

Motor Insurance Insolvency Compensation Bill 2024

Bill No. 43 of 2024

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Abstract

The Motor Insurance Insolvency Compensation Bill 2024 seeks to transpose to Article 10a and Article 25a of Directive 2009/103/EC, as amended by Directive (EU) 2021/2118, and to make related amendments to the *Insurance Act 1964*, the *National Treasury Management Agency (Amendment) Act 2000*, the *Value-Added Tax Consolidation Act 2010*, and the European Union (Insurance and Reinsurance) Regulations 2015.



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Summary

The [Motor Insurance Insolvency Compensation Bill 2024](#) (the Bill) was published on 30 May 2024 and is scheduled for second stage debate on 13 June 2024. This Bill seeks to transpose Article 10a and Article 25a of [Directive 2009/103/EC](#), as amended by [Directive \(EU\) 2021/2118](#), and to make related amendments to the *Insurance Act 1964*, the *National Treasury Management Agency (Amendment) Act 2000*, the *Value-Added Tax Consolidation Act 2010*, and the European Union (Insurance and Reinsurance) Regulations 2015.

Articles 10a and 25a of [Directive 2009/103/EC \(as amended\)](#) establish obligations for Member States in relation to the compensation of parties who have been injured in road-traffic accidents where the insurer covering the vehicle is insolvent (subject to bankruptcy/ winding up proceedings). Specifically:

- Article 10a relates to accidents occurring within the Member State of residence.
- Article 25a relates to accidents occurring in other Member States, other than the Member State of residence.

Premised on the basis of providing “[e]ffective and efficient protection” to parties injured in traffic accidents, Articles 10a and 25a require Member States to establish or authorise a body to provide compensation to “injured parties residing within their territory” where the insurer that issued the policy has become insolvent.¹ The Bill, among other things, proposes a legislative basis for this compensation body in Ireland and appoints the Motor Insurers’ Bureau of Ireland (MIBI) as the compensation body for the State (section 5).

Under the Bill, there will be a procedure for injured parties’ resident in the State to present a claim for compensation to the MIBI as compensation body where their motor insurer is subject to a winding-up decision (section 9). Once the claim is presented to the MIBI, specific timeframes will have to be followed in assessing claims for compensation and making compensation payments under the Bill (section 9). This Bill appears to go beyond the requirements of transposing Articles 10a and 25a of [Directive 2009/103/EC \(as amended\)](#) in this respect, as the procedure for providing compensation under section 9 will not be limited to claims under third party motor liability insurance as required by the Directive; it will include other forms of motor insurance. Linked to this, section 28 of the Bill provides for the “streamlining” of the compensation procedure for motor claims under the Bill and sets out the thresholds that may be applied to compensation provided by the MIBI.²

In addition to providing compensation to injured parties, the Bill also proposes to establish a reimbursement mechanism between the MIBI as the compensation body in Ireland and compensation bodies in other Member States. Reimbursement may be claimed for compensation paid to injured parties’ resident in the State where the insurer is authorised in another Member State and any reimbursement received shall be transmitted to the Central Bank of Ireland (section 10). The MIBI will also be required to reimburse compensation bodies in other Member States where they have compensated injured parties in their State whose insurers were

¹ [Directive \(EU\) 2021/2118](#) of the European Parliament and of the Council of 24 November 2021 amending Directive 2009/103/EC 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 [2021] OJ L430/1, recital 20 and Articles 10a and 25a.

² See the [explanatory memorandum](#) for the Motor Insurance Insolvency Compensation Bill 2024.

authorised in Ireland. This reimbursement process will also be subject to a specific timeframe under the Bill, i.e., within six (6) months of the reimbursement claim being received.

Glossary and abbreviations

Table 1 Glossary and abbreviations.

Term	Meaning
Central Bank	Central Bank of Ireland
Directive 2009/103/EC	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 [2009] OJ L263/11.
Directive (EU) 2021/2118	Directive (EU) 2021/2118 of the European Parliament and of the Council of 24 November 2021 amending Directive 2009/103/EC 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 [2021] OJ L430/1.
FOE	Freedom of Establishment relates to insurance companies authorised in another EU/EEA state who are conducting business in Ireland by setting up a branch in the State.
FOS	Freedom of Service relates to insurance companies authorised in another EU/EEA state who are writing policies to Ireland from the home state of the company.
Home-based compensation scheme	This relates to insurance compensation schemes that provide coverage to insurance policies issued by a domestic insurer, including policies issued by branches abroad.
Host-based compensation scheme	This relates to insurance compensation schemes that provide coverage to all insurers operating in the state, regardless of the location of their headquarters.
ICF	The Insurance Compensation Fund is a fund established under the <i>Insurance Act 1964</i> that applies to non-life insurance (with certain exemptions) and covers amounts owed under insurance policies issued by insurers authorised in the state or authorised in another Member State who is in liquidation. Different limits apply depending on whether the amount is owed to the policy holder or to a third party under the policy.
MIIC Fund	The Motor Insurers Insolvency Compensation Fund is a fund established under the <i>Insurance (Amendment) Act 2018</i> that is

Term	Meaning
	administered by the Motor Insurers' Bureau of Ireland (MIBI). This fund provides for payments to be made to the Central Bank of Ireland in specific circumstances as specified in the legislation.
MIBI	Motor Insurers' Bureau of Ireland

Introduction

The [Motor Insurers Compensation Bill 2024](#) (the Bill) was published on 30 May 2024 and is scheduled for second stage debate on 13 June 2024. This Bill seeks to transpose Article 10a and Article 25a of [Directive 2009/103/EC](#), as amended by [Directive \(EU\) 2021/2118](#), and to make amendments to related legislation. Articles 10a and 25a of [Directive 2009/103/EC \(as amended\)](#) establish obligations for Member States in relation to the compensation of parties who have been injured in road-traffic accidents where the insurer covering the vehicle is insolvent (subject to bankruptcy/ winding up proceedings). Specifically:

- Article 10a relates to accidents occurring within the Member State of residence.
- Article 25a relates to accidents occurring in other Member States, other than the Member State of residence.

Premised on the basis of providing “[e]ffective and efficient protection” to parties injured in traffic accidents, these articles require Member States to establish or authorise a body to provide compensation to “injured parties residing within their territory” where the insurer that issued the policy has become insolvent.³ The Bill, among other things, proposes a legislative basis for this compensation body in Ireland and appoints the Motor Insurers' Bureau of Ireland (MIBI) as the compensation body for the State.

This Digest examines the content and principal provisions of the Bill and is divided into two sections, as follows:

1. **Background:** This section provides an overview of the legal and policy context for this Bill and examines the current Irish framework governing compensation in cases of motor insurer insolvency. This section then explores Articles 10a and 25 of Directive 2009/103/EC, as amended by Directive (EU) 2021/2118, which the Bill seeks to transpose.
2. **Principal Provisions:** This section examines selected key provisions of the Bill and considers how the Bill proposes to address the transposition of Directive 2009/103/EC, as amended by Directive (EU) 2021/2118.

Pre-legislative scrutiny (PLS) was waived for this Bill and in preparing this paper, minimal domestic commentary relating to this Bill, or the transposition of Articles 10a and 25a of Directive 2009/103/EC (as amended), was located. Due to this, the analysis of the principal provisions of

³ [Directive \(EU\) 2021/2118](#) of the European Parliament and of the Council of 24 November 2021 amending Directive 2009/103/EC 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 [2021] OJ L430/1, recital 20 and Articles 10a and 25a.

the Bill in the second section of this Digest does not include detailed consideration of stakeholder commentary in this area.

Background

This section outlines the current framework governing motor insurance and motor insurance insolvency compensation in Ireland. The section then explores Directive 2009/103/EC (as amended) and considers how Articles 10a and 25a of this directive, which the Bill proposes to transpose, address compensation in cases of motor insurer insolvency.

Motor insurance in Ireland

In Ireland and across the European Union, all motorists are required to have at a minimum third-party motor insurance, in accordance with section 56 of the [Road Traffic Act 1961](#) (as amended), and Article 3 of the [2009 EU Motor Insurance Directive](#) (as amended).⁴ At the end of 2022, the total premiums earned for the private motor insurance sector in Ireland was €1.27 billion.⁵ There are three ways for an insurer⁶ to conduct business in the Irish motor insurance market:

1. “establish a head office in Ireland (authorised by Central Bank of Ireland);
2. establish a branch in Ireland through Freedom of Establishment (FOE); or
3. operate on a Freedom of Services basis (FOS).⁷

Freedom of establishment permits insurers authorised in another EU/EEA state to conduct business in Ireland by setting up a “Branch operation”, whilst freedom of services permits insurance companies authorised in another EU/EEA state to write insurance policies from the “Home state to the Host state”.⁸

Insurers who offer motor insurance in Ireland are required to be members of the Motor Insurers’ Bureau of Ireland.⁹ The Motor Insurers’ Bureau of Ireland (MIBI), established in 1955, is a “non-profit-making organisation registered in Ireland”.¹⁰ The MIBI is responsible for the compensation

⁴ Department of Transport, [Motor Insurance](#), 11 April 2023 (last accessed 10 May 2024); European Commission, [Motor Insurance](#) (last accessed 10 May 2024).

⁵ Central Bank of Ireland, [Private Motor Insurance Report 5: National Claims Information Database](#), December 2023 (last accessed 13 May 2024) p.17.

