

**Summary of Comments on Consultation Papers EIOPA-CP-11/10a and 10b
CP No. 010-Guidelines on Complaints Handling**

**EIOPA-BoS-12/071
14 June 2012**

EIOPA would like to thank, for their comments:

- EIOPA's Insurance and Reinsurance Stakeholder Group (IRSG)
- Industry representatives: ABI, AILO, Allianz SE for Allianz Group, ALLIANZ-TIRIAC ASIGURARI S.A ROMANIA, AMICE, Assuralia, AXERIA PREVOYANCE – AXERIA IARD - SOLUCIA, BIPAR, Insurance Europe (formerly CEA), Covéa, Danish Insurance Association (DIA), Fédération Française des Sociétés d'Assurance (FFSA), RSA Insurance Group Companies in Europe, FNMF (Fédération Nationale de la Mutualité Française), GEMA (Groupement des Entreprises Mutuelles d'Assurance), German Insurance Association (GDV), MACIF (Mutuelle Assurance des Commerçants et Industriels de France et des Cadres et Salariés de l'Industrie et du Commerce), MAIF (Mutuelle d'Assurance des Instituteurs de France)
- Representatives from Public Bodies: Financial and Capital Market Commission of Latvia, Finanstilsynet (Danish FSA), UK Financial Services Authority (FSA), UK Financial Ombudsman Service (FOS)
- End Users/Law Firms: Chris Barnard, RPC (incorporating comments from EU members of TerraLex), Norton Rose Studio Legale

The numbering of the paragraphs refers to Consultation Papers No. EIOPA-CP-11/10a and 10b. Please note that the original references in the Consultation Paper have been revised in the final version of the Guidelines. Thus paragraph 3.1 is now paragraph 1; paragraph 3.2 is paragraph 2 etc.

The views expressed in these Resolutions are preliminary and do not bind in any way EIOPA or any other parties in the future development of the Guidelines. They are aimed at gathering stakeholders' and other relevant parties' opinions to be used as a working document for the consultation process.

No.	Name	Ref- erence	Comment	Resolution
1.	IRSG	General comment	<p>We welcome the opportunity to comment and consider a European standard on complaint management supportive to protect the trust in the insurance industry.</p> <p>1) Effective complaints handling is critical for consumers and should be regarded as a high priority at a senior level within companies, with ultimate ownership for the process at board level.</p> <p>It is critical that firms make it easy for customers to complain. Therefore the definition of complaints must be clear but must not impede customers unfairly from raising their complaints and concerns.</p> <p>Transparency plays an important role for competent authorities and market participants.</p> <p>2) Clarity from EIOPA around Comply or Explain would be helpful, as well as clarity as to what its expectations are in more detail around competent authorities and firms. This includes a clarification over the legal status of the proposed guidelines.</p> <p>3) We would suggest to bring the following statements to the attention of the Joint Committee:</p> <ul style="list-style-type: none"> - It is important to also take into account and at least refer to the two new proposals from the Commission on a Directive on ADRs and a Regulation on ODR (on line disputes) to be adopted in 2012. - An alignment seems necessary, so as to avoid double/contradicting regulation with existing or planned regulation (IMD/ PRIPS). - It must be also ensured that other financial service providers (e.g. banks) have similar standards. Therefore we would suggest that the topic be brought forward to the joint committee. 	<p>1) Noted.</p> <p>2) Noted. Further clarity on the “Comply or Explain” process has been provided in the “Compliance and Reporting” section of the Guidelines. In addition, EIOPA’s internal rules as regards the criteria for competent authorities complying with all Guidelines are being supplemented to make clear that, where national rules going into further detail, they will not be considered as non-compliant if they: (i) do not contradict the Guidelines and (ii) ensure an equivalent level of consumer protection.</p> <p>3) Complaints-handling is an area which has already been targeted for consideration by the Joint Committee of the ESAs. EIOPA does not believe that its Guidelines conflict</p>

				with existing or forthcoming EU legislation.
2.	ABI	General Comment	<p>1. The ABI welcomes the opportunity to respond to EIOPA's Proposal for Guidelines on Complaints Handling by Insurance Undertakings.</p> <p>2. The ABI is the voice of the UK's insurance, investment and long-term savings industry. It has over 300 members, which together account for around 90% of premiums in the UK domestic market. The UK insurance industry is the third largest in the world and the largest in Europe. Employing more than 300,000 people in the UK alone, it is an important contributor to the UK economy and manages investments of £1.5 trillion, over 20% of the UK's total net worth.</p> <p>3. The ABI supports efforts to improve customer service across the financial services industry and improving the way complaints are handled is an important part of this. As a trade body, the ABI has helped drive the development of good complaints handling within UK insurance firms through various initiatives including the production of a good practice guide, industry benchmarking and complaints management research.</p> <p>4. Notwithstanding our comments below, we believe that the majority of the EIOPA guidelines are already covered by the Financial Services Authority (FSA) dispute resolution (DISP) rules, which have been in force in the UK for over 10 years. Furthermore, we believe that UK insurance firms already meet the majority of the requirements set out for best practice.</p>	Noted
3.	AILO	General Comment	<p>The Association of International Life Offices ("AILO") is grateful for the opportunity to comment on the consultation paper on the proposal for guidelines on complaint handling by insurance undertakings.</p> <p>AILO represents the interests of a number of EU/EEA and other life insurance companies, many of which are members of internationally recognised groups. AILO members market life insurance contracts in the EU/EEA and in other regions of the world. The customer base encompasses residents in EU/EEA States, international and European expatriates and also the</p>	Noted re risk of complaints being lodged without having exhausted internal procedures first. The Guidelines are aimed at enhancing procedures to avoid such outcomes.

			<p>international business community. Member companies are responsible for approximately €80 billion of assets under management in total.</p> <p>Operating either on the basis of the EU's freedom of services or branch passport, AILO member companies make full use of possibilities offered by the EU Insurance Directives. In 2009, AILO member companies received an estimated €10 billion of premiums within the EEA. AILO members have over five million policyholders comprising EU nationals either in their home country or working in another Member State. Each year, they write substantial new premium income in Europe, providing policyholders with choice, security, transparency and value.</p> <p>As an association representing insurance companies operating on a cross-border basis within the EU/EEA, AILO is uniquely positioned to provide policymakers with insight into the practical issues facing EU/EEA cross-border life insurance business. This may assist EIOPA in achieving Solvency II's goal of deepening the Single Market in insurance and promoting a truly integrated Market.</p> <p>For further details please see our website: www.ailo.org</p> <p>General comments on the guidelines.</p> <p>AILO Members fully support the proposals which largely reflect the processes already in place within Member company organisations.</p> <p>Historically some of our Members have encountered situations where complainants have instigated legal proceedings without having explored or exhausted the in house and ombudsman schemes available. This has of course resulted in their incurring what may be unnecessary legal expenses. All our Members of course refer to complaints procedures in their documentation. However as an added service, AILO has produced a short guide to making a complaint which has been produced in seven languages and is available from our website.</p>	
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4.	Allianz SE for Allianz Group	General Comment	Allianz SE welcomes the opportunity to comment on the proposed EIOPA Guidelines on Complaints-Handling as helpful to protect the confidence in the insurance industry. We would suggest to bring this to the Joint Committee of the European Supervisory Agencies in order to also harmonize the approaches regarding compliance management in the remits of all providers of financial services/products.	Noted. See Resolution on comment 1(3).
5.	AMICE	General Comment	<p>AMICE welcomes the opportunity to reply to EIOPA's consultation on its proposed guidelines on complaints handling by insurance undertaking and its draft report on best practices.</p> <p>From the outset, AMICE would like to point out that most mutual/cooperative insurers distinguish between the member status (which means that the client must adhere to the bylaws of the company) and the insurance contract. As a member-policyholder, the client actually participates in the governance of 'its' insurer and by the same token, his participation (at the General Meetings, for instance) implies that he agrees with the applicable contractual provisions. In other words, he is more than a simple consumer.</p> <p>Insurance contracts used by (some) mutuals may show some differences to those used by plc-type insurers:</p> <ul style="list-style-type: none"> <input type="checkbox"/> They may include the unilateral right by the (mutual) insurer to terminate the contract once the customer loses his/her right to be a member of the mutual – e.g. in the case of a professional mutual when the customer ceases to be a member of that profession [notary, pharmacist, architect, ...]) <input type="checkbox"/> They may include provisions about the right of the mutual to call for supplementary calls/contributions (in non-life insurance, within the maximal limits indicated in the contracts) <input type="checkbox"/> They may include provisions about the payment of an "entrance fee" to the mutual. <p>In addition, the insurance contracts of mutual and cooperative insurers also include a paragraph on complaints: how they are handled (e.g. through the mutual-specific solution of a committee</p>	Noted re idiosyncratic differences between mutuals and "plc-type insurers". The Guidelines intentionally use the term "insurance undertaking" to follow the SII definition so that it is all-encompassing.

			<p>made of members' representatives, by an in-house ombudsman, etc.).</p> <p>1) On the other hand, AMICE is aware of the adoption, in some MS, of consumer protection legislation in the field of financial services. This raises the question of the legal status of these proposed guidelines by EIOPA. We would therefore invite EIOPA to specify the nature of their interaction with current national provisions (or national supervisors). Moreover, EIOPA would need to address the issue of enforcement, which should be harmonised across the EU.</p> <p>2) Finally, the members of AMICE note that the current proposed scope of the guidelines is limited to insurance undertakings which seems somewhat unbalanced if one considers the wide array of operators in the field of financial services. In order to level the playing field, AMICE suggests that the EIOPA draft guidelines initiative be raised with the EBA, so as to include all financial and credit institutions.</p>	<p>1) Noted. Provisions on the "Comply or Explain" process have been amended in the "Compliance and Reporting" section of the Guidelines. The "comply or explain" duty only applies to competent authorities. In addition, EIOPA's internal rules as regards the criteria for competent authorities complying with all Guidelines are being supplemented to make clear that, where national rules going into further detail, they will not be considered as non-compliant if they: (i) do not contradict the Guidelines and (ii) ensure an equivalent level of consumer protection.</p> <p>2) Noted. Re Joint Committee, see Resolution on comment 1(3).</p>
6.	BIPAR	General Comment	<p>BIPAR welcomes the opportunity provided by EIOPA to comment on EIOPA Proposal for guidelines on complaints handling by insurance undertakings and on EIOPA draft report on best practices by insurance undertakings in handling complaints.</p> <p>Effective complaints handling is critical for consumers. BIPAR therefore believes that it should be regarded as a high priority. BIPAR supports any initiative aimed at reinforcing consumer confidence and protection across the European Union.</p> <p>1) BIPAR understands that the draft EIOPA Guidelines and Best Practices Report on complaints-handling by insurance undertakings do not concern complaints addressed to insurance</p>	<p>1) Noted. The demarcation of the scope between insurance undertakings and intermediaries will be made very clear in</p>

		<p>intermediaries but do cover complaints addressed to insurance undertakings about insurance intermediaries. BIPAR believes that it is very important that this is clarified in EIOPA final guidelines as these latter would not be adapted to insurance intermediaries at all. They would create important and heavy burdens that would neither be proportionate to the risks and size of insurance intermediaries - being mainly small and medium-sized enterprises - nor to the number of complaints received by intermediaries.</p> <p>2) This clarification is all the more important and necessary as in its draft consultation papers, EIOPA explained that national legal or regulatory requirements can go into further detail than those guidelines as long as they do not contradict the EIOPA Guidelines. A clear definition of the scope of these guidelines is therefore crucial. BIPAR also believes that for legal security, more clarity from EIOPA around Comply or Explain rules would be helpful in this respect.</p> <p>BIPAR believes that limiting the scope of these guidelines to complaints addressed to insurance undertakings is coherent with the EU legislative development. It is indeed expected that the high-level provisions regarding complaints in the IMD (Articles 10 and 11) will be taken up in the draft legislative proposal for a revised IMD in Spring 2012. The MiFID II proposal might also have an impact on any provisions on complaints-handling in the IMD II.</p> <p>3) However we believe that it is important that other current EU legislatives initiatives are taken into consideration, in particular the Commission proposed Directive on ADRs and the proposed Regulation on on-line disputes.</p> <p>4) The purpose of EIOPA Guidelines is to fill in an existing regulatory gap at European level as regards insurance</p>	<p>the final set of the Guidelines. EIOPA recognises the importance of these Guidelines being applied in a manner which is proportionate to the size of the insurance undertaking as illustrated by Article 29(3) of the Solvency II Directive. As a follow-up initiative to these Guidelines, EIOPA will be working on a short FAQ on how the Guidelines would apply in practice to small insurance undertakings.</p> <p>2) Noted. Provisions on the “Comply or Explain” process have been amended in the “Compliance and Reporting” section of the Guidelines. In addition, EIOPA’s internal rules as regards the criteria for competent authorities complying with all Guidelines are being supplemented to make clear that, where national rules going into further detail, they will not be considered as non-compliant if they: (i) do not contradict the Guidelines and (ii) ensure an equivalent level of consumer protection.</p> <p>3) Noted. The Commission’s legislative proposals relate to ADR schemes i.e. <i>outside</i> an insurance undertaking’s own internal procedures for complaints-handling.</p> <p>4) Noted. It is recognised that much of these Guidelines are already standard</p>
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			undertakings as the Life and Non-Life Directives (consolidated in SII) do not have specific provisions regarding complaints-handling. However it is to be noted that nearly all EU Member States have a requirement for an appointed individual to oversee complaints-handling in insurance undertakings. Information on complaints-handling procedures and parties involved is also compulsory in most EU Member States.	practice in most Member States, but some Member States do not have any existing regulation on this issue.
7.	Insurance Europe (formerly CEA)	General Comment	<p>1. The CEA welcomes the opportunity to respond to EIOPA's consultation on its proposed guidelines on complaints-handling by insurance undertakings and its draft report on best practices. The CEA has elected not to answer directly the questions contained in the consultation document, but rather to provide general comment on its contents.</p> <p>2. The CEA would firstly wish to raise our concerns over the legal status of the proposed guidelines. We find it difficult to make a relevant contribution to this discussion without knowing the full extent of the consequences of the proposed guidelines, and their interaction with national legislation or with national supervisors' guidelines, particularly where there may be any form of conflict or contradiction between them.</p> <p>3. In addition, it is unclear how national supervisors would ensure that the guidelines are enforced in the same manner towards insurance undertakings from other EU Member States who are carrying out business in their market as they are towards national insurance undertakings.</p> <p>4. The CEA would also call into question the legal basis for EIOPA's issuance of these guidelines and the extent to which such a task falls within the remit of EIOPA's tasks and responsibilities. Article 9(2) of the EIOPA regulation refers to adopting guidelines and recommendations with a view to promoting the "convergence of regulatory practice"; however, we fail to see how this relates to EIOPA's current work on complaints-handling. In fact, EIOPA has cited various recitals and articles of the Solvency II Directive as a</p>	<p>2) Noted. The legal status is that the Guidelines apply to competent authorities only and, although non-binding, are subject to a "comply or explain" mechanism.</p> <p>3) Noted. New wording added to paragraph 5: <i>This includes circumstances where the competent authority supervises complaints-handling, under EU and national law, by insurance undertakings doing business in their jurisdiction under freedom of services or freedom of establishment.</i></p> <p>4) Noted. The legal basis of the Guidelines is Article 16, EIOPA Regulation. The reference to the Solvency II Directive is due to the fact that EIOPA generally issues Guidelines within the powers afforded to it under the Directives (one of which is SII)</p>

		<p>further basis for these guidelines. However, the CEA questions the rather broad interpretation that has been given by EIOPA to these provisions. For example, recital 16 of the Solvency II Directive states that “the main objective of insurance and reinsurance regulation and supervision is the adequate protection of policyholders and beneficiaries.....” We would question whether the “adequate protection of policyholders and beneficiaries” extends to the processing of consumer complaints. Moreover, the reference to reinsurance in this same provision would suggest that it is directed more towards the prudential and financial capacity of the firms concerned to meet their commitments vis-à-vis the policyholders and beneficiaries. In addition, Articles 41 and 46 of Solvency II provide for both an effective system of governance and internal control system. We would also question whether the scope of these obligations can be interpreted to apply to all areas, including consumer complaints handling which is something that is clearly not specific to the insurance sector.</p> <p>5. Furthermore, the proposed guidelines are subject to a “comply or explain” procedure, which as yet remains unclear and of which EIOPA is, in fact, still engaging in further internal work on its practical implications. Questions remain, for example, as to whether this “comply or explain” procedure will be a duty at the level of the insurance undertaking, the supervisor or the Member State itself. We wish to caution against the development or adoption of any such guidelines before all of these practical implications have been sufficiently clarified.</p> <p>6. In light of the principle of proportionality, which is one of the fundamental pillars of the Solvency II reform, we believe that, in some respects, these draft guidelines appear to be too far-reaching and do not sufficiently take this principle into account. We believe that guideline number 4, for example, on reporting to the competent authority on complaints received would prove to be administratively burdensome for insurance undertakings without adding any value to the authorities. Complaints occur in every business and the occurrence of complaints does not mean that the business is unsound or in violation of any legal provisions. Furthermore, there already exists an obligation on insurance</p>	<p>covered under Article 1(2) of its empowering Regulation.</p> <p>5) Noted. Provisions on the “Comply or Explain” process have been amended in the “Compliance and Reporting” section of the Guidelines. The “comply or explain” duty only applies to competent authorities. In addition, EIOPA’s internal rules as regards the criteria for competent authorities complying with all Guidelines are being supplemented to make clear that, where national rules going into further detail, they will not be considered as non-compliant if they: (i) do not contradict the Guidelines and (ii) ensure an equivalent level of consumer protection.</p> <p>6) EIOPA recognises the importance of these Guidelines being applied in a manner which is proportionate to the size of the insurance undertaking as illustrated by Article 29(3) of the</p>
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		<p>undertakings to report events that might affect their position, for example risk of loss of reputation and high unexpected costs. The reporting requirement may also lead to potential attempts to discredit an undertaking in the eyes of the authorities by unfounded complaints submitted to the undertaking.</p> <p>7. However, if EIOPA retains this obligation for insurance companies to produce statistics and to report the number of complaints received to competent authorities, there is a clear need for a very precise definition of what exactly constitutes a “complaint”. It is important to distinguish between a simple expression of dissatisfaction with a contract/service and a genuine complaint requiring an appropriate remedy. We would therefore call on EIOPA to include a more precise definition of a “complaint”.</p> <p>8. We also note that EIOPA proposes a definition of “consumer” in its guidance, which it aims to make specific to insurance. However, we feel that the definition of consumer should be consistent with the definition that is to be found at EU level under several different directives, ie any natural person who, in contracts covered by that directive, is acting for purposes which are outside his trade, business or profession (this is the definition used in Directive 2002/65/EC concerning the distance marketing of consumer financial services, Directive 2000/31/EC on electronic commerce and Directive 2005/29/EC concerning unfair business-to-consumer commercial practices, all of which apply to insurance activity). The introduction of a new definition that is different to that found under EU legislation would prove confusing to both professionals and consumers.</p> <p>9. In relation to the information provided to consumers, we believe that the phrase used in guideline number 6 – “when acknowledging receipt of a complaint” – is not sufficiently clear, as it appears to suggest that the insurance undertaking’s entire complaints handling process should be provided to the consumer each time a complaint is simply received. Aside from being overly-burdensome, we believe that information on the “complaints-handling process” may result in unduly technical documents being provided to consumers and would therefore suggest that the wording be amended to require insurers to provide ‘appropriate written information regarding its internal processes’. In this</p>	<p>Solvency II Directive. As a follow-up initiative to these Guidelines, EIOPA will be working on a short FAQ on how the Guidelines would apply in practice to small insurance undertakings.</p> <p>7) Noted. The definition of “complaint” in the Guidelines has been amended to make clear that it covers “statements”, rather than “expressions” of dissatisfaction. See Resolution on comment 9.</p> <p>8) Noted. The definition of “consumer” in the Guideline has been removed and the Guideline has now been amended to remove the reference to “general public”:</p> <p><i>“Publish details of their complaints-handling process in an easily accessible manner, for example in brochures, pamphlets, contractual documents or via the insurance undertaking’s website”.</i></p>
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			<p>respect, consumers would benefit from having one single information source and would refer EIOPA to Articles 183 and 185 of the Solvency II Directive, the purpose of which is to inform the policy holder of the arrangements for handling complaints, including the existence of a complaints body, but does not impose conditions on the way to handle these complaints or their reporting or internal follow-up.</p> <p>10. In addition, the first bullet point of guideline number 7 suggests that insurers will have to gather and investigate all relevant evidence and information regarding the complaint. This could be unduly burdensome on insurance undertakings and it is suggested that this guideline should allow for some proportionality in the amount of evidence and information that has to be gathered. Furthermore, in relation to guideline number 3, EIOPA should clarify that the register referred to is to be maintained by the insurance undertaking itself and that it is not intended to refer to a national register of complaints.</p> <p>11. Finally, the CEA would suggest that the proposed guidelines should take into account the recently published European Commission proposal for a directive on ADR, which would also apply to insurance business.</p>	
8.	Chris Barnard	General Comment	<p>Please note that the comments expressed herein are solely my personal views.</p> <p>Thank you for giving us the opportunity to comment on your Consultation Paper on the Proposal for Guidelines on Complaints-Handling by Insurance Undertakings and Draft Report on Best Practices by Insurance Undertakings in Handling Complaints.</p>	
9.	Covéa	General Comment	<p>1. Sur le fond, la proposition des Lignes directrices formulée par l’EIOPA correspond à la fois :</p> <ul style="list-style-type: none"> - à la recommandation n°2011-R-05 de l’Autorité de contrôle prudentiel (ACP) publiée le 15 décembre 2011, - au texte de la consultation publique lancée par l’Autorité des Marchés Financiers (AMF) le 15 décembre 2011 visant à modifier le Règlement Général de l’AMF en matière de dispositif de 	<p>Noted. Amendment proposed: "A <i>statement of dissatisfaction addressed to an insurance undertaking by a person relating to the insurance contract or service he/she has been provided with</i>".</p> <p>Complaints-handling should be differentiated from claims-handling as well as from simple requests for execution of</p>

		<p>traitement des réclamations clients ;</p> <p>- ainsi qu'à la recommandation de la Commission Européenne en date du 12/5/2010 « relative à l'utilisation d'une méthode harmonisée pour classer les réclamations et demandes des consommateurs et communiquer les données y afférentes » (2010/304/UE).</p> <p>Cet ensemble correspond à la philosophie et à la politique du Groupe Covéa en matière de traitement des réclamations de ses assurés et bénéficiaires de polices d'assurance.</p> <p>2. L'élément central des propositions de Lignes Directrices est la définition du terme « réclamation » ou « plainte » laquelle conditionne la mise en œuvre de process et d'engagements particuliers.</p> <p>Sans vouloir remettre en cause la nécessaire protection du consommateur, Covéa insiste sur le fait que dans le domaine des assurances les relations entre assureur et assuré donne lieu à de nombreux échanges, tant au moment de la souscription que de la gestion des sinistres. Or, donner une définition trop large aux termes « réclamation » ou « plainte » en les définissant seulement comme « toute manifestation de mécontentement » rendrait à la fois difficile son appréhension (par une approche subjective du mécontentement différente d'une personne à l'autre) et sa mise en œuvre.</p> <p>C'est pourquoi, il conviendrait d'être encore plus précis que le texte proposé par l'EIOPA en excluant du périmètre des « réclamations » ou « plaintes » toute demande d'un assuré d'exécuter son contrat d'assurance, d'obtenir des informations ou des clarifications concernant ce dernier. Positivement, il conviendrait pour éviter toute ambiguïté de définir une réclamation comme une contestation formalisée par un assuré suite à une première demande concernant l'exécution de son contrat d'assurance.</p> <p>3. Le champ d'application des propositions de lignes directrices doit être réétudié. En effet, la recommandation de l'ACP n°2011-R-05 relative au traitement des réclamations clients précise</p>	<p>the contract, information or clarification.</p>
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			<p>qu'elle est applicable aux sociétés d'assurance, aux mutuelles, aux instituts de prévoyances et aux intermédiaires de toute nature.</p> <p>Pour donner sa pleine effectivité à la protection de la clientèle dans le domaine du traitement des réclamations clients, l'harmonisation envisagée doit inclure à la fois tous les intervenants du secteur de l'assurance mais également tous les intervenants du secteur de la banque et de la finance.</p> <p>4. La portée juridique des propositions de lignes directrices doit être très rapidement évoquée. En effet, la recommandation de l'ACP n°2011-R-05 relative au traitement des réclamations clients doit être mise en œuvre pour le 1er septembre 2012.</p> <p>Des adaptations de nature diverses (formation, système d'information, reporting, évolution de l'organisation en place) vont être effectuées.</p> <p>L'incertitude juridique qui peut résulter de différences entre les prochaines lignes directrices de l'EIOPA et la réglementation applicable en France pour une échéance à court terme doit amener à privilégier une harmonisation a minima.</p>	
10.	Danish Insurance Association (DIA)	General Comment	<p><input type="checkbox"/> Danish Insurance Association (DIA) support easy, cheap and independent complaints handling concerning consumers' dissatisfaction addressed to their own insurance company.</p> <p><input type="checkbox"/> DIA is convinced that the above mentioned ambition most easily is reached by giving consumers the opportunity to bring insurance complaints to an external body, which is authorized to take formal decision in the conflict, only leaving the parties with the possibility bringing the decision to courts for final decision.</p> <p><input type="checkbox"/> DIA established together with The Danish Consumer Council in 1975 Danish Insurance Complaints Board (DICB). Besides taking decision in approx. 2.000 cases pr. year the maybe most important effect of the scheme is the disciplining effect on the internal complaints handling in Danish insurance companies. Since decisions taken by the DICB are tabled at its website with reference to the insurance company involved, insurers are</p>	Disagree. These Guidelines are not an alternative to ADR. It is standard practice for internal complaints-handling procedures within an undertaking to first be exhausted before resorting to ADR schemes. See Resolution on comment 6(3).

