

**EIOPA Final Report
on Public Consultation No. 13/006a
On the Proposal for Guidelines on
complaints-handling by insurance
intermediaries**

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1. Scope

- 1.1. This Final Report sets out the feedback to the Consultation Paper (CP) No. 13/006a, which provides an analysis of responses to the consultation including to the Opinion delivered by the Insurance and Reinsurance Stakeholders Group (IRSG), describes any material changes to the CP (or confirms that there have been no material changes), and explains the reasons for this in the light of feedback received.
- 1.2. It includes a feedback statement with EIOPA's opinion on the main comments received during the Public Consultation and the revised Guidelines.

2. Purpose

- 2.1. EIOPA is issuing Guidelines addressed to National Competent Authorities (NCAs) on complaints-handling by insurance intermediaries, to:
- (i) clarify the expectations relating to an insurance intermediary's internal control system as regards complaints-handling and possible follow-up and render it more effective;
 - (ii) provide guidance on the provision of information about complaints-handling procedures; and
 - (iii) give guidance on procedures for responding to complaints, thereby ensuring the adequate protection of policyholders.
- 2.2.1 The package in this Final Report reflects EIOPA's position on the comments received and includes:
- a) A Feedback Statement;
 - b) A Revised proposal of the Guidelines on complaints-handling by insurance intermediaries;
 - c) A revised Impact Assessment regarding the expected impact from the proposed policy; and
 - d) Resolutions on the individual comments received as part of the public consultation.

3. Feedback Statement

I. Introduction

3.1 On 5 April 2013, EIOPA published a Consultation Paper on a proposal for Guidelines and a Best Practices Report on Complaints-Handling by Insurance Intermediaries. EIOPA invited comments from interested parties by 28 June 2013. This document is a summary of the contributions received. EIOPA would like to thank its Insurance and Reinsurance Stakeholder Group (IRSG) and all participants to the public consultation for their comments on the draft Guidelines and Best Practices Report.

II. Consultation Paper

3.2 The aim of the Consultation Paper was to invite interested parties to comment on the proposed Guidelines and Best Practices Report on complaints-handling by insurance intermediaries. The responses received have provided important guidance to EIOPA in preparing a final version of the Guidelines and the Best Practices Report.

3.3 Using a template, respondents were invited to provide comments paragraph-by-paragraph on the Guidelines, general comments on the Best Practices Report and illustrate the nature and size of any costs and benefits related to the proposals under the Impact Assessment.

III. Responses to the Consultation

General comments

3.4 Overall comments were supportive of the idea of effective complaints-handling in order to enhance consumer protection and confidence, recognising the importance of it for the insurance sector. However, a number of responses received raised important policy issues regarding the need for the Guidelines to be proportionate in their approach given the large number of small entities involved in insurance mediation and the need for greater clarity in defining the scope of the Guidelines. Concerns were also raised about the interaction of the Guidelines with the proposal to recast the Insurance Mediation Directive (IMD2) and how they fit with existing external complaints-handling procedures, such as alternative dispute resolution (ADR) schemes. These comments are summarised in more detail below. In addition, all of the comments made were given careful consideration by EIOPA in Appendix 2: Resolution of consultation comments.

Statistics

3.5 EIOPA received a formal opinion from EIOPA's Insurance and Reinsurance Stakeholder Group (IRSG) pursuant to Article 37(6)¹ of its empowering Regulation² and 19 responses to the public consultation, for publication³.

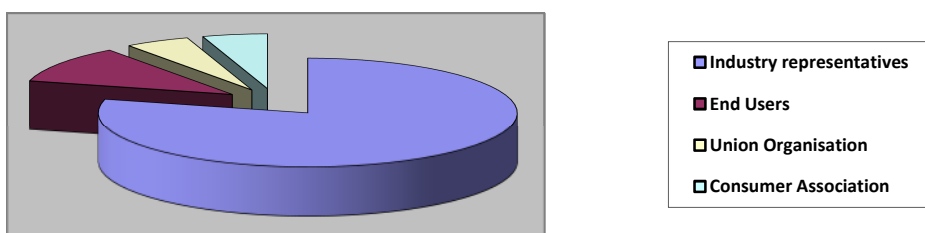
¹ "The Stakeholder Groups may submit opinions and advice to the Authority on any issue related to the tasks of the Authority with particular focus on the tasks set out in Articles 10 to 16, and Articles 29, 30 and 32".

² REGULATION (EU) No 1094/2010 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC

3.6 Respondents can be classified into four main categories: *Industry Representatives, Union organisations, End Users and Consumers*. Below is a summary of the responses received per type and per origin:

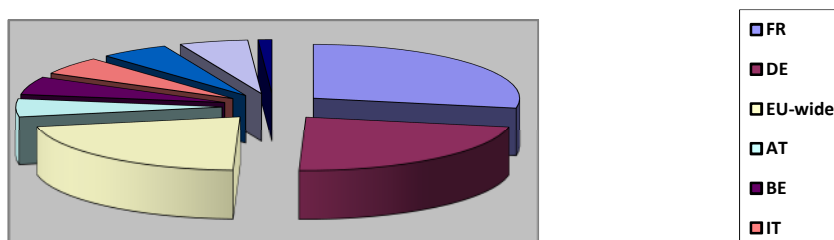
Respondents to public consultation per type

3.7 Contributions were received from 15 Industry representatives (79%), 2 End Users (11%), 1 Union organisation (5%) and 1 Consumer Association (5%).



Respondents to the public consultation per origin

3.8 Contributions were received from interested parties in 9 EU Member States (*FR: 26%, DE: 21%, AT: 5%, BE: 5%, IT: 5%, MT: 5%, NL: 5% and SE: 1%*) and, in 4 instances, from organisations on an EU-wide basis (20%).



IRSG opinion

3.9 In its formal opinion, the IRSG provided helpful general and specific observations on the Guidelines and Best Practices Report. Its general observations recognised the importance that effective internal complaints-handling plays in enhancing consumer protection and stressed the importance of insurance intermediaries having the ability to deal with complaints before they are referred to ADR. Concerns were raised about the need to apply the Guidelines in a manner which is proportionate to the size of insurance intermediaries, given that many are SMEs and the importance of ensuring coherence with future legislative developments, namely IMD2. Its specific observations echoed, to a large extent, the comments that were received from the 19 respondents (see below). EIOPA has sought to address the concerns raised by the IRSG both in its revised text of the Guidelines and Appendix 2: Resolution of consultation comments.

³ These responses and the IRSG opinion have been published on EIOPA's website: <https://eiopa.europa.eu/consultations/consultation-papers/index.html>

Specific comments on the Guidelines, Best Practices Report and Impact Assessment

3.10 The following is a summary of the key topics raised during the public consultation and EIOPA's consideration of these issues:

- **Proportionality⁴** – A number of comments were received, suggesting that the Guidelines would bring about disproportionate costs and bureaucratic burden because so many small entities (sole traders/one-man bands) are involved in the field of insurance mediation. In addition, comments were made regretting the lack of inclusion in the main text of the Guidelines of a proportionality principle, clarifying the application of the Guidelines with respect to small insurance intermediaries.

EIOPA has emphasised the proportionality principle in the introduction to the Guidelines, rather than the main text of the Guidelines for the following two main reasons:

- *The legal concept of proportionality is already recognised as one of the general principles of European Union law by the European Court of Justice, namely whether a measure is appropriate and necessary to achieve the objectives legitimately pursued. It is now captured in Article 5(4) of the consolidated version of the Treaty on European Union, which provides: "Under the principle of proportionality, the content and form of Union action shall not exceed what is necessary to achieve the objectives of the Treaties".*
- *EIOPA is of the view that it is important to allow competent authorities to interpret proportionality criteria at national level when supervising insurance intermediaries.*

EIOPA has also adapted the proportionality principle in paragraph 5 to take into account whether the insurance intermediary takes up or pursues the activity of insurance mediation as a principal professional activity or on an ancillary basis. In addition, EIOPA has clarified that, by nature, sole traders (i.e. natural persons) cannot mitigate conflicts of interest regarding the treatment of complaints.

- **Inclusion of parts of Best Practices Report in the Guidelines:** some comments were made regretting the fact that certain parts of the Best Practices Report, explaining the application of the Guidelines had not been included in the main text of the Guidelines. This point was raised, in particular regarding the sections of the Best Practices Report, dealing with the notion of "senior management" with regard to endorsement of the complaints management policy and organisation of the "complaints management function" in a sole trader.

The Guidelines are intentionally embodied as basic high-level principles whereas the Best Practices Report sets out how these high-level principles should be

⁴ N.B. The comments relating to "Scope" below are also linked to the issue of proportionality as the scope provisions in paragraphs 7, 8 and Guideline 1 of the draft Guidelines had been adjusted (compared to the EIOPA Guidelines on complaints-handling by insurance undertakings) in order to alleviate their impact by excluding certain types of complaints e.g. in relation to complaints about tied insurance intermediaries or non-insurance products from the scope of the Guidelines.

applied in practice. More specific cross-references to the sections of the Best Practices Report have been included in the introduction to the Guidelines and more emphasis has been placed on reading the Guidelines in conjunction with the Best Practices Report.

- **Scope of the Guidelines:** Notwithstanding the text in the Best Practices Report on the application of the "Scope" provisions in paragraphs 7, 8 and Guideline 1, a number of comments were received, suggesting that these provisions were confusing, did not alleviate the impact of the Guidelines on insurance intermediaries and did not take account of the fact that there is no provision for delegation/outsourcing by agreement e.g. under Solvency II i.e. for ensuring that intermediaries do not handle complaints where they have not received the relevant authority/empowerment from the insurer.

Guideline 1 has been amended to make clear that "insurance entity" means a "financial institution" to cover all possible scenarios when an insurance intermediary receives a complaint, including those cases when the complaint must be forwarded to an insurer or another financial institution. It has also been clarified that "insurance intermediary" in the context of Guideline 1 includes tied insurance intermediaries. EIOPA has also provided clarification in the Best Practices Report on the scope provisions in paragraphs 7, 8 and Guideline 1. In particular, a Decision Tree clarifying the precise scope of the Guidelines has been added to the Best Practices Report.

- **Definitions:** Some views were expressed regarding the content of the definitions in the introductory part to the Guidelines; in particular, the reasons why they had not been included in the main body of the Guidelines.

The definitions provided in paragraph 6 are "indicative only" and do not override equivalent national definitions. The reason for not including them in the main text of the Guidelines is to allow competent authorities flexibility to take account of national specificities when applying the Guidelines at national level. Since the definitions do not form part of the actual Guidelines, but just the introductory section, they are not subject to the "comply or explain" mechanism. Therefore, narrower or broader national definitions would not be considered non-compliant.

- **Scope of EIOPA's powers to issue Guidelines relating to complaints-handling by insurance intermediaries** – some comments were received, arguing that EIOPA was exceeding its legal powers by issuing Guidelines relating to internal complaints-handling procedures and creating legal uncertainty by developing an unnecessary parallel system to external complaints-handling (see below).

EIOPA is of the view that it has not exceeded its legal powers in issuing Guidelines on complaints-handling by insurance intermediaries. The intention of the Guidelines (which are, in any event, non-binding) is not to propose an alternative interpretation of Union law (in this case, Article 10, IMD1), but to "establish consistent, efficient and effective supervisory practices" amongst competent authorities. In order to create a level playing field for insurance intermediaries across the EU and ensure fair treatment of complainants by insurance intermediaries, there is a need for a consistent supervisory approach as regards applying internal complaints-handling by insurance intermediaries.

In view of the above, EIOPA is of the opinion that the Guidelines are complementary to IMD1, rather than a parallel system. Their objective is to put consumer protection and consumer confidence at the forefront of complaints-handling.

- **Better to wait for finalisation of legislative proposal to recast IMD1 (“IMD2”)** – comments were received, suggesting that given that negotiations are currently on-going in the EU institutions with regard to the IMD2 proposal, it would be premature for EIOPA to issue Guidelines on complaints-handling by insurance intermediaries. In particular, it was suggested that the relevant provision of the IMD2 proposal (Article 12) might have a material impact on the validity of the Guidelines.

The Guidelines are designed to be complementary to current EU legislation in force, namely IMD1 as Article 10, IMD1 contains a general clause on complaints-handling, which does not specifically envisage whether internal or external procedures should be set up. Furthermore, the fact that IMD1 was minimum harmonising meant there was no incentive to apply internal procedures. Article 12 of the IMD2 proposal, as published by the Commission, did not envisage any material change to Article 10, IMD1, other than an extension of this general provision to insurance undertakings. Where necessary, EIOPA could therefore update the Guidelines in the light of any material changes brought in by IMD2.

- **Lack of need for such Guidelines due to existing “external” complaints-handling procedures e.g. ADR schemes** – a number of comments were received, suggesting that there was no need for internal complaints-handling procedures as existing external complaints-handling procedures through automatic redirection of complaints to Ombudsmen, supervisory authorities etc. works just as well. The argument was also made that internal complaints-handling is less effective/impartial than external complaints-handling due to the potential for conflicts of interest between the person handling the complaint and the person managing the business.

EIOPA is of the view it is important for complainants to be afforded the opportunity to proceed through internal procedures first before resorting to ADR schemes. The implementation of complaints-handling procedures within insurance intermediaries allows complaints to be dealt with more efficiently as the intermediary should have direct access to information and evidence needed to investigate and resolve the complaint. In addition, the fact that intermediaries are required to handle complaints about their activities provides a strong incentive for them to treat their customers in a way that minimises the number of complaints that they receive.

- **Legal Status/Comply or Explain process:** A number of comments were raised about the legal status of the Guidelines, namely how they would apply in practice under the "comply or explain" process in Article 16 of EIOPA's Regulation and the grounds for competent authorities applying rules, which go beyond the boundaries of the Guidelines.

EIOPA would like to stress that Guidelines are non-binding instruments, which do not have to be implemented in the same way as an EU Directive. In this instance, they are addressed to Competent Authorities and it is up to them to organise the process of applying them at national level to insurance intermediaries. EIOPA will be publishing more detail on this issue in the future

e.g. making clear that if a competent authority applies a Guideline in a more detailed manner a national level, but ensures an equivalent or greater level of consumer protection, it is still compliant with the Guideline.

Comments on the Best Practices Report and Impact Assessment

- 3.11 Comments on the Best Practices Report (BPR) were generally supportive of its content, however, expressing at the same time, concerns that certain aspects of the BPR relating to proportionality had not been incorporated in the Guidelines (see above). The Best Practices Report has been amended so as to include a Decision Tree, clarifying the scope of the Guidelines as set out in paragraphs 7, 8 and Guideline 1.
- 3.12 A variety of comments were received regarding the expected costs and benefits of introducing the Guidelines. These were largely interlinked with the issue of ensuring that the Guidelines are proportionate to the nature and size of insurance intermediaries and the number of complaints that they receive. Based on the comments received and subsequent amendments to the Guidelines, a revised Impact Assessment has been published (see Appendix 1 of this Final Report).