⁶ The term utilised in the [Insurance Act 1964 \(as amended\)](#) and in [Directive 2009/103/EC](#) (as amended by Directive (EU) 2021/2118) to refer to an insurance company is “insurer” and “insurer authorised in another Member State” and “insurance undertaking” respectively. For the purposes of this Bill Digest, the term “insurer” will be utilised to refer to insurance companies and a distinction will be made, where relevant, between insurers authorised in the State and insurers authorised in another Member State (as this follows the approach in section 2 of the Bill).

⁷ Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach, [Report on Pre-legislative scrutiny on the General Scheme of the Insurance \(Amendment\) Bill 2017](#), June 2018 (last accessed 25 April 2024), p.13.

⁸ See Central Bank of Ireland, [Passporting In/Out](#) (last accessed 13 May 2024). Freedom of establishment and freedom to provide service are recognised as being “pivotal for business and professional mobility within the EU”. See European Parliament, [Freedom of establishment and freedom to provide services](#) (last accessed 13 May 2024).

⁹ Per Section 78 of the [Road Traffic Act 1961](#). See Central Bank of Ireland, [Private Motor Insurance Report 5: National Claims Information Database](#), December 2023 (last accessed 13 May 2024) p.5.

¹⁰ Motor Insurers’ Bureau of Ireland, [Who we are](#) (last accessed 13 May 2024).

of “victims of road traffic accidents caused by uninsured and unidentified vehicles”.¹¹ The [MIBI website](#) currently lists 26 insurers as members (see Appendix 2 of this Digest for the list of members of the MIBI).

Motor insurance insolvency compensation in Ireland

As noted in the introduction, the Bill seeks to transpose two Articles (Article 10a and 25a) of [Directive 2009/103/EC](#) (as amended by Directive (EU) 2021/2118). The transposition of these Articles will make changes to how motor insurance compensation in cases of insolvency is dealt with in Ireland.

At present, there is an existing legal framework in Ireland governing motor insurance compensation where an insurer is insolvent. This framework is set out in [Insurance Act 1964 \(as amended\)](#),¹² which provides for two compensation funds:

- the Insurance Compensation Fund (“ICF”) and
- the Motor Insurers Insolvency Compensation Fund (“MIIC Fund”).¹³

A brief explainer of these funds is provided in Text box 1 below and further detail is provided in Appendix 1.

¹¹ See Motor Insurers’ Bureau of Ireland, [Who we are](#) (last accessed 13 May 2024); Motor Insurers’ Bureau of Ireland, [Compensation Body](#) (last accessed 13 May 2024).

¹² The *Insurance Act 1964* has been amended a number of times including by the [Insurance \(Amendment\) Act 2011](#) and the [Insurance \(Amendment\) Act 2018](#). There is currently no consolidated version of the 1964 Act and thus, an up-to-date version of the Act with all amendments could not be linked to this Digest.

¹³ See Motor Insurers’ Bureau of Ireland, [Motor Insurers Insolvency Compensation Fund Annual Report for the year ended 31 December 2022](#) (last accessed 29 February 2024).

Text box 1: ICF and MIIC Fund – A Brief Explainer

Insurance Compensation Fund (ICF)

The Insurance Compensation Fund (ICF) is a compensation fund that was established under the [Insurance Act 1964](#) (as amended). The fund is administered by the Central Bank of Ireland (section 2) and is financed by contributions received from non-life insurers (with certain exemptions) up to a maximum of 2% of the aggregated gross premiums paid to the insurers for policies covering risks in the State (section 6). Payments may be made from the fund to cover amounts owed for risks in the State under insurance policies issued by insurers authorised in the state or authorised in another Member State who are in liquidation. Different limits apply to these payments depending on whether the amount is owed to the policy holder or to a third party under the policy. In the case of policyholders whose insurer is in liquidation, the sum that may be paid out to a person under a policy shall not exceed 65 per cent of that sum, or €825,000, whichever is the less (section 3). Where the insured has liability to a third party, these limitations do not apply. The ICF will pay 100 per cent of the amount due in relation to personal injuries of the third party and can pay up to a cap of €1,300,000 per claim in respect of injury to property (section 3 (5A) of the 1964 Act, with this limitation in accordance with section 56(2)(a) of the [Road Traffic Act 1961 \(as amended\)](#)). Currently, there are different procedures for making claims for payment from the ICF depending on whether the insurance policy was held with an insurer authorised in the State who is in liquidation, or an insurer authorised in another member state who is in liquidation (or an equivalent situation) (sections 3A and 3B). This will be set out further below.

Motor Insurance Insolvency Compensation Fund (MIIC Fund)

The Motor Insurance Insolvency Compensation Fund (MIIC Fund) is a compensation fund that was established under the [Insurance \(Amendment\) Act 2018](#), which amended the [Insurance Act 1964](#). This fund is administered by the Motor Insurers' Bureau of Ireland (MIBI) and is financed through contributions from vehicle insurers up to a maximum of 3% of gross premiums paid to the insurer for policies covering risks in the State (sections 3D, 3F and 3G of the *Insurance Act 1964*, as amended). Like the ICF, this fund also provides for compensation in cases of insurers in liquidation. However, applications for payments may not be made directly to this fund by liquidators or the State Claims Agency like the ICF (or indeed by any injured party). Instead, payments may only be made by the MIBI from the MIIC Fund to the Central Bank of Ireland (following notification by the Central Bank) and these payments only cover money paid by the Central Bank from the ICF which was above the 65% or €825,000 limitation, as outlined above (section 3E). Thus, the MIIC Fund may only reimburse the Central Bank up to 35% of the claim.

See Appendix 1 for further information and full legal citations.

As seen from the above text box above, there is a framework currently in place in Ireland to address motor insurance compensation in the event of an insurer going insolvent. Before examining the compensation model provided for in Directive 2009/103/EC, as amended by Directive (EU) 2021/2118 (to which the Bill relates), it is necessary to outline two additional points regarding:

- How the current framework operates from a policyholder perspective, and
- How compensation is allocated under the current framework.

In terms of **policyholders**, this framework provides two funds to support compensation under motor insurance policies where insurers become insolvent. However, there does not currently appear to be a single point of contact or responsible body for all policyholders to contact to seek compensation where their insurer is in liquidation. Furthermore, the procedures for seeking compensation are different depending on whether the insurer in liquidation was authorised in Ireland or authorised in another Member State. Under the current legislation, if the insurer in

liquidation is authorised in Ireland, then it is the liquidator appointed to the insurer that makes an application to the High Court for payment to be made from the ICF and the policyholders are compensated by the liquidator.¹⁴ If the insurer in liquidation is authorised in another Member State, then the State Claims Agency makes the application to the High Court “on behalf of the liquidator” and the Central Bank pays the State Claims Agency from the ICF on the basis of a High Court order, who then makes payment to the person to whom it is owed.¹⁵

In addition, there is no specific timeframe set out in the current legislation regarding applications by liquidators to the High Court for payment from the ICF. The current legislation does specify that the State Claims Agency may not apply to the High Court for approval more than once in every 3-month period.¹⁶ In these respects, the process of seeking compensation from an insurance policy where an insurer goes insolvent may not be expeditious under the current legislative framework.

In relation to the **allocation of compensation**, the legislation governing the ICF and MIIC Fund currently provides for compensation to policyholders for risks in the State¹⁷ and currently applies to policies that were issued by insurers authorised in the State and insurers authorised in another Member State that are in liquidation.¹⁸ In adopting this approach, the ICF and MIIC Fund can be classified as being “host-based” insurance guarantee schemes.¹⁹ This classification is important as it may be distinguished from a “home-based” insurance guarantee scheme, which is provided for in Directive 2009/103/EC (as amended).²⁰ The distinction between these two types of schemes is set out in text box 2 below.

¹⁴ Per section 3A of the [Insurance Act 1964 \(as amended\)](#) (as inserted by section 4 [Insurance \(Amendment\) Act 2011](#) and as amended by Section 11 of the [Insurance \(Amendment\) Act 2018](#)).

¹⁵ Per section 3B of the [Insurance Act 1964 \(as amended\)](#) (as inserted by section 4 [Insurance \(Amendment\) Act 2011](#) and as amended by Section 12 of the [Insurance \(Amendment\) Act 2018](#)).

¹⁶ Section 3B of the [Insurance Act 1964 \(as amended\)](#).

¹⁷ A “risk in the State is defined in section 1 of the [Insurance Act 1964 \(as amended\)](#) as “a risk that is not an excluded risk” and includes “a risk relating to a vehicle of any type that is registered in the State”.

¹⁸ Section 3 of the [Insurance Act 1964 \(as amended\)](#) provides for payments to be made from the ICF in relation to an “insurer in liquidation” which is defined in sub-section 8 as “insolvent insurer or an insolvent insurer authorised in another Member State in respect of which a liquidator, or a person who performs the equivalent function to a liquidator in the Member State concerned, has been appointed”. Section 3(5A) provides for payments from the MIIC Fund in relation to vehicle insurers authorised in the State or in another Member State that are in liquidation or insolvent.

¹⁹ See discussion of the ICF in Minister for Finance, Paschal Donohoe T.D., [Response to Parliamentary Question No. 76 \(Insurance Compensation Fund\)](#), Dáil Éireann Debate, 07 February 2019 (last accessed 10 May 2024). See also, Department of Transport, Tourism and Sport and Department of Finance, [Review of the Framework for Motor Insurance Compensation in Ireland](#), June 2016, p.21; Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach, [Report on Pre-legislative scrutiny on the General Scheme of the Insurance \(Amendment\) Bill 2017](#), June 2018 (last accessed 25 April 2024), p.17, footnote 17.