			<p>strongly motivated to reach fair and quick solutions in conflicts with their customers.</p> <p><input type="checkbox"/> On this background DIA suggest that the EIOPA- guidelines should be regarded as an alternative and not a supplement to ADR like the Danish DICB, cf. the recently published Commission proposal for a directive on ADR (SANCO/12360/2011) which includes insurance business.</p> <p><input type="checkbox"/> Our concrete comments to the Consultation Paper are mentioned below.</p>	
11.	Fédération Française des Sociétés d'Assurance (FFSA)	General Comment	<p>FFSA members are quite aware of the importance of an effective complaints handling to preserve good relationships with their clients. That is why they have put in place since 1993 a mechanism making it possible for the policy holders to benefit from a mediation process in order to settle their disputes.</p> <p>Complaints handling can also be a matter of competition as it takes part in the satisfaction of the client and in his or her fidelity vis a vis the insurer. This is why the FFSA considers that complaints handling organization should be kept under review of the insurance undertakings themselves in order to allow them to adapting this organization, for more efficiency and competitiveness, to their size, activity and the type of clients they have.</p> <p>Beyond that, the FFSA has a concern with the legal basis for Eiopa's intervention in the field of complaints handling as this matter is not specific to the insurance activity and is only touched on in insurance directives through measures concerning pre-contractual information.</p> <p>Article 9(2) of EIOPA regulation refers to adopting guidelines with a view to "promoting the safety and soundness of markets and convergence of regulatory practice" but we actually fail to see how this relates to Eiopa's current initiative on complaints -handling. Moreover, the impact assessment provided in EIOPAS's proposal does not give any evidence of a prudential necessity for the supervisor to regulate on this subject.</p>	Noted. The Guidelines do not only provide for pre-contractual information. Moreover, complaints-handling is not a prudential issue, but concerns consumer protection.

12.	GEMA (Groupe-ment des Entre-prises Mutuelles d'Assur-ance)	General Comment	<p>GEMA ("Groupement des Entreprises Mutuelles d'Assurance") is a french association of mutuals. We welcome the opportunity to provide some comments on EIOPA's consultation paper on the Proposal for Guidelines on Complaints-Handling by insurance Undertakings.</p> <p>GEMA is particularly concerned by these EOIPA Guidelines for two reasons :</p> <ul style="list-style-type: none"> - because mutuals focus on complaints-handling for years. They care for their customers and pay attention to provide them with the best services. This is the reason why mutuals have developed a process for complaints-handling. At a first level, complaints are handled in each company by following an internal process. Then, complaints may be addressed, at a second level, to a complaints-handling within GEMA. - because, the French supervisor adopted in December 2011 recommendations on this subject. <p>In this regard, GEMA wants to point out that there might be an issue regarding the legal value of these EIOPA guidelines. Because, even if these EIOPA guidelines largely correspond to the french supervisor recommendations, there may be some points of divergence. Therefore, it is important that the EIOPA specify if these guidelines are intended to be mandatory for Member States. If yes, it must be ensured that these guidelines will be harmonized in every Member States and will not create legal uncertainty for insurance undertakings. In France, insurers are required to be in accordance with their supervisor's recommendations by the 1st September 2012. They quickly need to know if the french supervisor's recommendations are likely to be modified with regard of the EIOPA guidelines.</p>	See Resolution on comment 9

		<p>GEMA want to stress two missing points in this report :</p> <ul style="list-style-type: none"> - We believe EIOPA did not enough take into account that insurance is often subscribed on the internet (or broadly speaking, distance selling). This calls for a particular complaints-handling process. - We assume intermediaries should also be involved in the complaints-handling process. It is not so easy to distinguish whether the complaint should be handled by the insurer himself or by the intermediary, and it happens that they each refuse to take this responsibility. <p>GEMA would also like to emphasise two issues regarding the definition given by EIOPA for "complaint" or "claim":</p> <p>First, GEMA notes that the wordings employed by EIOPA are slightly different from those employed by the French supervisor and wonder if this difference between national and European guidelines could be a problem.</p> <p>GEMA wants also to dispute the definitions given by EIOPA. The EIOPA project explains that a "complaint" means any "expression of dissatisfaction". This concept is too broad and inappropriate to the usual context of relations between the insured and the insurers. Some expressions of dissatisfaction may only be a request for information or clarification or a claim for compensation. And the best way to arbitrate between a complaint and a request for information is to discuss with the insured. Therefore it seems excessive to expect that all manifestation of discontent, as it is a highly subjective concept, should follow these guidelines.</p> <ol style="list-style-type: none"> 1. 2. Moreover, GEMA observes that the scope of the guidelines proposed by the EIOPA is limited to insurance undertakings. In comparison, the recommendations of the French supervisor are relevant for insurance undertakings (whatever the type of the organization : insurance companies, mutuals, provident institutions and intermediaries) and credit institutions. In order to 	
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			create a level playing field, GEMA suggest to raise the EIOPA guidelines at EIOPA-EBA (European Banking Authority) level, so as to include all financial and credit institutions.	
13.	German Insurance Association (GDV)	General Comment	<p>The German insurance industry welcomes the current efforts by EIOPA to establish effective complaints management systems for insurance undertakings. Effective complaints handling can contribute to stabilizing vulnerable customer relations and restoring customer satisfaction in the long run. Moreover, active complaints handling provides significant information on the strengths and weaknesses of undertakings from the customers' perspective. These findings provide undertakings with the chance to respond to critical issues and thus enable them to meet the requirements of their customers. This is particularly important for insurance undertakings, since the business model of insurers is based on the confidence of policyholders in their insurers.</p> <p>Therefore, any means which are appropriate to further optimize complaints handling by insurance undertakings are also in the interests of the German insurance industry. The "Proposal for Guidelines on Complaints-Handling by Insurance Undertakings" as well as the "Draft Report on Best Practices by Insurance Undertakings in handling complaints" are therefore basically reasonable.</p> <p>However, it has to be taken into account that detailed provisions on complaints handling will deprive insurance undertakings of a major distinguishing feature. Having in place an excellent complaints management policy gives undertakings a competitive advantage over competitors and at the same time provides huge benefits to customers.</p> <p>1) Excessive regulations, however, create additional bureaucracy as well as extra costs. Moreover, they are likely to prevent new innovative approaches.</p> <p>2) In addition to the concerns mentioned above, there are also some legal concerns, since the proposals constitute an interference with free enterprise. In the first instance, it is the</p>	<p>1) Noted. Please refer to the Impact Assessment annexed to the Guidelines. See Resolutions on comments 13(6) and 158 below.</p> <p>2) Disagree. Any form of regulation can potentially be considered an interference with free enterprise. EIOPA has the legal power to intervene in accordance with Arts</p>

		<p>task of the undertakings to organize their internal procedures. The complaints management policy of insurance undertakings, which represents a means of customer retention, is no exception. If the freedom of undertakings to design such means is limited, the degree of proportionality always has to be taken into account when stipulating such provisions.</p> <p>3) Moreover, it is questionable whether EIOPA has the competence to stipulate such detailed provisions on complaints handling. Even though Directive 2009/138/EC aims at ensuring adequate protection of policyholders and beneficiaries (recital 16), and Article 183 (1) as well as Article 185 (2 1) of the Solvency II Framework Directive explicitly refer to the term “complaints body”, it cannot be concluded from these provisions and from the other provisions underlying the Guidelines (Articles 41 and 46 of the Solvency II Framework Directive) whether and how a corporate complaints management policy can and should be established in detail by EIOPA. Moreover, it cannot be concluded from the provisions mentioned above that all undertakings shall be obliged to have in place an internal complaints management policy. Accordingly, external complaints handling would also be acceptable. A very effective and independent complaints body was created in Germany more than 10 years ago by establishing the so-called Versicherungsombudsmann e.V. (German insurance ombudsman).¹</p> <p>4) The “Proposal for Guidelines on Complaints-Handling by Insurance Undertakings” as well as the “Draft Report on Best Practices by Insurance Undertakings in handling complaints” are not in line with already existing or intended regulations with respect to the Insurance Mediation Directive (IMD) and PRIPs. However, the proposals should be in line with these regulations to prevent ambiguities.</p> <p>5) Finally, it shall be ensured that other financial services industries are obliged to meet the same standards regarding complaints handling as the insurance industry, if applicable. It shall be made sure that a level playing field can be created.</p>	<p>9 and 16. These Guidelines are also already standard practice in a number of Member States and are part of good governance to enhance consumer protection.</p> <p>3) Disagree. EIOPA has competence to issue such Guidelines under Article 16, EIOPA Regulation to fulfil its statutory objectives (e.g. enhancing customer protection). The provisions in the Guidelines are high-level and apply to competent authorities on a non-binding “comply or explain” basis.</p> <p>In a number of Member States, external complaints-handling via an Ombudsman are a 2nd stage once internal procedures in an undertaking have been exhausted.</p> <p>4) Disagree. The Guidelines are in line with the IMD, which sets out high-level complaints-handling provisions for intermediaries (Article 10). It is expected that the scope of the IMD will be extended to insurance undertakings under its planned revision. The PRIPs proposal deal with rules on disclosure and selling of PRIPs, not complaints-handling.</p>
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			<p>So far, the proposed Guidelines are not explicitly restricted to direct insurance undertakings. However, a complaints management policy focusing on complaints by consumers is only reasonable with respect to direct insurers. The Guidelines should clearly emphasize this fact.</p> <p>6) Article 29 (3) of the Solvency II Framework Directive stipulates the principle of proportionality. According to this Article, Member States shall ensure that the requirements laid down in this Directive are applied in a manner which is proportionate to the nature, scale and complexity of the risks inherent in the business of an insurance undertaking. This principle shall also be taken into account when trying to further optimize complaints handling by insurance undertakings. This is particularly important in business areas in which consumer complaints are excluded or very rare due to the design of the product, for instance in occupational pension schemes, in case of major risks as well as in case of short-term insurance policies. The principle of proportionality should therefore also be mentioned in the Guidelines.</p>	<p>5) Noted. A level playing field is important; Re Joint Committee, see Resolution on comment 1(3).</p> <p>6) Noted. EIOPA recognises the importance of these Guidelines being applied in a manner which is proportionate to the size of the insurance undertaking as illustrated by Article 29(3) of the Solvency II Directive. As a follow-up initiative to these Guidelines, EIOPA will be working on a short FAQ on how the Guidelines would apply in practice to small insurance undertakings.</p>
14.	MACIF	General Comment	<p>Préambule des commentaires</p> <p>La MACIF soutient le principe des Lignes directrices proposées par l'EIOPA, dans la mesure où elles correspondent largement à la recommandation adoptée en décembre 2011 par l'Autorité de contrôle prudentiel (ACP) et à la politique de la MACIF en matière de traitement des réclamations de ses assurés et bénéficiaires de polices d'assurance.</p> <p>La MACIF cependant conteste fermement la définition donnée par l'EIOPA à la notion de "plainte" ou de « réclamation ». Inclure dans cette notion, qui est centrale dans le projet de l'EIOPA, toute</p>	See Resolution on comment 9

			<p>« manifestation de mécontentement » est excessif et inadapté au contexte habituel des relations entre assurés et assureurs. Certaines manifestations de mécontentement peuvent, en effet, comme le prévoit l'EIOPA représenter une simple demande d'information ou d'éclaircissement, ou une demande d'indemnisation, mais seul un dialogue avec l'assuré permet de faire la distinction. Il paraît donc excessif d'exiger que toute manifestation de mécontentement fasse a priori l'objet du traitement recommandé par l'EIOPA.</p> <p>Il nous paraît important en outre que l'EIOPA précise si ces Lignes directrices ont vocation à s'imposer juridiquement aux Etats membres. Si oui, il conviendra de veiller à ce qu'elles le soient de manière harmonisée dans les différents Etats et qu'elles ne créent pas d'incertitude juridique pour les sociétés d'assurance. En France, les assureurs sont appelés à mettre leur politique de traitement des réclamations en conformité avec les recommandations de l'ACP d'ici au 1er septembre 2012. Elles ont donc besoin de savoir rapidement si ces recommandations de l'ACP sont susceptibles d'être modifiées à la lumière des Lignes directrices de l'EIOPA.</p> <p>La MACIF observe que le champ d'application des Lignes directrices proposées par l'EIOPA se limite aux sociétés d'assurance. Or, en France, l'ACP est l'autorité de contrôle à la fois des établissements de crédit et des compagnies d'assurance. Sa récente recommandation sur le traitement des réclamations instaure donc un « level playing field » entre tous les opérateurs de ces deux secteurs des services financiers. Cette évolution devrait être reprise au niveau européen, par exemple en donnant aux Lignes directrices de l'EIOPA une dimension EIOPA-EBA et même ESMA pour inclure les services d'investissement, comme l'a fait la Commission européenne dans sa proposition PRIPS.</p>	
15.	MAIF	General Comment	La MAIF soutient le principe des Lignes directrices proposées par l'EIOPA, dans la mesure où elles correspondent largement à la recommandation adoptée en décembre 2011 par l'Autorité de contrôle prudentiel (ACP) et à la politique de la MACIF en matière	See Resolution on comment 9

			<p>de traitement des réclamations de ses assurés et bénéficiaires de polices d'assurance.</p> <p>La MAIF conteste cependant la définition donnée par l'EIOPA à la notion de « plainte » ou de « réclamation ». Inclure dans cette notion, qui est centrale dans le projet de l'EIOPA, toute « manifestation de mécontentement » est excessif et inadapté au contexte habituel des relations entre assurés et assureurs. Certaines manifestations de mécontentement peuvent, en effet, comme le prévoit l'EIOPA représenter une simple demande d'information ou d'éclaircissement, ou une demande d'indemnisation, mais seul un dialogue avec l'assuré permet de faire la distinction. Il paraît donc excessif d'exiger que toute manifestation de mécontentement fasse a priori l'objet du traitement recommandé par l'EIOPA.</p> <p>Il nous paraît important en outre que l'EIOPA précise si ces Lignes directrices ont vocation à s'imposer juridiquement aux Etats membres. Si oui, il conviendra de veiller à ce qu'elles le soient de manière harmonisée dans les différents Etats et qu'elles ne créent pas d'incertitude juridique pour les sociétés d'assurance. En France, les assureurs sont appelés à mettre leur politique de traitement des réclamations en conformité avec les recommandations de l'ACP d'ici au 1er septembre 2012. Elles ont donc besoin de savoir rapidement si ces recommandations de l'ACP sont susceptibles d'être modifiées à la lumière des Lignes directrices de l'EIOPA.</p>	
16.			[Deleted due to request for comments to be treated as confidential]	
17.	RSA Insurance Group Companies in	General Comment	The harmonisation of complaints-handling procedures in the EU can strengthen the culture of transparency and fairness in the insurance market. However, it is important that these are proportionate to the size of the firm and are not overly burdensome.	Noted. EIOPA recognises the importance of these Guidelines being applied in a manner which is proportionate to the size of the insurance undertaking as illustrated by Article 29(3) of the Solvency II

	Europe			Directive. As a follow-up initiative to these Guidelines, EIOPA will be working on a short FAQ on how the Guidelines would apply in practice to small insurance undertakings.
18.	UK Financial Ombudsman Service	General Comment	The UK Financial Ombudsman Service welcomes EIOPA's proposals for guidelines on complaints-handling by insurance undertakings and its draft report on best practices. These proposals are consistent with the complaint-handling model that has been put in place by the UK Financial Services Authority – a model which we believe works well and which gives appropriate responsibilities to financial businesses.	Noted
19	Mutualite Francaise	General Comment	<p>S'agissant des mutuelles françaises relevant d'une législation spécifique « Le code de la mutualité », au-delà des recommandations de l'ACP - Autorité de contrôle prudentiel- que les organismes mutualistes vont appliquer peu à peu celles-ci ont une particularité qui impacte le traitement des réclamations, du fait de la nature du lien entre l'adhérent et sa mutuelle. En effet, l'adhérent est membre participant. Il prend part à l'Assemblée Générale de sa mutuelle et a consenti aux dispositions qui lui sont appliquées. Il doit donc accepter les obligations et leurs mises en œuvre, résultants des Statuts et Règlements Mutualistes de sa mutuelle. Il n'est pas qu'un simple consommateur.</p> <p>La Mutualité Française soutient le principe des Lignes directrices proposées par l'EIOPA, dans la mesure où elles correspondent largement à la recommandation adoptée en décembre 2011 par l'Autorité de contrôle prudentiel française (ACP) et à la politique des mutuelles en matière de traitement des réclamations de ses adhérents. .</p> <p>La Mutualité Française, cependant conteste fermement la définition donnée par l'EIOPA à la notion de "plainte" ou de « réclamation ». En effet, inclure dans cette notion, qui est centrale dans le projet de l'EIOPA, toute « manifestation de mécontentement » est excessif et inadapté au contexte habituel des relations entre assurés et assureurs et en particulier, lorsque</p>	See Resolution on comment 9

			<p>l'adhérent mutualiste participe à la gouvernance et aux prises de décisions. . Certaines manifestations de mécontentement peuvent, en effet, comme le prévoit l'EIOPA représenter une simple demande d'information ou d'éclaircissement, ou une demande d'indemnisation, mais seul un dialogue avec l'assuré permet de faire la distinction. Il paraît donc excessif d'exiger que toute manifestation de mécontentement fasse a priori l'objet du traitement recommandé par l'EIOPA.</p> <p>Il nous paraît important en outre que l'EIOPA précise si ces Lignes directrices ont vocation à s'imposer juridiquement aux Etats membres. Si oui, il conviendra de veiller à ce qu'elles le soient de manière harmonisée dans les différents Etats et qu'elles ne créent pas d'incertitude juridique pour les sociétés d'assurance. En France, les mutuelles comme toutes les sociétés d'assurance sont appelées à mettre leur politique de traitement des réclamations en conformité avec les recommandations de l'ACP d'ici au 1^{er} septembre 2012. Elles ont donc besoin de savoir rapidement si ces recommandations de l'ACP sont susceptibles d'être modifiées à la lumière des Lignes directrices de l'EIOPA.</p> <p>La Mutualité Française observe que le champ d'application des Lignes directrices proposées par l'EIOPA se limite aux sociétés d'assurance. Or, en France, l'ACP est l'autorité de contrôle à la fois des établissements de crédit et des compagnies d'assurance. Sa récente recommandation sur le traitement des réclamations instaure donc un même niveau entre tous les opérateurs de ces deux secteurs des services financiers. Cette évolution devrait être reprise au niveau européen, par exemple en donnant aux Lignes directrices de l'EIOPA une dimension EIOPA-EBA et même ESMA pour inclure les services d'investissement, comme l'a fait la Commission européenne dans sa proposition PRIPS.</p>	
20.	RPC, incorporating comments from EU members of	General Comment	<p>Issues arising from the proposed guidelines</p> <p>EIOPA has published a Proposal for Guidelines on Complaints-Handling by Insurance Undertakings (EIOPA- CP-11/010a) and a Draft Report on Best Practices by Insurance Undertakings in handling complaints (EIOPA- CP-11/010b).</p>	