4. Revised Guidelines

Introduction

1. According to Article 16 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC⁵ and taking into account Recital 22 and Article 10 of Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation (“IMD”)⁶, which provide for the following:
 - “There is a need for suitable and effective complaint and redress procedures in the Member States in order to settle disputes between insurance intermediaries and customers, using, where appropriate, existing procedures”⁷.
 - “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”⁸.
2. To ensure the adequate protection of policyholders, the arrangements of insurance intermediaries for handling all complaints that they receive should be subject to a minimum level of supervisory convergence.
3. These Guidelines shall apply from their final date of publication.
4. These Guidelines apply to authorities competent for supervising complaints-handling by insurance intermediaries in their jurisdiction. This includes circumstances where the competent authority supervises complaints-handling under EU and national law, by insurance intermediaries doing business in their jurisdiction under free provision of services or freedom of establishment.
5. Competent authorities should ensure a proportionate regime when applying these Guidelines that takes into account the nature and size of insurance intermediaries and whether the insurance intermediary takes up or pursues the activity of insurance mediation as a principal professional activity or on an ancillary basis. Proportionality is also illustrated in the Report on Best Practices by Insurance Intermediaries in handling complaints⁹ (“Best Practices Report”).

⁵ OJ L 331 15.12.2010 p. 48

⁶ OJ L 009 , 15/01/2003 P. 3 - 10

⁷ Recital 22

⁸ Article 10

⁹ EIOPA-BoS-13/171

6. For the purpose of the Guidelines below, the following indicative definitions, which do not override equivalent definitions in national law, have been developed:

- *Complaint* means:

A statement of dissatisfaction addressed to an insurance intermediary by a person relating to the mediation activities of the intermediary in accordance with the definition of “insurance mediation” in Article 2(3), IMD. Complaints-handling should be differentiated from claims-handling as well as from simple requests for execution of the insurance contract, information or clarification.

- *Complainant* means:

A person who is presumed to be eligible to have a complaint considered by an insurance intermediary and has already lodged a complaint e.g. a policyholder, insured person, beneficiary and in some jurisdictions, injured third party.

7. These Guidelines do not apply where:

- (i) an insurance intermediary receives a complaint about activities other than those regulated by the “competent authorities” pursuant to Article 4(2), EIOPA Regulation; or
- (ii) an insurance intermediary handles a complaint on behalf of another financial institution under the legal provisions applicable to that institution.

8. Where the Guidelines do not apply for the reasons set out in Paragraph 7(i), the intermediary should respond, where possible, explaining why he/she is not the right person to complain to.

9. It is important that these Guidelines are read in conjunction with the Best Practices Report, which illustrates the scope of the Guidelines and the process for insurance intermediaries handling complaints. This Best Practices Report also touches upon the complaints management policy and organisation of the internal complaints management function.

Guideline 1 – Ensuring the right institution deals with the complaint

10. Competent authorities should ensure that:
- a) Where a complaint is received by an insurance intermediary (for example, a tied insurance intermediary) for which another financial institution is responsible, and that insurance intermediary does not handle the complaint on behalf of that financial institution, the insurance intermediary should inform the complainant and direct the complaint to the relevant financial institution, where identifiable.
 - b) Where an insurance intermediary complies with Guideline 1, it shall not be required to handle the complaint under Guidelines 2 to 8.

Guideline 2 - Complaints management policy

11. Competent authorities should ensure that:
- a) Insurance intermediaries put in place a complaints management policy. This policy should be defined and endorsed by the insurance intermediary's senior management, who should also be responsible for its implementation and for monitoring compliance with it.
 - b) This complaints management policy is set out in a (written) document e.g. as part of a "general (fair) treatment policy" (applicable to actual or potential policyholders, insured persons, injured third parties and beneficiaries etc.).
 - c) The complaints management policy is made available to all relevant staff of the insurance intermediary through an adequate internal channel.

Guideline 3 - Complaints management function

12. Competent authorities should ensure that insurance intermediaries have a complaints management function which enables complaints to be investigated fairly and, with the exception of insurance intermediaries which are sole traders, possible conflicts of interest to be identified and mitigated.

Guideline 4 – Registration

13. Competent authorities should ensure that insurance intermediaries register, internally, complaints in accordance with national timing requirements in an appropriate manner (for example, through a secure electronic register).

Guideline 5 - Reporting

14. Competent authorities should ensure that insurance intermediaries are in a position to provide information on complaints and complaints-handling to the competent national authorities or ombudsman. This data should cover the number of complaints received, differentiated according to their national criteria or own criteria, where relevant.

Guideline 6 - Internal follow-up of complaints-handling

15. Competent authorities should ensure that insurance intermediaries analyse, on an on-going basis, complaints-handling data, to ensure that they identify and address any recurring problems, and potential legal and operational risks, for example, by:
- a) Analysing the causes of individual complaints so as to identify root causes common to types of complaint;
 - b) Considering whether such root causes may also affect other processes or products, including those not directly complained of; and
 - c) Correcting, where reasonable to do so, such root causes.

Guideline 7 – Provision of information

16. Competent authorities should ensure that insurance intermediaries:
- a) On request or when acknowledging receipt of a complaint, provide written information regarding their complaints-handling process.
 - b) Publish details of their complaints-handling process in an easily accessible manner, for example, in brochures, pamphlets, contractual documents or via the insurance intermediary's website.
 - c) Provide clear, accurate and up-to-date information about the complaints-handling process, which includes:
 - (i) details of how to complain (e.g. 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);
 - (ii) the process that will be followed when handling a complaint (e.g. when the complaint will be acknowledged, indicative handling timelines, the availability of a competent authority, an ombudsman or alternative dispute resolution (ADR) scheme etc.); and
 - d) Keep the complainant informed about further handling of the complaint.

Guideline 8 - Procedures for responding to complaints

17. Competent authorities should ensure that insurance intermediaries:
 - a) Seek to gather and investigate all relevant evidence and information regarding the complaint;
 - b) Communicate in plain language, which is clearly understood;
 - c) Provide a response without any unnecessary delay or at least within the time limits set at national level. When an answer cannot be provided within the expected time limits, the insurance intermediary should inform the complainant about the causes of the delay and indicate when the insurance intermediary's investigation is likely to be completed; and
 - d) 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 intermediary's position on the complaint and set out the complainant's option to maintain the complaint e.g. the availability of an ombudsman, ADR mechanism, national competent authorities, etc. Such decision should be provided in writing where national rules require it.

Compliance and Reporting Rules

18. This document contains Guidelines issued under Article 16 of the EIOPA Regulation. In accordance with Article 16(3) of the EIOPA Regulation, competent authorities and financial institutions shall make every effort to comply with guidelines and recommendations.
19. Competent authorities that comply or intend to comply with these Guidelines should incorporate them into their regulatory or supervisory framework in an appropriate manner.
20. Competent authorities shall confirm to EIOPA whether they comply or intend to comply with these Guidelines, with reasons for non-compliance, within two months after the date of publication.
21. In the absence of a response by this deadline, competent authorities will be considered as non-compliant to the reporting and reported as such.

Final Provision on Review

22. These Guidelines shall be subject to a review by EIOPA.

Appendixes

Appendix 1: Revised Impact Assessment

Part I

1. Procedural issues and consultation of interested parties

1.1. This document aims to provide the **Impact Assessment (hereafter, "IA")** on EIOPA's Guidelines on complaints-handling by insurance intermediaries. It is based on Recital 47 and Article 16(2), EIOPA Regulation¹⁰, which set out that:

- *"Before adopting (...) guidelines (...), the Authority [i.e. EIOPA] should carry out an impact study"¹¹;*
- *"The Authority shall, where appropriate, conduct open public consultations regarding the guidelines (...) and analyse the related costs and benefits. Such consultations and analyses shall be proportionate in relation to the scope, nature and impact of the guidelines (...)"¹².*

1.2. EIOPA is committed to implementing smart regulation principles when exercising its statutory powers as laid down in the European Commission's Communication of 2010 on "Smart Regulation in the European Union"¹³. Smart regulation promotes transparency and high-quality decision-making, through *ex ante* impact assessment and monitoring of the adequacy and effectiveness of the pieces of regulation as of their entry into force.

1.3. IA entails the adoption of a step-by-step methodology, the phases of which can be summed up as follows:

- (i) Problem(s) identification;
- (ii) Objective(s) definition;
- (iii) Listing of policy options and evaluation of their impacts;
- (iv) Comparison of policy options (in accordance with the envisaged benefits and costs associated therewith); and
- (v) Justification of preferred policy solution(s).

¹⁰ 'EIOPA Regulation' stands for Regulation (EU) no. 1094/2010 of the European Parliament and of the Council, dated 24 November 2010, which establishes the European Insurance and Occupational Pensions Authority (EIOPA) and governs its competence, organisation and functioning. EIOPA Regulation amended Decision no. 716/2009/EC and repealed Commission Decision 2009/76/EC.

¹¹ Recital 47, EIOPA Regulation.

¹² Article 16 (2), EIOPA Regulation.

¹³ Brussels, 8.10.2010 COM(2010) 543 final <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0543:FIN:EN:PDF>

1.4. Further to the approval of the Guidelines on complaints-handling by insurance undertakings¹⁴, EIOPA's Board of Supervisors (BoS) mandated the Committee on Consumer Protection and Financial Innovation (CCPFI) to work on Guidelines on complaints-handling by insurance intermediaries. For that purpose, CCPFI set up a subgroup which was tasked with preparing draft Guidelines. Member States were invited to provide written comments on successive versions of the Guidelines and to discuss their wording/ contents at CCPFI meetings. Thus, Member States were able to provide input according to their supervisory experience and regulatory expertise.

1.5. In order to anticipate and evaluate the impact the Guidelines would have upon persons such as consumers¹⁵ and other interested parties, insurance intermediaries and **national competent authorities (hereafter, "NCAs")**, EIOPA conducted a mapping exercise amongst CCPFI Members regarding existing national regulation on complaints-handling by intermediaries and its effectiveness. The evidence put forward in this IA was mainly collected from the responses to the mapping exercise. **The conclusions drawn from the survey are described in Part II of this Impact Assessment¹⁶.**

1.6. It is important to note that the IA focuses on the eight Guidelines which – upon approval by the Board of Supervisors – are intended to be subject to the 'comply or explain' reporting procedure, as stipulated by Article 16(3), EIOPA Regulation¹⁷. Due to the fact that:

- The introductory paragraphs to the Guidelines (numbered 1 to 9) are not subject to the "comply or explain" reporting procedure¹⁸; and

¹⁴ The Guidelines on complaints-handling by insurance undertakings (available at the following hyperlink: <https://eiopa.europa.eu/publications/eiopa-guidelines/index.html>) were approved by the BoS meeting in June 2012. The draft Guidelines were submitted to public consultation from November 2011 to January 2012 (see the consultation documents at <https://eiopa.europa.eu/consultations/consultation-papers/2011-closed-consultations/november-2011/guidelines-on-complaints-handling-by-insurance-undertakings/index.html>).

¹⁵ **The Guidelines include indicative definitions of certain key terms ("complaint" and "complainant"); however, competent authorities are not required to use these definitions and they do not override those used in national law. The Guidelines do not seek to prescribe who is able to make a complaint. This is a matter for the discretion of competent authorities acting within their national law. The Impact Assessment uses the terms "consumer" and "customer" depending on the context as there are both references in the Impact Assessment to persons who deal with insurance intermediaries generally and references to persons whom a national competent authority might determine to be eligible to make a complaint under the Guidelines. N.B. It is recognised that, at national level, other terms such as "policyholder", "insured person", "beneficiary", "injured third parties" and "consumer associations" might be equally appropriate.**

¹⁶ Please refer to pages 21-26 of this document.

¹⁷ Pursuant to Article 16(3), EIOPA Regulation, *"The competent authorities and financial institutions shall make every effort to comply with those guidelines and recommendations. Within 2 months of the issuance of a guideline (...) [the relevant date is the date when the translations of the Guidelines into the official languages of European Union are published], each competent authority shall confirm whether it complies or intends to comply with that guideline (...). In the event that a competent authority does not comply or does not intend to comply, it shall inform the Authority [i.e. EIOPA], stating its reasons"*.

¹⁸ For example, competent authorities do not need to report to EIOPA the fact that they adopt a different definition of "complaint" from the one suggested in the Introduction to the Guidelines (see paragraph 6 of the Guidelines)

- Impact assessments produced by EIOPA should be “proportionate in relation to the scope, nature and impact of the Guidelines” (Article 16(2), EIOPA Regulation),

the contents of the ‘Introduction’ to the Guidelines are excluded from the scope of this IA.

1.7. EIOPA conducted the public consultation of the IA of the draft guidelines, posing the following questions:

1. What benefits/positive impacts do you expect to flow from the introduction of these Complaints-Handling Guidelines?

2. Please provide your estimate of the expected:

a) One-off costs associated with an insurance intermediary’s senior management overseeing the complaints-handling process?

b) One-off costs for the introduction of the registration system for complaints-handling?

c) On-going costs associated with an insurance intermediary’s senior management overseeing the complaints-handling process?

d) On-going costs for the introduction of the registration system for complaints-handling?

3. Do you foresee any other costs/negative impacts from the proposed policy options which we should take into consideration?

1.8. EIOPA received comments from the Insurance and Reinsurance Stakeholder Group (hereinafter, IRSG), industry representatives, end users, one union organisation and one consumer association (please refer to point 3.2. of the *summary of responses feedback* document).

1.9. EIOPA’s resolutions on the received comments regarding the IA can be consulted in the document entitled *Resolutions on the Public Consultation Comments* (please see rows 141 to 174).

1.10. The IA presented to the public consultation was reviewed so as to encompass the comments received by the respondents to the public consultation.

2. Problem definition

2.1 It is recognised that, in the financial sector, there is typically an asymmetry of information between the entities which offer the products and services and the consumers who purchase them. Asymmetry of information is classically considered a **market failure** since it is seen as an example of a departure from the notion of a perfectly efficient market.

In particular, the insurance industry has evolved to design products aimed at purposes other than mere risk coverage e.g. investment and money saving. As a consequence, insurance contracts are typically complex and

present risks that may not be easily perceived by the average consumer. Undoubtedly, intermediaries play a pivotal role in providing the consumer with the necessary information and clarifications as well as to advise which products best match the consumer's needs and expectations. Some intermediaries may also give advice on the basis of a fair analysis of a sufficiently large number of insurance contracts available on the market.