²⁰ Article 10a(2) of [Directive 2009/103/EC](#) (as amended by Directive (EU) 2021/2118) provides that Member States in establishing a compensation body shall “take appropriate measures to ensure that the body ... has sufficient funds available to compensate injured parties”, which “may include requirements to make financial contributions” but these may be “only imposed on insurance undertakings that have been authorised by the Member State imposing them”. A similar provision is provided in Article 25a(2) of the Directive (as amended).

Text box 2: Defining host-based and home-based insurance guarantee schemes

Host-based scheme vs Home-based scheme

“The coverage of insurance compensation schemes can be classified into home state principle and host state principle. The home state principle applies when the scheme covers policies issued by a domestic insurer that participates in the scheme, including its branches abroad. The host state principle applies when all insurers operating in the country, regardless of where they are headquartered, are required to participate in the scheme.”

Source: Department of Transport, Tourism and Sport and Department of Finance, [Review of the Framework for Motor Insurance Compensation in Ireland](#), June 2016, p.21

In considering this distinction, it should be noted that changes were made to the how the ICF and MIIC Fund are financed in December 2023 in line with Directive 2009/103/EC (as amended). The [European Union \(Motor Insurance\) \(Exclusion of Certain Contributions to the Insurance Compensation Fund and the Motor Insurers Insolvency Compensation Fund\) Regulations 2023](#) altered the current provisions in the *Insurance Act 1964 (as amended)* relating to the contributions of vehicle insurers to these funds. These regulations provided that contributions to the ICF and the MIIC Fund, which are a percentage of gross premiums earned, will no longer include gross premiums that are paid to a vehicle insurer authorised in another Member State in relation to cover provided for motor liability (classified under class 10 in [Part 1 of Schedule 1 to the European Union \(Insurance and Reinsurance\) Regulations 2015](#)).²¹

Due to this change, insurers authorised in another Member State who are providing insurance for motor liability (classified under class 10) are no longer required to pay contributions into the ICF or MIIC Fund as of 23 December 2023. This reflects a transition of the current compensation framework from being host-based to a home-based approach in accordance with Directive 2009/103/EC (as amended)²² and sets a foundation for the compensation framework as proposed in the Bill. This will be discussed further below.

Motor Insurance Insolvency Compensation in the EU: Directive 2009/103/EC (as amended)

[Directive 2009/103/EC](#) sets out the minimum motor insurance required in the EU (third party insurance), removes the “border checks on insurance, so that vehicles can be driven as easily between EU countries as within one country”, and sets out requirements for the compensation of individuals where an accident has been caused by an unidentified or uninsured vehicle.²³

In 2017, the European Commission conducted a review of this Directive, which identified four main areas that would be suitable for amendment, including the “compensation of parties injured

²¹ [European Union \(Motor Insurance\) \(Exclusion of Certain Contributions to the Insurance Compensation Fund and the Motor Insurers Insolvency Compensation Fund\) Regulations 2023](#), SI 2023/658. See also, Motor Insurers’ Bureau of Ireland, [MIICF Contribution Rate Changes from 1 Jan 2024](#), 6 November 2023 (last accessed 09 May 2024).

²² Per Article 10a(2) and Article 25a(2) of [Directive 2009/103/EC](#) (as amended by Directive (EU) 2021/2118).

²³ European Commission, [Motor insurance](#) (last accessed 14 May 2024).

as a result of accidents where the insurance undertaking concerned is insolvent”.²⁴ These amendments were incorporated into [Directive \(EU\) 2021/2118](#), which among other changes, inserted a two new provisions into Directive 2009/103/EC regarding motor insurance insolvency compensation: Article 10a and Article 25a.²⁵ Article 10a relates to accidents within the same member state as the state in which the injured party is resident whilst Article 25a relates to accidents occurring in a different member state.

The Motor Insurance Insolvency Compensation Bill, as noted above, is focused on the transposition of these Articles. To inform the discussion of the Bill in the final section of this paper, a non-exhaustive overview of Article 10a and Article 25a of [Directive 2009/103/EC \(as amended\)](#) is provided in text box 3 below and the full text of these Articles is included for reference purposes in Appendix 3 of this paper.

²⁴ Per recital 2 of [Directive \(EU\) 2021/2118](#) of the European Parliament and of the Council of 24 November 2021 amending Directive 2009/103/EC 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 [2021] OJ L430/1.

²⁵ Compensation under Article 10a and Article 25a shall be “at least up to the limits of the insurance obligation, for damage to property or personal injuries caused by a vehicle insured by an insurance undertaking...”. [Directive \(EU\) 2021/2118](#) inserted new minimum amounts for compulsory insurance cover as “for personal injuries: EUR 6 450 000 per accident, irrespective of the number of injured parties, or EUR 1 300 000 per injured party” and “for damage to property, EUR 1 300 000 per accident, irrespective of the number of injured parties” (Article 9). These minimum amounts shall be reviewed by the Commission every five years in line with the harmonised index of consumer prices.

Text box 3: Article 10a and Article 25a of Directive 2009/103/EC (as amended by Directive (EU) 2021/2118)

Article 10a requires Member States to establish or authorise a body to be responsible for the compensation of injured parties who are “resident within its territory” where the accident has occurred in their Member State and where the insurer (“insurance undertaking”) is either “subject to bankruptcy proceedings” or “subject to winding-up proceedings” (Art 10a(1)). This compensation body should be sufficiently funded; although, the financial contributions to support this fund may only be collected from insurers “authorised by the Member State imposing them” (Art 10a(2)).

This Article provides that the “injured party may present a claim directly to the body” and the compensation body is required to inform either the “equivalent body in the home Member State” of the insurer and the insurer that is subject to the winding up or bankruptcy proceedings, or the administrator or liquidator of the insurer, of the claim received from the injured party (Art 10a(4) and (5)). The compensation body is required (“shall”), based on the information provided by the injured party, to provide them with “a reasoned offer of compensation or a reasoned reply... within three months from the date when the injured party presented his or her claim for compensation to the body” (Art 10a(7)). Where compensation is due (and it is not contested and the damages are quantified), the compensation body is required to pay the injured party “without undue delay” and within three months of the injured party accepting the reasoned offer of compensation (Art 10a(8)).

Article 25a is outlined in a similar manner to Article 10a and requires Member States to establish or authorise a body to be responsible for the compensation of injured parties “resident within its territory” where the accident occurs in a Member State other than the Member State of residence of the injured party and where the insurer (“insurance undertaking”) is “subject to bankruptcy proceedings” or “subject to winding-up proceedings” (Art 25a(1)). This Article requires this body to be sufficiently funded (including from financial contributions from “insurance undertakings that have been authorised by the Member State imposing them” (Art 25a(2)). Similarly to Article 10a, the injured party may “present a claim directly to the body” under Article 25a (Art 25a(4) and this compensation body is required (“shall”), based on the information provided by the injured party, to provide “a reasoned offer of compensation or a reasoned reply” within three months of the claim being presented to the body by the injured party (Art 25a(7)). Similarly, compensation provided under this Article is required to be paid to the injured party “without undue delay” and within three months of the injured party accepting the reasoned offer of compensation (Art 25a(8)).

Where the insurer is authorised in a different Member State other than the Member State where the injured party is resident, the compensation body within Member State of the injured party compensates the injured party under both of these Articles and this compensation body “shall be entitled to claim full reimbursement” of the compensation paid to the injured party from the compensation body in the home Member State of the insurer. The body in the home Member State is required to make this reimbursement “in a reasonable time” which is no more than six months after the claim for reimbursement (unless otherwise agreed by both bodies in writing). This applies in relation to accidents that occur within the Member State of residence or in another Member State (Art10a(10) and Art 25a(10)).

Articles 10a(13) and 25a(13) requires Member States to set up or authorise the body under these provisions or to “designate an entity” with the power to conclude an agreement to implement these Articles by 23 June 2023. The transposition deadline for [2021 Directive](#) was 23 December 2023.

Principal provisions of the Bill

This section of the Bill Digest examines the principal provisions of the [Motor Insurance Insolvency Compensation Bill 2024](#). The Bill contains 35 sections in five parts. This Digest does not examine every section of the Bill and instead focuses on the main provisions relating to the authorisation of a new compensation body in Ireland and the alterations that are proposed in relation to the existing insurance compensation system under the [Insurance Act 1964](#) (as amended) as outlined in Part 2 and Part 5 of the Bill. A short commentary on the role of the State Claims Agency under Part 3 of the Bill is also provided, as this role is additional to the requirements included in Article 10a and Article 25a of the [Directive 2009/103/EC \(as amended\)](#).

Part 1 – Preliminary and General

Part 1 of the Bill includes provisions pertaining to the short title of the Bill and the commencement of the Bill, as well as sections on interpretation, regulations and orders, and expenses.

Part 2 – Compensation Body

Part 2 of the Bill relates to the authorisation of a compensation body in the State for the purposes of Article 10a and Article 25a of [Directive 2009/103/EC \(as amended\)](#).