TerraLex		<p>RPC welcomes the publication of these two documents. In general the proposed guidelines contain sensible suggestions on complaints handling by insurance undertakings and are based on best practice.</p> <p>Nonetheless, we feel it is important to highlight certain parts of the guidelines which make references to <u>two</u> areas of national law which exhibit major differences across the Member States:</p> <p><u>Availability of ADR and ombudsman schemes</u></p> <p>In the current guidelines repeated reference is made to the availability of ombudsman schemes and the obligation upon insurance undertakings to inform complainants of the existence of an ombudsman scheme (Guideline 3/3.12 - Registration; Guideline 4/3.14 - Reporting; Guideline 6/3.15 - Information to Consumers; Guideline 7/3.16 - Procedures for responding to complaints).</p> <p>Despite this, page 6 of the Consultation Paper acknowledges that duties found in the 'Solvency II' Directive 2009/138/EC to inform non-life and life policyholders about the existence of a complaints body are only binding on insurance undertakings 'where appropriate'. It is clear from the wording of the Directive and from the Consultation Paper that such an ombudsman scheme does not exist in all Member States.</p> <p>In fact, the European Commission's Directorate General for Health & Consumers (DG SANCO) carried out a study into Member States' alternative dispute resolution (ADR) schemes. The final report, entitled '<i>Study on the use of Alternative Dispute Resolution in the European Union</i>', was published on 16 October 2009. This found that there were substantial differences between states in terms of the number and structure of their schemes and the industries that were covered by them.</p> <p><u>Rights of third parties</u></p>	<p>1) Noted. Paragraphs 15 and 16 only mention the "availability of an Ombudsman" as an example. The lack of availability of ADR and Ombudsman schemes is something which the European Commission's recent legislative proposal seeks to address. See also Resolution on comment 6(3).</p>
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		<p>Under proposed Guideline 1/3.10, all insurance undertakings must put in place a 'complaints management policy' which has been endorsed by the firm's senior management. This policy will be applicable to 'consumers, insured persons, injured third parties and beneficiaries etc'.</p> <p>Nonetheless, the Consultation Paper again acknowledges that this will not be the case for injured third parties in all Member States. On page 7 of the Consultation Paper it is noted that an injured third party may be a complainant only 'in some jurisdictions.'</p> <p><u>Our approach</u></p> <p>In order to highlight the inconsistencies that exist across the single market, RPC has sought detailed information on the availability of ombudsman schemes and complaints bodies and the rights of third parties to make complaints in Member States from EU members of the TerraLex® network. The information from a selection of Member States is presented in Appendix 1.</p> <p>This comparative analysis follows the approach of DG SANCO in its report. The DG SANCO study is a valuable document and an important starting point for any analysis of ADR in the EU. This document is intended to supplement this study by providing information specifically on the existence and functioning of insurance ombudsman schemes across Member States and the access to those schemes by third parties.</p> <p>We hope that this information will prove useful to EIOPA in taking its proposals forward.</p> <p><u>Conclusions</u></p> <p>These conclusions are drawn from the information provided by TerraLex® members from those Member States listed in Appendix 1.</p>	<p>2) Noted. The definitions in the introductory part to the Guidelines are purely indicative and do not override equivalent national definitions. See also Resolution on comment 32(1)</p>
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		<p><u>Ombudsman schemes for insurance disputes</u></p> <p>In general our findings show that while most Member States provide access to an ombudsman scheme or similar complaints body for insurance complaints which is compliant with Commission Recommendation (98/257/EC), some do not. Further there is a great divergence in terms of what these schemes can actually rule upon, the nature of these rulings, and how complainants can access the schemes. Our key conclusions are set out below:</p> <p>1) While all complainants in the Member States covered by our study had access to an ombudsman scheme or similar 'complaints body', not all of these bodies cover insurance disputes.</p> <p>Notably complainants in Austria, Greece and Slovakia are not able to have their insurance related complaints heard by a scheme which is able to make a decision which is binding upon insurers. In fact, in Slovakia the national supervisory authority is expressly excluded by law from adjudicating private disputes.</p> <p>2) While there is an insurance scheme in the Czech Republic which is able to rule on whether an insurer has breached consumer protection rules it cannot make a decision as to monetary compensation.</p> <p>3) None of the abovementioned schemes meet the standards of transparency, independence and effectiveness set out in Commission Recommendation (98/257/EC). Nor do they meet the recommendations in the Recommendation that parties be permitted to have representation in the proceedings and not be denied access to other legal remedies.</p> <p>4) In some Member States, notably Italy the range of insurance disputes and the availability of complaint bodies to complainants is dictated by agreements between industry and</p>	<p>3) Noted. The purpose of these Guidelines is primarily to consider the internal processes of insurers, rather than promote the creation of ADR schemes. The lack of availability of ADR and Ombudsman schemes is something which the European Commission's recent legislative proposal seeks to address.</p>
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			<p>consumer associations. Thus coverage is not universal and may change over time. However, unlike many other jurisdictions, all insurance disputes must be mediated as mediation is a condition precedent to launching a legal suit.</p> <p>5) The ombudsman schemes and complaints bodies vary greatly from Member State to Member State. For example, in Denmark, the UK, Finland, Ireland and Malta a single ombudsman/Consumer Complaints Manager/board/bureau will deal with the complaints through written correspondence from start to finish. In Estonia and Italy complainants may present their case orally. In the Czech Republic and Lithuania complaints are heard by the Central Bank. And in Malta and Romania the insurers will themselves organise either their own independent ombudsman, or their own complaints procedure which will be monitored externally.</p> <p>6) From a practical point of view these schemes can present different challenges to consumers and insurers. In Luxembourg complainants must have exhausted all other settlement options with their insurer before referring a dispute to the mediator. In Denmark consumers must pay a DKK 200 (approximately €27) fee to refer a complaint, which might deter some low-income complainants. By contrast, in the UK insurers must pay a £500 (approximately €599) fee when a customer makes a complaint, irrespective of the outcome, which frequently leads to inflated settlement offers and increasing premiums for other customers. In Sweden disputes must be worth more than SEK 2,000 (approximately €227) before they can be heard. Finally, in Estonia the dispute resolution process is free, however, in relation to voluntary insurance, insurers must consent to the relevant complaints bodies hearing the complaint.</p> <p>7) Some schemes are part of a much wider use of ADR by the Member State concerned. In Italy all insurance disputes must be mediated. While in Sweden, which has by far the most comprehensive ADR scheme of any Member State, all business-to-consumer disputes can be presented to the National Board for Consumer Disputes and the Consumer Agency may even</p>	
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			<p>pursue legal action on behalf of consumers in the courts.</p> <p><u>Claims and access to ombudsman schemes by third parties</u></p> <p>All Member States grant third parties injured in motor accidents the right to claim directly against insurers courtesy of rights created under the six European motor insurance Directives. However, not all Member States allow these third parties to make complaints to ombudsman schemes or similar complaints bodies. For instance, in the UK, third parties injured in motor insurance claims are explicitly excluded from being eligible complainants to the UK Financial Ombudsman Scheme. However, in Finland they may make a complaint to the Consumer Dispute Board and the Traffic Accident Board.</p> <p>Further, there are some important differences between Member States in terms of the rights of other third parties to proceed directly against insurers:</p> <ol style="list-style-type: none"> 1) In Lithuania all third parties, injured or otherwise, may make a complaint against an insurer. In Romania and Portugal the same is true for all injured third parties. Similarly, all third parties in Greece may make direct claims against insurers and complaints to a Consumer Protection Ombudsman, although this does not specifically adjudicate on insurance matters (see above). However, in Slovakia, Italy, Austria and Ireland, third parties, with the exception of those injured in motor accidents (and hunting accidents in Italy), cannot make either claims or complaints against insurers. 2) In the Czech Republic insurance contracts can be made that benefit third parties who are able to make complaints under the policy. However, in Denmark a complainant must show that the complaint relates to his or her own policy. 3) In certain countries third parties may make claims directly against insurers in certain other specific instances. In Denmark third parties injured by dogs can proceed directly against insurers, as can third parties who suffer loss due to a 	
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			<p>professional with mandatory professional indemnity insurance. In Belgium injured third parties may proceed directly against insurers, whilst In Estonia third parties may proceed against insurers who have underwritten compulsory liability insurance policies. A similar position exists in Finland and in Scotland (although this is rarely applied in practice). In both Estonia and Italy third parties cannot make a direct claim against insurers, however, if an insured under a voluntary liability policy requests it, an insurer must make a direct payment to any injured third parties. In Finland, third parties with a security over property may proceed against insurers, as may successors in title to property for a defined period after the transfer of title. In Sweden, third parties with a security over property may claim, as may those who bear the risk during the conveyance of property. Further, if an insurer makes a payment to an insured to cover its liabilities to a third party and the insured fails to make payment to the third party, the insurer is liable to the same sum directly to the third party. Finally, in Italy third parties suffering injuries in relation to hunting may be able to claim against insurers. In addition motor vehicle passengers can bring claims against the insurers of the vehicle in which they were travelling.</p> <p>4) In Denmark, Sweden and the UK third parties can claim directly against insurers if the insured has gone into insolvency or has been wound up. In the UK such third parties may still make a complaint to the ombudsman scheme. In Estonia, third parties gain priority over other creditors in insolvency proceedings of an insured who has been insured under a liability policy.</p> <p><u>Submissions to EIOPA</u></p> <p>Each Member State's schemes for dispute resolution, and the availability of such schemes to third parties, has been created through the sovereign and democratic decision making processes of each Member State. The diversity of the systems reflect the different balances between procedural and substantive rights and speed and access to justice with which each nation in the EU has</p>	
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		<p>to this point been satisfied.</p> <p>However, in the narrow sphere of insurance disputes, and the two issues we have addressed, the guidelines as they stand do not go far enough in harmonising the rules applicable to insurance undertakings. Our members believe that it is important that EIOPA engages with national regulatory authorities to explore, whilst respecting the principle of subsidiarity, ways in which the provision of access to ombudsman services can be made more consistent for consumers and insurance undertakings across the single market. Despite the compromise that this would entail, all consumers stand to gain either due to reduced premiums or through access to speedy resolution of disputes courtesy of ombudsman services.</p> <p>Insurance undertakings operating in a common market should be under consistent obligations towards their customers. Not only does this provide better security for customers, it provides greater legal certainty for the industry, allows for a greater standardisation of complaints procedures and complaints handling processes and software, and reduces costs and, ultimately, premiums.</p> <p>Consumers in a single market need to know when purchasing products from insurance undertakings established in other Member States that they have access to comparable dispute resolution schemes throughout that single market.</p> <p>However, the guidelines should not seek to expand the rights of third parties. With the exception of those injured in motor accidents, third parties have different rights of action and of complaints in the various Member States. Giving third parties the right to sue or complain to insurers for losses arising under liability policies more generally would lead to insurers being exposed to much greater liabilities than they are at present. Liability insurance is a private, commercial agreement to protect an insured from exposures to its clients and the world at large. Although it provides an element of social security, potential beneficiaries in the world at large should not be granted rights of</p>	<p>4) Noted. The Guidelines do not provide for</p>
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			action against insurers except in the most limited of circumstances or following full and thorough consultation. We are pleased to note that these guidelines do not propose any extension to such third party rights.	the extension of the rights of third parties and are of a high-level nature, applying to competent authorities only on a non-binding “comply or explain” basis.
21.	Allianz SE for Allianz Group	3.1.	-	
22.	Insurers of Europe (formerly CEA)	3.1.	12. As stated in the CEA’s comments under “General Comment”, the CEA would into question the legal basis for EIOPA’s issuance of these guidelines and the extent to which such a task falls within the remit of EIOPA’s tasks and responsibilities. Article 9(2) of the EIOPA regulation refers to adopting guidelines and recommendations with a view to promoting the “convergence of regulatory practice”; however, we fail to see how this relates to EIOPA’s current work on complaints-handling. In fact, EIOPA has cited various recitals and articles of the Solvency II Directive as a further basis for these guidelines. However, the CEA questions the rather broad interpretation that has been given by EIOPA to these provisions. For example, recital 16 of the Solvency II Directive states that “the main objective of insurance and reinsurance regulation and supervision is the adequate protection of policyholders and beneficiaries.....” We would question whether the “adequate protection of policyholders and beneficiaries” extends to the processing of consumer complaints. Moreover, the reference to reinsurance in this same provision would suggest that it is directed more towards the prudential and financial capacity of the firms concerned to meet their commitments vis-à-vis the policyholders and beneficiaries. In addition, Articles 41 and 46 of Solvency II provide for both an effective system of governance and internal control system. We would also question whether the scope of these obligations can be interpreted to apply to all areas, including consumer complaints handling which is something that is clearly not specific to the insurance sector.	Noted. The purpose of the Guidelines is promote convergence of regulatory practices in the handling of complaints and promote the safety and soundness of insurance markets for consumers

23.	Fédération Française des Sociétés d'Assurance (FFSA)	3.1.	<p>The recitals EIOPA uses to support its guidelines raise a number of questions:</p> <p>Having regard to article 16 of the EIOPA regulation, the FFSA wonders how EIOPA cooperates with EBA and ESMA in a view "to establishing consistent, efficient and effective supervisory of complaints handling in the ESFS". The FFSA would not understand that complaints handling guidelines are restricted to insurance sector only.</p> <p>The FFSA also wonders what is the Union law in this matter (except articles 183 and 185 of Directive 2009/138/EC which deal with information to be given about arrangements for handling complaints and the existence of complaints body if any, but not with procedures to put in place or reporting or internal follow-up)</p> <p>Regarding recital 16 of Directive 2009/138/EC, the FFSA is far from being convinced that "the adequate protection of policyholders and beneficiaries" refers to consumer protection in general and complaints handling in particular. The reference to reinsurance in this same provision would suggest that it directed more towards the prudential and financial capacity of the firms to meet their commitments vis a vis policyholders and/or beneficiaries.</p> <p>Having regards to articles 41 and 42 of the Directive 2009/138/EC, the FFSA calls into question the extension of general governance and internal control requirements to complaints handling issue while this issue is likely to affect every professional sectors whatever they are and not only insurance one. Proposed governance and internal control requirements should prove to be administratively burdensome and costly for insurance undertakings and thus for the clients and the FFSA does not see the reason why insurance sector should be the only one submitted to them.</p> <p>On this point, the FFSA would like to remind EIOPA with recital 12 of the EIOPA regulation : "The Authority should take into account of the impact of its activities on competition and innovation within the internal market, on the union's global competitiveness, on financial inclusion, and on the Union's new strategy for jobs and</p>	Noted
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			grow” Regarding Articles 183 and 185 of the Directive 2009/138/EC, the FFSA would like to stress that the purpose of these articles is to inform the policyholder about the arrangements for handling complaints and not to place conditions on the way to handle these complaints.	
24.			[Deleted due to request for comments to be treated as confidential]	
25.	Allianz SE for Allianz Group	3.2.	-	
26.	Assuralia	3.2.	<p>Whereas to ensure the adequate protection of policyholders, the arrangements of insurance undertakings for handling all complaints that they receive should be harmonized.</p> <p>From a supervisory point of view it makes sense to make sure that all policyholders are protected adequately in terms of complaints-handling by insurance undertakings. Experience shows that complaints-handling mechanisms within and outside of insurers differ substantially between member states, however (European Commission, DG Markt, “Evaluation report of FIN-NET”, 2009, p. 18-19). In some aspects, the Guidelines seem too detailed to fit that diversity, especially with regard to external reporting requirements and processing of data.</p> <p>A more pragmatic approach for the EIOPA Guidelines would in our view consist of adopting general policy targets and leave the operational organization of complaints-handling supervision to the national supervisor and insurers involved. The target for national supervisors could for example be to have in place an appropriate monitoring approach for internal complaints handling by companies. The national supervisor would then decide on how to deal with this in practice. Instead of engaging in the onerous processing of continuous external reporting requirements, supervisors could choose to select individual companies for closer examination based on the indications given by the market.</p>	<p>Noted. The Guidelines are high-level principles, which aim to standardize practices; data on complaints is provided by all relevant authorities according to national criteria or own criteria where relevant (see Guideline 4) in order that data can be compared in order to achieve effective results. More detailed provisions are contained in the Best Practices Report.</p>

		<p>The complaints introduced with the official Ombudsman for insurance services could be a good monitoring tool for supervisors in the Belgian context. All complaints that are introduced there are systematically being registered and processed into representative statistics, analysis and recommendations. They are published in the annual report of the Ombudsman (Ombudsman der verzekeringen, Annual report 2010, http://www.ombudsman.as/fr/documents/Rapport_ombudsman_2010.pdf).</p> <p>The national Ombudsman is the last step of the normal 3-step approach for complaints handling in Belgium:</p> <ol style="list-style-type: none"> 1) Addressing dissatisfaction to an insurance intermediary or normal contact person working for an insurance company. If no agreement: 2) Addressing a complaint to the responsible person for complaints handling of the insurance undertaking. If no satisfaction: 3) Addressing a complaint to the national Ombudsman for insurance services. The Ombudsman can at any time be approached directly by consumers also. <p>We would certainly advise against harmonizing the concrete arrangements of insurers to handle complaints. The way complaints are being managed in practice will differ between insurers. For some insurers it may for example be more efficient to have a network of complaints handling functions covering insurance branches separately, while for others a single complaints function would be more appropriate.</p> <p>In summary, we believe there is added value in setting general policy targets at the level of EIOPA, leaving the operational choices on how to achieve those targets in each member state to the national supervisor and the insurance undertakings involved. A periodic exchange of practices and experiences between supervisors would allow EIOPA to monitor the progress in practice</p>	
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			and would encourage its members to advance in a pragmatic and cost efficient manner.	
27.	Insurance Europe (formerly CEA)	3.2.	See CEA's comments under "General Comment"	Noted. See Resolution on comment 7
28.	Chris Barnard	3.2.	I agree with this. But this does not require full harmonisation, but at least a minimum level of harmonisation (see also Paragraph 3.6).	Paragraph 2 re-worded as follows: <i>"To ensure the adequate protection of policyholders, the arrangements of insurance undertakings for handling all complaints that they receive should be subject to a minimum level of supervisory convergence".</i>
29.			[Deleted due to request for comments to be treated as confidential]	
30.	Allianz SE for Allianz Group	3.3.	-	
31.	AMICE	3.3.	2. See general comment. EIOPA must specify the legal value of these guidelines on complaints-handling, i.e. provide clarification as to whether these guidelines are intended to be mandatory or not and if yes, to whom (insurance undertakings or national supervisors).	Noted. Provisions on the "Comply or Explain" process have been amended in the "Compliance and Reporting" section of the Guidelines. The "comply or explain" duty only applies to competent authorities. In addition, EIOPA's internal rules as regards the criteria for competent authorities complying with all Guidelines are being supplemented to make clear that, where national rules going into further detail, they will not be considered as non-compliant if they: (i) do not contradict the Guidelines and (ii) ensure an equivalent level of consumer protection.

32.	Assuralia	3.3.	<p>These Guidelines shall apply from their final date of publication.</p> <p>Applying the Guidelines at the final date of publication may be feasible if they would set general policy targets and leave the choice of how to achieve them to the national level. We have argued in point 3.2. that this would make sense, mainly because the present approaches and means of supervisors, ombudsmen and insurers in the different member states differ considerably.</p> <p>If EIOPA would however choose to go further than setting general policy targets, the Guidelines will probably require supervisors and insurers to adopt new working methods that are not necessarily adapted to the national context. The impact assessment attached to the guidelines mentions at different occasions that the implementation of the Guidelines may require supervisors, ombudsmen and insurers to invest in new procedures, communication tools, professional training and IT-applications.</p> <p>Adapting IT, communication, training and working procedures always requires more time than expected. Adequate transitional measures will therefore most likely be necessary. We would also like to flag that adapting practices entails costs that are very often underestimated. The ambition should in our view be to achieve the objectives of the draft Guidelines without generating significant costs and time-consuming efforts.</p>	<p>Noted. A transitional period has not been provided for the following reasons:</p> <ol style="list-style-type: none"> 1. The Guidelines are non-binding; 2. The majority of Member States already have in place national laws, which are consistent with the content of the Guidelines. 3. The Guidelines are addressed to Competent Authorities; it is up to them to organise the process of applying them at national level to insurance undertakings. See also Resolution on comment 43. 4. The Guidelines have a built-in transitional period in that Competent Authorities have two months from the issuance of the Guidelines within which to prepare themselves regarding compliance. <p>See Resolution on comment 13(1) and 158</p>
33.	Insurance Europe (formerly CEA)	3.3.	See CEA's comments under "General Comment"	Noted. See Resolution on comment 6

34.	Covéa	3.3.	<p>La portée juridique des propositions de lignes directrices doit être très rapidement évoquée. En effet, la recommandation de l'ACP n°2011-R-05 relative au traitement des réclamations clients doit être mise en œuvre pour le 1er septembre 2012.</p> <p>Des adaptations de nature diverses (formation, système d'information, reporting, évolution de l'organisation en place) vont être effectuées.</p> <p>L'incertitude juridique qui peut résulter de différences entre les prochaines lignes directrices de l'EIOPA et la réglementation applicable en France pour une échéance à court terme doit amener à privilégier une harmonisation <i>a minima</i>.</p>	Noted
35.	GEMA	3.3.	<p>See general comment.</p> <p>EIOPA must precise the legal value of these guidelines on complaints-handling. EIOPA has to clarify whether these guidelines are intended to be mandatory or not and if yes, to whom (insurance undertakings or national supervisors).</p> <p>French insurers may be in an uncertain situation, if national guidelines (from the french supervisor) and European guidelines (from EIOPA) are not in harmony. The situation must be clarified as soon as possible and long before the 1st September 2012.</p>	Noted
36.			[Deleted due to request for comments to be treated as confidential]	
37.	MACIF	3.3.	<p>Il faut que l'EIOPA précise si ces Lignes directrices ont vocation à s'imposer juridiquement aux Etats membres. Si oui, il conviendra de veiller à ce qu'elles le soient de manière harmonisée dans les différents Etats et qu'elles ne créent pas d'incertitude juridique pour les sociétés d'assurance. En France, les assureurs sont appelés à mettre leur politique de traitement des réclamations en conformité avec les recommandations de l'ACP d'ici au 1er septembre 2012. Elles ont donc besoin de savoir rapidement si ces recommandations de l'ACP sont susceptibles d'être modifiées</p>	Noted