Although intermediation (as opposed to marketing by direct writers i.e. insurance undertakings) is the most prominent distribution channel across Europe, consumers are not always provided with adequate mechanisms to complain about intermediaries' advice and selling practices.

Furthermore, it should be noted that consumers are often not in a position, because of a lack of information or knowledge, to lodge a complaint with the right person. The intermediary typically has more or better information at his/her disposal, compared to the consumer (asymmetry of information (as referred to above with respect to "market failure"). This asymmetry of information can allow an intermediary to provide advice or to push a sale that meets his/her demands and needs rather than the consumer's (for example, selling a product that increases their remuneration, but is not suitable for the consumer). This conflict of interest, if not addressed, can lead to poor/inappropriate insurance sales for consumers, with associated detrimental outcomes.

- 2.2** Pursuant to Article 10, IMD1¹⁹ ["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"*.

Although Article 10, IMD1 helped to create a minimum level of harmonisation in the area of complaints-handling procedures, it was not sufficiently detailed in the sense that it did not state that complaints-handling procedures should be set up by insurance intermediaries. The fact that Article 10, IMD1 was minimum harmonising meant that there was no incentive for Member States to go further in applying Article 10, IMD1 to complaints-handling procedures within insurance intermediaries. This, in turn, has led to a very wide variety of different regulatory solutions at national level in areas such as procedures for complaints-handling by insurance intermediaries. The way Article 10, IMD1 was drafted is thus seen as having generated a **regulatory failure** at EU level since, although it was intended to have beneficial effects in the area of complaints-handling, it generated unforeseen or unintended consequences.

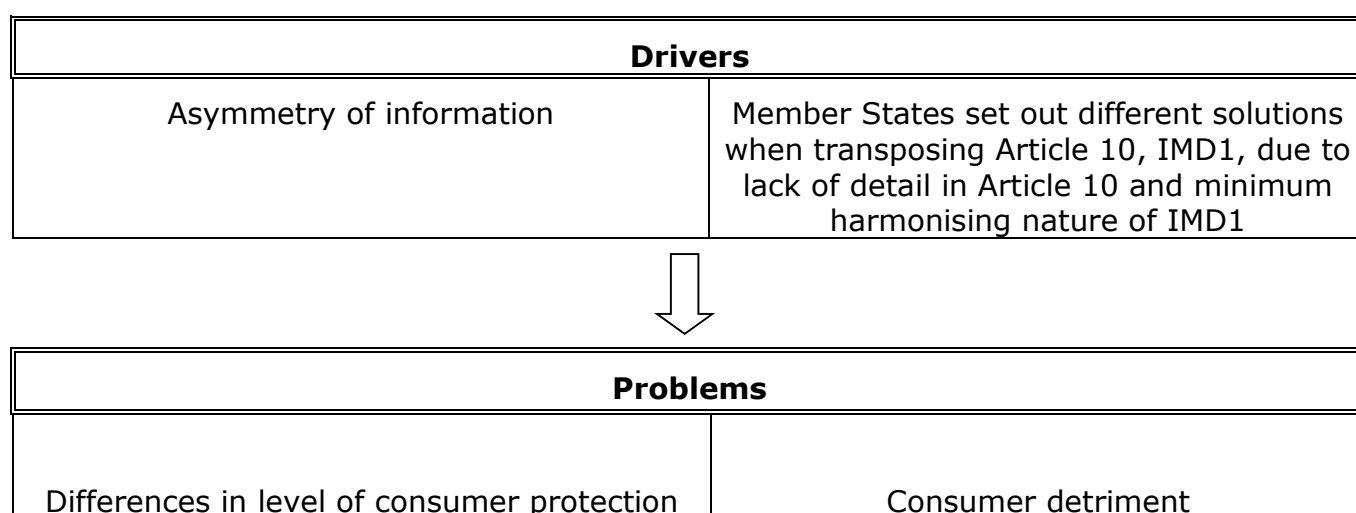
As a consequence, different rules apply depending on the jurisdiction where the insurance intermediary was incorporated, registered or operates. This leads to different supervisory approaches and may also lead to regulatory arbitrage (where compliance and operational costs vary significantly from one jurisdiction to another). Different supervisory approaches may constitute barriers to integration and sound competition between insurance intermediaries across the European market.

¹⁹ IMD1 stands for 'Insurance Mediation Directive': Directive 2002/92/EC of the European Parliament and of the Council, of 9 December 2002.

In the context of cross-border trade, consumers are granted more or less protection depending on the rules applicable to the intermediary they have come in contact with. This may lead to consumer detriment as consumers' complaints may not be handled properly when the intermediaries registered in one jurisdiction are not subject to adequate market conduct rules.

Appropriate complaints-handling can increase the likelihood that a consumer, if they are not treated appropriately by an intermediary, will obtain redress. This in turn incentivises intermediaries to act in the consumer's interests. In this way, the Complaints-Handling Guidelines help to address conflicts of interest between consumers and insurance intermediaries and thus improve the quality of redress and sales for consumers.

2.3 Following the aforementioned IA methodology²⁰, EIOPA defined the following 'problem tree':



3. Objectives pursued

Bearing in mind the problems identified in the previous section, the issuance of the Guidelines aims to:

- (i) Create a level playing field for insurance intermediaries across the EU;
- (ii) Ensure fair treatment of complainants by insurance intermediaries.

These policy objectives are related to EIOPA's statutory competence in the context of the European System of Financial Supervision²¹. According to Article 1(6), EIOPA Regulation, "*the Authority shall contribute to: (a) improving the functioning of the internal market, including, in particular, a*

²⁰ Please see point 1.3. of 'Procedural issues and consultation of interested parties' above.

²¹ According to Article 2(1), EIOPA Regulation, "*The main objective of the ESFS [European System of Financial Supervision] shall be to ensure that the rules applicable to the financial sector are adequately implemented to preserve financial stability and to ensure confidence in the financial system as a whole and sufficient protection for the customers of financial services*".

sound, effective and consistent level of regulation and supervision....(d) preventing regulatory arbitrage and promoting equal conditions of competition.....(f) enhancing customer protection"²². Furthermore, pursuant to Article 16(1), EIOPA Regulation, EIOPA is empowered to promote "consistent, efficient and effective supervisory practices" as well as to ensure "the common, uniform and consistent application of Union law"²³.

4. Policy options and Analysis

The following key policy options have been considered in the process of developing Guidelines in order to mitigate the identified failures and achieve the mentioned objectives.

Below there is an overview of the impacts and expected costs and benefits resulting from the adoption of the proposed Guidelines.

Option 1: To develop Guidelines on complaints-handling by insurance intermediaries similar to those for complaints handling for insurance undertakings, with adjustments where appropriate

The discussion on whether to develop the Guidelines for insurance intermediaries was first held when preparing the Guidelines on complaints-handling by insurance undertakings. At that time, it was discussed whether a comprehensive regime (i.e. covering both insurance undertakings and insurance intermediaries) should be adopted.

- a) In the process of discussions and deliberations, it was agreed that the preferred option is to draw up different pieces of regulation for each type of participants in the insurance sector. This way, more attention would be placed on the specificities of each type of insurance market participant. Once the Guidelines concerning insurance undertakings were approved, EIOPA discussed whether to proceed with the drafting of Guidelines for insurance intermediaries.

- b) It was agreed that, once the Guidelines on complaints-handling by insurance undertakings were approved, work should commence on Guidelines on complaints-handling procedures within or concerning insurance intermediaries in order to ensure that there is a comprehensive European

²² Pursuant to Recital 10, EIOPA Regulation, "The Authority should protect public values such as (...) the protection of policyholders (...)".

²³ According to Recital 7, EIOPA Regulation, "The Union cannot remain in a situation (...) where different interpretations of the same legal text exist". Quoting Recital 10 of the same Regulation, "The Authority should (...) prevent regulatory arbitrage, guarantee a level playing field (...) for the benefit of the economy at large, including financial institutions and other stakeholders, consumers and employees. Its tasks should (...) include promoting supervisory convergence (...)"'. EIOPA Regulation states that 'ensuring the correct and full application of Union law is a core prerequisite for the integrity, transparency, efficiency and orderly functioning of financial markets, the stability of the financial system, and for neutral conditions of competition for financial institutions in the Union' [see Recital 26] and that 'The Authority should actively foster supervisory convergence across the Union with the aim of establishing a common supervisory culture' [please refer to Recital 39]

regime covering both insurance undertakings and insurance intermediaries. (N.B. This was also reflected in EIOPA's 2012 Work Programme, which envisaged a specific workstream on Guidelines relating to insurance intermediaries). The Guidelines should be duly coordinated with the ones that had been approved for insurance undertakings so as to ensure consistency and compatibility between both complaints-handling systems.

- c) As with the approach taken for insurance undertakings, EIOPA decided to focus on internal complaints-handling procedures for insurance intermediaries. The implementation of complaints-handling procedures within financial entities allows complaints to be dealt with more efficiently as the intermediary should have direct access to information and evidence needed to investigate and resolve the complaint. **EIOPA considered whether it would be more cost effective for smaller intermediaries (such as sole traders), simply to re-direct complaints straight to ADR schemes (such as an independent ombudsman). However, in order to ensure timely, efficient and consistent complaints-handling and encourage greater supervisory convergence and a level playing field, it was felt that it was important to ensure that all intermediaries adopt appropriate internal complaints-handling arrangements. The fact that intermediaries are required to handle complaints about their own activities provides a strong incentive for them to treat their customers in a way that minimises the number of complaints that they receive. Therefore, although the Guidelines do not preclude the re-direction of complaints to an ADR scheme since they are not legally binding, this not the objective of the Guidelines, which is to promote internal complaints-handling by insurance intermediaries.**
- d) The implementation of internal procedures prevents segregation between those who deal with consumers and those who handle their complaints. In this way, complaints-handling becomes less time-consuming and more efficient (as there is no need to provide information to the external financial institution that is responsible for responding to the complainant) and contributes to preventing (or correcting) malpractice within the intermediary since the intermediary becomes more aware of the root causes of dissatisfaction deriving from its mediation activity. In short, therefore, internal procedures help intermediaries become more aware of their duties and contribute to averting reputational damage. Sound market conduct by intermediaries also generally helps to enhance consumer confidence and contributes indirectly to reinforcing confidence in the insurance sector.
- e) Although it was decided to include all insurance intermediaries under the scope of the Guidelines, special attention was drawn to financial institutions which do not hold responsibility for the subject-matter of the complaint. In those cases, the complaint should be directed to the relevant financial institution, which will handle the complaint thereafter. EIOPA opted not to refer to the categories of insurance intermediaries set out in IMD1 (notably,

tied agents²⁴) in order to adjust to the different national market structures. This way, the complaint will be handled in light of the rules applicable to the financial institution to which the complaint was forwarded (see Guideline 1).

- f)** Bearing in mind that EIOPA intends to promote supervisory convergence (refer to the objectives listed above), Guidelines are the most suitable legal instrument to achieve that objective. According to Article 16(1), EIOPA Regulation: *"The Authority shall, with a view to establishing consistent, efficient and effective supervisory practices within the ESFS [European System of Financial Supervision], and to ensuring the common, uniform and consistent application of Union law, issue guidelines (...) addressed to competent authorities or financial institutions"*.
- g)** The Guidelines are addressed to the national supervisory authorities (and not to insurance intermediaries) so as to give flexibility for competent authorities to apply the rules on complaints-handling procedures. Moreover, some aspects may be subject to further clarification/ specification in national pieces of regulation (for example, the time limits for the insurance intermediary to respond to the complainant).
- h)** In terms of expected costs, it is expected that NCAs will have to incur significant costs with supervising insurance intermediaries and may be forced to re-organise their supervisory practices so as to monitor compliance with the Guidelines by insurance intermediaries²⁵. This notwithstanding, one respondent to the public consultation did not agree with this assessment and believes that only marginal costs will be associated with supervising additional requirements.
- i)** The adoption of the Guidelines is a necessary condition for the achievement of the objective of establishing a level playing field with regard to complaints management within insurance intermediaries. Guidelines should also, through the action of NCAs, improve complaints-handling and, as a result, mitigate conflict of interests between intermediaries and consumers.
- j)** In its response to the public consultation, the IRSG mentioned that the introduction of harmonised internal complaints-handling procedures is expected to reinforce consumers' confidence and to ensure similar levels of consumer protection throughout the EU (thus contributing to achieving the objectives listed above). Another respondent pointed out the greater degree of consistency and harmonisation as a positive consequence deriving from the guidelines.
- k)** It should be pointed out that most respondents to the public consultation highlighted that a proportionality-based approach should be considered. It

²⁴ In some jurisdictions, sub-agents may also be included under the category of insurance intermediaries which do not hold full legal or regulatory responsibility for their activity.

²⁵ As concluded in the questionnaire (please refer to Part II, p. 25-26), most NCAs will have to start monitoring intermediaries with regard to new regulatory provisions.

was even suggested that the proportionality principle should be clearly stated in the guidelines, thus being subject to the “*comply or explain*” procedure as governed in Article 16, EIOPA Regulation.

- I) Considering that the application of the proportionality principle (enshrined in Article 5 of the consolidated version of the Treaty on European Union) was already taken in to consideration during the policy development process, no changes were introduced to the content of the guidelines themselves. Despite this, EIOPA decided to introduce some clarification in paragraph 5 of the introduction to the guidelines to emphasize that this principle should be taken into account by NCAs when monitoring and supervising their application by the insurance intermediaries. EIOPA explicitly differentiates between intermediation activities being carried out on a principal or ancillary basis (please refer to point 3.4 of the *Summary of the responses received*).

Option 2: whether to implement a complaints management function

CCPFI members discussed whether to implement a complaints management function within insurance intermediaries. The implementation of this function was established in the Guidelines on complaints-handling by insurance undertakings. Therefore, it was considered if it was reasonable to impose this on insurance intermediaries as well.

- a) The aim of the complaints management function is to ensure that the objective of fair treatment of complainants is pursued in a systematic and uniform manner, thus also ensuring that the insurance intermediary is in a position to handle effectively any complaint he receives. This function is expected to facilitate fair investigation of complaints as well as to mitigate possible conflicts of interest. Moreover, the complaints management function is expected to help improve selling and advice practices by fostering a systematic analysis and treatment of complaints.
- b) Arguing against the adoption of the complaints-handling function, some CCPFI members suggested that it would be cumbersome for insurance intermediaries and it would not be feasible in small insurance intermediaries. These Members emphasised that imposing this function might entail that insurance intermediaries would be forced to hire employees who would devote themselves to complaints management or even restructure their business so as to accommodate the referred function²⁶.
- c) One respondent to the public consultation stated that the implementation of a complaints management function will lead to significant costs for intermediaries. Moreover, it will not be feasible for small structures which constitute the overwhelming majority of registered intermediaries. It will also be time-consuming and lead to a reorganisation of the intermediaries' internal structure.

