

Guarantee Fund Compendium

B – Belgium

Review date: 01/12/2020

The information in this compendium is provided by the Guarantee Fund of the country concerned and serves an information purpose only. It is not intended to be comprehensive or complete, nor can it be guaranteed to be accurate or up to date. The Council of Bureaux nor the Guarantee Fund concerned accepts any responsibility or liability whatsoever in relation to the information provided in this document.

General information

Please provide the official full name of your Guarantee Fund.

Fonds Commun de Garantie Belge (FCGB)

Belgisch Gemeenschappelijk Waarborgfonds (BGWF)

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

Non- profit Association

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

Membership of all insurance undertakings active for Belgian MTPL risks is compulsory.

The Association needs official authorization from the Belgian government.

Members have voting rights in the General Assembly based on the number of motor vehicles they cover. Their obligations are determined by the number of motor vehicles they cover. The General Assembly appoints the Board of administrators (maximum 15, minimum 5).. Only physical persons are allowed to be members of the Board. This Board appoints the executives. One member of the Board is a representative of the Government and reports to the Government.

FCGB-BGWF is controlled by the Belgian Services and Markets Authority (FSMA).

1 - Unidentified or uninsured vehicles

1.1. What is the full identity (exact name, address, etc.) of the body established or authorised in accordance with Article 10 of the Codified Motor Insurance Directive? Please specify.

Fonds Commun de Garantie Belge (FCGB)

Rue de la Charité 33 - 1210 Bruxelles

Belgisch Gemeenschappelijk Waarborgfonds (BGWF)

Liefdadigheidsstraat 33 – 1210 Brussel

info@fcgb-bgwf.be

claims@fcgb-bgwf.be

Tel: 02/287.18.11

Fax: 02/287.18.00

1.2. What is the legal nature of this body?

Private

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

Law

1.4. Is compensation by this body subsidiary?

No

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

/

1.6. Is this body a VAT liable entity?

Yes

1.7. If yes, please indicate the VAT number:

0407229655 = n° **enterprise** - we would like to avoid every unhappy use of the above mentioned number. Of course we will respect our obligation to inform the Belgian Tax services about our reimbursement notes addressed to all those (but only those) who consider themselves VAT liable but not exempted concerning their activity.

It would be very difficult for us to accept that our body would be the object of reports invoiced from outside Belgium, transferred to domestic tax authorities, and wherein our body would be treated as a non exempted

recipient , followed by checks from Belgian authorities towards our body, only because our number would be mentioned in the reimbursement notes.

1.8. If this body is a VAT liable entity, is the service of claim handling VAT exempted?

Yes

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.

Recourse of the Belgian Guarantee Fund against the liable person is total. In case of uninsured vehicle the recourse is activated against the owner of the vehicle.

If the outlays of social security bodies are superior to the amount due by virtue of common law, the Belgian Guarantee Fund only pays the common Law amount.

The recourse of social security bodies cannot affect the compensation of non-economical damages.

The Belgian Guarantee Fund, if acting as Compensation body is only allowed to apply the Law of the State where the accident occurred.

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?

No, but the owner of the uninsured vehicle is always excluded.

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 1.12, what are the specific provisions? Please specify briefly.

Compensation of damage to property only if the accident caused significant bodily injury

1.14. If yes to question 1.12, what are the conditions provided for by your legislation so that the personal injuries may be considered as significant (cf. Article 10.3 of the Codified Motor Insurance Directive)? Please specify briefly.

Significant bodily injury:

death, or
disability during at least 1 month, or
hospitalization of at least 7 days, or
permanent disability of at least 15 %

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.

5 years starting from the date of the accident

1.17. According to Article 11 of the Codified Motor Insurance Directive “In the event of a dispute between the body referred to in Article 10(1) 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 Belgian Guarantee Fund

1.18. Are there certain types of vehicles or certain vehicles having a special plate exempted from the obligation of compulsory MTPL insurance in your country? (Article 5.2 of the Codified Motor Insurance Directive)

Answer to this question is available in the Green Card Bureau Compendium, question 14.2.

1.19. If yes, please list those vehicles:

Answer to this question is available in the Green Card Bureau Compendium, question 14.2.

2 - Stolen vehicles or vehicles obtained by violence

2.1. Has your Member State made use of this possibility offered by Article 13(2) of the Codified Motor Insurance Directive to make the Guarantee Fund responsible for paying compensation instead of the insurer?

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.

Always, if the stolen vehicle is held responsible.

The insurance undertaking still has to cover the accident if the driver of the stolen vehicle remains unknown, unless it is absolutely certain that only the thief could have been the driver of the vehicle.

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?

Force majeure exempting a driver from liability.

Bankruptcy or withdrawal of authorization of the insurance undertaking.

The Belgian Guarantee Fund acts also as the Belgian Compensation Body.