			à la lumière des Lignes directrices de l'EIOPA.	
38.	RPC, incorporating comments from EU members of TerraLex	3.3.	It is desirable to harmonise complaints handling policies across the EU which require the guidelines to go further than they do currently. However, we believe that this is an ongoing process which might necessitate some changes to national ADR/Ombudsman schemes. This may take time to implement.	Noted. EIOPA Guidelines are high-level principles covering standard practices for internal complaints-handling procedures within an insurance undertaking. They are different to regulations related to ADR schemes. See Resolution on comment 6(3).
39.	Mutualite Francaise	3.3	Comme indiqué dans nos propos liminaires, il est nécessaire que l'EIOPA précise si ces Lignes directrices ont vocation à s'imposer juridiquement aux Etats membres. Si oui, il conviendra de veiller à ce qu'elles le soient de manière harmonisée dans les différents Etats et qu'elles ne créent pas d'incertitude juridique pour les sociétés d'assurance. En France, les assureurs sont appelés à mettre leur politique de traitement des réclamations en conformité avec les recommandations de l'ACP d'ici au 1er septembre 2012. Elles ont donc besoin de savoir rapidement si ces recommandations de l'ACP sont susceptibles d'être modifiées à la lumière des Lignes directrices de l'EIOPA.	Noted
40.	Allianz SE for Allianz Group	3.4.	-	
41.	Insurance Europe (formerly CEA)	3.4.	See CEA's comments under "General Comment"	Noted
42.	Fédération Française des Sociétés d'Assurance (FFSA)	3.4.	See observations under 3.1	Noted

43.	IRSG	3.5	These Guidelines shall apply to authorities competent for supervising complaints-handling by insurance undertakings in their respective jurisdiction and are recommended to apply to Governmental agencies responsible for Consumer protection as well.	Noted. The Guidelines are high-level principles applicable to authorities competent for supervising complaints-handling in their jurisdiction. It is up to national bodies to decide on a case-by-case basis how best to organise themselves in order to comply with these Guidelines.
44.	Allianz SE for Allianz Group	3.5.	-	
45.	Insurance Europe (formerly CEA)	3.5.	See CEA's comments under "General Comment"	Noted
46.	Norton Rose Studio Legale	3.5.	1) Guidelines should clarify whether national authorities have full supervisory power over establishments of EU insurance undertakings and whether they may impose to such subjects any undertaking in relation to their organization (e.g. with regard to the register). 2) It is appropriate to provide a clear explanation on (i) a cross-border complaint; (ii) the functioning of the FIN-NET system, (iii) the role of the authorities in such system and (iv) the relationship of such system with the guidelines for the management of the complaints.	Noted. See Resolution on comment 7(3). Noted. See Resolution on comment 43 above.
47.			[Deleted due to request for comments to be treated as confidential]	
48.	RPC, incorporating comments from EU	3.5.	Given that some jurisdictions have Ombudsmen schemes for insurance disputes and some do not, it is important to specify which authority is to have competency in this area.	Noted. See Resolution on comment 43 above.

	members of TerraLex			
49.	Allianz SE for Allianz Group	3.6.	-	
50.	Insurance Europe (formerly CEA)	3.6.	See CEA's comments under "General Comment"	Noted. See Resolutions on comment 7
51.	Covéa	3.6.	Avant d'envisager d'accorder aux autorités nationales la possibilité d'adopter des dispositions plus strictes que celles qui seront adoptées par l'EIOPA au niveau européen, il semble d'abord essentiel que l'objectif d'harmonisation puisse être pleinement atteint entre compagnies d'assurance, établissements bancaires et financiers car la multiplication des réseaux de distribution et la complexité des produits nécessitent qu'un client de l'un quelconque de ces structures précitées puissent trouver des modalités et droits identiques pour voir prise en compte et traiter équitablement ses réclamations.	Noted. See Resolutions on comments 6(2) and 55. Re cross-sectoral consistency, see Resolution on comment 1(3).
52.	Fédération Française des Sociétés d'Assurance (FFSA)	3.6.	EIOPA's proposal allows "national legal or regulatory requirements to go into further detail than the guidelines". Firstly it is not clear for FFSA how national competent authority could take legal or regulatory requirements on the basis of EIOPA's guidelines which have no force of law or regulation . Beyond that, it seems to us that this provision would clearly go against EIOPA's mission to "ensuring the common, uniform and consistent application of union law".	Noted. See Resolutions on comments 6(2) and 55.
53.	GEMA (Groupe des Entreprises Mutuelles)	3.6.	GEMA believes that it is dangerous to allow "national legal or regulatory requirements to go into further details than these Guidelines" since it does not fulfil the objective of harmonization.	Noted. See Resolutions on comments 6(2) and 55.

	d'Assurance)			
54.	MACIF	3.6.	Accorder aux autorités nationales la possibilité d'adopter des dispositions plus strictes que celles qui seront adoptées par l'EIOPA au niveau européen nuirait fortement à l'objectif d'harmonisation et de concurrence entre compagnies d'assurance.	Noted. See Resolutions on comments 6(2) and 55.
55.	RPC, incorporating comments from EU members of TerraLex	3.6.	Given that these guidelines reflect the existing regulatory position in most Member States there is a concern that permitting any further 'gold plating' of regulatory obligations will subject insurance undertakings to such divergent obligations with regards to complaints that the objective of this consultation, harmonisation of the internal market for insurance, will be frustrated.	"Gold-plating" is not relevant because the Guidelines are a non-binding instrument. The objective of the Guidelines is to provide supervisory convergence through minimum common rules across the EU, rather than full harmonization. See also Resolution on comment 6(2)
56.	Mutualite Francaise	3.6	Accorder aux autorités nationales la possibilité d'adopter des dispositions plus strictes que celles qui seront adoptées par l'EIOPA au niveau européen nuirait fortement à l'objectif d'harmonisation et de concurrence entre les opérateurs d'assurance	Noted. See Resolutions on comments 6(2) and 55.
57.	IRSG	3.7	<u>Definition Complaint:</u> 1) - Complaints have to be received by the insurance undertaking (so complaints e.g. on third party websites are not covered by these guidelines). - Complaints-handling should be differentiated from claims-handling as well as from simple requests for information or clarification. 2) - In addition, from our experience it is practically very	1, 2 e 3) Noted. Regarding definition of complaint, see Resolutions on comments 58(1)(2), 59(1)(2) and 61(1). 4) Noted re definition of "consumer", see Resolution on comment 7(8).

			<p>important to distinguish between pure expression of dissatisfaction (without the desire for a change or financial settlement with the complainant, often driven by political or social interests, e.g. human rights issues or shareholder expectations and also important, but being dealt with by other functions) and a real complaint (with the desire to reach a financial attribution, change in contract or similar). Therefore, we suggest to replace "dissatisfaction" with a stronger term, e.g. "annoyance".</p> <p>3) - There is a necessity to clarify, in the text itself, the terms "complaints" and "claims" and to pay attention not to exclude any expression of dissatisfaction in the context of a claims handling procedure.</p> <p>4) <u>Definition Consumer</u></p> <p>- Several European Directives contain a definition of a consumer which is recommended to be used: <u>"Consumer means any natural person who is acting for purposes which are outside his trade, business or profession."</u> (DIRECTIVE 2002/65/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 September 2002).</p>	
58.	ABI	3.7.	<p>1) We are concerned that the definition of complaint does not require the complainant to allege they have suffered, or believe they may suffer, any financial or material loss or inconvenience. As such, the definition is broader than that which is currently used in the UK and may include cases where the complainant is simply unhappy with the service or product. It may also create challenges vis-à-vis the rejection of complaints on the basis that the complainant did not suffer material loss etc.</p> <p>2) While we accept that the definitions are only intended to be</p>	<p>1) There is no harmonized definition of a "complaint" across the EU. Broader or narrower national definitions override the definitions used in the Guidelines. Furthermore, national definitions could not be seen as non-compliant as the definitions are not part of the text of the actual Guidelines. The introduction to paragraph has been re-drafted with the phrase "the Guidelines below" to make this clear. See also answer to point 2 below</p> <p>2) Noted. Taking into account the</p>

			<p>indicative, the wording of the guidance states that they cannot override existing national law. For clarity, this should include rules developed by competent authorities such as the UK Financial Services Authority (FSA).</p>	<p>differences in national legal systems, "national law" is understood to include national rules irrespective of their source (e.g. primary or secondary legislation, including regulation, rules devised by national supervisory authorities etc).</p>
59.	Allianz SE for Allianz Group	3.7.	<p>Definition "Complaint":</p> <p>1) We understand and would ask for clarification that "complaints" for the purposes of the guidelines have to be received by the insurance undertaking (so expressions of dissatisfaction e.g. on third party websites are not covered by these guidelines).</p> <p>2) In addition, from our experience it is practically very important to distinguish between pure expression of dissatisfaction (without the desire for a change or financial settlement with the complainant, often driven by political or social interests) and a complaint with the desire to reach a financial attribution, change in contract or similar. We think further criteria to determine if an expression should be categorized as a complaint would be helpful.</p> <p>Definition "Complainant":</p> <p>3) For legal certainty reasons, only persons who can be identified and are related to a specific product or service of an insurance undertaking should be in the scope of the complaint management process. The scope should be clearly limited to the persons mentioned by EIOPA. Proposed wording:</p> <p><i>A policyholder, insured person, beneficiary and in some jurisdictions, injured third party who is presumed to be eligible to have a complaint related to an insurance product or service considered by an insurance undertaking and has already lodged a complaint.</i></p>	<p>1) Noted. For the sake of complainants' and insurance undertakings' interest, complaints directed at/addressed to channels of distribution and/or third parties may be forwarded to insurance undertakings in order to guarantee their effective handling.</p> <p>2) Noted. The term "expression" or "statement" of "dissatisfaction" is a term classically used by EIOPA Members and in other sectors e.g. Commission Recommendation on the use of a harmonised methodology for classifying and reporting consumer complaints. See Resolution on comment 9.</p> <p>3) Noted. An indicative list is used so as not to restrict the scope of "complainants" to a specific group of persons. Furthermore, national criteria used to determine eligibility to file a complaint are not the same.</p>

			<p>Definition "Consumer":</p> <p>4) To ensure consistency in the use of the term "consumer", We would suggest to apply the definition of Dir. DIRECTIVE 2002/65/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 September 2002 concerning the distance marketing of consumer financial services ("Consumer means any natural person who is acting for purposes which are outside his trade, business or profession."). This has been transposed across the member states and is consistent also for all financial services. We think that this also better reflects the ratio of the EIOPA guidelines related to consumers, as e.g. plain language might not be necessary when dealing with complaints from professional clients such as brokers.</p>	4) Noted. See Resolution on comment 7(8)
60.	ALLIANZ-TIRIAC ASIGURARI S.A., ROMANIA	3.7.	The second sub-bullet: But also potential client or collaborator.	Noted. The examples of persons qualifying as "complainants" are purely indicative hence it could also include, among others, "potential client or collaborator". See Resolution on comment 59(3).
61.	AMICE	3.7.	<p>1) AMICE thinks that the definition of the complaint as it is presented by EIOPA in its indicative definitions, i.e. 'an expression of dissatisfaction addressed to an insurance undertaking by a person relating to the insurance contract or service he/she has been provided with' is very broad, in fact too broad, for an activity like insurance. The handling and settling of claims is in its nature a discussion/bargaining process between insurer and client. It should, for example, be assured that the non-acceptance of a claims settlement offer made by the insurer (initially and/or in the negotiation phases) is not as such a complaint.</p> <p>2) Defining each "expression of dissatisfaction" immediately as a complaint (subject to the defined complaints procedures) could deprive insurers from applying an appropriately differentiated treatment to the various comments received from customers and</p>	<p>1) Noted. The term "expression of dissatisfaction" has been amended in the Guidelines to cover only "statements" of dissatisfaction. The definition is deliberately broad to capture most types of complaints. See Resolutions on comments 9 and 59(2).</p> <p>2) Noted. The purpose of these Guidelines is to facilitate undertakings' complaints-handling procedures, thus enhancing consumer protection.</p>

			<p>could, through clogging up the real complaints handling procedures, at the end bring negative results for clients.</p> <p>3) We suggest therefore to review and revise the definition, also taking into account the legal and supervisory rules existing in some Member States.</p>	<p>3) Noted. The definitions are indicative and do not override equivalent definitions in national law. They are also part of the introductory section to the Guidelines so they are not subject to "comply or explain". See Resolution on comment 58 (1)(2).</p>
62.	Assuralia	3.7.	<p>For the purpose of these Guidelines only, the following indicative definitions, which do not override equivalent definitions in national law, have been developed:</p> <p>"Complaint means: An expression of dissatisfaction addressed to an insurance undertaking by a person relating to the insurance contract or service he/she has been provided with.</p> <p>N.B. Complaints-handling should be differentiated from claims-handling as well as from simple requests for information or clarification."</p> <p>This definition is very wide and will be difficult to apply in practice. We would suggest a more practical and objective definition that would define a "complaint" as follows</p> <p><i>"Complaint means: an expression of dissatisfaction addressed in writing to the official complaints service of an insurance undertaking by a person relating to the insurance contract or service he/she has been provided with.</i></p> <p><i>Normal expressions of disagreement in the context of claims-handling or contract negotiations as well as simple requests for information or clarification are not complaints for the purpose of these Guidelines."</i></p> <p>There are a number of reasons to support this proposal:</p> <p>First, it is fair. The proposal does not limit consumers in any way</p>	<p>See Resolutions on comments 58 (1)(2), Resolution on comment 59(2) and Resolution on comment 61(1).</p>

			<p>from expressing their prompt or profound dissatisfaction. It is only asking people to at least inform the company's appropriate service in writing about the facts that are causing the problems they consider to be important.</p> <p>Second, it is objective. The proposed wording introduces tangible and objective elements that allow making a clear difference between conversations in the context of claims handling, contracting negotiations or requests for information/clarification, on the one hand, and the complaints the Guidelines are targeting, on the other hand.</p> <p>Third, it is efficient. Requiring a complaint to be addressed in writing would allow the appropriate service to better understand the concerns and to adequately collect the facts and figures involved.</p> <p>Fourth, it is practical. Training complaints handlers to a fairly high level and streamlining their approach is only feasible at reasonable cost if limited to the internal complaints handling service. It ensures consumers that all complaints are being treated equally, on the one hand, and offers the company's management feedback that is consistent and comparable over time, on the other hand.</p>	
63.	BIPAR	3.7.	<p>Definition of "consumer"</p> <p>EIOPA proposed definition of consumers is as follows:</p> <p>"A person to whom an insurance contract is proposed or who has concluded a contract of insurance with an insurance undertaking or the beneficiary".</p> <p>BIPAR wonders why EIOPA is not using the definition of consumers that is used in many EU Directives in insurance</p>	<p>Noted. See Resolution on comment 7(8)</p>

			services. This could lead to some confusion. For sake of legal clarity, BIPAR would therefore suggest that the following definition of consumers is also used in EIOPA Guidelines. "Consumer means any natural person who is acting for purpose which are outside his trade, business or profession" (2002/65/EC Directive on the distance marketing of consumer financial services).	
64.	Insurance Europe (formerly CEA)	3.7.	<p>1) As stated in the CEA's comments under "General Comment", there is a clear need for a very precise definition of what exactly constitutes a "complaint". It is important to distinguish between a simple expression of dissatisfaction with a contract/service and a genuine complaint requiring an appropriate remedy. We would therefore call on EIOPA to include a more precise definition of a "complaint".</p> <p>2) We also note that EIOPA proposes a definition of "consumer" in its guidance, which it aims to make specific to insurance. However, we feel that the definition of consumer should be consistent with the definition that is to be found at EU level under several different directives, ie any natural person who, in contracts covered by that directive, is acting for purposes which are outside his trade, business or profession (this is the definition used in Directive 2002/65/EC concerning the distance marketing of consumer financial services, Directive 2000/31/EC on electronic commerce and Directive 2005/29/EC concerning unfair business-to-consumer commercial practices, all of which apply to insurance activity). The introduction of a new definition that is different to that found under EU legislation would prove confusing to both professionals and consumers.</p>	<p>1) Noted. The definition of "complaint" in the Guidelines has been amended for the purposes of clarification and specifically excludes "simple requests for execution of the contract, information or clarification". See Resolutions on comments 9, 58(1)(2),59(2) and 61(1).</p> <p>2) Noted. See Resolution on comment 7(8).</p>
65.	Covéa	3.7.	<p>L'élément central des propositions de Lignes Directrices est la définition du terme « réclamation » ou « plainte » laquelle conditionne la mise en œuvre de process et d'engagements particuliers.</p> <p>Sans vouloir remettre en cause la nécessaire protection du consommateur, Covéa insiste sur le fait que dans le domaine des assurances les relations entre assureur et assuré donne lieu à de nombreux échanges, tant au moment de la souscription que de la gestion des sinistres. Or, donner une définition trop large aux</p>	Noted

			<p>termes « réclamation » ou « plainte » en les définissant seulement comme « toute manifestation de mécontentement » rendrait à la fois difficile son appréhension (par une approche subjective du mécontentement différente d'une personne à l'autre) et sa mise en œuvre.</p> <p>C'est pourquoi, il conviendrait d'être encore plus précis que le texte proposé par l'EIOPA en excluant du périmètre des « réclamations » ou « plaintes » toute demande d'un assuré d'exécuter son contrat d'assurance, d'obtenir des informations ou des clarifications concernant ce dernier. Positivement, il conviendrait pour éviter toute ambiguïté de définir une réclamation comme une contestation formalisée par un assuré suite à une première demande concernant l'exécution de son contrat d'assurance.</p>	
66.	Danish Insurance Association (DIA)	3.7.	<p>Practices concerning complaints-handling in Danish insurance companies varies much. In some companies, lack of acceptance from the consumer leads to review of the case in the group/office earlier involved. In some companies the case is reviewed by the head or another employee in the group/office. In other companies cases are immediately brought to the Complaints management function, an independent function which due to Danish law is mandatory in financial enterprises in Denmark(Regulation 1264 of 8/12-2006).</p> <p>If the obligation for insurance companies to produce statistics and to report number of complaints and complaints-handling to Competent authorities (3.13) are maintained there is a need for a very precise definition of what a "Complaint" is. In that respect DIA suggest the following definition:</p> <p><i>"Complaint means enquiry from a consumer, which after having discussed the problem with the insurance company, still do not agree with the claims handling or the result of this, and on this background wants the case brought for the Complaints management function."</i></p>	Noted. See Resolutions on comments 58(1)(2), 59(2) and 61(1).

67.	Fédération Française des Sociétés d'Assurance (FFSA)	3.7.	<p>The FFSA considers that the definitions provided in EIOIPA's proposal should be consistent with articles 183 and 185 of the directive 2009/138/EC.</p> <p>In this respect, the proposed definition of complainant should make a distinction between non-life insurance where the complainant is the policy holder only and life insurance where the complainant can be the policyholder, the life -assured or the beneficiary.</p> <p>European law has already provided for a definition of the "consumer" under several directives (i.e. directive 2000/31/EC on electronic commerce, directive 2002/65/EC concerning the distance marketing of consumer financial services, directive 2005/29/ EC concerning unfair business to consumer commercial practices) which apply to insurance activity. Introducing a quite different definition of consumer in the context of EIOIPA guidelines about insurance complaints handling would prove extremely confusing to both professionals and consumers themselves and once more time would be contradictory with the article 16 of EIOIPA regulation which aims to "<i>ensuring the common, uniform and consistent application of union law</i>".</p> <p>The FFSA would also like to point out the need for a precise definition of what constitutes a complaint. It is important to distinguish between a simple expression of dissatisfaction and a genuine complaint requiring an appropriate treatment.</p>	<p>1) Noted. Definitions are merely indicative and do not override existing definitions under national law. The definition of complaint has already been changed. See Resolutions on comments 58(1)(2), 59(2) and 61(1).</p> <p>2) The examples of persons qualifying as "complainants" are purely indicative. See Resolution on comment 59(3).</p> <p>3) Re definition of "consumer", see Resolution on comment 7(8).</p>
68.	Financial and Capital Market Commission of Latvia	3.7.	<p>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.</p>	<p>Noted. The Guidelines are not intended to only cover complaints addressed/filed by consumers.</p> <p>See Resolutions on comments 7(8), 59(3) and 67 (2) and (3).</p>
69.	Finanstilsynet (Danish FSA)	3.7.	<p>Finanstilsynet is overall pleased with the fact, that the guidelines have defined a complaint. However Finanstilsynet finds that "<i>an expression of dissatisfaction</i>" is imprecise. Finanstilsynet therefore suggest the following definition:</p>	<p>Noted. See Resolutions on comments 58(1)(2), 59(2) and 61(1).</p>

			<p><i>“Complaint means</i></p> <p><i>An enquiry from a person who, after having discussed the problem with the insurance undertaking, still does not agree with the claims handling or the result of this, and for that reason want the case brought for the complaint management function.”</i></p> <p>Finanstilsynet believe that the current definition might cause a big difference in how the separate countries and undertakings make the statistics. Customers might complain about a lot of different things. Some of these complaints can be sorted out by the caseworker or supervisor, who might correct the outcome of a case or inform the complainant in a way that satisfies the complainant.</p> <p>Some expression of dissatisfaction is of no interest to Finanstilsynet or the consumers, and are usually clarified easily and without troubling another function. This might be complaints about things like the music on the waiting line in the telephone, the time of waiting on the telephone or similar complaints. The current definition could allow rise to doubt on company level on how to define which complaints that are to be registered.</p> <p>Finanstilsynet suggests that a more precise definition is used in order to achieve a more comparable set of statistics in Europe. This can also help avoid a difference in interpreting when a contact from a person to an insurance undertaking should be considered as a complaint. Furthermore the data from the companies will be easier for a consumer to understand if it is clear what kind of complaints an insurance undertaking has received.</p>	
70.	GEMA	3.7.	<p>See general comment.</p> <p>GEMA considers that the definition given by EIOPA of “complaints” is too broad and inappropriate.</p> <p>In the insurance field, the contractual relationships often lead to dialogue between the insurer and the insured at the time of subscription and at the time of claims handling. By giving a too broad definition of the terms “claim” or “complaint” such as “any expression of dissatisfaction”, EIOPA makes the apprehension of</p>	<p>Noted. See Resolutions on comments 58(1)(2), 59(2) and 61(1).</p>

