

To: Non-life Committee
From: Non-Life Insurance department
cc: General Liability SG
Date: 15 January 2014
Reference: NLI-14-003

Subject: Package Travel Directive

Background

In July 2013, the European Commission (DG Justice) published a proposal for a [Directive on package travel and assisted travel arrangements](#). With this proposal, the European Commission aims to respond to the development of internet distribution and the liberalisation in the airline sector, unnecessary compliance costs and obstacles to cross-border trade as well as unclear and outdated consumer protection rules.

The proposal introduces new rules for traveller compensation, including a maximum of three nights' stay if impossible for the traveller to return home due to unavoidable and extraordinary circumstances (Article 11), security for the effective and prompt refund of all payments in cases of insolvency (Article 15) and no-fault liability for errors during the booking process (Article 19). The proposal also refers to travel insurance as an "ancillary service" that should not be considered as "tourist services in their own right" (Recital 17). Finally, the proposal says the traveller should be "fully protected against the insolvency of the organiser" and that such protection may be provided "in the form of a guarantee or an insurance policy" (Recital 34).

At the European Parliament, the Internal Market and Consumer Protection (IMCO) Committee has the lead on this file while the Transport and Tourism (TRAN) Committee is responsible for an opinion. The IMCO Committee issued its [draft report](#) on 26 November 2013 while the TRAN Committee issued its [draft opinion](#) on 3 December 2013 (see also 18 December 2013 memo NLI-13-041). The IMCO Committee later published its [amendments](#) on 19 December while the TRAN Committee published its [amendments](#) on 18 December.

Recent Developments

Following member feedback agreeing with the Secretariat's recommendation to comment on the insurance-related provisions of the TRAN and IMCO amendments, the Secretariat has drafted comments for submission to the TRAN Committee in light of its vote next week on 22 January (see NLI-14-004 attached). These comments address the following TRAN amendments:

- **Amendment 220** on Article 14 proposing that the Member States ensure the travel organiser has "adequate insurance or other means to give assistance";
- **Amendment 228** on Article 15(2)a(new) proposing that travel organisers/retailers prove they have taken all measures to guarantee travel protection, "including the existence of a fund or insurance";
- **Amendment 224** on Article 15(1) proposing that travel organisers and retailers facilitating the procurement of "linked travel arrangements" obtain financial security for all these arrangements in the event of insolvency of any of the linked parties;
- **Amendment 230** on Article 15(2)b(new) proposing that the insolvency protection for linked travel arrangements provide *for the fulfilment of contracts* forming packages or linked arrangements, rather than a refund of payments.

The Insurance Europe draft comments notably highlight the overall difficulties of insuring business insolvency as well as note that this difficulty is increased if insurers are expected to cover “linked” travel providers. The comments also question the use of certain terms such as “adequate insurance” by arguing the lack of clarity and different interpretations likely to arise from introduction of this term.

The Secretariat aims to submit these comments to the TRAN Committee early next week. Comments concerning the insurance-related amendments made by the IMCO Committee (see memo NLI-14-002 for details) will be drafted at a later stage and subject to discussion at the next General Liability Steering Group meeting on 28 January.

Next steps

- 22 January 2014: TRAN vote
- 11 February 2014: IMCO vote
- 10 March 2014: Indicative Plenary sitting date

Input Requested

Members are requested to submit their input to the Secretariat (bell@insurancееurope.eu) no later than **3pm on Friday, 17 January 2014** on the draft comments (NLI-14-004) to be sent to the EP TRAN Committee in view of its vote on amendments next week.