Section 5 of the Bill authorises the Motor Insurers' Bureau of Ireland to be the compensation body for the State, also known as Comhlacht na hÉireann um Chúiteamh Mótair. This section also empowers the Minister for Finance to authorise another body to be the compensation body for the State where “he or she is satisfied that it is in the interests of the effective and efficient performance of the Compensation Body’s functions in relation to the relevant purposes to do so”.²⁶ For the purposes of the analysis of the Bill in this Digest, reference will be made to the Motor Insurers' Bureau of Ireland (MIBI) when discussing the role of the compensation body authorised under the Bill.

Section 5(2) provides that the MIBI as the compensation body for the State shall provide compensation to “injured parties resident in the State” where the insurer is subject to a winding-up decision and this duty will apply “regardless of whether the accident concerned occurred in the State or another Member State”.²⁷ The compensation provided by the MIBI is required to cover at a minimum third-party motor liability (which is the minimum level of insurance required in the EU) and applies to both damage to property and personal injuries.²⁸

From the perspective of policyholders, the authorisation of the MIBI as the compensation body for the State establishes a single body with oversight for the compensation of individuals and the

²⁶ Per Section 5(1)(b). Under section 5(5), the compensation body may request the Minister to exercise this power and authorise a different body to be the compensation body.

²⁷ The term “resident in the State” is defined in section 2 of the Bill as meaning “(a) if the injured party is an individual, the party is habitually resident in the State, or (b) if the injured party is a legal person, the party’s sole or head office is situated in the State”.

²⁸ Section 5 of the Bill requires the compensation body to provide compensation “at least up to the limits of the MTPL insurance obligation”, which is defined in Section 2 of the Bill as “the motor third party liability insurance obligation under Article 3 of the Directive (excluding carrier’s liability)”.

Bill importantly provides for set timelines for the review of compensation claims. **Section 9** of the Bill provides that an injured party resident in the State may present their claim to the MIBI as the compensation body. Under this section, the MIBI as compensation body shall assess the claim and “no later than 3 months” after receiving the claim, it shall either:

- provide in writing a “reasoned offer of compensation” or
- provide notice in writing setting out the grounds upon which compensation will not be paid or it has not yet been determined whether compensation will be paid.²⁹

Where the relevant claimant accepts the reasoned offer of compensation (referred to as an “acceptance notice”), the MIBI as compensation body shall notify the Central Bank of Ireland (the “Central Bank”) in writing and request funds be transferred to them from the Insurance Compensation Fund (ICF) in order to pay the compensation owed. The MIBI is required to pay the compensation to the relevant claimant “not later than 3 months after it receives the acceptance notice” from the claimant. These procedures mirror those outlined in the Directive. From the perspective of policyholders, this section provides a clear timeframe for the processing of motor insurance insolvency claims, which is currently not provided for under the existing legislation. In the press release announcing the publication of the Bill, the Minister for Finance Michael McGrath stated:

“The establishment of a compensation body with a centralised function to compensate policyholders and injured parties is a positive development for consumers, making it easier for claimants to seek compensation following a motor insurance failure”.³⁰

In terms of financing the MIBI in this new role, **section 6** of the Bill provides that the Central Bank shall “as expeditiously as possible” (and considering the time limits for providing compensation as outlined above) provide funds to the MIBI from the Insurance Compensation Fund (ICF) so that the MIBI can:

- pay compensation under Article 10a and Article 25a of the Directive;
- pay compensation for “motor claims” in accordance with the *Insurance Act 1964*, and
- reimburse compensation bodies in other Member States.

In the case of motor claims under the *Insurance Act 1964*, it should be noted that the inclusion of these claims under the remit of the MIBI as the compensation body appears to go beyond the requirements of transposing the Directive. Indeed, a “motor claim” in this context is defined in section 2 of the Bill as:

“a claim that is made in respect of insurance business falling within any of the following classes in Part 1 of Schedule 1 to the Regulations of 2015:

- (a) class 1(d) (injury to passengers);
- (b) class 3 (all damage to or loss of land motor vehicles and land vehicles other than motor vehicles);
- (c) class 7 (all damage to or loss of goods in transit or baggage, irrespective of the

²⁹ Per section 9(5) of the Bill, a reasoned offer of compensation shall be provided where the MIBI determines that compensation is liable to be paid, the claim is not contested and the damages have been either fully or partially quantified.

³⁰ Department of Finance, [Minister McGrath and Minister Richmond publish the Motor Insurance Insolvency Compensation Bill 2024](#), 31 May 2024 (last accessed 05 June 2024).

form of transport);

(d) class 10 (all liability arising out of the use of motor vehicles operating on the land, including carrier's liability)."

This definition of "motor claim" appears to go further than the minimum compensation required under Article 10a and Article 25a, which the Bill seeks to transpose. These Articles state that compensation in cases of insolvency shall be "at least up to the limits of the insurance obligation..." under this Directive.³¹ As [Directive 2009/103/EC \(as amended\)](#) requires third party insurance to be the "compulsory" minimum for motor vehicles in all Member States,³² the insurance obligation mentioned in Article 10a and Article 25a relates to third party motor insurance. Thus, motor compensation bodies established or authorised under these Articles are not required to provide compensation above the insurance obligation in this Directive. As the Bill proposes to include a number of classes of insurance within the remit of the MIBI, individuals in Ireland whose insurer goes into liquidation may have additional coverage under the Bill, then if they were in another Member State.

In relation to the reimbursement of compensation bodies in other Member States, Articles 10a and 25a of [Directive 2009/103/EC \(as amended\)](#) provide that where an insurer is authorised in a different Member State than the Member State where the injured party is resident, the compensation body within Member State of the injured party compensates the injured party under both of these Articles. This compensation body then "shall be entitled to claim full reimbursement" of the compensation paid to the injured party from the compensation body in the home Member State of the insurer (as outlined in text box 3 above). **Section 10** of the Bill provides for the transposition of this reimbursement system and sets out the reimbursement procedures that shall apply to the MIBI when paying and seeking reimbursement from compensation bodies in other Member States.³³ Under this section, the MIBI shall "present a claim" to the compensation body in the other Member State "as soon as practicable" after paying compensation to the injured party in Ireland. Where the other compensation body presents a claim for reimbursement to the MIBI, then the MIBI is required to pay the reimbursement claim "not later than 6 months after it receives the claim".

From a policyholder perspective, the reimbursement procedures outlined in section 10 ensures that the MIBI can be the point of contact for compensation even if the insurer is authorised in another Member State. Furthermore, from a financial perspective, this procedure also ensures that the Insurance Compensation Fund (ICF) is not drawn upon by insurers authorised in other Member States which no longer provide any financial contributions to the ICF (this point shall be explored further below).³⁴

In considering section 10, the practicalities of the reimbursement procedure proposed in the Bill may warrant further consideration. For example, section 10(2) states that where the MIBI receives a reimbursement from the compensation body in another Member State, this money

³¹ [Directive 2009/103/EC \(as amended\)](#), Article 10a and Article 25a

³² European Commission, [Motor insurance](#) (last accessed 14 May 2024). Per [Directive 2009/103/EC \(as amended\)](#), Article 3. Article 9 sets out the "minimum amounts" of insurance to be required in all Member States.

³³ The MIBI as compensation body will have the "power to negotiate and conclude an agreement, for the performance of its functions in relation to the relevant purposes, in accordance with Articles 10a and 25a of the Directive" with one or more compensation body in another Member State per Section 5(3) of the Bill.

³⁴ This is as of 23 December 2023 and was provided for under the [European Union \(Motor Insurance\) \(Exclusion of Certain Contributions to the Insurance Compensation Fund and the Motor Insurers Insolvency Compensation Fund\) Regulations 2023](#).

should be transmitted in full to the Central Bank of Ireland and it is the Central Bank that shall distribute the money received in the required proportions between the Insurance Compensation Fund (ICF) (which is overseen by the Central Bank) and the Motor Insurers Insolvency Compensation Fund (MIIC Fund) (which is overseen by the MIBI).³⁵ Whilst this may be a common-sense approach to managing reimbursement claims, as the Central Bank will provide payment to the MIBI from the ICF when compensation or reimbursement claims are being made, the practical application of this approach may mean that the reimbursement claim is received by the MIBI, sent to the Central Bank and then a proportion is then returned to the MIBI to be placed into the MIIC Fund. In this respect, additional clarity regarding the practical operation of this aspect of the reimbursement procedure and the power of the Central Bank to lodge funds directly into the MIIC Fund would be beneficial.

Part 3 – Directive, Fund and MIIC Fund

This part provides a role for the State Claims Agency in auditing a sample of claims that have been completed by the MIBI on an annual basis (**section 16**) and auditing claims which exceed a “relevant amount”, as specified by the Minister by order (**section 17**).

Under section 17, the MIBI as the compensation body shall not provide an offer of compensation to an injured party that exceeds a relevant amount “until the claim has been audited” by the State Claims Agency. The State Claims Agency is required to audit claims under section 17 of the Bill as quickly and efficiently as possible and the auditing of these claims should be “without...causing undue interference with the day-to-day operations” of the MIBI as compensation body. With the consent of the Minister for Finance, the MIBI can make agreements with the State Claims Agency regarding “the timing and extent of audits”. However, it is not clear from the Bill how this auditing procedure under section 17 will fit into the timeframes required under the Directive for assessing claims and providing compensation (as outlined above). There is no requirement under Article 10a and Article 25a to audit compensation claims and as such, the timeframes required for assessing claims and providing compensation under these Articles do not account for the possible time taken in auditing claims. To this end, additional clarity regarding time limits that may be placed on the State Claims Agency when auditing claims that have not yet been completed under section 17 would be beneficial.