			<p>this concept and its implementation more difficult. This is why we suggest to narrow the scope of “complaints” by excluding both a claim on the execution of the contract and a request for information or clarification.</p> <p>This could lead to the following definition: a complaint is an objection made by the insured after a first request related to the execution of the insurance contract.</p>	
71.	German Insurance Association (GDV)	3.7.	<p>Definitions included in the Guidelines</p> <p>a) Definitions of “complaint” and “complainant”</p> <p>1) The Guidelines set out provisions on complaints handling but do not provide adequate definitions of the terms “complaint” and “complainant”. Respective definitions are only found in the introduction of the Guidelines (cf. No. 3.7.). However, this is not sufficient. If the Guidelines shall be comprehensible, they need to explain the significant terms in the text. Otherwise there is the risk that the terms may be interpreted differently, which would be contrary to the objective of harmonizing regulatory practices of national supervisory authorities.</p> <p>2) However, this is particularly difficult with respect to the term “complaint”, since the boundaries between simple “requests” and “complaints” are blurred. For instance, what are simple requests? What shall be done in case of problems of comprehension? When is a request actually a complaint in terms of the Guidelines? Shall this only apply if customers complain about inadequate complaints handling by insurers?</p> <p>3) Achieving high customer satisfaction is an essential objective of undertakings anyway. Therefore, it shall be left to the insurance undertakings to decide how they will handle “complaints”.</p> <p>4) Juridification, as intended by EIOPA, however, is rather counterproductive in this respect, particularly if no satisfying definition of the term “complaint” will be provided, which is</p>	<p>a) 1) and 2) Noted. EIOPA Guidelines are non-binding legal instruments. See Resolutions on comments 58(1)(2), 59(2) and 61(1).</p> <p>Re definition of “complainant”, see Resolution to comment 59(3) and 67.</p> <p>a) 3), 4) and 5) Disagree. Complaints-handling by insurance undertakings should not be left totally unregulated; these Guidelines aim to enhance consumer protection (one of EIOPA’s key statutory objectives).</p> <p>a) 6) Noted. Re definition of “complainant”, see Resolutions on comments 9, 59(3) and 67.</p> <p>b) Re definition of “consumer”, see Resolution on comment 7(8).</p>

			<p>actually assumed.</p> <p>5) Moreover, dissatisfaction of policyholders shall be differentiated from the actual annoyance regarding an insurance contract and from incorrect complaints handling by insurers. Therefore, we suggest replacing the term "dissatisfaction" by a stronger term such as "anger", for instance.</p> <p>6) Furthermore, only complaints of persons who are presumed to be eligible to have a complaint related to a certain product or service of an individual insurance undertaking shall be covered for reasons of legal certainty.</p> <p>We therefore suggest amending the provision as follows:</p> <p><i>A policyholder, insured person, beneficiary and in some jurisdictions, injured third party who is presumed to be eligible to have a complaint related to an insurance product or service considered by an insurance undertaking and has already lodged a complaint.</i></p> <p>Nonetheless, we would like to point out once again in this context that it shall be left to the undertakings to actually specify the term "complaint".</p> <p>b) Definition of "consumer"</p> <p>We suggest using the definition stipulated in Directive 2002/65/EC concerning the distance marketing of consumer financial services to guarantee a consistent use of the term "consumer" ("Consumer means any natural person who is acting for purposes which are outside his trade, business or profession"). It has already been implemented across industries in all Member States.</p>	
72.	MACIF	3.7.	<p>La MACIF conteste fermement la définition donnée par l'EIOPA à la notion de "plainte" ou de « réclamation ». Inclure dans cette notion, qui est centrale dans le projet de l'EIOPA, toute « manifestation de mécontentement » est excessif et inadapté au contexte habituel des relations entre assurés et assureurs. Certaines manifestations de mécontentement peuvent, en effet,</p>	Noted. See Resolution on comment 9

			comme le prévoit l'EIOPA représenter une simple demande d'information ou d'éclaircissement, ou une demande d'indemnisation, mais seul un dialogue avec l'assuré permet de faire la distinction. Il paraît donc excessif d'exiger que toute manifestation de mécontentement fasse a priori l'objet du traitement recommandé par l'EIOPA. Pour éviter toute ambiguïté, nous proposons de définir la réclamation comme « une contestation formalisée par un assuré suite à une première demande concernant l'exécution de son contrat d'assurance ».	
73.	MAIF	3.7.	<p>La MAIF estime que la définition de la plainte / réclamation de l'EIOPA est excessivement large pour une activité telle que l'assurance. En effet, l'expression d'un mécontentement est quasi inhérente à la gestion des sinistres. Retenir une telle définition qui qualifie de « plainte » une « expression de mécontentement » conduirait à appliquer un traitement qualifié de différencié à toute expression de mécontentement.</p> <p>Il serait souhaitable de se rapprocher de la définition de l'ACP française qui définit la réclamation comme « une déclaration actant le mécontentement d'un client envers un professionnel ; une demande de service ou de prestation, une demande d'information, de clarification ou une demande d'avis n'est pas une réclamation ». Elle est beaucoup moins large (« déclaration actant le mécontentement » et non simple « expression de mécontentement ») et serait plus adaptée à l'activité d'assurance en sortant de la procédure spécifique des réclamations les simples expressions de mécontentement qui trouvent réponses auprès de l'interlocuteur habituel.</p>	Noted. See Resolution on comment 9
74.	Norton Rose Studio Legale	3.7.	<p>The introduction of a definition of "complaint" should be imposed to national authorities; it seems to be appropriate that complaints' definition does not extend to expressions of dissatisfaction following adjustment of a claim (even in case of denial). Management of a claim should in fact not be made by the complaints' function.</p> <p>Complaints should be treated under the terms of the policy, only if</p>	<p>Noted. The Guidelines apply to competent authorities only (and not to insurance undertakings directly). See Resolutions on comments 58(1)(2), 59(2) and 61(1).</p> <p>The definition of "complaint" is deliberately broad to capture most types of complaints. The definitions are indicative and do not</p>

			the complainant provides sufficient elements to understand its contents.	override equivalent definitions under national law. Disagree. Where there is insufficient information, insurance Undertakings should obtain the necessary information to handle the complaint.
75.			[Deleted due to request for comments to be treated as confidential]	
76.	RPC, incorporating comments from EU members of TerraLex	3.7.	Many jurisdictions allow for third parties to bring complaints to an insurance undertaking and from there to an Ombudsman service. However, some do not, and explicitly exclude injured third parties from making complaints before the national Ombudsman service. This means that insurance undertakings in some Member States will be exposed to a greater pool of 'complainants' and a much greater likelihood of facing proceedings before an Ombudsman service. The scope of liabilities arising from complaints should be harmonised at the EU level.	Noted. See Resolution on comment 20(1). EIOPA Guidelines only address internal treatment of complaints by insurance undertakings and apply exclusively to competent authorities (and not to insurance undertakings directly).
77.	Mutualite Francaise	3.7	Comme indiqué dans notre propos liminaire, la Mutualité Française conteste fermement la définition donnée par l'EIOPA à la notion de "plainte" ou de « réclamation ». Inclure dans cette notion, qui est centrale dans le projet de l'EIOPA, toute « manifestation de mécontentement » est excessif et inadapté au contexte habituel des relations entre assurés et assureurs et en particulier, puisque l'adhérent mutualiste participe à la gouvernance et aux prises de décisions. .. Certaines manifestations de mécontentement peuvent, en effet, comme le prévoit l'EIOPA représenter une simple demande d'information ou d'éclaircissement, ou une demande d'indemnisation, mais seul un dialogue avec l'adhérent permet de faire la distinction. Il paraît donc excessif d'exiger que toute manifestation de mécontentement fasse a priori l'objet du traitement recommandé par l'EIOPA.	Noted. See Resolution on comment 9.

			<p>Selon l'avis de la Mutualité Française, la définition ainsi prévue est trop vague et son champ est trop vaste. Pour information, l'ACP dans sa recommandation du 15 décembre 2011 sur le traitement des réclamations définit celles-ci comme « une déclaration actant le mécontentement d'un client envers un professionnel ; une demande de service ou de prestation, une demande d'information, de clarification ou une demande d'avis n'est pas une réclamation. » Cette définition est suffisante.</p>	
78.	Allianz SE for Allianz Group	3.7.	<p><u>Definition Complainant:</u></p> <p>- Proposed wording: <i>A policyholder, insured person, beneficiary and in some jurisdictions, injured third party who is presumed to be eligible to have a complaint related to an insurance product or service provided by an insurance undertaking and has already lodged a complaint.</i></p> <p>- The definition of the Complainant must include persons, striving for the coverage of risk and having been declined, e.g. bad health in disability insurance (by respecting the freedom of contract).</p>	Noted. See Resolutions on comments 59(3), 67 and 68.
79.	AMICE	3.8.	<p>Concerning the second part of this paragraph, AMICE's members do not believe it is feasible for an insurance undertaking to reply on behalf another financial institution for which that insurance undertaking has no legal or regulatory responsibility.</p>	Noted. The aim of this provision is to clarify that insurance undertakings are not obliged to handle complaints relating to a financial institution for which the insurance undertaking has no responsibility. However, the insurance undertaking should respond, where possible, explaining the insurance undertaking's position on the complaint and/or, where appropriate, giving details of the insurance undertaking or other financial institution responsible for handling the complaint.

80.	Insurance Europe (formerly CEA)	3.8.	See CEA's comments under "General Comment"	
81.	Covéa	3.8.	<p>1. Cette disposition n'est pas aussi détaillée dans la recommandation de l'ACP qui prévoit seulement que les entreprises doivent prévoir les modalités de transmission entre entités des réclamations adressées par erreur à un interlocuteur non compétent (Art. 3.2.3).</p> <p>Si un tel comportement est naturel pour les entreprises d'assurances mutuelles, il conviendrait que par réciprocité les autres établissements bancaires et financiers puissent également avoir une obligation identique.</p> <p>2. S'il est possible et souhaitable afin que le client mécontent sache vers quelle entité orienter sa plainte, qu'une entreprise d'assurance lui donne l'information précise, voire même la reroute pour son compte en l'informant de cette transmission pour lui faciliter la tâche, il n'est en revanche pas admissible (sauf cas de sous-traitance ou de délégation de la gestion des réclamations client) qu'une entreprise d'assurance prenne position sur la plainte d'un consommateur qui concerne soit une autre compagnie d'assurance soit un établissement bancaire ou une institution financière qu'elle ne peut légalement engager.</p>	<p>Noted. Regarding the second part [subparagraph <i>ii</i>]); changes have been introduced in order to meet those concerns.</p> <p>See Resolution on comment 79.</p> <p>Amendment to guidelines suggested:</p> <p><i>3.8 (...) However, that insurance undertaking should respond to the consumer, where possible explaining the insurance undertaking's position on the complaint and/or, where appropriate, giving details of the insurance undertaking or other financial institution responsible for handling the complaint.</i></p> <p>Insurance undertakings should not be required to give their position on complaints they are not responsible for</p>
82.	GEMA	3.8.	<p>GEMA does not agree with the second part of the paragraph, where insurance undertakings are asked to explain to the customer the position of another financial institution. This goes too far, and insurance undertakings should at the most be asked to redirect the customer.</p> <p>A sufficient measure could be that insurance undertakings should provide the form of the communication of the claims addressed by error to a non-competent person.</p>	<p>Noted. The insurance undertaking does not need to explain its position on a complaint for which it is not responsible for in all cases. The wording of the Guidelines refers to "where possible" and "where appropriate".</p> <p>See Resolutions on comments 79 and 81.</p>

83.			[Deleted due to request for comments to be treated as confidential]	
84.	MACIF	3.8.	<p>Cette disposition n'est pas aussi détaillée dans la recommandation de l'ACP qui prévoit seulement que les entreprises doivent prévoir les modalités de transmission entre entités des réclamations adressées par erreur à un interlocuteur non compétent (Art. 3.2.3). Ce comportement est naturel pour les entreprises d'assurances mutuelles.</p> <p>Par contre, il est excessif d'exiger d'une entreprise d'assurance qu'elle explique sa position sur la plainte d'un consommateur qui concerne une autre compagnie d'assurance ou une institution financière pour laquelle elle n'a aucune responsabilité légale ou réglementaire et, le cas échéant, en donnant des détails sur l'entreprise d'assurance ou l'autre institution financière chargée de traiter cette plainte.</p>	Noted. See Resolutions on comments 79, 81 and 82.
85.	Mutualite Francaise	3.8	<p>Cette disposition n'est pas aussi détaillée dans la recommandation de l'ACP qui prévoit seulement que les entreprises doivent prévoir les modalités de transmission entre entités des réclamations adressées par erreur à un interlocuteur non compétent (Art. 3.2.3). Ce comportement est naturel pour les mutuelles.</p> <p>En revanche, il est excessif d'exiger d'une entreprise d'assurance qu'elle explique sa position sur la plainte d'un consommateur qui concerne un autre opérateur d'assurance ou une institution financière pour laquelle elle n'a aucune responsabilité légale ou réglementaire et, le cas échéant, en donnant des détails sur l'entreprise d'assurance ou l'autre institution financière chargée de traiter cette plainte.</p> <p>Par « détails sur l'entreprise d'assurance [...] chargée de traiter cette plainte », faut-il entendre, donner les coordonnées de l'entreprise concernée afin d'éviter d'abandonner l'adhérent dans sa démarche ? Cette mesure doit en effet être explicitée.</p>	Noted. See Resolutions on comments 79, 81 and 82.

86.	Allianz SE for Allianz Group	3.9.	-	
87.	Insurance Europe (formerly CEA)	3.9.	See CEA's comments under "General Comment"	
88.	IRSG	3.10	The "complaints management policy" includes a direct report to the Board or a specific person responsible for establishing and implementing such a policy and reporting on it to the Board on a regular basis.	Noted. The Guidelines provide that the « complaints management policy» should be defined and endorsed by the insurance undertaking's senior management, who should also be responsible for its implementation and for monitoring compliance with it. The Best Practices Report provides that the insurance undertaking should appoint a senior manager with overall responsibility for the complaints management function.
89.	ABI	3.10.	<p>Rule 1.3 of the FSA's Dispute Resolution Handbook (DISP) requires that UK firms have in place effective and transparent procedures for the handling of complaints. This includes the requirement for a senior individual within the firm to have responsibility for the complaints handling function.</p> <p>We believe there needs to be a degree of flexibility with regards to compliance with Guideline 1. For example, we do not believe firms should be expected to produce a standalone "complaints management policy" document and would expect that written documents setting out firms various procedures for complaints handling (e.g. undertaking root cause analysis, responding to complainants etc.) would be sufficient.</p>	Noted. The term "complaints management policy" is not intended to mean a single all-encompassing document. The Guidelines do not provide for a special form of the complaints management policy. It is up to the insurance undertaking to draft an autonomous document or to include this policy in existing documents. See Resolution on comment 88
90.	Allianz SE for Allianz Group	3.10.	Training and communication: We suggest that affected staff of an undertaking should be made aware of and trained regarding the policy and the process.	Noted. The Guidelines (Guideline 1) state that the "complaints management policy" is made available to all relevant staff of the insurance undertaking. (More detail is provided in the Best Practices Report).

				See Resolution on comment 88
91.	ALLIANZ-TIRIAC ASIGURARI S.A., ROMANIA	3.10.	The first sub-bullet: A “complaints management policy” is put in place by insurance undertakings. This policy should be defined by the complaint management process owner, who should also be responsible for its implementation and for monitoring compliance with it and endorsed by the insurance undertaking’s senior management.	Partially accepted. Senior management are responsible for the implementation of such policy as well as for monitoring its compliance. However, in practice, clearly some of this work will be delegated to employees of the insurance undertaking, taking into account the tasks and their ability to carrying those out. See Resolution on comment 88.
92.	AMICE	3.10.	The members of AMICE would like more explanations from EIOPA on the “complaint management policy”. They are of the opinion that insurance undertakings should be free to organise complaints-handling in the way that suits best their business model and their organisation. As mentioned in the general introduction, some mutual insurers already have an in-house ombudsman function, in charge of complaints-handling, who has the authority to speak on behalf of the company, and who reports directly to senior management or to the Annual General Meeting. Others have installed arbitration committees (presided by independent experts, e.g. retired judges) whose judgements bind the company, but leave recourse open for the customer.	Partially accepted. Senior management should play a key role in the establishment of an undertaking’s complaints-management policy. There should also be a complaints management function. As long as both these requirements are met, insurance undertakings can organise their complaints-handling in a way that best suits their specificities. See Resolution on comment 88.
93.	Insurance Europe (formerly CEA)	3.10.	See CEA’s comments under “General Comment”	
94.	Chris Barnard	3.10.	I agree with this. Although the administrative, management or supervisory body has ultimate responsibility for compliance, the compliance function would ideally monitor compliance with the complaints management policy.	Noted. Senior management are ultimately responsible for monitoring compliance with the complaints management policy. See Resolutions on comments 88, 91 and 92.

95.	Covéa	3.10.	<p>Au regard de son rôle et ses missions, il ne semble pas pertinent de faire valider spécifiquement par l'instance dirigeante de l'entreprise « la politique de gestion des plaintes » puisqu'elle fait partie intégrante et/ou est associée à une politique et une stratégie globale de l'entreprise, plus spécifiquement dans le domaine commercial.</p> <p>En revanche, il peut sembler pertinent que le responsable de la « gestion des plaintes » (i) soit clairement identifié, bénéficie des délégations et habilitations nécessaires pour engager la(les) compagnies d'assurance et (iii) puisse présenter à un membre de l'instance dirigeante, grâce au reporting, les informations agrégées sur l'année écoulée et les plans d'actions décidées pour remédier aux éventuels dysfonctionnements constatés pouvant être corrigés.</p> <p>Mais, en toute hypothèse, il doit revenir à chaque groupe ou chaque compagnie d'assurance de définir, selon ses propres critères, la meilleure organisation dans le domaine du traitement des réclamations clients.</p> <p>Une telle démarche serait conforme à ce qui est d'ores et déjà prévu par la recommandation n°2011-R-05 laquelle dispose que :</p> <ul style="list-style-type: none"> - l'organisation devra prévoir les principes de responsabilité et les délégations au sein des entités concernées (Art. 3.2.3) - qu'un responsable soit chargé de la conformité et de l'efficacité du traitement des réclamations dans la mesure où la taille et la structure de l'entité le permettent (Art. 3.2.3.) - des dispositions spécifiques existent pour les entités tenues de se doter d'un contrôle interne (Art. 3.2.3) <p>En France, l'ACP exige que :</p> <ul style="list-style-type: none"> - l'organisation du traitement des réclamations soit formalisée 	Noted
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			<p>dans des processus qui doivent être communiqués à l'ensemble des collaborateurs concernés (Art 3.2.4)</p> <p>- l'information sur le « système de traitement des réclamations client » soit rapidement accessible à l'ensemble de la clientèle.</p> <p>L'EIOPA semble aller plus loin, en préconisant que cela soit la « politique de gestion des plaintes » qui fasse l'objet d'une communication élargie auprès des salariés (ce qui pourrait se comprendre) mais également auprès du public au sens large.</p> <p>Si l'organisation mise en place pour traiter les réclamations clients peut légitimement et naturellement faire l'objet d'une communication, par tout moyen approprié et ce au moment le plus opportun, communiquer sur une « politique de gestion des plaintes » semble inapproprié : l'assuré et/ou le bénéficiaire a essentiellement besoin de savoir qu'un service dédié existe, comment le saisir facilement (par tout moyen de communication) et dans quel délai maximum une réponse doit lui être apportée.</p> <p>Communiquer sur une « politique de gestion des plaintes » relève plus d'une démarche marketing et d'engagements supplémentaires qu'une compagnie pourrait prendre vis-à-vis de ses clients.</p>	
96.	Fédération Française des Sociétés d'Assurance (FFSA)	3.10.	<p>From a legal point of view (i.e in comparison with articles 183 and 185 of the directive 2009/138/EC), the FFSA considers that the guideline 6 only (Information to consumers) is likely to be justified. Nevertheless, in the case where the other guidelines would be maintained, the FFSA has the following remarks (see from 3.10 up to 3.16)</p> <p>Complaints management policy: Insurance undertakings should be able to adapt complaints management policy to their size, activity and the type of clients they have. Allowing national authorities to adopt more far-reaching and detailed guidelines would go against efficiency and competition.</p>	<p>Noted. EIOPA considers all of the Guidelines of the same importance. They aim at ensuring supervisory convergence, not full harmonisation due the fact that there are no EU specific common rules and a diversity of national rules. Competent authorities are allowed flexibility in applying the Guidelines and insurance undertakings may adjust the structure and content of the "complaints management policy" to their specificities.</p> <p>See Resolutions on comments 88, 91, 92 and 94.</p>

97.	GEMA	3.10.	<p>First, we would like EIOPA to precise what is a “complaint management policy”. In our view, the aim of this document is to give advice on the organization of the complaints-handling and describe the internal process of the insurance undertaking.</p> <p>We do not believe that the “complaints management policy” should be defined and endorsed by the insurance undertaking’s senior management. We think that insurance company should be free to set the best organization regarding complaints-handling. For instance, it may be relevant :</p> <ul style="list-style-type: none"> - (i) to identify the person in charge of complaints-handling, - (ii) to give him the authorization to bind the company, - (iii) and to let him report to the senior management the strategy used to avoid some dysfunctions. <p>The organization of complaints-handling must remain the responsibility of each company.</p> <p>Moreover, we do not want to communicate on the “complaints management policy” to all consumers because this document is not written in this purpose. On the other hand, we agree that this document should be largely given to the employees, because the insured or the beneficiary has the right to know, when appropriate, that a dedicated department exists. Information on the complaints management policy must be easily available for the consumers.</p>	<p>Noted. Response - See Resolutions on comments 88, 91, 92, 94 and 96.</p> <p>The “complaints managing policy” should be made available (and become permanently available) to all relevant staff of the company. A significant part of it should be disclosed (see Best Practices Report for more information)</p> <p>See Resolutions on comments 88, 91, 92 and 94.</p>
98.			[Deleted due to request for comments to be treated as confidential]	
99.	MACIF	3.10.	<p>« Les autorités compétentes doivent s’assurer que :</p> <ul style="list-style-type: none"> • Une «politique de gestion des plaintes» est mise en place par les entreprises d’assurances. Cette politique devra être définie et approuvée par l’instance dirigeante de l’entreprise d’assurance 	Noted