²⁶ Please refer to number 2 of subpara. b) of Part II of this Impact Assessment, p. 24.

- d)** Another respondent commented that the costs associated with an insurance intermediary's senior management overseeing the complaints-handling procedure will be low. According to this respondent, for most SMEs, effort will be approximately one hour per month.
- e)** EIOPA does not intend to impose a heavy burden on intermediaries' freedom of operation. However, EIOPA recognises that, in many cases, internal reorganisation may be necessary within insurance intermediaries (primarily on those which do not have internal procedures in place) in order to ensure full compliance with the principles in the Guidelines. This will entail on-going costs, which may be perceived as significant for smaller businesses.
- f)** Bearing in mind that most Member States have implemented external procedures only²⁷, most intermediaries will have to incur one-off costs in adapting internal systems to accommodate a new function. Small insurance intermediaries (which constitute the overwhelming majority of registered players) will be particularly affected by the implementation of this function as conflicts of interest may be more likely to occur since the person responding to the complaint may well be the person whose activities the complaint relate to.
- g)** The main costs involved will be operational. In fact, intermediaries will have to include a new function in their businesses, which may be time-consuming and lead to redistribution of internal responsibilities/ processes within their organisation models.
- h)** The implementation of the complaints management function is in line with the definition of a complaints management policy. This policy should be drawn up in a written document and be duly endorsed by the senior management of the insurance intermediary. The involvement of the senior management confers a quality (and responsibility) assurance element to the internal procedures as senior management involvement may also increase incentives to comply and thus increase the overall likelihood of compliance with the Guidelines. No significant costs are associated with implementing such a complaints management policy²⁸.
- i)** One respondent to the public consultation acknowledged as a positive aspect of introducing the Guidelines that the complaints management function will be in a position to analyse the complaints trends as well as to provide input and advice to the senior management.
- j)** In the public consultation, it was mentioned that the content of the Best Practices Report (BPR) – especially concerning the notion of “senior management” and the organisation of the “complaints management function” – should be included in the text of the guidelines. EIOPA decided not to follow such a suggestion because the BPR aims at clarifying the content of the Guidelines but is not meant to be a legally binding instrument. Despite this, references to the BPR were included in the introduction to the guidelines and

²⁷ Please see the figures indicated in numbers 1 and 2 of subpara. a) of Part II of this Impact Assessment, pp. 21-22.

²⁸ In fact, establishing written procedures is not considered to entail significant costs. Refer to page 24 of the report on the mapping exercise on complaints-handling by insurance intermediaries [see number 2 of subpara. b) of Part II of this Impact Assessment].

it is now mentioned that the Guidelines should be read in conjunction with the BPR.

Option 3: whether to establish a similar regime to the one designed for insurance undertakings as regards fair treatment of complainants

It has been considered whether insurance intermediaries should be subject to the same obligations as the ones already defined for insurance undertakings e.g. obligations connected with registration, internal follow-up of complaints-handling, provision of information and response to complaints.

- a) EIOPA suggests that insurance intermediaries should comply with some principles when dealing with consumers. These obligations are common to the ones previously set for insurance undertakings and refer to:
 - (i) Registration;
 - (ii) Internal follow-up of complaints-handling;
 - (iii) Provision of information; and
 - (iv) Procedures for responding to complaints (please refer to Guidelines 4 and 6 to 8).

- b) EIOPA acknowledges that intermediaries will have to incur costs, potentially from internal reorganisation, in complying with these Guidelines; however, it is considered that the benefits (cited below) outweigh these costs.

- c) Some respondents stated that costs will depend on the size of the business. Named costs relate to legal advice, staff training and hiring and daily office tools (including forms and checklists).

Costs

- d) From the cited obligations, registration is foreseen to have the most significant impact on insurance intermediaries. Intermediaries may have to incur some initial one-off costs in order to implement an adequate registration system. On-going costs are also expected with regard to the maintenance and update of the registration system. Once again, small intermediaries will be particularly affected in terms of costs by the need to comply with registration obligations.

- e) One respondent stated that costs associated with the registration obligation will be kept within reasonable limits and to a certain extent depend on the way complainants prefer to complain – either via e-mail, telephone, letter or face-to-face.

- f) Other obligations are expected to primarily lead to initial one-off operational costs. In fact, insurance intermediaries will have to implement standard practices when handling complaints received. Considering that most Member States have implemented external procedures, the Guidelines under analysis will represent new obligations upon insurance intermediaries.

Some of the on-going costs of handling complaints (internal follow-up of complaints and responding to complaints) are variable costs that increase with the number of complaints; these costs would be expected to fall as firms improve their practices and the number of complaints would also fall.

Benefits

- g)** The costs of implementing and maintaining valid registration systems are outweighed by the benefits arising thereof. In fact, registration facilitates access to information on complaints processes and allows the systematic analysis of their contents and the gathering of statistical information about the complaints management function. It also enables improved collaboration with NCAs and more efficient supervision as a result.
- h)** With this regard, one respondent to the public consultation mentioned that trackable registration systems are able to improve the efficiency of the complaints-handling procedures.
- i)** For other obligations, EIOPA foresees that the imposition of such obligations will help enhance awareness among intermediaries of the importance of conducting proper market practices in order to prevent reputational risk. It is expected that consumer confidence will be improved. Policyholders (and other interested parties) will be able to lodge their complaints with the financial institution which they have sought to be advised by or to purchase an insurance product, expecting it to deal with the complaint adequately²⁹. This way, EIOPA expects to promote fair treatment of claimants, which is one of the objectives outlined for the enactment of the Guidelines under analysis.
- j)** Benefits related to enhanced consumer protection are not expected to be noticeable forthwith (as new procedures will have to be assimilated and adjusted to the business of insurance intermediaries). Once complaints-handling procedures are fully implemented within insurance intermediaries, the latter will be able to learn from the complaints, prevent reputational and legal risks and improve market conduct, which should improve outcomes for consumers. In this way, consolidated practices will promote a high level of consumer protection in Europe.
- k)** One respondent stressed that it will be a positive consequence of the introduction of the Guidelines that there will be more information on the intermediary's complaints-handling procedure, which will improve transparency and is likely to better manage the consumers' expectations concerning current or potential complaints.
- l)** The IRSG acknowledged as a positive effect deriving from the enactment of the guidelines that in the event of the failure of reaching a satisfactory resolution of the complaint, the complainant should be informed of existing means of redress (ombudsman, ADR mechanisms etc.).

²⁹ Please note that some respondents to the questionnaire highlighted that enhanced consumer protection is expected from the implementation of the guidelines on complaints-handling by insurance intermediaries (see page 25).

Option 4: whether to establish a similar regime to the one set out for insurance undertakings as regards reporting to the NCA/Ombudsman

CCPFI members discussed whether it was justified to impose reporting obligations on insurance intermediaries.

- a)** The main purpose in imposing reporting obligations on insurance intermediaries is to provide the NCA or the ombudsman with aggregate and updated information on the exercise of the complaints management function. This data will help supervisory activity and incentivise intermediaries to analyse and control the number and type of complaints against them. Therefore, it is a useful tool for controlling whether adequate treatment of consumers (and other interested parties) is being actually accomplished by insurance intermediaries. (N.B. One of the objectives pursued by issuing the Guidelines is to promote fair treatment of policyholders, insured persons, beneficiaries and injured third parties).
- b)** Despite this, with regard to reporting obligations, a different wording from the Guidelines on complaints-handling insurance undertakings was adopted³⁰. In fact, instead of imposing that intermediaries should provide data on complaints and complaints-handling, the Guidelines simply set out that intermediaries should be in a position to provide information. This policy decision aims to avoid imposing burdensome and periodic reporting obligations on intermediaries, which has also the advantage of preventing that national supervisory authorities have to receive and handle massive reporting flows. Supervision of compliance with this guideline should be carried out by on-site inspections or specific requests for the intermediary to provide information to the NCA.
- c)** Considering that EIOPA does not impose the obligation to provide national authorities with information on complaints and complaints-handling, no material costs are expected to be incurred by insurance intermediaries.

³⁰ For ease of reference, please note that Guideline 4 of the Guidelines on complaints-handling by insurance undertakings sets out that "Competent authorities should ensure that insurance undertakings provide information on complaints and complaints-handling to the competent national authorities or ombudsman".

Part II: Report on the mapping exercise on complaints-handling by insurance intermediaries

The CCPFI’s subgroup on complaints-handling by insurance intermediaries prepared a questionnaire in order to help build an evidence base for the IA, which accompanied the development of the Guidelines.

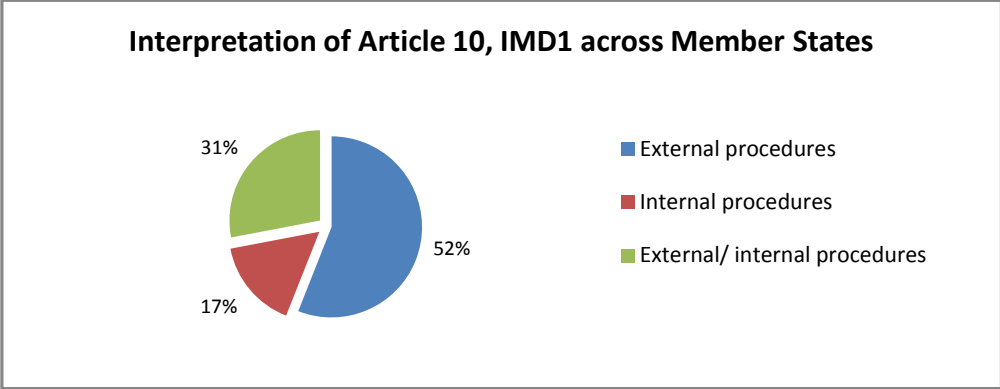
The questionnaire was responded to by **29 out of the 30 EU/EEA³¹ Member States (hereafter referred to collectively, for the purposes of this Part II, as “Member States”)**.

a) National implementation of IMD1 with regard to complaints-handling procedures

- 1. The subgroup wanted to know how Article 10, IMD1 had been interpreted at national level (*i.e.* how Member States had transposed it into their national legal systems) – in particular, whether the aforementioned article had been construed as referring to external and/or internal complaints-handling procedures.

For the purposes of the survey, ‘internal’ complaints-handling was meant to refer to the procedures conducted within and by the insurance intermediary only. In turn, ‘external’ procedures refer to the handling of complaints by insurance undertakings (the ones the intermediary is connected with) and/or the referral of complaints, for instance, to NCAs, Ombudsmen, other public institutions or ADR³² schemes.

According to the questionnaire, fifteen respondents³³ have understood Article 10, IMD1 as applying to external complaints-handling procedures only. Nine Member States³⁴ have combined both internal and external procedures. In turn, five Member States³⁵ answered that Article 10, IMD1 referred to internal procedures only.



³¹ EEA: acronym for ‘European Economic Area’.
³² ADR: ‘Alternative Dispute Resolution’.
³³ AT, BE, BG, CY, CZ, DE, FI, GR, IE, IS, IT, LI, LT, NO and PL.
³⁴ DK, FR, LU, LV, MT, PT, RO, SE and SI.
³⁵ EE, HU, NL, SK and UK.

2. Member States were asked whether – notwithstanding Article 10, IMD1 - they have enacted more detailed national rules governing complaints-handling within or concerning insurance intermediaries.

Half of respondents³⁶ do not have more detailed national rules, whereas the other half³⁷ have gone beyond the content of Article 10, IMD1.

Among the Member States that have more detailed rules, there are four Member States where procedures are governed by rules which have a broader scope of application, i.e. rules which do not intend to specifically govern complaints-handling concerning insurance intermediaries³⁸.

3. Member States were questioned whether they have set the same rules regarding internal complaints-handling by insurance undertakings and intermediaries.

From the respondents which have implemented internal procedures³⁹, nine Member States⁴⁰ referred to the fact that they have the same provisions both for insurance undertakings and insurance intermediaries. Five Member States⁴¹ stated they have set different rules for both insurance undertakings and insurance intermediaries.

4. Member States, which have established internal complaints-handling procedures, were asked whether they have different national rules depending on the categories of the insurance intermediaries or other proportionality-based criteria (e.g. size or business complexity).

Two Member States have set different internal procedures regimes according to the categories of insurance intermediary. In fact, one respondent⁴² has excluded tied agents from the scope of the rules on internal complaints-handling procedures. The other respondent⁴³ has stipulated that only independent intermediaries (i.e. brokers) should implement internal procedures, whereas intermediaries which are more or less connected with the insurance undertaking (agents and tied agents) are not legally obliged to have internal complaints-handling procedures.

³⁶ AT, BG, CY, DE, DK, GR, IS, IT, LU, LV, MT, NO, PL, SI.

³⁷ BE, CZ, DE, EE, FI, FR, HU, IE, LI, LT, NL, PT, RO, SE, SK, UK. Please note that CZ and IE have extended national rules to internal complaints-handling procedures, even though Article 10, IMD1 implementation covered only external complaints-handling (see footnote 31 above).

³⁸ CZ, FI, LT (in these Member States, the external procedures in place for handling complaints about insurance intermediaries are governed by general rules on public administration and/ or consumer protection) and PT [national law prescribes that all intermediaries shall have a complaints book (which follows a pre-determined model) where customers are allowed to register their complaints. The complaints written down in the book shall be directed to the NCA, which will handle with the complaints from then on. The obligation to have a complaints book is imposed, among other entities, on all establishments of insurance undertakings and insurance intermediaries].

³⁹ According to data previously indicated, 5 Member States have implemented internal procedures only and 9 have implemented combinations of internal and external procedures.

⁴⁰ EE, FR, HU, IE, LU, NL, SE, SI, UK. It should be noted that in LU and SE, rules for insurance undertakings and insurance intermediaries are set in different legal instruments but their contents are similar.

⁴¹ CZ, LV, PT (there are more detailed rules on internal procedures within insurance undertakings), RO and SK.

⁴² HU.

⁴³ PT. The complaints regarding agents and tied agents are handled with by the corresponding insurance undertakings. As a consequence, the management of those complaints is governed by the provisions on complaints-handling by insurance undertakings. This notwithstanding, it should be noted the obligation of having a complaints book is applicable regardless of the category of the insurance intermediary.

There was unanimity on not setting different rules based on other proportionality criteria⁴⁴.

5. Member States which have implemented internal complaints-handling procedures were asked whether those rules focus on: complaints management policy; complaints management function; registration; reporting; internal follow-up of complaints handling; provision of information; procedures for responding to complaints. These topics are the ones the Guidelines on complaints-handling by insurance undertakings refer to. The questions aimed to assess to what extent current internal procedures match the same requirements as the ones EIOPA has already defined for insurance undertakings.

