improving and simplifying the collection of VAT through the means of modern technologies and/or financial intermediaries,