

**Comments Template on EIOPA-CP 11/010a and EIOPA-CP 11/010b
 Consultation Paper on the proposal for Guidelines on Complaints-Handling by Insurance
 Undertakings and Report on Best Practices by Insurance Undertakings in handling
 complaints**

**Deadline
 31 January 2012
 12:00 CET**

Company name:	Financial and Capital Market Commission	
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Disclosure of comments:	EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential. <i>Please indicate if your comments on this CP should be treated as confidential, by deleting the word Public in the column to the right and by inserting the word Confidential.</i>	Public
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Please follow the instructions for filling in the template:

- ⇒ Do **not** change the numbering in column "Reference", or any other formatting in the file.
- ⇒ Please fill in your comment in the relevant row. If you have **no comment** on a paragraph, keep the row **empty**. Please do not delete rows in the table.
- ⇒ Our IT tool does not allow processing of comments which do not refer to the specific paragraph numbers below.
 - If your comment refers to multiple paragraphs, please insert your comment at the first relevant paragraph and mention in your comment to which other paragraphs this also applies.
 - If your comment refers to sub-bullets/sub-paragraphs, please indicate this in the comment itself.

Please send the completed template to CP_010@eiopa.europa.eu, in MSWord Format, (our IT tool does not allow processing of any other formats).

The paragraph numbers below correspond to Consultation Paper No. 11/010a and there is an additional section at the end for general comments on the Best Practices Report No. 11/010b

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Reference	Comment	
General Comment		
3.1.		
3.2.		
3.3.		
3.4.		
3.5.		
3.6.		
3.7.	Considering the included "consumer definition", probably one might require clarification whether the complaints handling guidelines are meant only for consumer complaints (filed by natural persons) or whether they also include the complaints filed by legal entities. In this regard, please also see comment to paragraph 3.15.	Public
3.8.		
3.9.		
3.10.		
3.11.	Further clarity is required regarding what is meant by a 'complaints management function'. Is it a function that provides oversight and ensures that the process is followed and complaints are handled appropriately and fairly or is it envisaged that all complaints are <i>handled</i> by this function? If it is the latter we do not believe that this would be appropriate. The majority of complaints can be resolved quickly by front line staff and only a small minority may benefit from specialist handling. While it is understandable that an independent complaints management function will enable complaints to be investigated fairly and impartially, we believe that this would be particularly onerous for smaller firms. As stated above, we suggest that complaints should be overseen by a nominated complaints management representative or function to ensure appropriate handling of complaints and a thorough analysis of any underlying issues. We believe that as long as complaints are handled appropriately, including appropriate ownership at	Public

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	a senior level, and that there is independent oversight then complaints handling does not have to be performed by one separate team.	
3.12.		
3.13.		
3.14.		
3.15.	<p>With reference to paragraph 3.7. considering that Solvency II Directive points to adequate protection of policyholders and other involved persons, one might assume that the complaints handling would apply to any complainants. However, in the given guideline an emphasis is put upon the consumer. We would like to argue that the provision of information about complaints handling, in general, is meant to all complainants.</p> <p>Also, the alternation between a consumer and complainant in the guideline text is confusing. We would suggest changing the headline of the guideline to a more general and inclusive one – "Information to Complainants". However, the guideline text could be better arranged regarding division of the appropriate policies for the consumers and other complainants (legal entities).</p>	Public
3.16.		
3.17.	Comments are not being sought at this stage	
3.18.	Comments are not being sought at this stage	
3.19.		
Q1. – on Impact Assessment	The overall ethics on complaints handling by insurance undertakings would improve. These guidelines would enable the supervisory authorities to gain clearer additional basic rules in order to assess the complaints handling by insurance undertakings.	Public
Q2.– on Impact Assessment		
Q3.– on Impact Assessment		
Q4.– on Impact Assessment		
Best Practices	The guidelines are a welcome addition to the supervision of insurance undertakings. However, we	Public

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Report Comments
(EIOPA-CP-11/010b)

would like to draw your attention to the peculiarity in Latvian national regulations, which establishes an entirely separate supervisory body for consumer protection – Consumer Rights Protection Centre – which, in general, deals with any complaints filed by consumers (natural persons), *iner alia*, the complaints regarding insurance undertakings. Considering that the consumer complaints handling is already stated in the EU Consumer Law Acquis and in national regulations, considering also the statement in paragraph 3.8. we would encourage to approximate the regulations on consumer complaints handling and the regulation on handling of the complaints filed by other complainants.
To conclude, we would like to suggest that the Guidelines on Complaints-Handling should clearly state that they refer to any kind of complainants.