		<p>(senior management), qui devra également être responsable de sa mise en œuvre et du contrôle de sa conformité »</p> <p>En France, l'ACP n'exige pas l'implication de l'instance dirigeante dans le traitement des réclamations. En revanche, elle prévoit que :</p> <ul style="list-style-type: none"> - l'organisation devra prévoir les principes de responsabilité et les délégations au sein des entités concernées (Art. 3.2.3) - qu'un responsable soit chargé de la conformité et de l'efficacité du traitement des réclamations dans la mesure où la taille et la structure de l'entité le permettent (Art. 3.2.3.) - des dispositions spécifiques existent pour les entités tenues de se doter d'un contrôle interne (Art. 3.2.3) <p>Les dispositions prévues par l'ACP nous paraissent suffisantes. L'organisation du traitement des plaintes doit rester du ressort des entreprises.</p> <p>« • Cette "politique de gestion des plaintes" est énoncée dans un document (écrit) par exemple faisant partie d'une «politique générale de traitement (équitable)" (applicable aux consommateurs, aux personnes assurées, aux tiers lésés et aux bénéficiaires, etc.)</p> <ul style="list-style-type: none"> • La «politique de gestion des plaintes" est à la disposition de tous les employés concernés de l'entreprise d'assurance par le biais d'un canal interne adéquat. » <p>Commentaire</p> <p>En France, l'ACP exige que l'organisation du traitement des réclamations soit formalisée dans des processus qui doivent être</p>	
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			communiqués à l'ensemble des collaborateurs concernés (Art 3.2.4). L'EIOPA semble aller plus loin, en préconisant que ces informations soient communiquées également au public.	
100.	Norton Rose Studio Legale	3.10.	It would be appropriate to clarify whether such policy should also cover management of complaints caused by the activity carried out by an outsourcer or intermediary.	Noted. Noted. Response - See Resolutions on comments 88, 91, 92, 94, 96 and 97. Also, in its "complaints management policy", the insurance undertaking may have to address the activity of its channels of distribution (e.g. insurance intermediaries) and third parties (outsourcing) , where national rules require it. In certain Member States, national law already foresees this.
101.			[Deleted due to request for comments to be treated as confidential]	
102.			[Deleted due to request for comments to be treated as confidential]	
103.	Mutualite Francaise	3.10	En France, l'ACP n'exige pas l'implication de l'instance dirigeante dans le traitement des réclamations. En revanche, elle prévoit que : - l'organisation devra prévoir les principes de responsabilité et les délégations au sein des entités concernées (Art. 3.2.3) - qu'un responsable soit chargé de la conformité et de l'efficacité du traitement des réclamations dans la mesure où la taille et la structure de l'entité le permettent (Art. 3.2.3.) - des dispositions spécifiques existent pour les entités tenues de se doter d'un contrôle interne (Art. 3.2.3) Les dispositions prévues par l'ACP nous paraissent suffisantes. L'organisation du traitement des plaintes doit rester du ressort des entreprises.	Noted

			<p>En France, l'ACP exige que l'organisation du traitement des réclamations soit formalisée dans des processus qui doivent être communiqués à l'ensemble des collaborateurs concernés (Art 3.2.4).</p> <p>L'EIOPA semble aller plus loin, en préconisant que ces informations soient communiquées également au public.</p>	
104.	IRSG	3.11	<p>1) We suggest that all affected staff should be trained and experienced regarding the policy and the process.</p> <p>2) We agree that there should be clear responsibilities, but that the general freedom of organisation of internal functions (recital 31 DIRECTIVE 2009/138/EC) should not be impeded.</p>	<p>1) Noted. This is specifically provided for in the Best Practices Report.</p> <p>See Resolution on comment 91.</p> <p>2) Noted. EIOPA would like to stress that the "complaints-handling function" (referred to in Guideline 2) is not a Solvency II "key function".</p>
105.	ABI	3.11.	<p>Rule 1.4 of the DISP Handbook requires that UK firms investigate complaints competently, diligently and impartially. There is no specific requirement to identify and mitigate conflicts of interest. However, it is assumed that the requirement for complaints to be investigated impartially would comply with the guidelines.</p>	Noted
106.	Allianz SE for Allianz Group	3.11.	<p>The general freedom of organisation of functions as outlined in recital 31 DIRECTIVE 2009/138/EC should be maintained, but every affected undertaking should clearly assign responsibilities and accountability for complaint handling.</p>	Noted. See Resolution on comment 104(2)
107.	BIPAR	3.11.	<p>Draft GUIDELINE 2 – Complaints management function</p> <p>Recital 31 of the Solvency II Directive states that "A function is an administrative capacity to undertake particular governance tasks. The identification of a particular function does not prevent the undertaking from freely deciding how to organise that function in</p>	Noted. EIOPA would like to stress that the "complaints-handling function" (referred to in Guideline 2) is not a Solvency II "key function".

			<p>practice save where otherwise specified in this Directive. This should not lead to unduly burdensome requirements because account should be taken of the nature, scale and complexity of the operations of the undertaking. It should therefore be possible for those functions to be staffed by own staff, to rely on advice from outside experts or to be outsourced to experts within the limits set by this Directive.”</p> <p>BIPAR believes that it is important that this principle is not impeded and that insurance undertakings can freely organise their internal functions. Complaints handling is an activity that allows inter alia insurance undertakings to differentiate themselves from their competitors.</p>	
108.	Insurance Europe (formerly CEA)	3.11.	See CEA’s comments under “General Comment”	
109.	Chris Barnard	3.11.	As a general point, I believe that the compliance function should have overall responsibility for identifying and mitigating conflicts of interest.	Noted
110.	Covéa	3.11.	<p>En France, l’ACP est plus nuancée, en prévoyant que le client mécontent puisse s’adresser à un service dédié distinct des conseillers ou gestionnaires “dans la mesure où la taille et la structure de l’entité le permettent” (Art. 3.2.3)</p> <p>La proposition de l’EIOPA va obliger à de fortes réorganisations internes : en effet imposer la gestion des plaintes conduit à faire des investigations équitables, cela remet en cause certaines organisations au sein desquelles le service dédié au traitement des réclamations clients fasse œuvre de persuasion sur les équipes internes pour revoir leur position et leur demande donc de revoir eux-mêmes le dossier sous un angle différent.</p> <p>Là encore, il doit être de la responsabilité de chaque compagnie de définir son organisation en matière de traitement des</p>	<p>Noted. The «complaint management function is not necessarily a person. This function can be realised, for example, by a control function or by setting up a second level for handling complaints within a firm. The Best Practices Report has been amended to highlight the second case.</p> <p>Amendment suggested: Best Practices, section on Organization of the internal complaints management function, add “(iii) <i>Where possible, control the effective and efficient treatment of complaints</i>”</p>

			réclamations clients pour la rendre aussi efficiente que possible.	
111.	Fédération Française des Sociétés d'Assurance (FFSA)	3.11.	<p>The FFSA supports the principle of a complaint management function. However, we consider that this principle should not prevent from using other possibilities to manage complaints. A great number of complaints can be handled at the point of sale for example.</p> <p>Imposing to appeal systematically to the complaint manager would be, in some cases, very heavy and would delay the complaint settlement.</p> <p>Besides, the FFSA wonders about the nature of the conflicts of interests mentioned in this guideline. Actually, the fact that the insurer disagrees on a client's complaint cannot be qualified as a conflict of interest between the insurer and the client. From this point of view, a distinction has to be made between internal complaint management function and external alternative dispute resolution like ombudsman or mediation system.</p>	See Resolution on comment 110.
112.	Financial and Capital Market Commission of Latvia	3.11.	<p>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 handled 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.</p> <p>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.</p> <p>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.</p> <p>We believe that as long as complaints are handled appropriately, including appropriate ownership at a senior level, and that there is</p>	<p>Noted. The complaints management function provides an oversight and ensures that the process is followed and complaints are handled appropriately and fairly. This function is not solely for complaints to be handled by this function.</p> <p>See Resolution on comment 110</p>

			independent oversight then complaints handling does not have to be performed by one separate team.	
113.	GEMA	3.11.	<p>The EIOPA's provision on the "complaint management function" is too stringent.</p> <p>It should not be requested to set a new function in the company but only to provide that a frustrated customer may apply to a dedicated service different from his customer advisor or his manager when allowed by the size and the structure of the entity.</p> <p>This EIOPA's proposal could lead to renew the internal organization of each insurance company. We would prefer this proposal to be tempered with a proportionality principle.</p>	<p>Noted. See Resolutions on comments 97 and 110</p> <p>EIOPA recognises the importance of these Guidelines being applied in a manner which is proportionate to the size of the insurance undertaking as illustrated by Article 29(3) of the Solvency II Directive. As a follow-up initiative to these Guidelines, EIOPA will be working on a short FAQ on how the Guidelines would apply in practice to small insurance undertakings.</p>
114.			[Deleted due to request for comments to be treated as confidential]	
115.	German Insurance Association (GDV)	3.11.	Complaints handling by undertakings shall contribute to resolving conflicts effectively and covering customer needs. It shall be left to the individual undertakings to decide whether or not they establish a central contact point that is in charge of complaints handling. Therefore, the term "function" shall not be used in this context. Moreover, it is not clear whether this function requires a separation of functions and if so, separation from which other functions. Local handling of complaints by specific departments may also be effective.	Noted. There is no obligation to set up a new function within the company; the Insurance Undertaking should decide where and how to implement this function. Thus EIOPA believes there is no need to determine how and from with function the complaints management function should be separated.
116.	MACIF	3.11.	<p>En France, l'ACP est plus nuancée, en prévoyant que le client mécontent puisse s'adresser à un service dédié distinct des conseillers ou gestionnaires "dans la mesure où la taille et la structure de l'entité le permettent" (Art. 3.2.3)</p> <p>La création d'une fonction de gestion des plaintes telle que préconisée par l'EIOPA est plus contraignantes, et nécessiterait notamment des réorganisations internes.</p>	Noted. See Resolutions on comments 97 and 110

			Nous soutenons donc plutôt la recommandation de l'ACP, qui privilégie l'existence d'un service distinct permettant la protection des intérêts de la clientèle et prévenant les conflits d'intérêts.	
117.	Norton Rose Studio Legale	3.11.	It would be appropriate to clarify whether such function should be independent or, depending on the volume of the business, it could be constituted within the compliance, internal audit or legal function; this latter solution would allow smaller undertakings to reduce their costs.	Noted. The Insurance Undertaking can decide where and how to implement this function, thus there is no need to determine within which function it should be constituted.
118.	RSA Insurance Group Companies in Europe	3.11.	<p>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 handled 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.</p> <p>While we understand 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.</p> <p>We believe that as long as complaints are handled appropriately, including appropriate ownership at a senior level, and that there is independent oversight then complaints handling does not have to be performed by one team.</p>	<p>Noted. The complaints management function provides an oversight and ensures that the process is followed and complaints are handled appropriately and fairly.</p> <p>This function is not solely for complaints to be handled.</p> <p>See Resolution on comment 110</p>
119.			[Deleted due to request for comments to be treated as confidential]	

120.	Mutualite Francaise	3.11	<p>En France, l'ACP est plus nuancée, en prévoyant que le client mécontent puisse s'adresser à un service dédié distinct des conseillers ou gestionnaires "dans la mesure où la taille et la structure de l'entité le permettent" (Art. 3.2.3)</p> <p>La création d'une fonction de gestion des plaintes telle que préconisée par l'EIOPA est plus contraignantes, et nécessiterait notamment des réorganisations internes.</p> <p>Nous soutenons donc plutôt la recommandation de l'ACP, qui privilégie l'existence d'un service distinct permettant la protection des intérêts de la clientèle et prévenant les conflits d'intérêts.</p>	Noted. See Resolutions on comments 97 and 110
121.	IRSG	3.12	<p>The guidelines should distinguish explicitly between the obligation to register and process complaints and the obligation to provide information to the supervisory authorities which is also subject to Guideline 4. Otherwise one could misinterpret Guideline 3 in a way that the supervisory authorities should be able to directly access the internal register.</p> <p>We agree that Ombudsmen should not be entitled to receive information on the complaints management. Ombudsmen are not part of the supervision of insurance undertakings and should not be biased in their reasoning and decision taking in each individual case.</p>	<p>Noted. To avoid referring to reporting in both Guidelines 3 and 4 , an amendment is suggested:</p> <p>End of guideline 3 has been deleted as follows:</p> <p><i>"3.12 Competent authorities should ensure that insurance undertakings register complaints in accordance with national timing requirements in an appropriate manner (for example, through a secure electronic register) to be used, among other purposes, for internal and external reporting (e.g., competent national authorities, ombudsman etc.)."</i></p>
122.	ABI	3.12.	<p>Rule 1.9 of the DISP Handbook requires that UK firms keep a record of all complaints and their resolution and keep those records for at least 3 years (5 years for complaints about UCITS). However, UK firms are not required to either record or report complaints which are resolved by the close of the next business day.</p> <p>Greater clarity is needed around the reference to "national timing requirements" within Guideline 3. We assume that this aims to</p>	Noted. "National timing requirements" means that insurance undertakings follow the timing requirements stipulated by the competent authority of the Home State.

			provide flexibility for home state regulators to continue to operate a distinction between non-reportable complaints (those resolved by close of next business day) and all other complaints, however this is not explicitly clear.	
123.	Allianz SE for Allianz Group	3.12.	<p>We suggest to separate the obligation to register and process complaints internally and and the obligation to provide information to the national competent authorities. the latter is addressed in Guideline 4 of the draft. Access to complaint data should be in line with to data security and data protection requiriements. Internal databases make it necessary to store personalized data (name of the complainant, contractual information, correspondence, health information etc.). Such personalised information should not be accessed by third parties.</p> <p>For civil procedure and dispute resolution (incl. Obudmsmen), there should not be a direct information or access to the complaint handling information of an undertaking. Courts, tribunals and Ombudsmen are not part of the supervision of insurance undertakings and should not be biased in their reasoning and decision taking in each individual case.</p>	<p>Noted. Guideline 3 has been amended to make clear that the register is an internal one of the insurance undertaking. Following re-draft proposed:</p> <p><i>"Competent authorities should ensure that insurance undertakings register, internally, complaints in accordance with national timing requirements in an appropriate manner (for example, through a secure electronic register)"</i></p> <p>Reporting is only one reason for registering complaints as is mentioned in the Guideline. But to avoid referring to reporting in both Guidelines 3 and 4 , an amendment is suggested:</p> <p>Delete the end of guideline 3 as follows:</p> <p><i>"3.12 Competent authorities should ensure that insurance undertakings register complaints in accordance with national timing requirements in an appropriate manner (for example, through a secure electronic register) to be used, among other purposes, for internal and external reporting (e.g., competent national authorities, ombudsman etc.)."</i></p> <p>Data protection requirements are mentioned in the Report on Best Practices by Insurance Undertakings in handling complaints.</p>

124.	AMICE	3.12.	AMICE's members believe that EIOPA should respect an undertaking's senior management's choice as regards appropriate complaints' requirements.	<p>Noted. The Guidelines are non-binding high-level principles aimed at enhancing consumer protection and supervisory convergence as regards complaints handling.</p> <p>In some Member States, complaints about Insurance Undertakings received by the competent authority show that complaint-handling procedures are not always satisfactory and are not in accordance with national laws.</p>
125.	Assuralia	3.12.	<p>Competent authorities should ensure that insurance undertakings register complaints in accordance with national timing requirements in an appropriate manner (for example, through a secure electronic register) to be used, among other purposes, for internal and external reporting (e.g. competent national authorities, ombudsman etc).</p> <p>We support the idea of ensuring that all insurers have appropriate internal governance structures with regard to the identification and follow up of complaints. External reporting of quantitative data with regard to complaints can be very onerous and time consuming, however, both for the insurers and for the supervisors that need to process the data.</p> <p>The Guidelines should in our view not impose an exhaustive and continuous reporting requirement for insurance undertakings to national supervisors. National supervisors must be able to opt for alternative and more cost efficient modi operandi, such as examining the complaints handling data and arrangements of individual companies that are selected on the basis of for example market indications (cfr. point 3.2.).</p>	<p>Noted. The Guidelines do not determine an exhaustive and continuous reporting requirement. Reporting is only one reason for registering complaints. In some Member States, there is already compulsory data reporting on complaints.</p>
126.	AXERIA PREVOYA NCE - AXERIA IARD - SOLUCIA	3.12.	<p>For insurance companies that hold establishments abroad, it would be useful to indicate which are the "competent authorities" as indicated in the paragraph 3.12; we consider that the applicable right is the right of the contract. Nevertheless a mention would be appreciated to avoid any misunderstanding.</p>	<p>Noted. See Resolution on comment 7(3)</p>

127.	Insurance Europe (formerly CEA)	3.12.	15. As stated in the CEA's comments under "General Comment", EIOPA should clarify that the register referred to is to be maintained by the insurance undertaking itself and that it is not intended to refer to a national register of complaints.	Noted. The purpose of this guideline is to stipulate that the Insurance Undertaking should register the complaint. There is no intention to establish a national register of complaints.
128.	Chris Barnard	3.12.	Could you confirm that each undertaking should register complaints in an own internal register, rather than also in a central register for all undertakings?	Noted. The purpose of this Guideline is to stipulate that the Insurance Undertaking should register the complaint. There is no intention to establish a central register of complaints. Guideline 3 has been amended to make clear that the register in question is an internal one of the insurance undertaking. Following re-draft proposed: <i>"Competent authorities should ensure that insurance undertakings register, internally, complaints in accordance with national timing requirements in an appropriate manner (for example, through a secure electronic register)"</i>
129.	Covéa	3.12.	<p>Le choix des outils et des méthodes de reporting relève d'une décision de la Direction Générale de chaque compagnie d'assurance.</p> <p>A ce jour, la Recommandation ACP n°2011-R-05 prévoit des dispositions générales relatives :</p> <ul style="list-style-type: none"> - aux « modalités d'enregistrement des réclamations et du suivi de leur traitement » (Art. 3.2.3), - à la mise en place d'un suivi des réclamations, - aux restitutions à organiser auprès des services/personnes concernés par les réclamations et le cas échéant aux organes définissant la politique commerciale du réseau auquel appartient l'entité ainsi qu'aux intervenants impliqués dans le processus de commercialisation ou de gestion » (Art. 3.3.1). 	Noted

			L'EIOPA doit laisser une marge de manœuvre à chaque compagnie d'assurance et préciser dans ses futures lignes directrices que les réclamations / plaintes doivent être inventoriées de manière centralisée et permettre, de manière automatique ou non, la gestion du reporting interne et/ou externe.	
130.	Fédération Française des Sociétés d'Assurance (FFSA)	3.12.	<p>Registration and reporting : The FFSA considers that these guidelines are too far-reaching and do not sufficiently take the principle of proportionality into account. Registration and reporting of all complaints received will be costly and administratively burdensome for insurer while the result (the total number of complaints) will not be significant. When complaints occur about a premium rise or a guarantee reject for example, this occurrence does not necessarily mean that the business is unsound or in violation of any legal provision.</p> <p>Besides, the FFSA wonders about the nature of "classes" under which complaints should be differentiated.</p>	Noted. EIOPA recognises the importance of these Guidelines being applied in a manner which is proportionate to the size of the insurance undertaking as illustrated by Article 29(3) of the Solvency II Directive. As a follow-up initiative to these Guidelines, EIOPA will be working on a short FAQ on how the Guidelines would apply in practice to small insurance undertakings.
131.	GEMA	3.12.	We consider that the way insurance undertakings report should remain a senior management choice. EIOPA should only precise that complaints must be registered at a central place and that these registrations may be used to supply internal or/and external reporting.	Noted
132.	MACIF	3.12.	<p>En France, l'ACP recommande que la compagnie d'assurance doit prévoir « les modalités d'enregistrement des réclamations et du suivi de leur traitement » (Art. 3.2.3) et de mettre en place un suivi des réclamations et d'en effectuer une restitution aux services/personnes concernés de l'entité et le cas échéant aux organes définissant la politique commerciale du réseau auquel appartient l'entité ainsi qu'aux intervenants impliqués dans le processus de commercialisation ou de gestion » (Art. 3.3.1).</p> <p>L'EIOPA, quant à lui, recommande un enregistrement des</p>	Noted. See Resolution on comment 121.

			réclamations (par exemple dans un registre électronique sécurisé) et son utilisation pour le reporting interne et externe. Cette utilisation externe impliquerait une harmonisation des données à renseigner qui n'est pas prévue aujourd'hui en France.	
133.	RSA Insurance Group Companies in Europe	3.12.	Further clarity is required on this point including detail of who owns the register, whether there is a common IT system or whether firms have to build their own. Also clarity is sought on whether the submission has to be electronic, even for small firms.	Noted. The intention is that the Insurance Undertaking should own the register, build up by its own IT system, there is no intention for a common IT system. See Resolution on comment 123.
134.			[Deleted due to request for comments to be treated as confidential]	
135.	Mutualite Francaise	3.12	En France, l'ACP recommande que les opérateurs d'assurance doivent prévoir « les modalités d'enregistrement des réclamations et du suivi de leur traitement » (Art. 3.2.3) et de mettre en place un suivi des réclamations et d'en effectuer une restitution aux services/personnes concernés de l'entité et le cas échéant aux organes définissant la politique commerciale du réseau auquel appartient l'entité ainsi qu'aux intervenants impliqués dans le processus de commercialisation ou de gestion » (Art.3.3.1). L'EIOPA, quant à lui, recommande un enregistrement des réclamations (par exemple dans un registre électronique sécurisé) et son utilisation pour le reporting interne et externe. Cette utilisation externe impliquerait une harmonisation des données à renseigner qui n'est pas prévue aujourd'hui en France	Noted. See Resolution on comment 118
136.	IRSG	3.13	There should not be a discretion of national authorities to set timelines, but EIOPA should ensure a level playing field for the timelines of responses, without setting strict timelines. The triggers/sensitivity when to classify something as a complaint need to be clearly defined. There is concern that the proposed	Noted. The definition of "complaint" has been amended. See Resolution on comment 9.

