

Comments Template on EIOPA-CP 13/006a and EIOPA-CP 13/006b Consultation Paper on the Proposal for Guidelines on Complaints-Handling by Insurance Intermediaries and Draft Report on Best Practices by Insurance Intermediaries in handling complaints		Deadline 28 June 2013 12:00 CET
Company name:	Avv. Nicolò Juvara and Avv. Salvatore Iannitti, Norton Rose Fulbright Studio Legale	
Disclosure of comments:	EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential. <i>We authorise the publication of the comments on the website.</i>	Public
<p>Please follow the instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ 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 <u>no comment</u> on a paragraph, keep the row <u>empty</u>. 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. <ul style="list-style-type: none"> ○ 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 relating to the corresponding paragraph. <p>Please send the completed template to CP-13-006@eiopa.europa.eu, in MS Word Format, (our IT tool does not allow processing of any other formats).</p> <p>The paragraph numbers and questions below correspond to document no. EIOPA-CP-13/006a. There is an additional section at the end of the table for general comments on the draft Best Practices Report (document no. EIOPA-CP-13/006b).</p>		

**Comments Template on EIOPA-CP 13/006a and EIOPA-CP 13/006b
 Consultation Paper on the Proposal for Guidelines on Complaints-Handling by Insurance
 Intermediaries and Draft Report on Best Practices by Insurance Intermediaries in
 handling complaints**

**Deadline
 28 June 2013
 12:00 CET**

Reference	Comment	
General Comment	<p>European Directive 2002/92 does not contain any specific minimum level of harmonisation relating to the corporate governance rules applying to insurance intermediaries, which in some jurisdictions are far from being aligned to the corporate governance legislation applying to insurance undertakings; insurance intermediaries may therefore in many cases and in some jurisdictions be unprepared to handle a burdensome complaints' handling procedure.</p> <p>Based on the above situation and consistently with proportionality principle (which requires competent authorities to introduce a "regime... that takes into account the <i>nature</i> and size of insurance intermediaries"), we suggest to exclude the applicability of the Guidelines to the handling of complaints carried out by intermediaries whose principal professional activity is other than insurance mediation (even when they do not fall within the exemption provided for article 1(2) of European Directive 2002/92).</p> <p>Guidelines should clarify that authorities do not have any competence over intermediaries operating in their jurisdiction under the freedom of establishment or freedom of services regime, which should be subject to the home-country control only (complaints handling is, in fact, a discipline relating to the organisation of the insurance intermediary).</p>	
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9.		
10.	<p>Reference to the Authorities mentioned under footnote 6 may not be sufficient to cover all of the possible authorities, taking into consideration that in Italy competence over complaints handling (in addition to the competence of the Bank of Italy IVASS department) may also be of the authority for the financial market (CONSOB), which supervises over the insurance market although to a limited extent only (i.e. in relation to the transparency of the financial products issued by insurance companies); this latter authority, in fact, apparently does not fall in the list of authorities as defined in the Solvency II directive or in the list of authorities provided for under the IORP Directive.</p> <p>The documents should also provide Guidelines to the various authorities supervising over the same insurance market, in relation to the coordination of their respective regulations on complaints handling, in order to avoid duplications of obligations upon insurance intermediaries and insurance undertakings.</p> <p>We suggest to explicitly exclude complaints handling burdens upon entities acting as sub-intermediaries (i.e. under the responsibility of another insurance intermediary, subject to the complaints handling obligations), only.</p>	
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15.	<p>Guidelines 2: We suggest to delete reference to "injured third parties": insurance intermediaries, in fact, do not have any relationship with such third parties, nor injured third parties (except in some very limited cases, e.g. in relation to Italian motor TPL) may have any right originated by the insurance contract. Alternatively, it should be clarified when such injured third parties may be material to the complaints handling obligations.</p>	
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20.	<p>Guidelines 7: Under let. a), we suggest deletion of the words “on request”, as the availability of the complaints handling processes is regulated under let. b) of the same Guideline. Compelling insurance intermediaries to provide policies upon request (especially where they intermediate programs with millions of clients, e.g. in case of bank account or credit card coverage, would in fact be too burdensome for them.</p> <p>For the same reason, we would also delete the obligation to provide information of the complaint handling process when acknowledging receipt of a complaint; this may in fact be done when replying to the complaint in a timely manner.</p>	
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Q1. - on Impact Assessment		
Q2a. - on Impact Assessment		
Q2b. - on Impact Assessment		
Q2c. - on Impact Assessment		

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Q2d. - on Impact Assessment		
Q3. - on Impact Assessment		
Best Practices Report Comments (EIOPA-CP-13/006b)	<p>European Directive 2002/92 does not contain any specific minimum level of harmonisation relating to the corporate governance rules applying to insurance intermediaries, which in some jurisdictions are far from being aligned to the corporate governance legislation applying to insurance undertakings; insurance intermediaries may therefore in many cases and in some jurisdictions be unprepared to handle a burdensome complaints' handling procedure.</p> <p>Based on the above situation and consistently with proportionality principle (which requires competent authorities to "regime... that takes into account the nature and size of insurance intermediaries"), we suggest to exclude the applicability of the Best practices to the handling of complaints carried out by intermediaries whose principal professional activity is other than insurance mediation (even when they do not fall within the exemption provided for article 1(2) of European Directive 2002/92).</p> <p>We suggest to explicitly exclude complaints handling burdens upon entities acting as sub-intermediaries (i.e. under the responsibility of another insurance intermediary, subject to the complaints handling obligations), only.</p> <p>Consistently with the proportionality principle, we recommend that complaints to be registered shall only be those submitted in a written form or electronically, with the exclusion of those submitted orally.</p> <p>Lodging of complaints from authorised representatives, should be subject to the previous exhibition of representative powers, for compliance with the privacy legislation.</p>	

<p align="center">Comments Template on EIOPA-CP 13/006a and EIOPA-CP 13/006b Consultation Paper on the Proposal for Guidelines on Complaints-Handling by Insurance Intermediaries and Draft Report on Best Practices by Insurance Intermediaries in handling complaints</p>		<p align="center">Deadline 28 June 2013 12:00 CET</p>
	<p>Under paragraph 7 let. a), we suggest deletion of the words "on request", as the availability of the complaints handling processes is regulated under let. b) of the same Guideline. Compelling insurance intermediaries to provide policies upon request (especially where they intermediate programs with millions of clients, e.g. in case of bank account or credit card coverage, would in fact be too burdensome for them. For the same reason, we would also delete the obligation to provide information of the complaint handling process when acknowledging receipt of a complaint; this may in fact be done when replying to the complaint in a timely manner.</p>	