

# Guarantee Fund Compendium

## M – Malta

Review date: 30/11/2020

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### General information

Please provide the official full name of your Guarantee Fund.

#### PROTECTION AND COMPENSATION FUND

What is the legal status (form) of your Guarantee Fund (non-profit organisation, association of legal entities, limited liability company, etc.)?

Legal person established by the Protection and Compensation Fund Regulations 2003 issued under the Insurance Business Act

How is the ownership/membership of your Guarantee Fund structured (e.g. owned/controlled by all members equally, part of state government, etc.)?

The Protection and compensation fund is a public body administered by a Management Committee appointed by The Malta Financial Services Authority

#### 1 - Unidentified or uninsured vehicles

1.1. What is the full identity (exact name, address, etc.) of the organisation established or authorised with a view to transposing the 2nd MID? Please specify.

Protection and Compensation Fund, Malta Financial Services Authority, Notabile Road, Attard, BKR3000, Malta.

**1.2. What is the legal nature of the organisation?**

The Protection and Compensation Fund is a body corporate having a distinct legal personality and is capable of entering into all transactions which are incidental or conclusive to the exercise of performance of its functions; these include (but are not limited to) incurring indebtedness; acquiring, holding and disposing of any kind of property; suing or being sued.

**1.3. On what legal basis is it authorised to carry out compensation?**

Legislation .

**1.4. Is compensation by this body subsidiary?**

No.

**1.5. If the compensation is subsidiary, which entities are excluded?**

Not applicable.

**1.6. Is your organisation a VAT liable entity?**

Under Maltese VAT legislation, the Guarantee Fund is considered to fall within the legal definition of a "Taxable Person". However the Fund is not required to register for VAT purposes since all the services it provides are considered by the said legislation to be VAT exempt.

**1.7. If yes, please indicate the VAT number:**

As above.

**1.8. If your organisation is a VAT liable entity, is the service of claim handling VAT exempted?**

As above.

**1.9. Are there any specific provisions governing the recourse between this body and those responsible for the accident and other insurers or social security bodies obliged to compensate the victim for the same accident?**

Yes.

**1.10. If yes to question 1.9, what do these specific provisions consist of? Please specify briefly.**

The victim assigns and subrogates his/her rights against the tortfeasor for eventual recovery by the Fund.

An Insurer, which compensates in lieu of the Fund, has a right of reimbursement against the Fund.

**1.11. Are people who voluntarily entered the vehicle which caused the damage when they knew that the vehicle was uninsured, excluded from the intervention of the body?**

Yes.

**1.12. In the event of an accident caused by an unidentified vehicle, is the intervention of the body subject to specific provisions as regards the compensation of damage to property?**

Yes.

**1.13. If yes to question 1.9, what are the specific provisions? Please specify briefly.**

Payments relating to property damage shall only be made where the Fund has also compensated significant personal injuries sustained by victims of the same accident and subject to an excess of € 500.

**1.14. If yes to question 1.9, what are the conditions provided for by your legislation so that the damage to property may be considered as significant? Please specify briefly.**

Personal Injuries are considered as significant if, inter alia, the injuries sustained required hospital care.

**1.15. If the injured party is not a resident of an EEA Member State, can it benefit from the intervention of the body?**

Yes.

**1.16. What periods of limitation are the demands for compensation addressed to the body subjected to? Please specify briefly.**

Application for compensation must be made in writing within two years from the date of the occurrence.

**1.17. According to Directive 90/232/EEC, Article 4 “In the event of a dispute between the body referred to in Article 1 (4) of Directive 84/5/EEC and the civil liability insurer as to which must compensate the victim, the Member States shall take the appropriate measures so that one of these parties is designated to be responsible in the first instance for paying compensation to the victim without delay”. Which of these parties has been designated in your country to be responsible in the first instance for paying compensation to the victim in the event of a dispute between the body and the insurer responsible for civil liability as to which must compensate the victim? Please specify.**

The civil liability Insurer has been designated to be responsible in the first instance for paying compensation to the victim

**1.18. Are there certain vehicles or certain types of vehicle having a special plate exempted from the obligation of compulsory insurance in your country? (Article 5.2 of the MID)**

Yes.

**1.19. If yes, please list those vehicles:**

(a) Any motor vehicle owned by the Government of Malta when such vehicle is used and employed exclusively in the service of the Government of Malta;

(b) Any specified class of motor vehicles to which or to certain natural or legal persons, whether public or private, to whom the Minister responsible for Transport shall by regulation exempt.

## **2 - Stolen vehicles or vehicles obtained by violence**

**2.1. Has your Member State made use of this possibility?**

Yes.

**2.2. If yes to question 2.1, what are the conditions provided in the event of compensation for damage to property? Please specify briefly.**

The Fund shall apply an excess of € 233.

**2.3. If yes to question 2.1, are people who voluntarily entered the vehicle which caused the damage when they knew that the vehicle was stolen, excluded from the intervention of the body?**

Yes.

## **3 - Other cases of intervention by the body**

**3.1. Do the legislation of your Member State provide for other situations where the injured party can claim compensation from the body after a road traffic accident?**

Yes.

**3.2. If yes to question 3.1, what are these situations?**

Compensation claims which remain unpaid by reason of the insolvency of the Insurer.