Part 4 – Personal Data

Part 4 includes provisions relating to the disclosure and processing of personal data.

Part 5 – Miscellaneous and Consequential

Part 5 of the Bill makes a number of amendments to the *Insurance Act 1964* (1964 Act), including inserting relevant definitions to this Act. This Part proposes several amendments to the current operation of the Insurance Compensation Fund (ICF) to reflect changes required in the transposition of the Directive.

³⁵ See Appendix 1 for more details regarding the operation of the ICF and MIIC Fund.

As discussed earlier in this paper, Directive 2009/103/EC (as amended)³⁶ adopts a “home-based” approach to motor insurance compensation which only covers insurers authorised in the State. Articles 10a and 25A only permits a levy to finance compensation bodies to be imposed on “insurance undertakings that have been authorised by the Member State imposing them”. As the Insurance Compensation Fund and the Motor Insurance Insolvency Compensation Fund have traditionally adopted a “host-based” approach, that covers all risks in the State and includes all insurance companies operating in the State, changes to the operation of these funds are required.

Section 26 amends the 1964 Act and inserts a new section 2A which seeks to empower the Minister for Finance to make regulations to set out requirements for insurers authorised in Ireland who are providing motor insurance (third party motor insurance) in other Member States regarding the contributions to be provided by these insurers to the Insurance Compensation Fund (ICF). Previously, these insurers would not have provided contributions to the ICF, unless they were providing insurance in the State.³⁷ Under section 26 of the Bill, the Minister may, by regulations, empower the Central Bank to establish a “sub-fund” into which the contributions from these insurers may be paid and this sub-fund may be utilised to provide compensation and cover related expenses of the MIBI as the compensation body as well as the expenses incurred by the Central Bank and States Claims Agency in performing their roles under the Bill. The “rate of contribution” shall be set by the Minister by regulations. Along with other factors, the Minister shall set the rate of contribution at a level that is “appropriate having regard to the level of risk” that the ICF will be exposed as the ICF will cover compensation for injured parties’ resident in another Member State where their insurer is authorised in Ireland and this was previously not covered under the 1964 Act.

Section 28 of the Bill inserts a new section 3BA into the 1964 Act. According to the [explanatory memorandum](#) for the Bill, this section “facilitates a comprehensive streamlining of the existing legal framework relating to the Insurance Compensation Fund for motor insurance insolvency so that claimants will deal efficiently and directly with the Motor Compensation Body, rather than dealing with different liquidators or motor insurance companies”.

At present, the 1964 Act requires different procedures to be followed for compensation claims depending on whether the motor insurer is authorised in Ireland or authorised in another Member State (as discussed above). In the future, these procedures will longer operate in the same way for claims under motor insurance, as the Bill provides for a new system whereby injured parties will be able to present these claims directly to the MIBI as the compensation body in the State. Section 28 of the Bill provides that section 3 of the 1964 Act will not apply to compensation claims presented under the Bill to facilitate this change.

Although section 3 will not apply to motor claims, the existing compensation limits will continue to apply as section 28 applies the same compensation limits under the ICF that apply under

³⁶ Article 10a(2) of [Directive 2009/103/EC](#) (as amended by Directive (EU) 2021/2118) provides that Member States in establishing a compensation body shall “take appropriate measures to ensure that the body ... has sufficient funds available to compensate injured parties”, which “may include requirements to make financial contributions” but these may be “only imposed on insurance undertakings that have been authorised by the Member State imposing them”. A similar provision is provided in Article 25a(2) of the Directive (as amended).

³⁷ Per section 6 of the [Insurance Act 1964 \(as amended\)](#) (as inserted by section 7 of the [Insurance \(Amendment\) Act 2011](#)). This section provides “Where, in the opinion of the Bank, the state of the Fund is such that financial support should be provided for it, the Bank shall determine an appropriate contribution to be paid to the Fund by each insurer or insurer authorised in another Member State, calculated as a percentage determined by the Bank, not exceeding 2 per cent, 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**” (emphasis added).

section 3 of the 1964 Act (i.e. for policyholders, compensation may be no more than 65 per cent of the sum due to them, or €825,000, whichever is the less; for third parties, 100 per cent of the amount due in relation to personal injuries of the third party will be paid and up to a cap of €1,300,000 per claim in respect of injury to property will be paid, in accordance with section 56(2)(a) of the [Road Traffic Act 1961 \(as amended\)](#)). Section 28 also provides for the application of the Motor Insurers Insolvency Compensation Fund (MIIC Fund) where the money paid out from the ICF for risks in the State is more than the 65 per cent or €825,000 threshold (as is the current approach under section 3E of the 1964 Act). In this respect, this section ensures that the current thresholds applied to payments from the ICF and MIIC Fund are preserved but the procedures for making an application for compensation under the 1964 Act no longer applies.

From the perspective of policy holders and third parties, this section ensures that there will be only one claims procedure for injured parties in Ireland whose motor insurer is insolvent, and this will apply to all motor insurer claims (including claims on comprehensive insurance policies)³⁸ regardless of whether their insurer is authorised in the state or in another Member State.³⁹

³⁸ The [explanatory note](#) for the Bill states “this section preserves the broader spectrum of compensation that is available under the Insurance Act 1964 for claims relating to motor vehicle liability by allowing the Motor Compensation Body to also handle a fuller spectrum of compensation for such claims, insofar as it also allows that claims on comprehensive motor policies, which predominate in the Irish market, will be met, as opposed to being limited to the motor third party liability, as required under [the Motor Insurance Directive]”.

³⁹ As this section only relates to motor insurance claims, the current procedures under Section 3 of the 1964 Act will continue to apply for compensation from the Insurance Compensation Fund under the *Insurance Act 1964* (as amended) in relation to other forms of non-life insurance.

Appendix 1 Overview of the ICF and MIIC Fund in relation to insurers in liquidation

Name of the fund	Insurance Compensation Fund (“ICF”)	Motor Insurers Insolvency Compensation Fund (“MIIC Fund”)
Established under	Insurance Act 1964	Insurance (Amendment) Act 2018
Administered by	Central Bank of Ireland ⁴⁰	Motor Insurers’ Bureau of Ireland ⁴¹
Financed by	This 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”. ⁴² In essence, this is a levy that is placed on gross premiums earned by insurers in relation to policies in the State. The Central Bank determines the percentage to be paid by each insurer or insurer authorised in another Member	Vehicle insurers are required to pay a contribution to the MIIC Fund, which is a percentage of the “gross premiums paid to the vehicle insurer” for policies covering risks in the State. ⁴⁷ The percentage rate is currently 1% (by Ministerial Order) but may be varied by the Minister, who shall review the percentage rate on an annual basis (no later than 3 months after receiving the report from the MIBI). ⁴⁸ The Minister may vary this percentage between 0% and 3% “depending on factors such as the amount held in the MIIC Fund and the likelihood of a call on the fund” in accordance with the following considerations: ⁴⁹

⁴⁰ Per section 2 of the [Insurance Act 1964 \(as amended\)](#). This function was transferred from the Accountant of the High Court to the Central Bank of Ireland by Section 9 of the [Insurance \(Amendment\) Act 2018](#). See Central Bank of Ireland, [The Insurance Compensation Fund \(the Fund\)](#), 30 November 2018 (last accessed 30 April 2024). For a discussion of the changes introduced in this Act, see Derek Lambert, Oireachtas Library & Research Service, [Bill Digest for the Insurance \(Amendment\) Bill 2018](#), July 2018 (last accessed 25 April 2024).

⁴¹ In accordance with section 3D of the [Insurance Act 1964](#) (as inserted by section 16 of the [Insurance \(Amendment\) Act 2018](#)).

⁴² Central Bank of Ireland, [The Insurance Compensation Fund \(the Fund\)](#), 30 November 2018 (last accessed 30 April 2024). This is per section 6 of the [Insurance Act 1964 \(as amended\)](#) (as inserted by section 7 of the [Insurance \(Amendment\) Act 2011](#)).

⁴⁷ Per section 3F of the [Insurance Act 1964 \(as amended\)](#) (as inserted by section 16 of the [Insurance \(Amendment\) Act 2018](#)). The vehicle insurer is required to provide the MIBI with a statement in writing that has been certified as being accurate by an auditor regarding the assessable amount in the preceding year and to pay the percentage of the assessable amount by 30 June each year. The “assessable amount” is defined in this section as “...the gross premiums paid to the vehicle insurer in respect of all policies issued by it covering risk in the State classified under - (a) class 10, and (b) class 10 together with all or any of classes 1(d), 3 and 7, in Part 1 of Schedule 1 to the European Union (Insurance and Reinsurance) Regulations 2015 (S.I. No. 485 of 2015)” (which relate to motor vehicle liability (class 10), injury to passengers (class 1(d)), land vehicles (class 3) and goods in transit (class 7)). See Part 1 of Schedule 1 to the [European Union \(Insurance and Reinsurance\) Regulations 2015](#), SI 2015/485.

⁴⁸ Per section 3F(4) and section 3G of the [Insurance Act 1964 \(as amended\)](#). The MIBI is required to provide the Minister with a report no later than 31 July each year under section 3D of the [Insurance Act 1964 \(as amended\)](#).

