



EIOPA-BoS-12/073

14 June 2012

**Impact Assessment on  
the Guidelines on  
Complaints-Handling by Insurance  
Undertakings**

## 1. Procedural Issues and Consultation of Interested parties

*Internal expertise of national competent authorities has been used all along the drafting procedure of the Guidelines. The Guidelines are also drafted on the basis of analysis conducted by national competent authorities on the complaints they receive (if applicable depending on countries) and the results of their on-site and off-site inspections related to complaints-handling processes.*

*EIOPA has conducted a public consultation on a package<sup>1</sup> consisting of the proposals of Guidelines on complaints handling by insurance undertakings, the respective Impact Assessment for the Guidelines, and a Report on Best Practices by Insurance Undertakings in handling complaints. 25 contributions were received and published. EIOPA has considered all questions and considerations of respondents and has fine-tuned the impact assessment with further rationale and explanations.*

With regard to the link between the present Guidelines on complaints-handling and International financial regulatory initiatives, it is worth mentioning that the EIOPA Guidelines on complaints handling are broadly in line with the G20 High-Level Principles on Financial Consumer Protection<sup>2</sup> (Principle 9 on complaints-handling and redress<sup>3</sup>) and the IAIS' Insurance Core Principles, Standards, Guidance and Assessment Methodology<sup>4</sup>. EIOPA Guidelines are also in line with the Insurance Mediation Directive<sup>5</sup>, which sets out high-level complaints-handling provisions for intermediaries<sup>6</sup>. It is also expected that the scope of the IMD will be extended to insurance undertakings under its planned revision. (The PRIPs proposals<sup>7</sup> deal with rules on disclosure and selling of PRIPs and have less relevance to these Guidelines.)

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<sup>1</sup> <https://eiopa.europa.eu/consultations/consultation-papers/2011-closed-consultations/november-2011/guidelines-on-complaints-handling-by-insurance-undertakings/index.html>

<sup>2</sup> G20 High-Level Principles on Financial Consumer Protection, October 2011: <http://www.oecd.org/dataoecd/58/26/48892010.pdf>

<sup>3</sup> 9. Complaints Handling and Redress - Jurisdictions should ensure that consumers have access to adequate complaints handling and redress mechanisms that are accessible, affordable, independent, fair, accountable, timely and efficient. Such mechanisms should not impose unreasonable cost, delays or burdens on consumers. In accordance with the above, financial services providers and authorised agents should have in place mechanisms for complaint handling and redress. Recourse to an independent redress process should be available to address complaints that are not efficiently resolved via the financial services providers and authorised agents internal dispute resolution mechanisms. At a minimum, aggregate information with respect to complaints and their resolutions should be made public.

<sup>4</sup> <http://www.iaisweb.org/index.cfm?pageID=689>. The IAIS core principles address the area of the internal treatment of complaints by Insurance Undertakings and Insurance Intermediaries in different parts of the text.

<sup>5</sup> Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation

<sup>6</sup> Article 10 – Complaints: Member States shall ensure that procedures are set up which allow customers and other interested parties, especially consumer associations, to register complaints about insurance and reinsurance intermediaries. In all cases complaints shall receive replies.

<sup>7</sup> [http://ec.europa.eu/internal\\_market/fin services-retail/investment\\_products\\_en.htm](http://ec.europa.eu/internal_market/fin services-retail/investment_products_en.htm)

## **2. Problem Identification**

In analysing the practices of complaints-handling among insurance undertakings, patterns of information asymmetry can be observed, in that undertakings may not handle complaints in the best interests of policyholders and policyholders are unlikely to know the standards to which an undertaking should adhere. Moreover, customers are not always aware of the possibility to submit a complaint. This may be all the more detrimental that in the majority of countries where ombudsman or ADR exist, customers first have to exhaust all ways of complaints before being authorized to appeal to them.

This type of market failures have been dealt with in national regulatory systems in various ways, which leads to divergent supervisory practices and varying levels of consumer protection.

## **3. Objective pursued**

EIOPA is committed to promote a convergence in supervisory practices along national competent authorities and strengthen consumer protection, especially for those who have limited financial knowledge.