- Most Member States have rules regarding a 'complaints management policy' being put in place by insurance intermediaries⁴⁵.
- Eight Member States do not have rules on a 'complaints management function' within insurance intermediaries⁴⁶.
- Most respondents have national provisions on registration of complaints⁴⁷.
- Ten Member States do not have rules which ensure that intermediaries provide information about complaints or complaints-handling to NCAs or ombudsman⁴⁸.
- Nine respondents do not have rules in place for ensuring that insurance intermediaries analyse, on an on-going basis, complaints-handling data (for example, assessing the root causes of complaints and taking preventive or remedial action)⁴⁹.
- With more or less detail⁵⁰, the respondents require that insurance intermediaries provide information about the complaints-handling procedures in place. Some of these provisions result from the transposition of IMD disclosure requirements.
- Most Member States have rules in place on how complaints should be responded to⁵¹. National provisions primarily focus on: deadlines (whether defined internally or by legal instrument) to respond; complete investigation; language requirements of responses; provision of updated information on the progress of the complaint process; provision of further treatment of the complaint where the response provided by the insurance intermediary is not fully satisfactory.

⁴⁴ Although from a consumer protection perspective, the NCA in FR applies the same principles and rules to all players in the insurance sector, it recognises the importance of the proportionality principle, by stating (in the relevant recommendations) that several rules (e.g. organisation of complaints handling) are applicable where the size and structure of the entity allow it.

⁴⁵ EE, FR, HU, IE, NL, PT, SE, SI, SK, UK. In turn, CZ, LU, LV, MT do not have similar rules.

⁴⁶ CZ, LU, LV, MT, NL, PT, RO and SI. DK, EE, FR, HU, IE, SE, SK and UK have rules concerning the implementation of a 'complaints management function'. In IE, there is no specific requirement set out in national provisions. However, depending on the size of the regulated entity, it may need to have a dedicated function so as to fully comply with the national rules on complaints handling.

⁴⁷ EE, FR, HU, LU, NL, RO, SE, SK, UK. In CZ, LV, MT, PT and SI, there are no rules on the topic. Nonetheless, in MT, intermediaries are recommended to keep record of the complaints processes. Although it is not explicitly set out in national law, the obligation to register complaints is considered to be the 'basic' obligation to be complied with by brokers in PT.

⁴⁸ CZ, EE, HU, IS, LU, LV, MT, PT, RO, SE, SI. In FR and NL, reporting shall only take place upon request by the NCA as a result of a supervisory inspection/ off-site assessment.

⁴⁹ CZ, IS, LU, LV, MT, NL, PT, SI. In HU, IE and UK, intermediaries have to identify root causes or patterns of complaints. In EE and FR, intermediaries are recommended to identify shortcomings and wrong practices.

⁵⁰ FR and HU have more detailed provisions on this topic.

⁵¹ CZ, EE, FR, HU, IE, RO, SE, SI, SK, UK.

b) Impact of introducing internal complaints-handling procedures at national level

- 1.** The subgroup wanted to assess if there is evidence on whether existing complaints-handling procedures concerning insurance intermediaries – either external or internal – are working well for consumers.

Most Member States referred to the fact that – up until now – the NCAs are not aware of special issues concerning the handling of complaints related to insurance intermediaries, especially because they have not been provided with significant or recurring evidence thereof (for instance, they have not received a significant number of complaints against insurance intermediaries)^{52/53}.

However, one Member State stated that its NCA has carried out supervisory procedures regarding complaints-handling by insurance undertakings and insurance intermediaries and had drawn the conclusion that internal procedures were not operating properly. Another respondent stated that through analysis of complaints, its NCA had been able to pinpoint some problems affecting intermediaries' customers, which had already led to enforcement proceedings (and the subsequent application of administrative fines). Moreover, another Member State informed that, subsequent to off-site inspections, enforcement action had been brought against some insurance intermediaries and further regulatory guidance had been issued.

Although many respondents reported that they did not have clear evidence of consumer detriment with regard to complaints-handling related to insurance intermediaries, it is worth noting that there is positive evidence of the added value which internal procedures are capable of generating. For instance, one Member State highlighted that it had received positive feedback on the implementation of internal procedures: e.g. intermediaries acknowledge that they now handle complaints more rapidly, thanks to the identification of a single point of entry for the complaints and to a clear allocation of responsibilities within the intermediary.

Some Member States (even those where there is no clear evidence that the system concerning handling of consumers' complaints is not working well) expressly made the point that they welcome the introduction of regulation establishing internal procedures within insurance intermediaries. Enhanced consumer protection is mentioned as a result of implementing or reinforcing internal complaints-handling procedures.

⁵² Some Member States refer that customers tend to find out alternative ways of lodging a complaint, thus not addressing the insurance intermediary itself directly. In Member States where internal procedures have been implemented alongside external procedures, this phenomenon may be explained by the lack of information on how to complain with the insurance intermediary or by the fact that consumers believe complaints are not dealt with properly by the intermediary [or – in a different interpretation – other procedures of dealing with consumers' complaints have proven to be more effective/ better match the complainants' interest]. According to many Member States, intermediaries usually inform clients about the possibility to lodge complaints before external entities. Therefore, apparently consumers do not totally lack protection.

⁵³ One respondent claimed that its NCA is not legally empowered to investigate complaints concerning regulated financial entities. As a result, no information on the effectiveness of the national system could be provided. Another Member State referred that the implementation of complaints-handling procedures took place recently, so it is not possible to collect consistent evidence on this issue.

2. The subgroup also questioned Member States regarding what impact they would envisage, if they were to apply the Guidelines on complaints-handling by insurance undertakings to insurance intermediaries in their jurisdictions. Further to this, Member States were invited to provide their views on: (i) what changes insurance intermediaries would have to make to the existing systems and controls as well as their disclosure/ sales practices; (ii) what changes their NCA would have to make; (iii) how much these changes would cost and (iv) what advantages consumers would benefit from by introduction of the aforementioned Guidelines.

Four respondents reported that they had enacted common rules for both insurance undertakings and intermediaries and that those rules comply with the Guidelines on complaints-handling by insurance undertakings⁵⁴. As a result, the aforementioned Member States do not envisage a heavier burden on insurance intermediaries. They would not need to adapt internal controls, change disclosure practices or begin to comply with any new obligation. As a matter of fact, if the Guidelines on complaints-handling by intermediaries would end up differing from the ones applicable to insurance undertakings, national legislation would have to be amended in order to differentiate the regimes that apply to the two kinds of participants in the insurance market. The two respondents are of the view that consumer protection is guaranteed by imposing the same rules on insurance undertakings and insurance intermediaries.

Some Member States informed that complaints mainly arise from insurance undertakings' conduct (e.g. when designing the products) and so they are not based on the mediation activities carried out by insurance intermediaries. Furthermore, intermediaries tend to follow the instructions given by the respective insurance undertaking. Therefore, complainants usually lodge their complaints with the insurance undertaking, which is perceived as the responsible financial institution. Providing that external complaints-handling procedures prove to be efficient, consumers are not totally deprived of adequate protection.

Some Member States pointed out the fact that it would be cumbersome to impose the same Guidelines on complaints-handling by insurance undertakings, on insurance intermediaries, since, all over Europe, national markets are primarily made up of small intermediaries (including a significant number of sole traders)⁵⁵. To this extent, these operators would be forced to incur disproportionate costs (*vis-à-vis* their business complexity and/or organizational structure) if the same rules as the ones stipulated for undertakings would also apply to insurance intermediaries. The main foreseen costs would relate to the designation of a complaints management function and the introduction of a reporting obligation.

As regards the implementation of a complaints-handling management function, one Member State referred to the fact that it might force the intermediary to hire new employees. Another Member State mentioned that intermediaries would have to appoint an officer who would be

⁵⁴ Within both of the aforementioned Member States, the only difference between EIOPA Guidelines and the national regimes is that the latter do not impose reporting obligations on insurance (undertakings and) intermediaries. The costs derived from reporting are primarily linked to human resources allocation. In one of the respondents, complaints-handling function is not imposed upon insurance intermediaries.

⁵⁵ In Europe, sole traders represent the majority of registered insurance intermediaries.

responsible for the complaints-handling function and would have to coordinate with the NCA.

One Member State referred to the fact that most insurance intermediaries in the national market are tied agents, which means that they are strongly connected to the corresponding insurance undertaking. As they do not run the business in an autonomous manner, they do not seem to be in a position to adequately respond to complainants because of the potential for a conflict of interest.

Besides, NCAs would have to start monitoring insurance intermediaries with regard to additional imposed requirements. The costs involved in supervising insurance intermediaries are envisaged to be significant considering the number of insurance intermediaries registered in Europe⁵⁶.

One Member State referred to the fact that insurance intermediaries and the NCA would incur costs, but it expressly admitted that those costs are reasonable considering that consumer protection would be enhanced. Two respondents mentioned that no excessive costs (in comparison with the predictable benefits) would be incurred by intermediaries or NCAs, except for the ones implied in compulsory reporting. In fact, NCAs would have to accommodate the increase of 'reporting flows' and process data from more sources (as more operators would be subject to reporting obligations). One respondent was of the view that there would only be moderate costs with laying down written procedures and reporting on a yearly basis.

As regards the impact on consumers, two Member States mentioned that it would be very difficult to ensure a fair treatment of complaints in small intermediaries (especially when they are one-man businesses), as there may be no clear separation between those who respond to the complaint and those who run the business. Thus, there might be a problem regarding impartial investigation and response to complaints.

One Member State indicated that the level of consumer protection would be enhanced, in particular by: (i) providing the responses to the complaints within a defined deadline; (ii) imposing internal follow-up with a view to tackling and preventing recurrent root causes of complaint and (iii) enabling an easier access to the information concerning the complaints-handling procedures in place.

Some respondents believe that making intermediaries handle consumer complaints themselves would have the advantage of enhancing awareness of the importance of complying with their obligations, correcting malpractice, mitigating reputational risk and improving market practices.

⁵⁶ One Member State suggests that a restriction should be established with regard to the scope of insurance intermediaries that should implement internal complaints-handling procedures: only legal persons/ legal persons of systemic relevance should be included. This respondent stated that the implementation of internal procedures within these insurance intermediaries would be beneficial from a consumer protection perspective.

Appendix 2: Resolution of consultation comments

	Summary of Comments on Consultation Papers EIOPA-CP-13/006 and 006b Guidelines on Complaints-Handling by Insurance Intermediaries	EIOPA-BoS-13/164 28 June 2013
	<p>EIOPA would like to thank for their comments:</p> <ul style="list-style-type: none">• EIOPA’s Insurance and Reinsurance Stakeholder Group (IRSG)• Consumer Associations: BEUC• End Users/Law Firms: Chris Barnard, Norton Rose Fulbright Studio Legale• Industry representatives: Agéa, ANACOFI, APRIL, BIPAR, BVK, BZB, Dutch Association of Insurers, ERGO, Eurofinas, FECIF, FFSA, GEMA, German Insurance Association, MSV Life, NFU and Wirtschaftskammer Österreich <p><u>N.B. The numbering of the paragraphs in the first column refers to Consultation Paper No. EIOPA-CP-13/006a and 006b, not the paragraph numbers of the final set of Guidelines. References to paragraphs in the “Resolution” column are, however, references to the final numbering of the paragraphs.</u></p> <p>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.</p>	

No.	Name	Reference	Comment	Resolution
1.	IRSG	General Comment	<p>1. The Insurance and Reinsurance Stakeholder Group (IRSG) welcomes the opportunity provided by EIOPA to comment on EIOPA Proposal for guidelines on complaints handling by insurance intermediaries and on EIOPA draft report on best practices by insurance intermediaries in handling complaints.</p> <p>2. The IRSG believes that complaints handling should be regarded as a high priority for the insurance sector. The IRSG generally agrees with EIOPA that these guidelines on complaints handling by insurance intermediaries will ensure a complete circle of protection with EIOPA guidelines for insurers issued last year. Effective, fair and harmonized internal complaints handling is critical for reinforcing European consumers' confidence and for ensuring a similar protection of these latter across the European Union.</p> <p>3. The IRSG welcomes the fact that EIOPA decided to draw up different but consistent guidelines for each type of players in the insurance sector, intermediaries and insurers. It ensures coherence and compatibility between both complaints handling systems - which is crucial for supervisory and consumer protection reasons - and allows to take into account the specificities of each type of insurance market participants.</p> <p>4. The IRSG notes that most of the existing national requirements for the complaints process are aligned with the EIOPA proposed guidelines. In Ireland for example, the Consumer Protection Code outlines the complaints process that intermediaries (indeed all regulated entities) must adhere to. The intermediary is required to endeavour to resolve the complaint and where it is not possible the complaint is then referred to the Financial Services Ombudsman who will investigate the complaint and issue a</p>	<p>1. Noted</p> <p>2. Noted</p> <p>3. Noted</p> <p>4. Noted</p>