⁴⁹ Per section 3G of the [Insurance Act 1964 \(as amended\)](#); Motor Insurers’ Bureau of Ireland, [Motor Insurers Insolvency Compensation Fund](#) (last accessed 09 May 2024). Section 3G(5) does provide the Minister with some discretion make an order specifying a percentage rate other than those outlined above as he/she considers appropriate and sets out the factors to which the Minister may have regard.

Name of the fund	Insurance Compensation Fund (“ICF”)	Motor Insurers Insolvency Compensation Fund (“MIIC Fund”)
	<p>State⁴³ and this money is collected by the Revenue Commissioners, who pays the money collected from this levy to the Fund.⁴⁴</p> <p>The Central Bank website indicates that the levy is currently set at “2% of the aggregate of the gross premiums” paid to an insurer or to an “insurer authorised in another Member State in respect of policies issued in respect of relevant risks in the State” (this is following the annual review of the fund for 2023).⁴⁵ It should be noted that changes have been made to the contributions that should be made by certain motor insurers to this fund as of 23 December 2023 (as discussed earlier in the paper).⁴⁶</p> <p>In addition to the contributions from insurers, it should be noted that Section 2 of the Insurance Act 1964 (as amended) outlines the money that should be paid into the fund. This includes, but is not limited to, income arising from investments of the ICF, money advanced by the Minister for Finance on the recommendation of the Central Bank to the ICF, moneys</p>	<ul style="list-style-type: none"> • “2% of gross written motor premiums until the MIIC Fund reaches €150 million” • “Reducing to 1% until the MIIC Fund reaches €200 million” • 0% where the MIIC Fund is more than €200 million or • where the Minister has been notified by the MIBI that there are “insufficient moneys in the MIIC Fund” to pay a call on the fund, the Minister can set the percentage as 3% “until the total amount standing to the credit of the MIIC Fund is more than €50 million”. • “The contribution rate cannot exceed 3% per annum”.⁵⁰ <p>It should be noted that as of 23 December 2023 changes have been made to the contributions that should be made by certain motor insurers to this fund (as discussed earlier in the paper).⁵¹</p>

⁴³ Per section 6 of the [Insurance Act 1964 \(as amended\)](#) (as inserted by section 7 of the [Insurance \(Amendment\) Act 2011](#)). This section sets out when the Central Bank is required to review the state of the Fund and how the Central Bank should determine the percentage of contribution to be required.

⁴⁴ Central Bank of Ireland, [Financial Statements for the Insurance Compensation Fund for the year ended 31 December 2022](#), October 2023 (last accessed 07 May 2024) p.14. This is per Section 6 of the [Insurance Act 1964 \(as amended\)](#).

⁴⁵ Central Bank of Ireland, [Information on the Insurance Compensation Fund: Notice – Pursuant to Section 6 of the Insurance Act, 1964](#) (last accessed 07 May 2024).

⁴⁶ Per [European Union \(Motor Insurance\) \(Exclusion of Certain Contributions to the Insurance Compensation Fund and the Motor Insurers Insolvency Compensation Fund\) Regulations 2023](#), SI 2023/658.

⁵⁰ Per section 3G of the [Insurance Act 1964 \(as amended\)](#); Motor Insurers’ Bureau of Ireland, [Motor Insurers Insolvency Compensation Fund Annual Report for the year ended 31 December 2022](#) (last accessed 09 May 2024). See also, Motor Insurers’ Bureau of Ireland, [Motor Insurers Insolvency Compensation Fund Annual Report for the year ended 31 December 2022](#) (last accessed 09 May 2024).

⁵¹ Per [European Union \(Motor Insurance\) \(Exclusion of Certain Contributions to the Insurance Compensation Fund and the Motor Insurers Insolvency Compensation Fund\) Regulations 2023](#), SI 2023/658.

Name of the fund	Insurance Compensation Fund (“ICF”)	Motor Insurers Insolvency Compensation Fund (“MIIC Fund”)
	borrowed from the ICF, and money paid into the ICF on the winding up of an insurer.	
Insurance included under fund and excluded risks	This fund applies to non-life insurance, including motor insurance, ⁵² but does not cover risks under health, dental or life insurance policies for example (a full list of excluded risks can be found in the definition of “excluded risk” in section 1 of the Insurance Act 1964 (as amended)). ⁵³ In addition, this fund may not cover “commercial” policyholders “unless the sum is due in respect of a liability to an individual”. ⁵⁴	This fund applies to motor insurance only and payment may be made from this Fund in specific circumstances (see below). ⁵⁵
Payments that may be made from the Fund	<p>Payments may be made from the fund to cover amounts owed for risks in the State under insurance policies issued by insurers authorised in the state or authorised in another Member State who is in liquidation. Different limits apply depending on whether the amount is owed to the policy holder or to a third party under the policy.</p> <p>Policy holders: Where an insurer is in liquidation, the sum that may be paid out to a person under a policy shall not exceed 65 per cent of that sum, or</p>	<p>Payment may be made from the MIIC Fund to:</p> <ul style="list-style-type: none"> - meet the expenses incurred by the MIBI in performing its functions under the legislation; - pays the Central Bank any money paid by the Central Bank from the ICF to third parties which was above the 65% or €825,000 limitation applicable to the ICF (per Section 3(5A)(c) of the Insurance Act 1964 (as amended)).⁵⁹

⁵² Section 1 of the [Insurance Act 1964 \(as amended\)](#) defines a “risk in the State” as a “risk that is not an excluded risk” and includes “a risk relating to a vehicle of any type that is registered in the State”.

⁵³ Central Bank of Ireland, [The Insurance Compensation Fund \(the Fund\)](#), 30 November 2018 (last accessed 30 April 2024).

⁵⁴ Central Bank of Ireland, [The Insurance Compensation Fund \(the Fund\)](#), 30 November 2018 (last accessed 30 April 2024). This is per section 3(6) of the [Insurance Act 1964 \(as amended\)](#) (as inserted by section 4 of the [Insurance \(Amendment\) Act 2011](#)).

⁵⁵ Section 3D of the [Insurance Act 1964 \(as amended\)](#) (as inserted by section 16 of the [Insurance \(Amendment\) Act 2018](#)) provides that the MIIC Fund be established “for the purpose of payment to the Fund in accordance with this Act of any amount referred to in section 3(5A)(c)”. Section 3(5A)(c) provides for the payment from the MIIC Fund where a “vehicle insurer” is insolvent and there is an amount owed which is in excess of the limitations on the ICF (i.e. 65% or €825,000, whichever is the less).

⁵⁹ Per section 3E of the [Insurance Act 1964 \(as amended\)](#) (as inserted by section 16 of the [Insurance \(Amendment\) Act 2018](#)).

Name of the fund	Insurance Compensation Fund (“ICF”)	Motor Insurers Insolvency Compensation Fund (“MIIC Fund”)
	<p>€825,000, whichever is the less.⁵⁶</p> <p>Third parties: Where the insured has liability to a third party, these limitations do not apply. The ICF will pay 100 per cent of the amount due in relation to personal injuries of the third party and can pay up to a cap of €1,300,000 per claim in respect of injury to property.⁵⁷ However, any amount paid out of the ICF about the limitations set out above (i.e. 65% of the claim or €825,000) will be recouped from the MIIC Fund which is administered by the Motor Insurance Bureau of Ireland (MIBI).⁵⁸</p> <p>In addition to the above, it should be noted that there is provision for payments to be made out of the ICF where an administrator has been appointed to an insurer (section 3C of the Insurance Act 1964 (as amended)). The Insurance (No. 2) Act 1983 provided for the appointment of an administrator to an insurer in specific circumstances.</p>	
Procedure to be followed for payment under the Fund	Under the current legislation, there is a different procedure to be followed for claims arising from insurance undertakings authorised in the State who are	Unlike the ICF, the liquidator or state claims agency does not make an application for payment to be made from the MIIC Fund. Rather, as this fund applies to money paid by the

⁵⁶ Per section 3 of the [Insurance Act 1964 \(as amended\)](#), (as inserted by section 4 of the [Insurance \(Amendment\) Act 2011](#)). Prior to this, Section 31 of the [Insurance Act 1989](#) amended the 1964 Act and set out the limit as being “sixty-five per cent. (or six hundred and fifty thousand pounds, whichever is the less) of such sum” and this limitation also applied to the liability of the insured to a third party.

⁵⁷ Section 3 (5A)(b) of the [Insurance Act 1964 \(as amended\)](#), (as inserted by section 10 of the [Insurance \(Amendment\) Act 2018](#)). This limit is prescribed in section 56(2)(a) of the [Road Traffic Act 1961 \(as amended\)](#). The payment of 100 per cent of the amount due to third parties was provided for by the 2018 Act, following a Supreme Court judgment on the liquidation of Setanta. For further information, see Derek Lambert, Oireachtas Library & Research Service, [Bill Digest for the Insurance \(Amendment\) Bill 2018](#), July 2018 (last accessed 25 April 2024).

⁵⁸ Central Bank of Ireland, [The Insurance Compensation Fund \(the Fund\)](#), 30 November 2018 (last accessed 30 April 2024). This is per section 3(5A) of the [Insurance Act 1964 \(as amended\)](#).