			<p>reporting obligations to supervisory authorities will lead to overly burdensome bureaucracy but little improvement with respect to consumer protection. In Germany, for example, the obligation of life insurers to provide yearly statistics to the supervisory authority on litigation proceedings has been eliminated from the reporting duties some years ago. This has been part of bureaucracy reduction. There are doubts that the introduction of additional reporting requirements really improves the customer's position. In any case such reporting obligations should be introduced in a proportionate way, (e.g. only for insurance companies with a increased/above average/too high complaint/policy ratio) in order to avoid unreasonable efforts.</p>	<p>EIOPA recognises the importance of these Guidelines being applied in a manner which is proportionate to the size of the insurance undertaking as illustrated by Article 29(3) of the Solvency II Directive. As a follow-up initiative to these Guidelines, EIOPA will be working on a short FAQ on how the Guidelines would apply in practice to small insurance undertakings.</p>
137.	ABI	3.13.	<p>Rule 1.10 of the DISP handbook requires that UK firms provide information, twice yearly, to the FSA. This includes information on the number of complaints opened and closed, differentiated by product/service.</p> <p>As per the comments under 3.12, we do not believe there should be a requirement on firms to record or report all complaints and would like clarity that this rule does not apply to non-reportable complaints, as defined by the FSA.</p>	<p>N.B. The Guideline only aims to ensure that competent authorities receive reports about complaints from Insurance Undertakings.</p> <p>It is for the competent authority to decide about the report itself i.e. what it should contain and how often Insurance Undertakings should report.</p>
138.	Allianz SE for Allianz Group	3.13.	<p>Allianz SE suggests the following:</p> <p>There should not be a discretion of national authorities to set timelines, but EIOPA should ensure a level playing field for the formalities of responses, without setting strict timelines.</p> <p>Clearly define the parameters to determine when a notion of dissatisfaction must be categorized as a a complaint. In any case such reporting obligations should be introduced in a proportionate way, (e.g. only for insurance undertakings with a heightened complaint/policy ratio) in order to avoid unreasonable efforts.</p>	<p>N.B. See Resolution on comment 137. It is national competence to determine a compulsory reporting obligation.</p> <p>EIOPA recognises the importance of these Guidelines being applied in a manner which is proportionate to the size of the insurance undertaking as illustrated by Article 29(3) of the Solvency II Directive. As a follow-up initiative to these Guidelines, EIOPA will be working on a short FAQ on how the Guidelines would apply in practice to small insurance undertakings.</p>

139.	Assuralia	3.13.	<p>Competent authorities should ensure that insurance undertakings provide information on complaints and complaints-handling to the competent national authorities/ombudsman. This data should cover the number of complaints received, differentiated by classes.</p> <p>We support the idea of asking insurers to provide information of the supervisory authority on its governance of complaints handling, as well as qualitative information with regard to the decisions taken by the management to improve product design, operational processes and sales practices due to complaints received.</p> <p>Proportionality is key. Exhaustive and continuous external reporting and processing of quantitative data can be very onerous and time consuming both for supervisory authorities and insurance undertakings (cfr. point 3.12.). Costs and benefits can be balanced, for example by limiting reporting of quantitative complaints data to the supervisory authority on request only (cfr. point 3.2.). This may certainly be useful for member states where national Ombudsmen provide statistics of good quality on a yearly basis.</p>	Noted
140.	Insurance Europe (formerly CEA)	3.13.	<p>As stated in the CEA's comments under "General Comment", we believe that guideline number 4 would prove to be administratively burdensome for insurance undertakings without adding any value to the authorities. Complaints occur in every business and the occurrence of complaints does not mean that the business is unsound or in violation of any legal provisions. Furthermore, there already exists an obligation on insurance undertakings to report events that might affect their position, for example risk of loss of reputation and high unexpected costs. The reporting requirement may also lead to potential attempts to discredit an undertaking in the eyes of the authorities by unfounded complaints submitted to the undertaking.</p>	Noted

141.	Chris Barnard	3.13.	I would add that the data should cover the number of complaints received, differentiated by classes and severity. This will help to monitor and analyse the style of complaint. For example, many small complaints may indicate that an undertaking has a process or communication problem; large complaints may indicate more serious problems such as legal, mismanaged expectations, fraud or misselling.	Noted. See Resolution on comment 137
142.	Covéa	3.13.	<p>Sur la base de la dernière version connue (novembre 2011) de l'annexe au rapport de contrôle interne, l'ACP recommande aux entreprises tenues de se doter d'un contrôle interne de justifier de leurs obligations en matière de contrôle des procédures de traitement des réclamations en annexe de leur rapport de contrôle interne (Art. 3.3.3).</p> <p>La différenciation par catégories existait indirectement dans la recommandation n°2011-R-05. En revanche, si - au-delà du principe du reporting - l'EIOPA souhaite également harmoniser le contenu même reporting, les données devant être renseignées devront alors être rapidement définies au plan européen.</p> <p>Or, une telle harmonisation n'a pas véritablement de sens puisque le traitement des réclamations client dépend à la fois de votre organisation, de vos différents modes de distribution, des différents types de produits d'assurance commercialisés, ... Il semble donc que cela relève du ressort de chaque compagnie d'assurance.</p>	Noted. The report on Best Practices by Insurance Undertakings in handling complaints already mitigates principles on reporting.
143.	Danish Insurance Association (DIA)	3.13.	The provided information should be differentiated by (insurance-) classes, which seems to make reference to definitions in the non life directives. Since the bundling and the composition of insurance products for consumers varies much from member state to member state information based on "classes" make no sense for consumers and the public. On this background DIA suggest that the question of differentiation should be left to member states.	<p>Noted. The relevant Guideline was amended accordingly:</p> <p><i>„Competent authorities should ensure that insurance undertakings provide information on complaints and complaints-handling to the competent national authorities/</i></p>

				<i>ombudsman. This data should cover the number of complaints received, differentiated according to their national criteria or according to own criteria, where relevant</i>
144.	Fédération Française des Sociétés d'Assurance (FFSA)	3.13.	See above	Noted
145.	Finanstilsynet	3.13.	According to the guidelines the data covering the number of complaints are to be differentiated by classes. These data will not make any sense in a consumer perspective in Denmark, because several classes are usually bundled together in different insurance products. The classes are used in an EU-regulated perspective. The consumers do not know these classes and do not recognise them. Finanstilsynet therefore suggests that the data covering the number of complaints received is not differentiated by classes.	Noted. See Resolution on comment 143.
146.			[Deleted due to request for comments to be treated as confidential]	
147.	German Insurance Association (GDV)	3.13.	<p>1. Guideline 4 stipulates that insurance undertakings shall provide information on complaints and complaints handling to the competent national authorities or ombudsman respectively. This information shall cover the number of complaints received. However, as already shown above, even the specification of the term "complaint" is difficult. Therefore, it shall be left to the undertakings to decide how they will handle requests and complaints respectively. This is a major distinguishing feature in competition. If the term "complaint" cannot be clearly specified, the obligation to report the number of complaints received does not make any sense. The significance of such statistics is therefore rather limited.</p> <p>Moreover, respective information requirements are likely to increase bureaucracy for insurance undertakings. No added value</p>	Noted. The definition of "complaint" has been amended. See Resolution on comment 9.

			for national authorities can be identified, resulting from this information. The number of complaints received, in particular, does not indicate whether undertakings fail to handle complaints adequately or whether they violate any legal requirements. The number of complaints reveals nothing about the quality of a complaint (whether or not it is eligible). Moreover, supervisory authorities as well as the German insurance ombudsman are provided with sufficient information based on respective direct input from policyholders. In addition, supervisory authorities are entitled to request additional information at any time, if needed. The German insurance ombudsman, however, is not entitled to request additional information since its task is limited to the resolution of disputes. We therefore suggest deleting this provision.	
148.	MACIF	3.13.	<p>En France, l'ACP recommande aux entreprises tenues de se doter d'un contrôle interne de justifier de leurs obligations en matière de contrôle des procédures de traitement des réclamations en annexe de leur rapport de contrôle interne (Art. 3.3.3).</p> <p>L'EIOPA va plus loin, en imposant une nouvelle obligation de reporting à charge des entreprises d'assurance qui n'apporterait de valeur ajoutée que si les données renseignées sont harmonisées et comparables, non seulement au plan national mais aussi au plan européen.</p>	Noted. See also Resolution on comment 142.
149.	RPC, incorporating comments from EU members of TerraLex	3.13.	The number of complaints that insurance undertakings receive will be partially dictated by the size of the possible pool of complainants. Thus insurance undertakings in Member States in which injured third parties are permitted complainants will be unfairly penalised as their complaint statistics will be, in all likelihood, much higher than those of undertakings in jurisdictions which do not allow for injured third party complaints.	Noted

150.	RSA Insurance Group Companies in Europe	3.13.	We believe this is an excessive reporting requirement, especially for smaller businesses.	Noted. See Resolution on comment 125. Registering and reporting already exists in many Member States.
151.	Mutualite Francaise	3.13	En France, l'ACP recommande aux entreprises tenues de se doter d'un contrôle interne de justifier de leurs obligations en matière de contrôle des procédures de traitement des réclamations en annexe de leur rapport de contrôle interne (Art. 3.3.3). L'EIOPA va plus loin, en imposant une nouvelle obligation de reporting à charge des entreprises d'assurance qui n'apporterait de valeur ajoutée que si les données renseignées sont harmonisées et comparables, non seulement au plan national mais aussi au plan européen.	Noted. See also Resolution on comment 125.
152.	ABI	3.14.	Rule 1.3.3 of the DISP handbook already requires UK firms to meet these requirements.	Noted
153.	Allianz SE for Allianz Group	3.14.	-	-
154.	Insurers of Europe (formerly CEA)	3.14.	See CEA's comments under "General Comment"	
155.	Covéa	3.14.	Ces dispositions sont conformes au texte et à l'esprit de la recommandation n°2011-R-05 émise par l'ACP	Noted
156.	Fédération Française des Sociétés d'Assurance (FFSA)	3.14.	Internal follow-up: The FFSA fears that the obligation to analyze on an on-going basis complaints handling data will prove burdensome and disproportionate without allowing a significant detection of recurring or systemic problems. In this respect, we would like to stress again that if some complaints can be justified, others are not. Furthermore, there already exists an obligation on insurance undertakings to report events that might affect their	Noted. EIOPA recognises the importance of these Guidelines being applied in a manner which is proportionate to the size of the insurance undertaking as illustrated by Article 29(3) of the Solvency II Directive. As a follow-up initiative to these Guidelines, EIOPA will be working on a short FAQ on

			position.	how the Guidelines would apply in practice to small insurance undertakings.
157.			[Deleted due to request for comments to be treated as confidential]	
158.	RSA Insurance Group Companies in Europe	3.14.	We believe this has the potential to be particularly onerous on smaller firms, especially point (ii).	Noted. We do not consider this be particularly onerous as evidenced in the Impact Assessment. See also Resolutions on comments 13(1) and 13(6).
159.	IRSG	3.15	<p>We support the proposal that insurers provide consumers with their complaints-handling process. It should be clear that details of the process should not be made available to all clients, as this might rather cause irritations, as complaint management processes in commercial lines business significantly differ from those in consumer business.</p> <p>We do not agree that identities of persons should be communicated on a mandatory basis, as individuals might frequently change their roles or company and updating will cause significant burden, whilst the consumer interest is to know the contact details of the relevant function.</p> <p>After a final decision the undertaking should inform the consumer/third party accurately and efficiently about the possibility to start an ADR and support this procedure by disclosing the necessary details (if this information has not yet been given; e.g. reference to Ombudsman).</p>	<p>Noted. Competition is inherent in that consumers can choose the Insurance Undertaking whose complaints-handling process is the most consumer-friendly</p> <p>Noted. The Guideline provides that insurance undertakings should provide information on the identity and contact details of the person or <u>department</u></p>
160.	ABI	3.15.	UK firms are already under similar requirements under rules 1.2. and 1.6. of the DISP Handbook.	Noted
161.	Allianz SE for Allianz Group	3.15.	We support the proposal that insurers provide consumers with their complaints-handling process. It should be clear that details of the process should not be made per se available to all clients via a website or comparable means, as this might rather cause irritations, as complaint management processes in commercial lines business significantly differ from those in consumer business.	<p>Noted. Consumers should be able to gain accurate and efficient information on the whole complaints-handling procedure</p> <p>Guideline 6 stipulates that insurance undertakings should provide information on</p>

			We do not agree that identities of persons in charge of complaint handling should be communicated on a mandatory basis, as individuals might frequently change their roles or company and the updating will cause significant burden, while the consumer's interest is to know the contact details of the relevant function.	the identity and contact details of the person or <u>department</u> . See also Resolution on comment 159.
162.	AMICE	3.15.	Bullet 3 (i). Our members find the granularity of this guideline inappropriate.	
163.	Assuralia	3.15.	<p>Competent authorities should ensure that insurance undertakings: (...)</p> <p>When an insurance undertaking provides a consumer with a final decision (or earlier, when national rules require it), remind the complainant about possible subsequent means of redress e.g. the availability of an ombudsman, ADR, national competent authority etc</p> <p>The Belgian market has developed a best practice with regard to providing information to consumers. Next to mentioning the national Ombudsman on the insurer's websites or in insurance contracts, insurers inform clients about the possibility to contact the national Ombudsman for insurance services (www.ombudsman.as) as soon as they express their disagreement with the final response of an insurance undertaking to their complaint. This practice is in our view appropriate: it reminds clients clearly about the national Ombudsman, but only when it is obvious that the complainant is not satisfied with the insurer's response.</p> <p>By contrast, systematically pointing towards the national ombudsman and other ADR mechanisms in every correspondence with regard to the complaint, as suggested in the Guidelines, has disadvantages. It is preferable to solve problems as much as possible between the parties involved, before taking further action and introducing third parties. Directing clients continuously to</p>	<p>Accepted. When the undertaking wholly satisfies the complainant's request, it should not be required to inform about the possible means of redress.</p> <p>Amendment:</p> <p><i>3.16 (...) "When providing a final decision that does not fully satisfy the complainant's demand (or any final decision, where national rules require it), include a thorough explanation of the insurance undertaking's position on the complaint and set out the consumer's option to maintain the complaint e.g. the availability of an ombudsman, alternative dispute mechanism, national competent authorities, etc. Such decision should be provided in writing where national rules require it.</i></p>

			subsequent means of redress may push clients to a premature and maybe unnecessary exit of the discussion and reduce the chances to come to an agreement with the insurer. Moreover, the workload and costs of those redress organisms (f.e. national Ombudsman) would unnecessarily increase as a consequence.	
164.	BIPAR	3.15.	BIPAR agrees that it is important that consumers are accurately and efficiently informed by the insurers on their complaint-handling process. We believe that after a final decision has been reached, it is important that the consumer be informed by the insurance undertaking about the possibility to start an ADR.	Noted. See Resolution 163
165.	Insurance Europe (formerly CEA)	3.15.	17. As stated in the CEA's comments under "General Comment", we believe that the phrase used in guideline number 6 – "when acknowledging receipt of a complaint" – is not sufficiently clear, as it appears to suggest that the insurance undertaking's entire complaints handling process should be provided to the consumer each time a complaint is simply received. Aside from being overly-burdensome, we believe that information on the "complaints-handling process" may result in unduly technical documents being provided to consumers and would therefore suggest that the wording be amended to require insurers to provide 'appropriate written information regarding its internal processes'. In this respect, consumers would benefit from having one single information source and would refer EIOPA to Articles 183 and 185 of the Solvency II Directive, the purpose of which is to inform the policy holder of the arrangements for handling complaints, including the existence of a complaints body, but does not impose conditions on the way to handle these complaints or their reporting or internal follow-up.	Drafting suggestion has been accepted without the word "appropriate": <i>"On request or when acknowledging receipt of a complaint, provide written information regarding their complaints-handling process".</i>
166.	Chris Barnard	3.15.	Consumers should be made aware of any statutory time limits for bringing a complaint.	Noted

167.	Covéa	3.15.	<p>La recommandation n°2011-R-05 pose le principe d’informer le consommateur de manière claire et compréhensible mais laisse chaque compagnie d’assurance la liberté de savoir où localiser le mieux l’information sur le process de traitement des réclamations clients.</p> <p>Figurer une liste de documents dans lesquels faire figurer une telle information risque d’alourdir la liste déjà importante des informations légales à mentionner (au risque de ne plus la rendre visible car noyée dans l’ensemble des mentions légales) et aboutira à l’effet inverse recherché : à donner la bonne information au consommateur au moment où il en a réellement besoin ;</p> <p>L’organisation d’un service de traitement des réclamations peut obliger à ne pas associer définitivement un conseiller à un dossier particulier mais, pour justement répondre autant que faire se peut à toute sollicitation en temps réel, à permettre son traitement par tout collaborateur disponible.</p> <p>Dans certaines situations, communiquer sur l’identité et les coordonnées d’une personne pourrait avoir des conséquences non maîtrisables. Une telle mention devrait être supprimée.</p>	Noted
168.	Fédération Française des Sociétés d’Assurance (FFSA)	3.15.	<p>Information to consumers: FFSA can support the principles settled in this guideline with the following reserves:</p> <ul style="list-style-type: none"> - In the title and the text, the term “consumer” should be replaced by the term “policyholder” to be consistent with articles 183 and 185 of the directive 2009/138/EC - In the case where the final decision is favourable to the policyholder or in life insurance to the life insured or beneficiary, the FFSA does not understand why the insurance undertaking should remind the complainant about possible subsequent means of redress. 	<p>1) Noted. The definition for “consumer” has been removed from the introductory part to the Guidelines.</p> <p>2) See Resolution on comment 163</p>

169.	Financial and Capital Market Commission	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>	Noted. “Provision of Information” is the new title of Guideline 6
170.	GEMA	3.15.	<p>Bullet 3 (i).</p> <p>We doubt that it is relevant to communicate to the complainant “the identity and contact details of the person or department to whom the complaint should be directed”. Indeed, we feel it is risky to stick at one employee on one particular file. In order to improve the delay needed for complaints-handling, any member of staff available should be able to handle any file.</p> <p>This is especially truth in case of natural disaster or other big catastrophe. In this situation, one person is not enough because she will be overwhelmed. There must be several people, otherwise the process could be inefficient.</p>	Noted. See Resolution on comment 159. The Guidelines do not imply that there should be one particular employee.
171.			[Deleted due to request for comments to be treated as confidential]	

172.	German Insurance Association	3.15.	<p>2. According to Guideline 6, insurance undertakings shall provide consumers with information about their complaints handling process. There is no doubt about the fact that policyholders, and thus also consumers, shall be provided with sufficient details of how to complain. This has already been laid down in certain European provisions. For instance, Directive 2009/138/EC stipulates that insurance undertakings shall inform policy-holders of the arrangements for handling complaints (second sentence of Article 183 (1) and Article 185 (3 I) of the Solvency II Framework Directive). The same applies to the Directive concerning the distance marketing of consumer financial services. The German legislator has adopted these provisions into national legislation (Article 1 No. 19 of the Regulation on Information Obligations for Insurance Contracts (VVG-InfoV)). As a result, policyholders in Germany are already informed about the arrangements for handling complaints within the scope of their contractual documents when concluding a contract. This is in the interests of the parties involved, since policyholders need a reliable, central source of information. Contractual documents are perfectly suited for this purpose. Therefore, the Guidelines should focus on contractual documents.</p> <p>3. It is incomprehensible why the general public should also be informed about details of the complaints handling process via the insurance undertaking's website, for instance, as stipulated in Guideline 6 (second bullet point). Internet users who do not have any contractual relationships with an insurance undertaking are usually not interested in detailed information about the complaints handling process of the insurance undertaking.</p> <p>4. We therefore suggest altering the provision as follows: Publish details or their complaints-handling process in a manner easily accessible to all consumers and the general public, for example in brochures, pamphlets, contractual documents or via the insurance undertaking's website.</p>	<p>Noted. See Resolution on comment 159.</p> <p>The Guideline has now been amended to remove the reference to "general public":</p> <p><i>"Publish details of their complaints-handling process in an easily accessible manner, for example in brochures, pamphlets, contractual documents or via the insurance undertaking's website"</i></p>
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173.	MACIF	3.15.	Les sociétés adhérentes au Groupement des Entreprises Mutuelles d'Assurance (GEMA), auquel la MACIF adhère, ont mis en place un dispositif de médiation permettant à leurs assurés de pouvoir saisir le médiateur du GEMA, à l'issue d'une procédure interne de traitement de leurs réclamations. Le médiateur du GEMA est désigné en tenant compte de sa compétence et de son indépendance. L'avis du médiateur est rendu en droit et en équité et s'impose à la société concernée. En revanche, l'assuré demeure libre de saisir les tribunaux de sa requête à l'issue de la procédure de médiation. Chaque année, le médiateur du GEMA rédige un rapport sur l'ensemble de son activité qui est disponible sur son site internet.	Noted
174.	Norton Rose Studio Legale	3.15.	It is not clear how the insurance undertaking should "keep the complainant informed about further handling of the complaint"; being too generic, this obligation may cause relevant costs to the market. We suggest that information on the status of the claim should be given only upon request of the client, by telephone.	Noted. National law stipulates the frequency and other circumstance of how Insurance Undertakings should keep the complainant informed.
175.			[Deleted due to request for comments to be treated as confidential]	
176.	RPC, incorporating comments from EU members of TerraLex	3.15.	As some jurisdictions do not allow for ADR of insurance disputes this means that this guideline will have much less value for consumers buying insurance in certain Member States than in others.	Noted. The Guidelines provide non-binding rules on how Insurance Undertakings should internally handle consumer complaints; they do not concern ADR schemes
177.	The UK Financial Services Authority	3.15.	With reference to paragraph 3.15, third bullet, sub paras (i) and (ii). Sub para (i) sets out the information to be given about how to complain. Sub para (ii) sets out the information to be given about the process that will be followed when handling the complaint. Sub para (i) sets a specific requirement for the information that must be given; sub para (ii) only give examples of the kind of information that might be given. We feel that sub	Paragraph 3.15 of the Guidelines has been amended so there is symmetry in the wording between sub para (i) and sub para (ii) Sub para (i) now reads: <i>(details of how to complain (e.g. and, in</i>

			para (i) is overly prescriptive. We do not believe that there are compelling consumer protection reasons to require that firms provide specific information about how to complain, providing it is appropriate. We would suggest that sub para (i) be worded similarly to sub para (ii), so that it reads: "details of how to complain and, in particular: (e.g. the type of information to be provided by the complainant, the identity and the contact details of the person or department to whom the complaint should be directed);	particular: the type of information to be provided by the complainant, the identity and contact details of the person or department to whom the complaint should be directed);
178.	IRSG	3.16	See comments on 3.15	
179.	ABI	3.16.	UK firms are already under similar requirements under rules 1.4 and 1.6. of the DISP Handbook.	Noted
180.	Allianz SE for Allianz Group	3.16.	See 3.15	Noted. Consumers should be able to gain accurate and efficient information on the whole complaint handling procedure See also Resolution on comment 159.
181.	Insurance Europe (formerly CEA)	3.16.	As stated in the CEA's comments under "General Comment", the first bullet point of guideline number 7 suggests that insurers will have to gather and investigate all relevant evidence and information regarding the complaint. This could be unduly burdensome on insurance undertakings and it is suggested that this guideline should allow for some proportionality in the amount of evidence and information that has to be gathered.	Noted. EIOPA recognises the importance of these Guidelines being applied in a manner which is proportionate to the size of the insurance undertaking as illustrated by Article 29(3) of the Solvency II Directive. As a follow-up initiative to these Guidelines, EIOPA will be working on a short FAQ on how the Guidelines would apply in practice to small insurance undertakings.