			<p>finding.</p> <p>5. With respect to the scope of the draft guidelines, the IRSG agrees with EIOPA that it should cover and promotes internal complaints-handling procedures for insurance intermediaries. Internal procedures are efficient and ensure consumer protection and confidence. It is essential that each intermediary firm have the ability to deal with a complaint before it is referred to ADR.</p> <p>6. The IRSG agrees with EIOPA (point 7 (introduction) of its draft guidelines) that particular attention must be paid to the very diverse nature and size of the insurance intermediation market in the EU.</p> <p>7. The IRSG believes that it is crucial that these Guidelines are applied in a manner which is proportionate to the size of insurance intermediaries (mainly SMEs) in order not to create disproportionate and unnecessary administrative burdens.</p> <p>8. The IRSG believes that there is a need for a proportionality provision to be included in the Guidelines.</p> <p>9. The IRSG proposes that one of the following sentences - as included in the draft report on Best Practices - are included in guidelines 2 to 8: "taking into account the nature and size of insurance intermediaries in light of the principle of proportionality" or "depending on the size and structure of the intermediary".</p> <p>10. EIOPA has cited various recitals and articles of the Insurance mediation Directive as one of the basis for these guidelines, and in particular Recital 11, Articles 2.3, 10 and 11. The IMD is currently being revised and a European Commission proposal is</p>	<p>5. Noted and agreed re the importance of complaints being afforded an opportunity to proceed through internal procedures first.</p> <p>6. Noted</p> <p>7, 8, 9. Noted. EIOPA recognises the importance of these Guidelines being applied in a manner which is proportionate to the size of the insurance intermediaries as illustrated by paragraph 5 of the introduction to the Guidelines.</p> <p>EIOPA has emphasised the proportionality principle in the introduction to the Guidelines, rather than the main text of the Guidelines for the following two main reasons:</p> <ul style="list-style-type: none"> • The legal concept of proportionality is already recognised as one of the general principles of European Union law. • EIOPA is of the view that it is important to allow competent authorities to interpret proportionality criteria at national level when supervising insurance
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			<p>being discussed by the European Parliament and the Council of the EU. That proposal has a wider scope and different definitions than the ones of the current IMD. Once the IMD II adopted the IMD will be repealed.</p> <p>11. The IRSG believes that the draft Guidelines should reflect that situation and that any EIOPA review of the guidelines should ensure coherence with EU legislative developments.</p> <p>12. In relation to the Impact Assessment (IA) the IRSG rejects the assertion that significant costs will have to be incurred by NCAs as a result of the adoption of the Guidelines as inferred under Option 1, section h) of the IA in Annex I of the Consultation Paper. Any costs associated with the additional supervision required following the implementation of a system of complaints handling for intermediaries should be “marginal”.</p>	<p>intermediaries.</p> <p>10. Noted. These Guidelines will be applied before IMD2. In the meantime, EIOPA consider complaints-handling as key in the insurance sector. Moreover, the COM proposal on IMD2 is not specific as regards the complaints-handling process. The EIOPA will adapt the text after the adoption of IMD2 if necessary</p> <p>11. Noted.</p> <p>12. Noted – conclusion h) of Option 1 in the Impact Assessment was arrived at based on responses received to the questionnaire issued by the CCPFI’s subgroup on complaints-handling by insurance intermediaries.</p> <p>EIOPA is of the view that the benefits in terms of enhancing consumer confidence will outweigh the costs. Moreover, EIOPA does not consider these Guidelines to be particularly onerous as evidenced in the Impact Assessment. However, considering that the Guidelines will impose additional rules concerning insurance intermediaries, this will entail that NCA’s may have to allocate resources to monitor these new requirements. The financial impact of implementation of these Guidelines</p>
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				for competent authorities will depend on the extent to which the Guidelines are aligned/not with current requirements at national level. These costs mainly depend on the internal organisation of NCA's and the characteristics of national markets.
2.	Agéa	General Comment	<p>1. Sur le fond, agea n'est bien évidemment pas opposée au principe du traitement des réclamations. Bien au contraire, Agéa considère que le fait de traiter les réclamations fait partie du fonctionnement normal d'une entreprise. Ce que agea conteste, c'est l'utilité d'imposer une procédure.</p> <p>2. Agéa n'apportera pas de remarques détaillées à chacune des orientations proposées qui relèvent pour nous d'une démarche inadaptée aux préoccupations et à la taille des intermédiaires : les agences générales d'assurance sont des TPE avec en moyenne 2,3 salariés par agence et 24,5 % des agences n'ont pas de salarié.</p> <p>3. Agéa tient cependant à relever les points suivants :</p> <p>a. Le traitement des réclamations est pour tout intermédiaire une préoccupation constante encore plus que dans les grandes entreprises. C'est d'autant plus vrai que tout client insatisfait représente très directement une perte de chiffre d'affaire.</p> <p>b. Le traitement des réclamations est bien souvent fait directement et personnellement par l'agent.</p> <p>c. L'organisation de cette activité, qui concerne la qualité du service rendu, relève du pouvoir de direction des entreprises et concerne un aspect concurrentiel de l'activité.</p> <p>d. Les obligations ne tiennent pas suffisamment compte de la taille des agents généraux d'assurance et du faible nombre de réclamations reçues en agence. Ce qui crée des lourdeurs importantes non proportionnées aux risques, à la taille des entreprises, au nombre de réclamations reçues en agence. Il est</p>	<p>1. Noted</p> <p>2. Noted</p> <p>3. Noted</p> <p>a. Noted</p> <p>b. Noted</p> <p>c. Noted</p> <p>d. EIOPA recognises the importance of the proportionality principle in the implementation of these</p>

			<p>indispensable qu'un principe de proportionnalité soit affirmé à chaque fois.</p> <p>e. Les guidelines génèrent une rigidification à l'extrême du fonctionnement de l'entreprise: chaque cas doit être prévu et suivre un circuit de traitement spécifié. Or la liste des cas possibles est infinie ! De plus cela paraît démesuré au regard de l'objectif : accueillir la demande d'un client et, en cas d'échec du dialogue, lui permettre de se faire entendre au-delà de son interlocuteur habituel.</p> <p>f. Les agents généraux d'assurances sont opposés à toute orientation qui reviendrait à les empêcher de traiter dans leur entreprises, directement, les réclamations qui les concernent (voir point 13).</p>	<p>Guidelines as set out in the introduction and in the Best practices report. EIOPA has emphasised the proportionality principle in the introduction to the Guidelines, rather than the main text of the Guidelines for the following two main reasons:</p> <ul style="list-style-type: none"> • The legal concept of proportionality is already recognised as one of the general principles of European Union law. • EIOPA is of the view that it is important to allow competent authorities to interpret proportionality criteria at national level when supervising insurance intermediaries. <p>e. Disagree. These Guidelines provide for a clarification for the customer while giving the intermediary the possibility to adapt its process.</p> <p>f. Disagree. Intermediaries can handle their complaints as soon as they are responsible to do so.</p>
3.	ANACO FI	General Comment	We believe that these guidelines are completely in line with the recommendations already in force in France	Noted

4.	Norton Rose Studio Legale	General Comment	<p>1. European Directive 2002/92 does not contain any specific minimum level of harmonisation relating to the corporate governance rules applying to insurance intermediaries, which in some jurisdictions are far from being aligned to the corporate governance legislation applying to insurance undertakings; insurance intermediaries may therefore in many cases and in some jurisdictions be unprepared to handle a burdensome complaints' handling procedure.</p> <p>2. Based on the above situation and consistently with proportionality principle (which requires competent authorities to introduce a "regime... that takes into account the nature and size of insurance intermediaries"), we suggest to exclude the applicability of the Guidelines to the handling of complaints carried out by intermediaries whose principal professional activity is other than insurance mediation (even when they do not fall within the exemption provided for article 1(2) of European Directive 2002/92).</p> <p>3. Guidelines should clarify that authorities do not have any competence over intermediaries operating in their jurisdiction under the freedom of establishment or freedom of services regime, which should be subject to the home-country control only (complaints handling is, in fact, a discipline relating to the organisation of the insurance intermediary).</p>	<p>1. Noted. EIOPA is of the view that the benefits in terms of enhancing consumer confidence will outweigh the costs. EIOPA does not consider these Guidelines to be particularly onerous as evidenced in the Impact Assessment.</p> <p>2. The Guidelines aim at ensuring supervisory convergence, not full harmonisation due to the fact that there are no EU specific common rules and a diversity of national rules. EIOPA has emphasised the proportionality principle in the introduction to the Guidelines, rather than the main text of the Guidelines for the following two main reasons:</p> <ul style="list-style-type: none"> • The legal concept of proportionality is already recognised as one of the general principles of European Union law. • EIOPA is of the view that it is important to allow competent authorities to interpret proportionality criteria at national level when supervising insurance intermediaries. <p>3. Disagree. Complaints handling relates to "general good" provisions and therefore, under the IMD, the host competent authority supervises complaints-handling by insurance</p>
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				intermediaries doing business in their jurisdiction under freedom of services or freedom of establishment. This is already covered in the Guidelines under paragraph 4 of the "Introduction" section.
5.	BEUC	General Comment	While complaints handling within the company (in this case – insurance intermediary) is important and can resolve a number of consumer problems, it is crucial that consumers are also aware of other possibilities to obtain redress, if internal complaint handling fails. In this respect the information about the independent ADR bodies that can deal with insurance disputes has to be provided to consumers clearly and at a right time. We comment on it in more detail below.	Noted re importance of signposting the consumer to available ADR mechanisms. This is covered under Guideline 7(c)(ii) and Guideline 8d).
6.	BIPAR	General Comment	<ol style="list-style-type: none"> 1. BIPAR welcomes the opportunity provided by EIOPA to comment on the EIOPA Proposal for guidelines on complaints handling by insurance intermediaries and on EIOPA's draft report on best practices by insurance intermediaries in handling complaints. 2. BIPAR supports initiatives aimed at reinforcing consumer confidence and protection across the European Union. Effective internal complaints handling is critical for the confidence and protection of consumers. Effective internal complaints handling is critical for intermediaries in their relations with their clients. BIPAR believes that it should be regarded as a high priority for the insurance sector. 3. BIPAR generally supports the guidelines proposed by EIOPA. It notes that most of the existing national requirements for the complaints process are aligned with the EIOPA proposed guidelines. In Ireland for example, the Consumer Protection Code outlines the complaints process that intermediaries (indeed all regulated entities) must adhere to. The intermediary is required 	<ol style="list-style-type: none"> 1. Noted 2. Noted 3. Noted

		<p>to endeavour to resolve the complaint and where it is not possible the complaint is then referred to the Financial Services Ombudsman who will investigate the complaint and issue a finding.</p> <p>4. BIPAR agrees with the scope chosen by EIOPA for the draft Guidelines. It is important that it covers and promotes internal complaints-handling procedures for insurance intermediaries.</p> <p>5. Internal procedures are efficient and ensure consumer protection and confidence. It is essential that each intermediary firm has the ability to deal with a complaint internally before it is referred to ADR. This is an important principle. As explained in the Impact Assessment, point 4, internal procedures also help intermediaries contribute to averting reputational damage.</p> <p>6. BIPAR is however not convinced about the timing and the need for EIOPA guidelines on complaints handling by insurance intermediaries. Besides BIPAR would wish to raise its concerns over the lack of proportionality of these guidelines.</p> <p>Right timing?</p> <p>7. BIPAR wonders about the timing of the publication of the Guidelines for intermediaries. EIOPA has cited various recitals and articles of the Insurance Mediation Directive as one of the base for these guidelines, and in particular Recital 11, Articles 2.3, 10 and 11. In point 8 of the introduction of the Guidelines it is explained that the draft Guidelines apply to complaints relating to natural and legal persons which carry out the activity of "insurance mediation" as defined by Article 2.3 of the IMD.</p> <p>8. The IMD is however currently being revised and a European Commission proposal is being discussed by the European Parliament and the Council of the EU. That proposal has a wider</p>	<p>4. Noted</p> <p>5. Noted and agreed re the importance of complaints being afforded an opportunity to proceed through internal procedures first.</p> <p>6. Re the issue of proportionality EIOPA has emphasised the proportionality principle in the introduction to the Guidelines, rather than the main text of the Guidelines for the following two main reasons:</p> <ul style="list-style-type: none"> • The legal concept of proportionality is already recognised as one of the general principles of European Union law. • EIOPA is of the view that it is important to allow competent authorities to interpret proportionality criteria at national level when supervising insurance intermediaries. <p>7, 8. Noted. These Guidelines will be applied before IMD2. In the meantime, EIOPA consider</p>
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		<p>scope and different definitions than the ones of the current IMD. Once the IMD II adopted the IMD will be repealed.</p> <p>9. We believe that the draft Guidelines should reflect that situation and that their publication should be delayed accordingly to ensure coherence with the EU legislative developments.</p> <p>A need for guidelines?</p> <p>10. There exist complaints-handling procedures for complaints addressed to insurance intermediaries in most EU Member States, some procedures are internal procedures for intermediaries (see attached for example documents on the French situation: ACP's recommendation and AGEA's template for internal procedures), some are external procedures (ex: complaints addressed to insurance intermediaries handled by insurers, ADR schemes etc.). Based on information received from its member associations, it appears that most of these procedures are working well for consumers.</p> <p>11. This is confirmed in part II of the EIOPA Impact Assessment, where it is explained that most member states are not aware of special issues concerning the handling of complaints related to insurance intermediaries.</p> <p>12. It is explained in EIOPA's Impact assessment that, because the IMDI is based on minimum harmonisation, Article 10 on complaints was implemented in a very wide variety of different regulatory solutions at national level, having thus generated a "regulatory failure" at EU level and this leading to different supervisory approaches and regulatory arbitrage. However no concrete examples of failures are given in the Impact Assessment. BIPAR believes that these are matters of objective assessment and the Impact Assessment should be more</p>	<p>complaints-handling as key in the insurance sector. Moreover, the COM proposal on IMD2 is not specific as regards the complaints-handling process. The EIOPA will adapt the text after the adoption of IMD2 if necessary.</p> <p>9. Disagree. EIOPA does not agree that the introduction of the Guidelines should be delayed until IMD2 is finalised.</p> <p>10. Noted. However a level playing field is important and the Guidelines aim to standardise practices across Member States.</p> <p>11. Noted. However the reason cited in part II of the Impact Assessment for Member States not being aware of issues related to the fact that intermediaries were not required to provide specific evidence on complaints i.e. not required to report on complaints received.</p> <p>12. The concrete evidence of this "regulatory failure" is the fact that different rules apply depending on the jurisdiction where the insurance intermediary was incorporated, registered or operates. As outlined in</p>
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		<p>evidence-based.</p> <p>13. No proportionate regime</p> <p>BIPAR welcomes the fact that EIOPA decided to draw up different guidelines for each type of players in the insurance sector, intermediaries and insurers. As stated in our comments on the EIOPA draft guidelines on complaints-handling by insurance undertakings, a comprehensive regime (covering both insurers and intermediaries) would not have allowed to take into account the specificities of each type of insurance market participants. We further explained that this would have created 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>14. In its press release and in point 7 (introduction) of its draft guidelines, EIOPA respectively explained that it has paid particular attention to the very diverse nature and size of the insurance intermediation market in Europe and that "competent authorities should ensure a proportionate regime when applying these guidelines that takes into account the nature and size of insurance intermediaries". References to the need for a proportionate regime and examples of it are also included in the draft Best Practices report.</p> <p>15. BIPAR regrets that the need for a proportionate regime for intermediaries (who are mainly SMEs -especially sole traders) is not reflected in the text itself of the eight draft guidelines and would wish to raise its concerns over their lack of proportionality.</p> <p>16. As illustrated by the document entitled "Comparison of two sets of Guidelines and Best Practices Reports on Complaints</p>	<p>the Impact Assessment, this leads to different supervisory approaches and may also lead to regulatory arbitrage (where compliance and operational costs vary significantly from one jurisdiction to another).</p> <p>13, 14, 15, 16, 17, 18 . Noted. EIOPA has emphasised the proportionality principle in the introduction to the Guidelines, rather than the main text of the Guidelines for the following two main reasons:</p> <ul style="list-style-type: none"> • The legal concept of proportionality is already recognised as one of the general principles of European Union law. • EIOPA is of the view that it is important to allow competent authorities to interpret proportionality criteria at national level when supervising insurance intermediaries. <p>.</p> <p>.</p>
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			<p>Handling by Insurance Undertakings and Insurance Intermediaries”, the two sets of guidelines for insurers and intermediaries are similar (except for guideline 1) and none of the guidelines for intermediaries includes a single reference to the need of a proportionate regime. Such reference is only included in the point 7 of the Introduction of the draft guidelines and in the draft Best Practices report which are not subject to the “comply or explain” procedure. It is also interesting to note that the same point 7 is excluded from the scope of EIOPA Impact Assessment on these guidelines.</p> <p>17. BIPAR understands the need for consistency and compatibility between both complaints handling systems for supervisory reasons but believes that intermediaries, mainly because of the size of most of them, cannot structure and organise their internal complaints handling procedures in a similar way to insurers. BIPAR proposes that one of the following sentences - as included in the draft report on Best Practices - are included in guidelines 2 to 8: “taking into account the nature and size of insurance intermediaries in light of the principle of proportionality” or “depending on the size and structure of the intermediary”.</p> <p>18. For example Guideline 3 on Complaints management function could read as follows: “Taking into account the nature and size of insurance intermediaries in light of the principle of proportionality, competent authorities should ensure that insurance intermediaries have a complaints management function which enables complaints to be investigated fairly and possible conflicts of interest to be identified and mitigated”.</p>	
7.	BZB	General Comment	<p>1. BZB has reservations about the introduction of an internal complaint procedure for the insurance intermediaries. Since the major part of the insurance intermediaries are rather small entities, this would entail disproportionate costs in these companies. Indeed, only a small part of the complaints concerns</p>	<p>1. Disagree. In relation to complaints received which do not relate to the mediation activities of the insurance intermediary, paragraph 7 and Guideline 1 clarify that the insurance</p>