Name of the fund	Insurance Compensation Fund (“ICF”)	Motor Insurers Insolvency Compensation Fund (“MIIC Fund”)
	<p>in liquidation and insurance undertakings authorised in another member state who are in liquidation (or an equivalent situation).</p> <p>Insurers authorised in the State: where an insurer authorised in the state is in liquidation, the liquidator makes an application to the High Court to “approve payments out of the Fund”. Prior to this application, the liquidator is required to provide information to the State Claims Agency who shall prepare a written report to accompany the applications to the High Court. The Central Bank, with High Court approval, pays the liquidator who then distributes the payment owed to the claimants.⁶⁰</p> <p>Insurers authorised in another Member State: Where an insurer authorised in another state is in liquidation and seeks to draw on this Fund, the State Claims Agency makes the application to the High Court “on behalf of the liquidator”. The State Claims Agency may not apply to the High Court for approval under this Section more often than once in every 3-month period. The Central Bank shall pay the State Claims Agency from the fund on the basis of a High Court order and the State Claims Agency shall</p>	<p>Central Bank in excess of the limitations set out in the 1964 Act (as amended), it is the Central Bank that is required to notify the MIBI of payments made by them in excess of the limitations set out in the legislation. This must be done in writing no later than 28 days after making a payment.</p> <p>The Central Bank shall no later than 3 months after the end of the relevant period (which is the preceding 12 months beginning 1 July and ending on 30 June) send a notice in writing to the MIBI setting out the “total amount of the payments notified” to the MIBI under this section and shall request payment of the amount due in this relevant period or in any previous relevant period.⁶²</p> <p>The MIBI shall determine if it can make a payment out of the MIIC fund within 28 days and shall either confirm in writing that to the Central Bank that the full amount shall be paid or notify the Central Bank and the Minister of the amount that it shall pay and the “shortfall” that it cannot pay. The MIBI shall pay the Central Bank the amount owed “not later than 2 months” after receiving a notice from the Central Bank under section 3E(3) i.e. after the relevant 12 month period.⁶³</p>

⁶⁰ Per section 3A of the [Insurance Act 1964 \(as amended\)](#) (as inserted by section 4 [Insurance \(Amendment\) Act 2011](#) and as amended by Section 11 of the [Insurance \(Amendment\) Act 2018](#)); Central Bank of Ireland, [Financial Statements for the Insurance Compensation Fund for the year ended 31 December 2022](#), October 2023, (last accessed 08 May 2024) p.14. Under Section 3A(2)(b), the Central Bank shall be a creditor of the insurer for any amount paid out of the fund and will have “priority to any sum remaining due under the policy”.

⁶² Per section 3E of the [Insurance Act 1964 \(as amended\)](#) (as inserted by Section 16 of the [Insurance \(Amendment\) Act 2018](#)).

⁶³ Per section 3E of the [Insurance Act 1964 \(as amended\)](#) (as inserted by Section 16 of the [Insurance \(Amendment\) Act 2018](#)).

Name of the fund	Insurance Compensation Fund (“ICF”)	Motor Insurers Insolvency Compensation Fund (“MIIC Fund”)
	then make payment to the person to whom it is owed. ⁶¹	

⁶¹ Per section 3B of the [Insurance Act 1964 \(as amended\)](#) (as inserted by section 4 [Insurance \(Amendment\) Act 2011](#) and as amended by Section 12 of the [Insurance \(Amendment\) Act 2018](#)); Central Bank of Ireland, [Financial Statements for the Insurance Compensation Fund for the year ended 31 December 2022](#), October 2023, (last accessed 08 May 2024) p.14. Under Section 3B(2)(b), the Central Bank shall be a creditor of the insurer authorised in another Member State for any money paid out of the fund (although the Act does not specify the priority that should be assigned to the Central Bank as a creditor).

Appendix 2: Members of Motor Insurers' Bureau of Ireland as of 10 June 2024⁶⁴

- Accelerant Insurance Europe SA/NV
- Accredited Insurance (Europe) Ltd
- AIG Europe S.A.
- Aioi Nissay Dowa Insurance Company of Europe SE
- Allianz PLC
- Arch Insurance (EU) DAC
- Aviva Insurance Ireland DAC
- AXA Insurance DAC
- Berkshire Hathaway European Insurance DAC
- Chubb European Group SE
- Euro Insurances DAC
- FBD Insurance PLC
- Generali Seguros Y Reaseguros S.A. trading as Liberty Ireland
- HDI Global SE
- Helvetia Global Solutions Ltd
- IPB Insurance CLG
- Lloyd's Insurance Company S.A.
- OUTsurance DAC
- Protector Forsikring ASA
- QBE Europe SA/NV
- RSA Insurance Ireland DAC
- Sofinsod Insurance DAC
- Travelers Insurance Designated Activity Company
- UPS International Insurance DAC
- Wakam
- Zurich Insurance Europe AG

For information on the authorisation status of the insurers in Ireland, see the Central Bank of Ireland Central Bank of Ireland, [Register of Non-Life Undertakings regulated by the Central Bank of Ireland as at 07 June 2024](#) and [Register of Insurance Undertakings operating on a Freedom of Services Basis as at 07 June 2024](#). Certain insurance companies are included in both registers.

⁶⁴ This list is per: Motor Insurers' Bureau of Ireland, [Members Listing](#) (last accessed 10 June 2024).

Appendix 3: The full text of Article 10a and Article 25a of Directive 2009/103/EC (as amended)⁶⁵

Article 10a

Protection of injured parties in respect of damage resulting from accidents occurring in their Member State of residence in the case of the insolvency of an insurance undertaking

1. Each Member State shall set up or authorise a body entrusted with the task of providing compensation to injured parties resident within its territory, at least up to the limits of the insurance obligation, for damage to property or personal injuries caused by a vehicle insured by an insurance undertaking, from the moment when:
 - (a) the insurance undertaking is subject to bankruptcy proceedings; or
 - (b) the insurance undertaking is subject to winding-up proceedings as defined in Article 268(1), point (d), of Directive 2009/138/EC.
2. Each Member State shall take appropriate measures to ensure that the body referred to in paragraph 1 has sufficient funds available to compensate injured parties in accordance with the rules set out in paragraph 10 when compensation payments are due in situations provided for in paragraph 1, points (a) and (b). Those measures may include requirements to make financial contributions, provided that they are only imposed on insurance undertakings that have been authorised by the Member State imposing them.
3. Without prejudice to any obligation under Article 280 of Directive 2009/138/EC, each Member State shall ensure that, whenever an order is made or a decision is taken by a competent court or any other competent authority to commence the proceedings referred to in paragraph 1, point (a) or (b), in respect of an insurance undertaking of which that Member State is the home Member State, that order or decision is made public. The body referred to in paragraph 1 established in the home Member State of the insurance undertaking shall ensure that all the bodies referred to in paragraph 1 in all Member States are promptly informed about that order or decision.
4. The injured party may present a claim directly to the body referred to in paragraph 1.
5. Upon receipt of the claim, the body referred to in paragraph 1 shall inform the equivalent body in the home Member State of the insurance undertaking and the insurance undertaking subject to bankruptcy or winding-up proceedings, or its administrator or liquidator, as defined in Article 268(1), points (e) and (f), of Directive 2009/138/EC, respectively, that it has received a claim from the injured party.
6. The insurance undertaking subject to bankruptcy or winding-up proceedings, or its administrator or liquidator, shall inform the body referred to in paragraph 1 when it compensates or denies liability with regard to a claim that has also been received by the body referred to in paragraph 1.
7. Member States shall ensure that the body referred to in paragraph 1, on the basis, inter alia, of information provided at its request by the injured party, provides the injured party with a reasoned offer of compensation or a reasoned reply as provided for in the second subparagraph of this paragraph, in accordance with the applicable national law, within three months from the date when the injured party presented his or her claim for compensation to the body.

For the purposes of the first subparagraph, the body shall:

⁶⁵ The text of Article 10a and Article 25a is extracted from the consolidated text of [Directive 2009/103/EC](#), which is dated 23 December 2023.

(a) make a reasoned offer of compensation, where it has established that it is liable to provide compensation pursuant to paragraph 1, point (a) or (b), the claim is not contested and the damages have been partially or fully quantified;

(b) provide a reasoned reply to the points made in the claim, where it has established that it is not liable to provide compensation pursuant to paragraph 1, point (a) or (b), or where liability is denied or has not been clearly determined or the damages have not been fully quantified.

8. Where compensation is due in accordance with the second subparagraph, point (a), of paragraph 7, the body referred to in paragraph 1 shall pay the compensation to the injured party without undue delay and in any event within three months of the acceptance by the injured party of the reasoned offer of compensation referred to in the second subparagraph, point (a), of paragraph 7.

Where the damage has been only partially quantified, the requirements concerning the payment of the compensation set out in the first subparagraph shall apply in respect of that partially quantified damage, and from the moment of acceptance of the corresponding reasoned offer of compensation.

9. Member States shall ensure that the body referred to in paragraph 1 has all the necessary powers and competences to be able to cooperate in due time with other such bodies in other Member States, with bodies set up or authorised under Article 25a in all Member States and with other interested parties, including an insurance undertaking subject to bankruptcy or winding-up proceedings, its administrator or liquidator, and the national competent authorities of the Member States, at all stages during the proceedings referred to in this Article. Such cooperation shall include requesting, receiving and providing information, including on the details of specific claims, where relevant.

