

## **The Insurance Compensation Fund (the “Fund”)**

### **Introduction**

The Fund was established under the Insurance Act 1964 (the “Act”) which has been amended by the Insurance (Amendment) Act 2011 (the “Amendment Act”). It is maintained and administered under the control of the President of the High Court acting through the Accountant of the High Court.

The Fund is primarily designed to facilitate payments to policyholders in relation to risks in the State where an Irish authorised non-life insurer or a non-life insurer authorised in another member state goes into liquidation and the approval of the High Court has been obtained for such payments. In such circumstances not all policyholder liabilities are covered and exclusions include health, dental and life policies. The Fund can also be availed of in circumstances where an administrator has been appointed under the Insurance Act (No.2) 1983 and the approval of the High Court has been obtained. More specific details on payments from the Fund are provided below.

Please note that the newly amended provisions of the Act in relation to payments from the Fund do not apply in respect of an insolvent insurer, proceedings for the winding-up of which were commenced before the commencement of the Amendment Act or in respect of an insurer to which an administrator was appointed before the commencement of the Amendment Act. Payments from the Fund in such circumstances will be determined by the relevant provisions of the Act pre the enactment of the Amendment Act<sup>1</sup>.

### **Contributions to the Fund**

The Fund is financed through contributions received from non-life insurance companies up to a maximum of 2% of the aggregate of the gross premiums paid to that insurer or insurer authorised in another Member State in respect of policies issued in respect of risks in the State. In this regard, it should be noted that excluded risks are not levied. The contribution will be collected by the Revenue Commissioners who have been appointed to this role pursuant to an order dated 7 October 2011, and shall be forwarded to the Fund through the Accountant of the High Court.

### **Role of the Central Bank**

The role of the Central Bank of Ireland (the “Central Bank”) under the Act includes the following:

- Carry out an annual assessment of the financial position of the Fund;
- Determine an appropriate contribution to be paid to the Fund by non-life insurance companies;
- Liaise with Department of Finance in relation to interest rates and repayment terms on any loan advanced by the Exchequer to the Fund; and
- Publish a notice on the Central Bank’s website and deliver a notice to each non-life insurance company specifying the contribution to be paid to the Fund.

### **Payments from the Fund**

- A) For non-life insurance companies in liquidation: The Court may make payments required to allow the liquidator of an Irish authorised company to cover policyholders in respect of risks in the State. Where an undertaking authorised in another Member State goes into liquidation and policyholders in relation to risks in the State are affected, the Accountant of the High Court can make an application to the High Court on their behalf and can distribute any sums due to such policyholders. The total amount that may be paid out of the Fund in respect of any sum due to a person under a policy in the situations outlined above shall not exceed (whether as one payment or as the total of a series of payments) 65% of the sum due to the policyholder or €25,000 whichever is the less. A sum due to a commercial policyholder may not be paid out of the Fund unless the sum is due in respect of a liability to an individual.
- B) For non-life insurance companies in administration: Where the average of the business of the non-life insurance company concerned (over the 3 years before the appointment of the administrator), in the

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<sup>1</sup> Section 9 of the Insurance (Amendment) Act 2011

opinion of the Central Bank, was at least 70% in respect of risks in the State of policyholders, the Court may make payments required to enable the administrator to carry on the business of the non-life insurance company and to perform his or her functions in relation to the non-life insurance company. Where the average of the business of the non-life insurance company concerned (over the 3 years before the appointment of the administrator) was not, in the opinion of the Central Bank, at least 70% in respect of risks in the State of policyholders, the Court may make payments required to pay the expenses of the administrator in the performance of his or her functions in relation to the non-life insurance company.

Please note that this explanation does not apply in respect of an insolvent insurer, proceedings for the winding up of which were commenced before the commencement date of the Amendment Act or in respect of an insurer to which an administrator was appointed before the commencement of the Amendment Act<sup>2</sup>.

**Notifications pursuant to Section 6 of the Act:**

<http://www.centralbank.ie/regulation/industry-sectors/insurance-companies/non-life-insurance-companies/Pages/InsuranceCompensationFund.aspx>

**Letter to be sent to all relevant Insurance Undertakings:**

<http://www.centralbank.ie/regulation/industry-sectors/insurance-companies/Documents/ICF%20Letter%20to%20Firms.pdf>

**Notes**

The information provided here in relation to the Fund and the Act is for general information purposes only and does not purport to be an interpretation of the legislation and persons affected by this legislation should consult the legislation itself and seek legal advice if appropriate.

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<sup>2</sup> Section 9 of the Insurance (Amendment) Act 2011