

Guarantee Fund Compendium

LV – Latvia

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General information

Please provide the official full name of your Guarantee Fund.

Motor Insurers' Bureau of Latvia (the Guarantee Fund of Latvia) (hereinafter – the GF).

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

Association of legal entities, as well as non-profit organisation.

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 the GF is controlled by all members of the Motor Insurers' Bureau of Latvia (all insurance companies that have the right to perform the compulsory civil liability insurance of the owners of motor vehicles in the Republic of Latvia) equally. The GF shall not have a status of legal entity. The cash of the GF shall be kept in the accounts of the Motor Insurers' Bureau of Latvia. The accounts shall be managed by the Motor Insurers' Bureau of Latvia.

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.

Please visit the COB website or extranet.

1.2. What is the legal nature of this body?

Private.

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

Motor TPL Insurance Law of Latvia.

1.4. Is compensation by this body subsidiary?

No.

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

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1.6. Is this body a VAT liable entity?

No.

1.7. If yes, please indicate the VAT number:

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

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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 GF shall reimburse the expenses covered from the State and local government budgets:

- 1) for the medical treatment and rehabilitation of the injured persons and for the purchasing or leasing and adapting of technical auxiliary equipment,
- 2) in the form of the State social insurance services (including the paid personal income tax) and State social benefits in relation to the persons injured in a road traffic accident.

If another insurer has compensated losses incurred in an accident (e.g. in accordance with a voluntary insurance contract) it may submit its recourse claim to the GF within one year from the date of payment of insurance indemnity.

If the regulatory enactments of the place of residence or the state of registration of a foreigner or foreign legal person restrict the payment of compensation for losses from the GF or a corresponding institution in the relevant foreign state then the losses suffered in accident in Latvia shall be compensated applying the same restrictions.

The GF is entitled to submit a subrogation action against:

1. the legal user of a motor vehicle causing a road traffic accident or the owner of the motor vehicle, or in case of leasing of the motor vehicle, the holder of the motor vehicle indicated in the

registration certificate of the motor vehicle, if the third-party liability of the owner has not been insured;

2) a driver of the motor vehicle if he/she has been driving a motor vehicle acquired as a result of a criminal offense, except where, in the event of a road traffic accident, the driver has been a driver in good faith;

3) a person who acquired the vehicle by committing a criminal offense;

4) an insurer, if the motor vehicle that has caused the loss is being determined and the insurer had the obligation to pay insurance indemnity;

5) a trading company (merchant), whose motor vehicle accepted for trading pursuant to the procedure prescribed by law caused the loss and who has not insured the civil liability of the owner

6) "4th MID" Bodies (Compensation Body, Guarantee Fund).

If the GF has compensated losses instead of the insurer under insolvency process it is also entitled to submit a subrogation action in the same cases the insurer would be entitled to.

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

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.

If the accident was caused by an unidentified motor vehicle and at least one person has sustained severe or medium bodily injuries, then all persons involved in the accident shall be indemnified for property damage.

If the regulatory enactments of the place of residence or the state of registration of a foreigner or foreign legal person restrict the payment of compensation for losses from the GF or a corresponding institution in the relevant foreign state then the losses suffered in accident in Latvia shall be compensated applying the same restrictions.

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.

According to our legislation an expert's examination is required in order to determine the cause of death or serious bodily injuries. It is the role of the forensic medical expert to classify the bodily injuries of the injured person. Serious bodily injuries are such bodily injuries, which have been the reason for:

1) a threat to life (bodily injuries dangerous to life);

- 2) loss of vision, hearing or any other organ or functions of organs;
- 3) mental or other health disorder, which is associated with a general ongoing loss of ability to work to the extent of not less than one third;
- 4) termination of pregnancy;
- 5) irreparable facial disfigurement.

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.

1 year from the date of accident for property damage.

3 years from the date of accident for personal injury.

In case of subrogation – 1 year from the day of payment of the insurance indemnity.

A third person may appeal the decision regarding the payment of the insurance indemnity or refusal thereof to a court within 3 years of its adoption.

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.

Motor Insurers' Bureau of Latvia (the Guarantee Fund of Latvia).

According to the Motor TPL Insurance Law in Latvia the resources of the GF shall be used to pay compensation for losses if a dispute arises between an insurer and the Motor Insurers' Bureau (the GF) regarding the duty to pay an insurance indemnity.

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)

Yes, (*in force from 1 February 2021*).

1.19. If yes, please list those vehicles:

Special military equipment registered in the Register of the National Armed Forces of the Republic of Latvia (*in force from 1 February 2021*).

2 - Stolen vehicles or vehicles obtained by violence

2.1. Has your Member State made use of the 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?

No (*in force from 1 May 2019*).

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.

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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?

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3 - Other cases of intervention by the body

3.1. Does 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?

The GF also ensures the payment of insurance indemnity to cover loss that has been caused by:

1) a driver of a motor vehicle whose fault cannot be proven in cases when a pedestrian, a cyclist or any other road traffic participant, who doesn't use a motor vehicle, suffers and in whose actions there are no violations of the Road Traffic Regulations which might have caused damages incurred in a road traffic accident

2) a motor vehicle whose civil liability insurer has become insolvent.

3) if a dispute arises between insurers regarding the duty to pay an insurance indemnity when losses to a third person have been caused by several persons, including the drivers of motor vehicles, and within three months from submitting the application regarding an insurable event it is impossible to determine the degree of liability of the driver of each motor vehicle.