182.	Covéa	3.16.	<p>Les dispositions prévues vont au-delà de ce qui est admissible : en effet, chaque compagnie d'assurance va mettre en place un process complet du traitement des réclamations client (1er niveau avec les commerciaux, 2nd niveau avec un service dédié, 3ème niveau avec un éventuel médiateur interne ou commun à la profession).</p> <p>Cette information est déjà dense sur l'ensemble du process mis en place par la compagnie d'assurance elle-même pour traiter la réclamation de son client.</p> <p>Donner des informations superfétatoires concernant tous les autres modes de résolution des conflits pouvant exister va aboutir à complexifier les informations à fournir à l'assuré, ce qui n'est absolument pas l'objectif recherché.</p>	Noted
183.	Fédération Française des Sociétés d'Assurance (FFSA)	3.16.	<p>Procedures for responding to complaints: the FFSA can support this guideline if it makes it clear that in case of decision favourable to the complainant, there is no need to explain the decision and set out the option to maintain the complaint.</p>	Noted
184.			[Deleted due to request for comments to be treated as confidential]	
185.	MACIF	3.16.	<p>« Les autorités compétentes s'assurent que les entreprises d'assurance :</p> <ul style="list-style-type: none"> <input type="checkbox"/> Essaient de rassembler et d'investiguer tout élément de preuve et d'information concernant la plainte <input type="checkbox"/> Communiquent dans un langage accessible, compréhensible par tous. » <p>La MACIF soutient pleinement cette recommandation, qui fait déjà partie de sa démarche de qualité.</p> <p>« Dans sa décision finale, l'entreprise d'assurance expliquera l'ensemble de sa position et indiquera que le consommateur peut poursuivre sa plainte auprès d'autres instances, par exemple un</p>	Noted

			<p>médiateur, un mode de résolution alternatif, les autorités nationales, etc. »</p> <p>Le devoir d'information imposé à la compagnie d'assurance devrait se limiter à expliquer le processus de traitement des réclamations interne et celui mis en place par ses organisations professionnelles (médiateur, etc.).</p>	
186.			[Deleted due to request for comments to be treated as confidential]	
187.	RPC, incorporating comments from EU members of TerraLex	3.16.	Given the differences in availability of ombudsman schemes or complaints bodies in different Member States the options presented by insurance undertakings to consumers buying insurance in certain Member States will be much more restricted than in others. This reduces the consumer's access to redress and may lead to greater litigation.	Noted. The Guidelines provide non-binding rules on how Insurance Undertakings should handle complaints; they do not have direct relevance to ADR schemes. See Resolution on comment 6(3)
188.	Mutualite Francaise	3.16	La Mutualité française soutient pleinement cette recommandation, qui fait déjà partie de sa démarche de qualité. Le devoir d'information imposé à l'opérateur d'assurance devrait se limiter à expliquer le processus de traitement des réclamations interne et celui mis en place par ses organisations professionnelles (médiateur, etc.).	Noted
189.	ABI	3.17.	Comments are not being sought on this paragraph at this stage	Provisions on the "Comply or Explain" process have been amended in the "Compliance and Reporting" section of the Guidelines. In addition, EIOPA's internal rules as regards the criteria for competent authorities complying with all Guidelines are being supplemented to make clear that, where national rules going into further detail, they will not be considered as non-compliant if they: (i) do not contradict the Guidelines and (ii) ensure an equivalent level of consumer protection.

190.	AILO	3.17.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
191.	Allianz SE for Allianz Group	3.17.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
192.	ALLIANZ-TIRIAC ASIGURARI S.A., ROMANIA	3.17.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
193.	AMICE	3.17.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
194.	Assuralia	3.17.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
195.	AXERIA PREVOYANCE – AXERIA IARD – SOLUCIA	3.17.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
196.	BIPAR	3.17.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
197.	CEA – Insurers of Europe	3.17.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
198.	Chris Barnard	3.17.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
199.	Covéa	3.17.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
200.	Danish Insurance Association (DIA)	3.17.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
201.	Fédération Française des Sociétés	3.17.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189

	d'Assurance (FFSA)			
202.	Financial and Capital Market Commission of Latvia	3.17.	Comments are not being sought at this stage	See Resolution on comment 189
203.	Finanstilsynet (Danish FSA)	3.17.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
204.	GEMA (Groupement des Entreprises Mutuelles d'Assurance)	3.17.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
205.			[Deleted due to request for comments to be treated as confidential]	
206.	German Insurance Association (GDV)	3.17.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
207.	MACIF	3.17.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
208.	MAIF	3.17.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
209.	Norton Rose Studio Legale	3.17.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189

210.			[Deleted due to request for comments to be treated as confidential]	
211.	RPC, incorporating comments from EU members of TerraLex	3.17.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
212.	RSA Insurance Group Companies in Europe	3.17.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
213.			[Deleted due to request for comments to be treated as confidential]	
214.	The Financial Services Authority	3.17.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
215.	UK Financial Ombudsman Service	3.17.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
216.	ABI	3.18.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
217.	AILO	3.18.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
218.	Allianz SE for Allianz Group	3.18.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189

219.	ALLIANZ-TIRIAC ASIGURARI S.A., ROMANIA	3.18.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
220.	AMICE	3.18.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
221.	Assuralia	3.18.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
222.	AXERIA PREVOYANCE – AXERIA IARD – SOLUCIA	3.18.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
223.	BIPAR	3.18.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
224.	CEA – Insurers of Europe	3.18.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
225.	Chris Barnard	3.18.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
226.	Covéa	3.18.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
227.	Danish Insurance Association (DIA)	3.18.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
228.	Fédération Française des Sociétés d'Assurance (FFSA)	3.18.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
229.	Financial and	3.18.	Comments are not being sought at this stage	See Resolution on comment 189

	Capital Market Commission			
230.	Finanstilsynet (Danish FSA)	3.18.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
231.	GEMA	3.18.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
232.			[Deleted due to request for comments to be treated as confidential]	
233.	German Insurance Association (GDV)	3.18.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
234.	MACIF	3.18.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
235.	MAIF	3.18.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
236.	Norton Rose Studio Legale	3.18.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
237.			[Deleted due to request for comments to be treated as confidential]	
238.	RPC, incorporating comments from EU members of TerraLex	3.18.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
239.	RSA Insurance Group	3.18.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189

	Companies in Europe			
240.			[Deleted due to request for comments to be treated as confidential]	
241.	The Financial Services Authority	3.18.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
242.	UK Financial Ombudsman Service	3.18.	Comments are not being sought on this paragraph at this stage	See Resolution on comment 189
243.	Allianz SE for Allianz Group	3.19	-	
244.	CEA – Insurers of Europe	3.19	See CEA’s comments under “General Comment”	
245.	Mutualite Francaise	3.19	<p>L’EIOPA suggère que l’introduction des Lignes directrices proposées aura pour effet «d’atténuer un échec de la réglementation en raison du manque actuel d’harmonisation de la réglementation au niveau de l’UE ».</p> <ul style="list-style-type: none"> Appartient-il à l’ensemble des opérateurs d’assurance d’absorber ce coût, ou aux Etats membres qui ne se sont pas mis en conformité avec ladite réglementation ? <p>L’EIOPA est d’avis que « les coûts [de communication, de logiciels, de mise à jour des contrats d’assurance] générés par ces Lignes directrices seront compensés par les avantages attendus de la politique proposée ».</p> <ul style="list-style-type: none"> L’EIOPA a-t-il calculé ces coûts ? <p>L’EIOPA estime qu’ « il n’y aura aucun coût significatif attendu avec le développement d’une telle politique interne de traitement des plaintes » ou « de très bas coûts ponctuels ».</p>	Noted. See Resolutions on comments 13(1) and 158

			<ul style="list-style-type: none"> Sur quelles données l'EIOPA base-t-il son pronostic ? <p>En ce qui concerne l'enregistrement, l'EIOPA estime qu'il « n'y aura aucun coût associé à cet aspect » parce qu'il n'a prévu aucun calendrier particulier d'application.</p> <p>L'ensemble des acteurs se trouvant probablement d'accord pour appuyer la politique générale de l'EIOPA en faveur d'un traitement des plaintes adéquat, il est probable que cette politique sera poursuivie. Son coût pour les compagnies d'assurance dépendra donc de l'harmonisation qui sera réalisée entre cette politique et celle des autorités de contrôle nationales (voir sur ce point les propos liminaires).</p>	
246.	ABI	Best Practices Report Comments (EIOPA-CP-11/010b)	<p>Notwithstanding our comments about the requirement for a "complaints management policy" set out above, we believe that UK insurance firms already meet the requirements set out for best practice.</p> <p>However, with regard to the section on reporting, it is worth noting that UK firms are not currently required to notify the FSA with the name of the senior individual responsible for complaints but would be expected to do so promptly on request.</p>	Noted
247.	AILO	Best Practices Report Comments (EIOPA-CP-11/010b)	AILO Members have no additional comments to offer on the report, which generally reflects Members' complaints management policies and functions	Noted
248.	Allianz SE for Allianz Group	Best Practices Report Comments (EIOPA-CP-11/010b)	-	-

249.	Insurers of Europe (formerly CEA)	Best Practices Report Comments (EIOPA-CP-11/010b)	See CEA's comments under "General Comment on the Guidelines"	Noted
250.	Danish Insurance Association (DIA)	Best Practices Report Comments (EIOPA-CP-11/010b)	No comments	-
251.	Financial and Capital Market Commission of Latvia	Best Practices Report Comments (EIOPA-CP-11/010b)	<p>The guidelines are a welcome addition to the supervision of insurance undertakings. However, we 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), inter 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.</p> <p>To conclude, we would like to suggest that the Guidelines on Complaints-Handling should clearly state that they refer to any kind of complainants.</p>	Noted. See Resolution on comment 7(8)
252.			[Deleted due to request for comments to be treated as confidential]	

253.	Norton Rose Studio Legale	Best Practices Report Comments (EIOPA-CP-11/010b)	<p>While the insurance undertaking shall respond to complaints made by any mean, we suggest that complaints carried out by telephone shall not be registered (at least if a positive solution has been provided to the claimant during the call) and shall not cause the insurance company to provide a written answer; however, the insurance undertaking shall remind the complainant of the means through which it is possible to file a written complaint and receive a written answer.</p> <p>In case of co-insurance, complaints should only be managed by the leading co-insurer, which should feed the other insurers with reports of their complaints' management activity.</p>	<p>Noted. EIOPA does not support the idea of not registering complaints made by telephone. The registration, also when the solution is positive, facilitates the root cause analysis and gives information to the management about the risks related to undertaking's activities.</p> <p>Co-insurance: Noted. The Guidelines are high-level principles and do not cover methods of co-insurance.</p>
254.			[Deleted due to request for comments to be treated as confidential]	
255.	IRSG	Q1. - on Impact Assessment	<p>These Complaints-Handling Guidelines will help Competent authorities (including Insurance undertakings' Supervisory bodies and Governmental agencies responsible for Consumer protection) to reduce the number of cases presented to the Courts.</p> <p>The introduction of the guidelines should enhance in the meantime the reputation/profile of the insurance industry which therefore will in the end benefit as well as the consumers of such widespread procedures.</p> <p>The direct reporting line to the Board (?) enhances consumer focus within the insurance company and also enables them to improve organisational (?) structures and products by thoroughly analysing the complaints.</p> <p>These Complaints-Handling Guidelines could speed up process if the complaints is sent later to an ombudsman or an ADR.</p>	Noted
256.	Allianz SE for Allianz Group	Q1. - on Impact Assessment	-	-
257.	Allianz SE for Allianz	Q4. - on Impact	-	-

	Group	Assessment		
258.	Allianz SE for Allianz Group	Q3. - on Impact Assessment	-	-
259.	Allianz SE for Allianz Group	Q2. - on Impact Assessment	-	-
260.	ALLIANZ-TIRIAC ASIGURARI S.A., ROMANIA	Q2. - on Impact Assessment	Better understanding of the clients' needs; improvement of internal processes to ensure customer satisfaction.	Noted
261.	ALLIANZ-TIRIAC ASIGURARI S.A., ROMANIA	Q3. - on Impact Assessment	If a senior manager oversees the complaints handling process - Minimizing process efficiency. The process should be overseen and coordinated by the process owner.	Noted
262.	ALLIANZ-TIRIAC ASIGURARI S.A., ROMANIA	Q4. - on Impact Assessment	Introducing a senior management representative overseeing the complaints handling process: Minimizing process efficiency. The process should be overseen and coordinated by the process owner; Introduction of the registration system for complaints-handling: For the OE's that don't have a registration system – the material costs associated to developing a complaint management application; training the personnel; defining responsibilities and ownership of processes; centralizing processes (eg. Claims); defining work procedures; marketing costs. For the OE's that have a registration system in place: no costs.	Noted
263.	ALLIANZ-TIRIAC ASIGURARI S.A.,	Q1. - on Impact Assessment	Harmonization (alignment) of complaint management processes among Member States; a tendency to have best practices; better services provided.	Noted

	ROMANIA			
264.	BIPAR	Q3. - on Impact Assessment	<p>It is important that EIOPA guidelines are proportionate to the risks and the size of enterprises, and also to the number of complaints received by undertakings.</p> <p>The aim of EIOPA guidelines are to ensure that complaints are registered and in the failure of a dialogue, to make sure that the consumer is informed of other means of redress (ombudsman, ADR etc...). Each complaint is different. It is important that EIOPA guidelines do not lead to a too strict and rigid system.</p>	Noted. EIOPA recognises the importance of these Guidelines being applied in a manner which is proportionate to the size of the insurance undertaking as illustrated by Article 29(3) of the Solvency II Directive. As a follow-up initiative to these Guidelines, EIOPA will be working on a short FAQ on how the Guidelines would apply in practice to small insurance undertakings.
265.	BIPAR	Q1. - on Impact Assessment	EIOPA guidelines aim at harmonizing the practices of complaints-handling among insurance undertakings. It can therefore be expected that these guidelines may help to enhance the reputation of the insurance sector in this respect and the protection and trust of consumers at the same time.	Noted
266.	Insurers of Europe (formerly CEA)	Q3. - on Impact Assessment	See CEA's comments under "General Comment on the Guidelines"	Noted
267.	Insurers of Europe (formerly CEA)	Q2. - on Impact Assessment	See CEA's comments under "General Comment on the Guidelines"	Noted
268.	Insurers of Europe (formerly CEA)	Q1. - on Impact Assessment	See CEA's comments under "General Comment on the Guidelines"	Noted
269.	Insurers of Europe (formerly CEA)	Q4. - on Impact Assessment	See CEA's comments under "General Comment on the Guidelines"	Noted

270.	Chris Barnard	Q1. – on Impact Assessment	<p>Benefits expected to flow from the introduction of the Complaints-Handling Guidelines:</p> <ul style="list-style-type: none"> - there should be a greater degree of consistency and harmonisation in complaints handling - the complaints management policy should be better controlled and more transparent - the complaints management function should be able to analyse the style and trend of complaints and provide input and advice to other key functions - a trackable registration system should improve the efficiency of the complaints handling process - reporting will help the supervisor to prioritise its oversight accordingly, and public reporting will put pressure on the “worst offenders” to improve their processes and practices - consumers will be better informed of undertakings’ complaints-handling processes, which improves transparency (and possibly trust), and better manages their expectations concerning actual or potential complaints <p>These benefits should be more pronounced in those Member States which do not already conform to (some of) the requirements.</p>	<p>Noted.</p> <p>EIOPA would like to stress that the “complaints-handling function” (referred to in Guideline 2) is not a Solvency II “key function”.</p>
271.	Chris Barnard	Q2. – on Impact Assessment	<p>A robust, complete and trackable complaints-handling process should enable an undertaking to analyse trends and root causes, and inform management of the key issues and problems (including potential problems) arising from the undertaking’s practices including; operations; legal; sales; product design; marketing; and image. This should provide valuable information for risk management (and mitigation) purposes.</p>	Noted
272.	Chris Barnard	Q3. – on Impact Assessment	<p>I do not anticipate significant costs or negative impacts from the proposed policy options.</p>	Noted
273.	Financial and	Q1. – on Impact	<p>The overall ethics on complaints handling by insurance undertakings would improve. These guidelines would enable the</p>	Noted

	Capital Market Commission of Latvia	Assessment	supervisory authorities to gain clearer additional basic rules in order to assess the complaints handling by insurance undertakings.	
274.			[Deleted due to request for comments to be treated as confidential]	
275.			[Deleted due to request for comments to be treated as confidential]	
276.			[Deleted due to request for comments to be treated as confidential]	
277.			[Deleted due to request for comments to be treated as confidential]	
278.	German Insurance Association (GDV)	Q1. – on Impact Assessment	<p>5. As specified in the Consultation Paper, the proposed Guidelines are based on provisions laid down in the Solvency II Framework Directive. Article 41 et seq. of Directive 2009/138/EC, above all, set out provisions on the governance system and on the risk management of insurance undertakings, in particular. Since the implementing rules do not provide any information in this context, the national legislator is asked to implement these provisions. In this case, it shall be ensured that the national legislator can use the room for manoeuvre it is entitled to when implementing European provisions. This room for manoeuvre shall not be restricted, not even by any Guidelines by EIOPA. The fact that the proposed Guidelines are not binding reflects this idea. National authorities may comply with the Guidelines, but they are not obliged to do so. It would be extremely problematic if the Guidelines have de facto binding effect due to excessive regulations, resulting in restriction of the legislative freedom or even ambiguity with respect to individual provisions.</p> <p>6. Against the background of the mentioned provisions stipulated in the Solvency II Framework Directive, the impact achieved by the proposed non-binding Guidelines shall not be overestimated.</p>	Noted.

			Moreover, as already stated above, it is to be considered that detailed provisions on complaints handling will deprive insurance undertakings of a major distinguishing feature. Having in place an effective complaints management policy gives undertakings a competitive advantage over competitors and also provides huge benefits to customers. Excessive regulations, however, create additional bureaucracy as well as extra costs. Moreover, they are likely to prevent new innovative approaches.	
279.	German Insurance Association (GDV)	Q4. – on Impact Assessment	No reliable values can be reported in this context. It is a matter of fact that extensive efforts usually also imply high costs. Moreover, we believe that it shall be left to the insurance undertakings to decide whether or not a central body which is in charge of complaints handling shall be established.	Noted
280.	German Insurance Association (GDV)	Q2. – on Impact Assessment	Insofar as this question focusses on the risks carried by insurance undertakings, it is to be pointed out that insurance undertakings in Germany are obliged to provide the national supervisory authority, the Federal Financial Supervisory Authority (BaFin), with extensive information on these risks. Therefore, we are not able to think of any additional benefits which might be expected.	Noted
281.	German Insurance Association (GDV)	Q3. – on Impact Assessment	As mentioned in the Consultation Paper, additional obligations usually also imply additional costs. Therefore, any efforts should focus on a balanced relation between ends and means, which is in the interests of the parties involved. This also corresponds to the principle of proportionality stipulated in Article 29 (3) of the Solvency II Framework Directive.	Noted. EIOPA recognises the importance of these Guidelines being applied in a manner which is proportionate to the size of the insurance undertaking as illustrated by Article 29(3) of the Solvency II Directive. As a follow-up initiative to these Guidelines, EIOPA will be working on a short FAQ on how the Guidelines would apply in practice to small insurance undertakings.
282.	MACIF	Q1. – on Impact Assessment	Commentaires concernant l'Impact Assessment Dans son Impact Assessment, l'EIOPA suggère que l'introduction des Lignes directrices proposées aura pour effet « d'atténuer un échec de la réglementation en raison du manque actuel d'harmonisation de la réglementation au niveau de l'UE ».	Noted. See Resolutions on comments 13(1) and 158

			<p>Appartient-il à l'ensemble des compagnies d'assurance d'absorber ce coût, ou aux Etats membres qui ne se sont pas mis en conformité avec ladite réglementation ?</p> <p>L'EIOPA est d'avis que « les coûts [de communication, de logiciels, de mise à jour des contrats d'assurance] générés par ces Lignes directrices seront compensés par les avantages attendus de la politique proposée ».</p> <p>L'EIOPA a-t-il calculé ces coûts ?</p> <p>L'EIOPA estime qu' « il n'y aura aucun coût significatif attendu avec le développement d'une telle politique interne de traitement des plaintes » ou « de très bas coûts ponctuels ».</p> <p>Sur quelles données l'EIOPA base-t-il son pronostic ?</p> <p>En ce qui concerne l'enregistrement, l'EIOPA estime qu'il « n'y aura aucun coût associé à cet aspect » parce qu'il n'a prévu aucun calendrier particulier d'application.</p> <p>L'ensemble des acteurs se trouvant probablement d'accord pour appuyer la politique générale de l'EIOPA en faveur d'un traitement des plaintes adéquat, il est probable que cette politique sera poursuivie. Son coût pour les compagnies d'assurance dépendra donc de l'harmonisation qui sera réalisée entre cette politique et celle des autorités de contrôle nationales (voir notre préambule).</p>	
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283.			[Deleted due to request for comments to be treated as confidential]	
284.			[Deleted due to request for comments to be treated as confidential]	
285.			[Deleted due to request for comments to be treated as confidential]	
286.			[Deleted due to request for comments to be treated as confidential]	
287.	RPC, incorporating comments from EU members of TerraLex	Q3. – on Impact Assessment	Some Member States may need to establish an ombudsman scheme or complaints body competent to hear insurance disputes. This may lead to some substantial initial costs.	Noted. See Resolution on comment 176.
288.	RPC, incorporating comments from EU members of TerraLex	Q1. – on Impact Assessment	Insurance undertakings operating in a common market should be under consistent obligations towards their customers. Not only does this provide better security for customers, it provides greater legal certainty for the industry, allows for a greater standardisation of complaints procedures and complaints handling software, and reduced costs and premiums for consumers.	Noted
289.			[Deleted due to request for comments to be treated as confidential]	
290.			[Deleted due to request for comments to be treated as confidential]	
291.			[Deleted due to request for comments to be treated as confidential]	
C 292.			[Deleted due to request for comments to be treated as confidential]	

293.	RPC, incorporating comments from EU members of Terralex	General comments on Impact Assessment	<p>We are very supportive of EIOPA's aims in undertaking this exercise. However, as it is desirable to harmonise complaints handling policies across the EU, the guidelines may need to go further than they do currently. We believe that this might necessitate some changes to national ombudsman schemes and complaints bodies.</p> <p>While many of the policies contained in the guidelines are in place, the underlying legal framework for handling disputes varies widely from state to state. These guidelines will have little practical impact on consumers or the single market for insurance unless greater substantive harmonisation of ombudsman schemes and complaints bodies takes place and consumers can be confident that they will have access to comparable redress schemes across the single market.</p> <p>However, the guidelines should not seek to expand the rights of third parties. With the exception of those injured in motor accidents, third parties have different rights of action and of complaints in the various Member States. Giving third parties the right to sue or complain to insurers for losses arising under liability policies more generally would lead to insurers being exposed to much greater liabilities than they are at present. Liability insurance is a private, commercial agreement to protect an insured from exposures to its clients and the world at large. Although it provides an element of social security, potential beneficiaries in the world at large should not be granted rights of action against insurers except in the most limited of circumstances or following full and thorough consultation. We are pleased to note that these guidelines do not propose any extension to such third party rights.</p>	<p>Noted. See Resolution on comment 6(3).</p> <p>Noted request not to extend the rights of third parties.</p>
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