10. Where the home Member State of the insurance undertaking referred to in paragraph 1 is different from the Member State in which the injured party is resident, the body referred to in paragraph 1 in the Member State in which the injured party is resident which has compensated the injured party in accordance with paragraph 8 shall be entitled to claim full reimbursement of the sum paid by way of compensation from the body referred to in paragraph 1 in the home Member State of the insurance undertaking.

The body referred to in paragraph 1 in the home Member State of the insurance undertaking shall make the payment to the body referred to in paragraph 1 in the Member State in which the injured party is resident which has compensated the injured party in accordance with paragraph 8 in a reasonable time not exceeding six months, unless otherwise agreed in writing by those bodies, after it has received a claim for such reimbursement.

The body that has provided compensation pursuant to the first subparagraph shall be subrogated to the injured party in his or her rights against the person who caused the accident or his or her insurance undertaking, except against the policyholder or other insured person who caused the accident in so far as the liability of the policyholder or of the insured person would be covered by the insolvent insurance undertaking in accordance with the applicable national law. Each Member State shall be obliged to acknowledge this subrogation as provided for by any other Member State.

11. Paragraphs 1 to 10 shall be without prejudice to the right of Member States to:

(a) regard compensation paid by the body referred to in paragraph 1 as subsidiary or non-subsidiary;

(b) make provision for the settlement of claims in respect of the same accident between:

(i) the body referred to in paragraph 1;

(ii) the person or persons responsible for the accident;

(iii) other insurance undertakings or social security bodies required to compensate the injured party.

12. Member States shall not allow the body referred to in paragraph 1 to make the payment of compensation subject to any requirements other than those laid down in this Directive. In particular,

Member States shall not allow the body referred to in paragraph 1 to make the payment of compensation subject to the requirement that the injured party establishes that the legal or natural person liable is unable, or refuses, to pay.

13. The bodies referred to in paragraph 1 or the entities referred to in the second subparagraph of this paragraph shall strive to conclude an agreement by 23 December 2023 to implement this Article, concerning their functions and obligations and the procedures for reimbursement pursuant to this Article.

For that purpose, by 23 June 2023 each Member State shall:

(a) set up or authorise the body referred to in paragraph 1 and empower it to negotiate and conclude such an agreement; or

(b) designate an entity and empower it to negotiate and conclude such an agreement, to which the body referred to in paragraph 1 will become a party when it is set up or authorised.

The agreement referred to in the first subparagraph shall be immediately notified to the Commission.

Where the agreement referred to in the first subparagraph is not concluded by 23 December 2023, the Commission is empowered to adopt delegated acts in accordance with the procedure referred to in Article 28b in order to specify the procedural tasks and the procedural obligations of the bodies referred to in paragraph 1 with regard to reimbursement.

Article 25a

Protection of injured parties in respect of damage resulting from accidents occurring in a Member State other than their Member State of residence in the case of the insolvency of an insurance undertaking

1. Each Member State shall set up or authorise a body entrusted with the task of providing compensation to injured parties resident within its territory, in the cases referred to in Article 20(1), at least up to the limits of the insurance obligation, for damage to property or personal injuries caused by a vehicle insured by an insurance undertaking, from the moment when:

(a) the insurance undertaking is subject to bankruptcy proceedings; or

(b) the insurance undertaking is subject to winding-up proceedings as defined in Article 268(1), point (d), of Directive 2009/138/EC.

2. Each Member State shall take appropriate measures to ensure that the body referred to in paragraph 1 has sufficient funds available to compensate injured parties in accordance with the rules set out in paragraph 10 when compensation payments are due in situations provided for in paragraph 1, points (a) and (b). Those measures may include requirements to make financial contributions, provided that they are only imposed on insurance undertakings that have been authorised by the Member State imposing them.

3. Without prejudice to any obligation under Article 280 of Directive 2009/138/EC, each Member State shall ensure that, whenever an order is made or a decision is taken by a competent court or any other competent authority to commence the proceedings referred to in paragraph 1, point (a) or (b), in respect of an insurance undertaking of which that Member State is the home Member State, that order or decision is made public. The body referred to in paragraph 1 established in the home Member State of the insurance undertaking shall ensure that all the bodies referred to in paragraph 1 and all the compensation bodies referred to in Article 24 in all Member States are promptly informed about that order or decision.

4. The injured party may present a claim directly to the body referred to in paragraph 1.

5. Upon receipt of the claim, the body referred to in paragraph 1 shall inform the equivalent body in the home Member State of the insurance undertaking, the compensation body under Article 24 in the Member

State of residence of the injured party and the insurance undertaking subject to bankruptcy or winding-up proceedings, or its administrator or liquidator, as defined in Article 268(1), points (e) and (f), of Directive 2009/138/EC, respectively, that it has received a claim from the injured party.

6. The insurance undertaking subject to bankruptcy or winding-up proceedings, or its administrator or liquidator, shall inform the body referred to in paragraph 1 when it compensates or denies liability with regard to a claim that has also been received by the body referred to in paragraph 1.

7. Member States shall ensure that the body referred to in paragraph 1, on the basis, inter alia, of information provided at its request by the injured party, provides the injured party with a reasoned offer of compensation or a reasoned reply as provided for in the second subparagraph of this paragraph, in accordance with the applicable national law, within three months from the date when the injured party presented his or her claim for compensation to the body.

For the purposes of the first subparagraph, the body shall:

(a) make a reasoned offer of compensation, where it has established that it is liable to provide compensation pursuant to paragraph 1, point (a) or (b), the claim is not contested and the damages have been partially or fully quantified;

(b) provide a reasoned reply to the points made in the claim, where it has established that it is not liable to provide compensation pursuant to paragraph 1, point (a) or (b), or where liability is denied or has not been clearly determined or the damages have not been fully quantified.

8. Where compensation is due in accordance with the second subparagraph, point (a), of paragraph 7, the body referred to in paragraph 1 shall pay the compensation to the injured party without undue delay and in any event within three months of the acceptance by the injured party of the reasoned offer of compensation referred to in the second subparagraph, point (a), of paragraph 7.

Where the damage has been only partially quantified, the requirements concerning the payment of the compensation set out in the first subparagraph shall apply in respect of that partially quantified damage, and from the moment of acceptance of the corresponding reasoned offer of compensation.

9. Member States shall ensure that the body referred to in paragraph 1 has all the necessary powers and competences to be able to cooperate in due time with other such bodies in other Member States, with bodies set up or authorised under Articles 10a and 24 in all Member States and with other interested parties, including an insurance undertaking subject to bankruptcy or winding-up proceedings, its claims representative or administrator or liquidator, and the national competent authorities of the Member States, at all stages during the proceedings referred to in this Article. Such cooperation shall include requesting, receiving and providing information, including on the details of specific claims, where relevant.

10. Where the home Member State of the insurance undertaking referred to in paragraph 1 is different from the Member State in which the injured party is resident, the body referred to in paragraph 1 in the Member State in which the injured party is resident which has compensated the injured party in accordance with paragraph 8 shall be entitled to claim full reimbursement of the sum paid by way of compensation from the body referred to in paragraph 1 in the home Member State of the insurance undertaking.

The body referred to in paragraph 1 in the home Member State of the insurance undertaking shall make the payment to the body referred to in paragraph 1 in the Member State in which the injured party is resident which has compensated the injured party in accordance with paragraph 8 in a reasonable time not exceeding six months, unless otherwise agreed in writing by those bodies, after it has received a claim for such reimbursement.

The body that has provided compensation pursuant to the first subparagraph shall be subrogated to the injured party in his or her rights against the person who caused the accident or his or her insurance undertaking, except against the policyholder or other insured person who caused the accident in so far as

the liability of the policyholder or of the insured person would be covered by the insolvent insurance undertaking in accordance with the applicable national law. Each Member State shall be obliged to acknowledge this subrogation as provided for by any other Member State.

11. Paragraphs 1 to 10 shall be without prejudice to the right of Member States to:

- (a) regard compensation paid by the body referred to in paragraph 1 as subsidiary or non-subsidiary;
- (b) make provision for the settlement of claims in respect of the same accident between:
 - (i) the body referred to in paragraph 1;
 - (ii) the person or persons responsible for the accident;
 - (iii) other insurance undertakings or social security bodies required to compensate the injured party.

12. Member States shall not allow the body referred to in paragraph 1 to make the payment of compensation subject to any requirements other than those laid down in this Directive. In particular, Member States shall not allow the body referred to in paragraph 1 to make the payment of compensation subject to the requirement that the injured party establishes that the legal or natural person liable is unable, or refuses, to pay.

13. The bodies referred to in paragraph 1 or the entities referred to in the second subparagraph of this paragraph shall strive to conclude an agreement by 23 December 2023 to implement this Article, concerning their functions and obligations and the procedures for reimbursement pursuant to this Article.

For that purpose, by 23 June 2023 each Member State shall:

- (a) set up or authorise the body referred to in paragraph 1 and empower it to negotiate and conclude such an agreement; or
- (b) designate an entity and empower it to negotiate and conclude such an agreement, to which the body referred to in paragraph 1 will become a party when it is set up or authorised.

The agreement referred to in the first subparagraph shall be immediately notified to the Commission.

Where the agreement referred to in the first subparagraph is not concluded by 23 December 2023, the Commission is empowered to adopt delegated acts in accordance with the procedure referred to in Article 28b in order to specify the procedural tasks and the procedural obligations of the bodies referred to in paragraph 1 with regard to reimbursement.

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