			<p>the insurance intermediaries. The majority of the complaints are addressed to the insurer. Also, a large part of the insurance intermediaries is registered as tied agent, which means that they act in the name and on behalf of the insurer. Consequently, they will not be able to handle the complaint themselves. Moreover, at most insurance intermediaries, the person handling the complaint is the same as the one who manages the business. This means that an internal policy for complaints-handling will have little or no added value. Finally, the obligation of an internal procedure for handling and reporting complaints also entails higher costs for the supervisor. After all, collecting reports and monitoring this obligation require the necessary resources and manpower.</p> <p>2. Consequently, BZB is in favour of maintaining the current system. Clients easily have access to the ombudsman. They are also sufficiently informed on this possibility.</p> <p>This does not preclude the possibility of a complaint policy being appropriate for large insurance intermediaries. In this regard, they can be deemed equivalent to insurance companies.</p>	<p>intermediary is not obliged to handle complaints for which it has no responsibility. EIOPA does not consider these Guidelines to be particularly onerous as evidenced in the Impact Assessment.</p> <p>2. Disagree. It is our preference that internal complaints handling procedures be exhausted first before resorting to ADR schemes.</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: a) The Proposal for Guidelines on Complaints-Handling by Insurance Intermediaries (EIOPA-CP-13/006a) and Draft Report on Best Practices by Insurance Intermediaries in Handling Complaints (EIOPA-CP-13/006b).</p>	Noted
9.	ERGO	General Comment	<p>1. ERGO Versicherungsgruppe AG strongly supports the intention to grant customers an effective possibility of lodging complaints regarding insurance intermediaries via bodies set up for this purpose. An effective facility for the lodging of complaints is not only necessary for consumer protection reasons but also offers companies the possibility of identifying and removing sources of errors, and thus in particular gives them an opportunity to regain the confidence of the customer making the complaint.</p>	<p>1. Noted</p> <p>2. EIOPA is of the view that the benefits in terms of enhancing</p>

			<p>2. In our opinion, however, the proposed guidelines are not suitable for achieving the objective stated above. They would also result in disproportionate burdens on the insurance intermediaries.</p> <p>3. The guidelines require own complaints management or a complaints-management function on the part of the insurance intermediaries themselves. Such a requirement has no legal basis as Directive 2002/92/EC dated 9 December 2002 on insurance mediation (IMD1) does not provide for any requirements in terms of whether Art. 10 IMD1 refers to external and/or internal complaints-handling procedures. The Directive has left it to the member states to decide how complaints are to be handled. Nothing in this respect is intended to be changed within the scope of the evaluation of the insurance mediation directive (IMD2). The report on the "Mapping Exercise" shows clearly that the majority of the EU/EEA member states questioned has understood Art 10 IMD1 in the way that it refers exclusively to external handling of complaints. Against this background, it is surprising and beyond comprehension that EIOPA is now interpreting the regulation such that internal handling of complaints by the intermediary is mandatorily prescribed.</p> <p>4. In its sales organisations, ERGO Versicherungsgruppe primarily works with intermediaries who - as independent insurance agents and, as a general rule, sole traders - sell exclusively products of the ERGO companies. Even from a customer perspective, internal handling of complaints by such intermediaries hardly seems expedient. The prospect of the intermediary finding a remedy to a complaint made against him by a customer appears very slight. Only in rare cases will the intermediary be prepared to admit own mistakes. From the perspective of the intermediary, this type of internal complaints-handling is inappropriate as the handling of complaints also involves the extensive administrative duties envisaged in the guidelines. From the perspective of the</p>	<p>consumer confidence will outweigh the costs. EIOPA does not consider these Guidelines to be particularly onerous as evidenced in the Impact Assessment.</p> <p>3. Disagree. EIOPA has competence to issue such Guidelines under Article 16, EIOPA Regulation to fulfil its statutory objectives (e.g. enhancing consumer protection). The provisions in the Guidelines are high-level and apply to competent authorities on a non-binding "comply or explain" basis.</p> <p>4. In relation to complaints received which do not relate to the mediation activities of the insurance intermediary, Guideline 1 specifically addresses these circumstances.</p>
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			<p>company, any such internal handling of complaints by the intermediary is not helpful to the cause. The company then has no possibility of using the complaints as a means of identifying sources of errors.</p> <p>5. The customers of ERGO who wish to complain about their insurance intermediary have the possibility of contacting the Complaints Officers envisaged by the company in this context. Customers can also address complaints to the German Insurance Ombudsman. The "Versicherungsbundsmann e. V." is an independent body set up by the German insurance industry to arbitrate in disputes concerning insurance contracts. Alternatively, customers can contact the Federal Financial Supervisory Authority (BaFin) regarding their complaint. This also applies if the problem is attributable to alleged misconduct on the part of the intermediary in so far as the intermediary is a multiple or a tied agent.</p> <p>6. Customers therefore have sufficient options in terms of complaints. Against this background, the setting up of a further formalised process for the handling of complaints by every insurance intermediary is neither necessary nor helpful.</p>	<p>5. Noted however the EIOPA Guidelines recognise the importance of complaints being afforded an opportunity to proceed through internal procedures first.</p> <p>6. Disagree. EIOPA believes that a level playing field is important and the Guidelines aim to enhance consumer protection (one of EIOPA's key statutory objectives).</p>
10.	Eurofinas	General Comment	<p>Introductory Observations</p> <p>1. Eurofinas, the voice of consumer credit providers at European level welcomes the opportunity to respond to the Consultation Paper on the Proposal for Guidelines on Complaints Handling by Insurance Intermediaries and the Draft Report on Best Practices by Insurance Intermediaries in Handling Complaints.</p> <p>2. Eurofinas supports the work of the European Insurance and Occupational Pensions Authority (EIOPA) in promoting</p>	<p>1. Noted</p> <p>2. Noted</p>

			<p>transparency, simplicity and fairness in the market for insurance products and services across Europe.</p> <p>3. Against this background, we welcome EIOPA's work on complaints handling by insurance intermediaries. We trust that our comments will be taken into account and remain at the disposal of the Authority should any further questions arise.</p> <p>4. As a preliminary observation, as mentioned in the past by several stakeholders, we believe that the legal status of the proposed guidelines is unclear. Though we appreciate that the issuance of such guidelines is in line with EIOPA's founding Regulation, the impact of a "comply or explain procedure" remains uncertain and therefore makes it difficult for the industry to foresee the exact implications of the proposed text.</p> <p>Who we are</p> <p>5. As a Federation, Eurofinas brings together associations throughout Europe that represent finance houses, universal banks, specialised banks and captive finance companies of car or equipment manufacturers.</p> <p>6. The products sold by Eurofinas members include all forms of consumer credit products such as personal loans, linked credit, credit cards and store cards. Consumer credit facilitates access to assets and services as diverse as cars, education, furniture, electronic appliances, etc. It is estimated that together the Eurofinas members financed over 312 billion Euros worth of new loans during 2012 with outstandings reaching 828 billion Euros at the end of the year.</p>	<p>3. Noted</p> <p>4. The legal status is that the Guidelines apply to competent authorities only and, although non-binding, are subject to a "comply or explain" mechanism. The legal status is outlined under the "Compliance and Reporting Rules" section of the Guidelines.</p> <p>5. Noted</p> <p>6. Noted</p> <p>7. Noted</p>
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			behaviour which are expected from them. Where applicable, they may cover the management of complaints including for ancillary products/services such as insurance.	referencing specific industry standards/codes already in existence among Member States.
11.	FECIF	General Comment	<p>1. A recent survey by an independent research institute in Austria on the frequency of complaints about insurance intermediaries shows that from a random sample of 7,063 cases of insurance intermediaries (brokers, agents, advisers), in 48 cases the customer complained and in three cases brought action against intermediaries to court. This is corresponding to a share of 1.22% complaints and 0.08% lawsuits.</p> <p>In the study a distinction was already made between</p> <ul style="list-style-type: none"> <input type="checkbox"/> informal complaints, in which customers were confused or dissatisfied with services or products; <input type="checkbox"/> formal and legal cases, in which a previous complaint did not lead to a satisfactory solution for the customer who then took legal action against the intermediary. <p>2. Almost 90% of all complaints are related to cases whose volume is up to € 1,000 measured in annual premiums or savings amount. A typical area of concern is insurance where services were not covered, e.g. household insurance or savings plans which did not deliver the expected performance.</p> <p>Reasons for complaints are:</p> <ul style="list-style-type: none"> <input type="checkbox"/> in 50% deficits resulting from economic development of financial / insurance markets and on-going competition between vendors; <input type="checkbox"/> in 46% the default of insurance / financial products which did not meet expectations; 	Noted.

			<p><input type="checkbox"/> in 4% bad advice by the intermediary.</p> <p>The possible solutions were also examined :</p> <ol style="list-style-type: none"> 1. The majority (57%) of all complaints are solved quickly by goodwill of the intermediary or the product provider; 2. Almost a quarter (23%) of the cases ends because of withdrawal of the complaint or action by the customer; 3. For a further 10% other solutions are found (for example by court order); 4. 10% of cases remain to the reporting year without a solution. <p>There is no mistaking the evidence that customer dissatisfaction with intermediaries exists. However, this is only marginal and represents about 0.5 to 1.3% of all transactions. Typical reasons are a lack of information and knowledge about the products. Problems caused by bad or wrong advice occur in only one of nearly 2,000 business cases.</p> <p>Reference: "AFPA Marktstudie Österreich 2012". Austrian Financial and Insurance Professionals Association, a member of FECIF.</p>	
12.	FFSA	General Comment	<ol style="list-style-type: none"> 1. The FFSA is concerned with the content of these guidelines which is a simple copy-paste of the guidelines on complaints handling by insurance undertakings (Eiopa-CP-11/010a), while the situation of the people involved is totally different. Although EIOPA states, in its Impact Assessment, that these guidelines have been developed to take into account the specificities of each type of insurance market participant, the FFSA is not convinced it actually allows adjustments considering provisions are the same. 2. Moreover, where there is a change in the wording, it is not 	<ol style="list-style-type: none"> 1. Disagree. The Guidelines aim at ensuring supervisory convergence, not full harmonisation due to the fact that there are no EU specific common rules and a diversity of national rules <p>From a consumer protection perspective, it is essential that the customer is treated the same way regardless of the distribution channel</p>