The Guidelines have a threefold objective:

- enhancing consumer protection in the financial market through implementing a shared culture of complaints-handling
- organizing a fair treatment of complaints
- enhancing the information issued to consumers

## **4. Policy Options**

In order to steer a harmonized approach to consumer outcomes and to mitigate regulatory discrepancies due to varying national provisions, EIOPA suggests the introduction of the Guidelines.

In the process several options were discussed, whether these Guidelines should be addressed to the national supervisory authorities or to the supervised entities. Option whether these Guidelines should cover only consumers' complaints or complaints from different kinds of customers was also discussed. Further to this there were discussions on whether insurance intermediaries should be in the scope of these Guidelines.

## **5. Analysis of impacts and comparing the options**

Below there is a qualitative overview of the expected benefits and costs from the introduction of the Guidelines. It is important to specify, at the outset that based on data provided by national authorities, the majority of the policies introduced in these Guidelines are already in place. For the purpose of highlighting the need for harmonisation in the approach to complaints-handling on EU level, EIOPA undertook to describe the proposed policies. These policies are based on regulations and practices currently available at national level.

In cases where the respective proposed policies are not in place already, for certain policy aspects (e.g. costs for communication, software, changing

insurance contracts in which the current complaints procedure is explained), there might be some costs generated. However, at this stage, EIOPA is of the opinion that these costs are outweighed by the benefits expected to flow from the proposed policies.

These Guidelines are high-level principles addressed to national supervisory authorities. Due to the differences in complaints-handling regulation and practices in different Member States, EIOPA assessed that there was a need to allow national regulators flexibility and possibility to take national features into account.

The Guidelines do not refer to “consumers” in order to avoid confusion stemming from different definitions of “consumer” at national and EU levels.

The pros and cons outlined below are assessed as the incremental change from the Guidelines against current national practice, which is the baseline for a qualitative analysis of the impact.

### *Complaints Management Policy*

#### Pros

The introduction of a Guideline on a complaints management policy is intended to streamline the current practices at national level and to highlight the importance of having a documented process for complaints-handling by undertakings.

The policy is also directed towards encouraging adequate internal communication about the complaints-handling process in those undertakings.

An important benefit that flows from the proposed policy is the requirement for an endorsement of the complaints-handling policy by undertakings’ senior management. This requirement is focused on introducing a quality assurance element in the complaints-handling process.

#### Cons

There are no significant costs expected with the development of such an internal complaints-handling policy.

### *Complaints Management Function*

#### Pros

It is expected that the introduction of a complaints management function can facilitate the fair investigation of complaints as well as the identification and mitigation of possible conflicts of interest in the insurance undertaking.

It is also expected that this will lead to increased efficiency, effectiveness and independence in the activity of complaints-handling.

The complaints management function, in combination with the requirement for root cause analysis, is expected to help improve product design, operational processes and sales practices by institutionalising a learning process.

The complaints management function overseeing complaints-handling is also expected to enhance the coordination with supervisory authorities and supervisory effectiveness.

The complaints management function can ensure that complaints are handled with a view to preventing costly legal action and potential negative publicity.

#### Cons

From the data on complaints-handling provided by national competent authorities, it is revealed that half of Member States already have a requirement for a specific appointed individual to oversee complaints-handling in insurance undertakings.

In cases where there is no complaints management function, insurance undertakings might be expected to incur very low one-off costs in rearranging the internal systems to nominate a management representative to oversee the complaints handling processes.

Specifically costs may be expected to be incurred by small undertakings, as they might be particularly affected.

### *Registration*

#### Pros

With regard to insurance undertakings, the proposed policy intends to streamline and highlight the importance for better knowledge about the risks related to undertakings' activities.

The proposed policy focuses on improved consumer outcomes, by institutionalising a process for tracking complaints cases and procedures. This is also aimed at improving the consistency of management information.

In addition, the registration system will facilitate the proposed root cause analysis and may help improve product design, operational processes and sales practices due to institutionalising a learning process.

The registration system will facilitate the reporting of complaints-handling statistics.

For cases where the supervisory authority is involved in the process, the registration system will enable improved collaboration with supervisory authorities and more efficient supervision as a result.

