



EIOPA-CP-11/010b

9 November 2011

# **Report on Best Practices by Insurance Undertakings in handling complaints**

**DRAFT**

## Introduction

The following Report contains a list of best practices for handling complaints by insurance undertakings. Their purpose is to contribute to “enhancing customer protection” as described in the underlying statutory objectives of EIOPA<sup>1</sup>. They are based on Article 29(2), EIOPA Regulation<sup>2</sup> whereby EIOPA may “develop new practical instruments and convergence tools to promote common supervisory approaches and practices”.

They provide examples of best practices and are complementary to the “The Proposal for Guidelines on Complaints-Handling by Insurance Undertakings” (EIOPA-CP-11/010a).

These Best Practices are not legally binding on competent authorities or financial institutions as defined under Regulation 1094/2010 establishing EIOPA (“the EIOPA Regulation”) and are not subject to the “comply or explain” mechanism provided for under Article 16 of the EIOPA Regulation as their legal basis is Article 29(2).

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<sup>1</sup> Article 1(6)(f), EIOPA Regulation

<sup>2</sup> „ The Authority ([EIOPA] may, as appropriate, develop new practical instruments and convergence tools to promote common supervisory approaches and practices”.

Having regard to the “The Proposal for EIOPA Guidelines on Complaints-Handling by Insurance Undertakings” (EIOPA-CP-11/010a), on internal systems and controls:

### ***Content of a “complaints management policy”***

It is considered best practice for an insurance undertaking’s “complaints management policy” to include processes for:

- (i) Lodging a complaint with an insurance undertaking by any reasonable means (including complaints submitted by an authorised representative e.g. a family member or a solicitor) and confirmation that this is free of charge;
- (ii) Handling complaints received, including deadlines etc.
- (iii) The fair treatment of complainants;
- (iv) The proper treatment of a complainant’s information and personal data, according to the applicable legal framework;
- (v) Preventing, identifying and managing possible situations of conflicts of interest in complaints management;
- (vi) The prompt, equal, fair and efficient management of complaints,
- (vii) The adequate training of staff participating in complaints-handling within the insurance undertaking;
- (viii) Internal reporting, follow-up and monitoring of compliance with the “complaints management policy”.

### ***Organisation of the internal complaints management function***

Irrespective of the specific model that insurance undertakings have adopted for complaints- handling, it is considered best practice for insurance undertakings to:

- (i) Appoint a senior manager with overall regulatory responsibility for the complaints management function;
- (ii) Ensure the necessary internal flows of information and reporting lines for complaints management.

## **Registration**

Without prejudice to applicable EU/national legislation on record keeping/data protection, it is considered best practice for:

- (i) an insurance undertaking's register of complaints to contain all the necessary information on the complaints, including:
  - (i) Subject of the complaint;
  - (ii) Data on the complainant;
  - (iii) Date of receiving and answering the complaint;
  - (iv) Result/outcome of the complaints-handling procedure;
  - (iv) Class of the insurance referred to.
- (ii) Documentation relating to the complaint to be kept and archived in a secure manner for a reasonable period of time based on the nature of the complaint and the insurance undertaking involved.
- (iii) Insurance undertakings to provide data to complainants regarding their complaint, where reasonably requested by complainants.

## **Reporting**

The relevant supervisory authorities should be informed of any changes in the identity and contact details of members of senior management involved in the complaints management function as referred to above.

## **Internal follow-up of complaints-handling**

It is considered best practice for an insurance undertaking to have in place the following processes in order to comply with the proper internal follow-up of complaints:

- (i) The collection of management information on the causes of complaints and the products and services complaints relate to;
- (ii) A process to identify the root causes of complaints and to prioritise dealing with the root causes of complaints;
- (iii) A process to consider whether the root causes identified may affect other processes or products;
- (iv) A process for deciding whether root causes discovered should be corrected and how this should be done; and
- (v) Regular reporting to senior personnel where information on recurring or systemic problems may be needed for them to play their part in identifying, measuring, managing and controlling risks of regulatory concern and keeping records of analysis and decisions taken by senior personnel in response to management information on root causes of complaints.