It has to be considered as well that these Guidelines do not impose a particular timeframe, therefore there are no costs associated with this aspect.

#### Cons

Where such a system is not in place, it can be expected that the industry may incur some initial one-off, as well as on-going, costs from the introduction of a registration system.

Depending on the requirements for a registration system, it could be expected that it might be more difficult for small insurance undertakings to operate in the market.

## *Reporting*

### Pros

Based on data provided by national competent authorities, undertakings in 15 Member States are already required to report on complaints-handling to the supervisory authority and/or ombudsmen. Data provided by national competent authorities also reveals heterogeneous practices among Member State as to the types of information required by undertakings. The proposed Guidelines introduce a streamlined approach intended to enhance the information available to supervisors and the comparability of data.

EIOPA believes that the benefits associated with introducing these Guidelines, are that reporting can improve the organisation of data on complaints.

Insurance undertakings will have an incentive to improve the internal handling of complaints in terms of communication and solutions for tracking the complaints handling procedures. Thanks to the accumulation and dynamics of individual and aggregate figures year on year, specific failures related to a given type of contract or a given insurance undertaking may arise.

In addition, undertakings can have an additional incentive to improve quality of products and services provided, to reduce the volume of complaints. Economic behaviour research leads to conclusions that there is a direct relationship between corporate reputation and financial performance.

Regarding the reporting of complaints differentiated according to national criteria or own criteria, where relevant, currently there are requirements for the classification of complaints in the majority of Member States (based on current data provided by national competent authorities). The classification is elaborated either by the market, the ombudsmen, the supervisory authorities or the undertakings themselves. EIOPA considers it beneficial introducing a general requirement for the information on complaints to be provided to supervisory authorities or ombudsmen differentiated according to their national criteria or own criteria, where relevant, as better structured data can facilitate comparison with a view to efficient supervisory outcomes.

Potentially, the benefits could be material if complaints-handling procedures or product design improves. Complaints-handling could be improved through increased supervisory attention, but product design may only improve if the savings from claims avoided outweigh the costs of changing products.

### Cons

For undertakings in Member States where there is no such requirement already, there might be certain costs expected for undertakings while generating/providing the required information.

There might also be costs (initial and on-going) for those supervisory authorities/ombudsman, which currently do not require information on the

quantity of complaints by undertakings and the types of complaints differentiated according to national criteria or own criteria, where relevant.

### *Internal follow-up of complaints*

#### Pros

The proposed policy stimulates prompt, effective and on-going analysis of the root causes of complaints.

The proposed policy also provides incentives for industry to consider and commit to remedying such causes.

The proposed policy is aimed at helping ensure fair treatment to current and future customers.

#### Cons

Where there are no such requirements for undertakings to undertake root cause analysis, it might be expected that some initial and on-going costs would occur in the implementation of the proposed policy.

### *Information to consumers*

#### Pros

The proposed policy is intended to harmonise an existing practice in most Member States. According to data provided by national competent authorities, information on complaints-handling procedures and parties involved is compulsory in most Member States.

The means through which insurance undertakings provide this information, however, varies, as it can be through insurance undertakings' general policy or in the insurance contracts or in insurance undertakings' decisions on claims. With a view to fostering transparency of the complaints-handling process, EIOPA proposes that it should be made available in a manner easily accessible to all consumers.

In addition, the provision on the publication of the complaints-handling process creates incentives for undertakings to develop a quality process and a structured approach for complaints-handling, which enhances fairer treatment of consumers.

#### Cons

Only where there are no such requirements for insurance undertakings to provide information about the complaints-handling process to consumers, it might be foreseen that some initial and on-going costs are expected (e.g. communication, publication, software development, etc.).

### *Procedures for responding to complaints*

#### Pros

The proposed policy fosters timely response and action on complaints by insurance undertakings.

With regard to the actual timing of the responses to complaints, in a number of Member States (according to data provided by national competent authorities), there are already time-limits introduced and these are of a consistent nature. Therefore, the proposed policy highlights the need for undertakings to respond in the time limits set at national level.

#### Cons

Where there are no time limits introduced at national level or the principle for responding to customers complaints as soon as possible is not applied, there might be some costs associated with introducing internal procedures and the relevant communication paths.