		<p>enough, in our view, to consider that these requirements are appropriate for insurance intermediaries. For example, the guideline 5 on reporting set out that intermediaries should be “in a position” to provide information. The FFSA wonders what is the actual difference between the obligation of being “in a position to provide information” and the obligation to provide information. Contrary to EIOPA’s assertions, this apparent loosening of the requirement only benefits to NCAs (competent national supervisory authorities) who will avoid handling massive reporting flows. From the intermediary point of view, it’s exactly the same burden, particularly since the Impact Assessment provided by EIOPA makes clear that supervision of compliance with this guideline should be carried out by on-site inspections or specific requests.</p> <p>3. Above all, most provisions of these guidelines are not suitable for insurance intermediaries as the corresponding requirements do not make sense or are too burdensome for natural persons acting on their own behalf and small legal structures that represent the overwhelming majority of the players in the EU. These intermediaries have neither the time, the organization nor the financial resources to comply with such requirements.</p> <p>As EIOPA acknowledges, intermediaries will have to support additional costs in order to comply with these guidelines and small insurance intermediaries will be particularly affected by these provisions. The FFSA would like to remind the EIOPA that Europe is going through its worst economic crisis since decades with an unemployment rate that keeps on growing. As most intermediaries on the market are natural persons, it could be judicious not to aggravate their situation so that they do not have to stop their activity because of burdensome and costly requirements.</p> <p>Besides, the impact assessment provided in EIOPA’s proposal does not give any material evidence that the benefits will actually outweigh these costs. According to EIOPA, the benefits arising of this text will be the following: improvement of consumer confidence, prevention of reputational risk and fair treatment of complaints.</p> <p>4. Regarding the improvement of consumer confidence, the</p>	<p>he uses.</p> <p>2. Disagree. Keeping the raw data is not as demanding as submitting for a reporting.</p> <p>Moreover, these requirements are already in place in many countries and it does not seem to be too hard to implement.</p> <p>3. See above and see resolution (row)</p> <p>4. Disagree: NCAs experiences show that complaints may arise any time</p>
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		<p>EIOPA believes that this benefit is only “expected”. Meanwhile, the costs for the intermediary are certain and undeniable. The FFSA considers that consumer confidence must be enhanced principally before the conclusion of the contract : if the consumer purchases the insurance contract which complies with its needs, there is no reason a complaint arise from it.</p> <p>5. Regarding the reputation, this risk mainly affect renowned intermediaries of a certain size. These intermediaries, because of the strong competition on the market, already handle complaints with the seriousness and speed required. Thus, the guidelines will impact small structures and natural persons with disproportionate requirements.</p> <p>6. Regarding the fair treatment of complaints, EIOPA must keep in mind that the clients of an intermediary represent his income (through fees and commissions) but they also represent his business. In a competitive context, an intermediary has to act in the best interest of his clients to prevent them from using a competitor. Intermediaries aims at developing a continuous relation with his clients. Thus, it’s not the interest of an intermediary to handle complaints inconsiderately and carelessly. Therefore, even if complaints handling could be framed, the requirements corresponding has to be softened in order to reduce costs and time for intermediaries who don’t have the human and financial resources to comply.</p> <p>7. Finally, in the same way, the FFSA regrets that no reference is made to proportionality in the text of the guidelines itself (the only reference to proportionality is made in the introduction-see point 7) . The FFSA believes this precision is essential for a proper application of these requirements due to differences in terms of size and resources between insurance companies and intermediaries but also between intermediaries.</p> <p>8. As a consequence, it should be highlighted and introduced in the text of the guidelines itself, where relevant. Furthermore, we</p>	<p>during the life of the contract.</p> <p>5. EIOPA has no evidence of reputational risk only with regards to the biggest intermediaries.</p> <p>Besides, although the proportionality principle is taken into account by the EIOPA, it is essential that the consumer is treated the same way regardless of the channel of distribution.</p> <p>EIOPA has emphasised the proportionality principle in the introduction to the Guidelines, rather than the main text of the Guidelines for the following two main reasons:</p> <ul style="list-style-type: none"> • The legal concept of proportionality is already recognised as one of the general principles of European Union law. • EIOPA is of the view that it is important to allow competent authorities to interpret proportionality criteria at national level when supervising insurance intermediaries. <p>6. Noted</p>
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			note that the only criteria taken into account for a proportionate application of these guidelines are the nature and size of the insurance intermediary. In our view, it is also appropriate to distinguish whether the intermediation activity is carried out on an ancillary basis or principally.	7. See resolution (row) 2.
13.	GEMA	General Comment	<p>GEMA observes that the Guidelines on complaint-handling by insurance intermediaries are parallel to the Guidelines published by EIOPA in November 2012 on Complaints-Handling by Insurance Undertakings.</p> <p>The future Insurance Mediation Directive will probably expand its scope to encompass direct sales of insurance contracts by insurance undertakings without the intervention of an insurance intermediary. In that case, the employees of insurance undertakings who are in charge of selling the contracts to the consumers will be regarded as intermediaries. One wonders what guidelines these employees are supposed to apply and a clarification would be much appreciated.</p> <p>It would be untoward that the employee of an insurance undertaking who also commercializes as an intermediary a product of another undertaking has to apply two different guidelines. It is indispensable that complaints management policies are equivalent for employees of insurance undertakings and for intermediaries.</p>	Noted. These Guidelines will be applied before IMD2. In the meantime, EIOPA consider complaints-handling as key in the insurance sector. Moreover, the COM proposal on IMD2 is not specific as regards the complaints-handling process. The EIOPA will adapt the text after the adoption of IMD2 if necessary.
14.	German Insurance Association	General Comment	<p>The German insurance industry</p> <p><input type="checkbox"/> believes that procedures which enable consumers to lodge complaints about insurance intermediaries are basically an indispensable component of effective consumer protection;</p> <p><input type="checkbox"/> supports the approach to set up procedures which allow customers and other interested parties to register complaints about insurance intermediaries (Article 10 IMD1) as stipulated in Directive 2002/92/EC of the European Parliament and of the Council of 9</p>	<p>Noted</p> <p>Noted</p>

		<p>December 2002 on insurance mediation (IMD1);</p> <p><input type="checkbox"/> welcomes the efforts of the European Commission and the European Parliament to also provide for complaints-handling procedures regarding insurance intermediaries (Article 12 IMD2) in the recast of the previously mentioned Directive (IMD2);</p> <p><input type="checkbox"/> however, believes that Guidelines on complaints-handling by insurance intermediaries are not required.</p> <p>Justification:</p> <p>I. External complaints-handling procedures meet the requirements of IMD1</p> <p>Article 10 IMD1 gives Member States the flexibility to implement internal or external complaints-handling procedures. Member States which have implemented external complaints-handling procedures meet the requirements of IMD1. It cannot be deduced from Article 10 IMD1 that insurance intermediaries are obliged to set up internal complaints-handling procedures. Such an interpretation would go too far. Against this background, it is not appropriate to call for a complaints management policy for internal complaints-handling procedures as described in the Draft Guidelines.</p> <p>With respect to the principle of proportionality it is important for small insurance intermediaries (which only consist of one person in many cases), in particular, to have the option to redirect complaints to external complaints bodies (insurance undertaking or</p>	<p>Noted</p> <p>Disagree</p> <p>The Guidelines aim at ensuring supervisory convergence, not full harmonisation due to the fact that there are no EU specific common rules and a diversity of national rules</p> <p>The Guidelines do not preclude the redirection of complaints to external complaints bodies, but EIOPA is of the view that it is important for complainants to be afforded the opportunity to proceed through internal procedures first before resorting to ADR schemes. The fact that intermediaries are required to handle complaints about their activities provides a strong incentive</p>
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		<p>ombudsman).</p> <p>Member States shall be allowed to maintain the complaints-handling procedures they have already established and to decide what kind of complaints-handling procedure is appropriate for their national markets.</p> <p>II. The shortcomings which EIOPA believes to exist do not justify the issuance of Guidelines on internal complaints-handling procedures.</p> <p>By issuing the Guidelines – to resolve the problems identified – EIOPA pursues the following objectives (see Impact Assessment Part I, No. 3):</p> <ul style="list-style-type: none"> i. Create a level playing field for insurance intermediaries across the EU; ii. Ensure fair treatment of complainants by insurance intermediaries. <p>These objectives are based on the following assumptions</p> <ul style="list-style-type: none"> a. Consumers are not always provided with adequate mechanisms to complain about advice and selling practices of insurance intermediaries (see Impact Assessment Part I, No. 2.1); b. Conflicts of interest based on an asymmetry of information, if not addressed, can lead to poor/inappropriate insurance sales for consumers, with associated detrimental outcomes (see Impact Assessment Part I, No. 2.1); 	<p>for them to treat their customers in a way that minimises the number of complaints that they receive.</p> <p>The Guidelines are non-binding so they do not prevent Member States from maintaining the complaints-handling procedures they have already established.</p> <p>Disagree, the existing asymmetry of information for consumers and lack of supervisory convergence justify the issuance of Guidelines, as set out in the Impact Assessment.</p>
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		<p>c. Appropriate complaints-handling can increase the likelihood that consumers, if they are not treated appropriately by an insurance intermediary, will obtain redress (see Impact Assessment Part I, No. 2.2).</p> <p>These assumptions are partially incorrect and do not justify the issuance of Guidelines to achieve the objectives mentioned above:</p> <p>on</p> <p>a.</p> <p>All consumers in Europe are provided with adequate mechanisms to complain about the advice and selling practices of insurance intermediaries based on the implementation of Article 10 IMD1. Article 10 IMD1 not only allows Member States to decide whether they implement internal or external complaints-handling procedures but also gives them flexibility in designing the procedures.</p> <p>Internal complaints-handling procedures are not required for insurance intermediaries in general. They are not appropriate for tied insurance intermediaries in particular. Tied insurance intermediaries work exclusively for insurance undertakings which are already subject to the Guidelines on complaints-handling by insurance undertakings issued by EIOPA. Due to their size and existing structures, insurance undertakings are able to ensure an appropriate handling of complaints in the way required by EIOPA. Tied insurance intermediaries redirect the complaint to the insurance undertaking. Consumers are already sufficiently protected through this system.</p> <p>on b.</p> <p>Issuing Guidelines on complaints-handling by insurance</p>	<p>Disagree. Guidelines are the right tool as their aim in this case is to enhance supervisory convergence.</p> <p>Disagree. EIOPA is of the view that it is important for complainants to be afforded the opportunity to proceed through internal procedures first before resorting to ADR schemes. The fact that intermediaries are required to handle complaints about their activities provides a strong incentive for them to treat their customers in a way that minimises the number of complaints that they receive.</p> <p>Tied insurance intermediaries are specifically excluded from the</p>
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		<p>intermediaries is not appropriate to eliminate an alleged asymmetry of information with respect to possible conflicts of interest of insurance intermediaries.</p> <p>Complaints-handling procedures do not intervene until a possible misconduct on the part of an insurance intermediary has occurred. The complaints-handling procedure has a repressive nature in this respect. Taking a preventive approach, the EU Commission, in contrast, has proposed in Chapter 6 (Article 16 et seq.) of IMD2 to implement numerous new information requirements to resolve the asymmetry of information identified by EIOPA and to avert possible conflicts of interest of insurance intermediaries. The involved Committees of the European Parliament (ECON, IMCO, JURI) also prefer preventive information requirements and do not see any need to change the provisions on establishing complaints-handling procedures. The proposal on Article 12 IMD2 does not change the former Article 10 IMD1 which has prompted EIOPA to issue the Guidelines.</p> <p>on c.</p> <p>Complaints-handling by insurance intermediaries will not increase the likelihood that consumers, if they are not treated appropriately by an insurance intermediary, will obtain redress.</p> <p>Only very rarely would insurance intermediaries, which are usually sole traders and thus would have to evaluate their own behaviour causing a complaint, admit any misconduct, resulting in paying compensation to a customer. Instead, an impartial and independent remedial procedure is required for this purpose, which has been established by 83% of the Member States within the scope of</p>	<p>majority of the Guidelines by virtue of Guideline 1 on the basis that they do not hold responsibility for the subject-matter of the complaint. The only requirement for them is to direct the complaint to the insurer, at the same time informing the complainant.</p> <p>Disagree, as evidenced in the Impact Assessment.</p> <p>These Guidelines will be applied before IMD2. In the meantime, EIOPA consider complaints-handling as key in the insurance sector. Moreover, the COM proposal on IMD2 is not specific as regards the complaints-handling process. The EIOPA will adapt the text after the adoption of IMD2 if necessary</p>
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		<p>implementing Article 10 IMD1 [see Impact Assessment Part II, a) 1.]. Independent procedures shall also be implemented in the Member States for the purpose of settling disputes between insurance intermediaries and customers out of court in accordance with Article 13 IMD2.</p> <p>In this respect, the problems identified by EIOPA do not justify the objectives pursued:</p> <p>i. The existing differences regarding the implementation of Article 10 IMD1 do not result in any obvious disadvantages to consumers. They are treated in a fair manner when lodging a complaint throughout Europe.</p> <p>ii. There is no evidence for any distortion of competition as a result of the national design of complaints-handling procedures.</p> <p>III. Introducing an internal complaints-handling procedure for insurance intermediaries is inappropriate and infeasible.</p> <p>Most insurance intermediaries are sole traders. They usually employ – often on a part-time basis – only one or a small number of employees who do not carry out insurance mediation activities in the sense of Article 2(3) IMD1 but perform administrative tasks in most cases. Establishing internal complaints-handling procedures would involve a disproportionate organisational effort for these insurance intermediaries. Furthermore, they will not be able to ensure a constant quality with respect to the procedures. It is questionable whether consumer protection can be increased by means of internal complaints-handling procedures.</p> <p>Moreover, insurance intermediaries operating as sole traders would</p>	<p>Disagree.</p> <p>Disagree. The fact that intermediaries are required to handle complaints about their activities provides a strong incentive for them to treat their customers in a way that minimises the number of complaints that they receive. These Guidelines place protection of consumers at the forefront.</p> <p>Disagree. These Guidelines seek to create a level playing field for insurance intermediaries and ensure fair treatment of complainants.</p> <p>Disagree. Internal complaints-handling procedures are already being successfully applied in a number of Member States.</p> <p>EIOPA has emphasised the</p>
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		<p>usually communicate their position on their conduct causing the complaint within the scope of complaints-handling procedures. The assumption of EIOPA that the handling of complaints about their own activities would provide a strong incentive for insurance intermediaries to treat their customers in a way that minimises the number of complaints that they receive [see Impact Assessment Part I, 4. c] is questionable. Quite the contrary is true. The fact that complaints are processed and decided by insurance undertakings or another independent, impartial ombudsman will actually provide a much stronger incentive for insurance intermediaries to avert a possible reputational damage. Moreover, introducing internal complaints-handling procedures would be more time-consuming and inefficient, and it would be difficult to ensure the quality of the procedures. Providing the response to the conduct causing a complaint to an independent body which is authorised to make a decision and not to the complainant, in particular, will enhance the awareness of the insurance intermediary of the root causes of dissatisfaction even more.</p> <p>Most Member States (83%) have already established independent, external complaints bodies within the scope of implementing Article 10 IMD1. In Germany, this task is being performed by an ombudsman. Insurance intermediaries are obliged to inform customers about the possibility to lodge complaints before external entities when being contacted for the first time in accordance with Article 12(1)(e) IMD1. Many insurance undertakings have established a professional internal complaints management system and review it with regard to EIOPA's Guideline on complaints-handling by insurance undertakings. In Germany, customers also have the possibility to lodge their complaints with the Federal Financial Supervisory Authority (BaFin). This also applies if the problem is based on an alleged misconduct of an insurance intermediary provided that the insurance intermediary is an agent representing more than one company or a tied agent.</p>	<p>proportionality principle in the introduction to the Guidelines, rather than the main text of the Guidelines for the following two main reasons:</p> <ul style="list-style-type: none"> • The legal concept of proportionality is already recognised as one of the general principles of European Union law. • EIOPA is of the view that it is important to allow competent authorities to interpret proportionality criteria at national level when supervising insurance intermediaries. <p>EIOPA is of the view that it is important for complainants to be afforded the opportunity to proceed through internal procedures first before resorting to ADR schemes. The Guidelines provide for complaints to be handled by insurance undertakings where the latter are responsible for the complaint and the intermediary does not wish to handle the complaint on the insurer's behalf e.g. in the case of a tied insurance intermediary.</p> <p>Disagree that introducing internal complaints-handling would be more time-consuming and inefficient. The implementation of complaints-handling procedures within an insurance intermediary allows</p>
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			<p>Conclusion:</p> <p>Internal complaints-handling procedures by insurance intermediaries involve a large organisational effort, the quality of the procedures cannot be ensured and their impact on consumer protection is questionable. Insurance intermediaries should have the possibility to redirect customer complaints straight to an external complaints body (insurance undertaking or ombudsman).</p> <p>Note:</p> <p>Starting with page 5, the numbering of the Guidelines is not in line with the numbering in Annex II. In the following, reference is therefore made to the Guidelines from page 5 on.</p>	<p>complaints to be dealt with more efficiently as the intermediary should have direct access to information and evidence needed to investigate and resolve the complaint.</p> <p>Noted. The Guidelines do not preclude the handling of complaints by an independent ombudsman or supervisory authority.</p>
15.	MSV Life	General Comment	<p>Within the Guidelines there seems to be nothing to ensure that whilst an intermediary is handling a complaint from a customer he does not commit the provider i.e. the insurance company; and that if he does so then such commitment would not be binding on the insurance company.</p> <p>Our comment is that the guidelines should contain a proviso along these lines:</p>	<p>Disagree for reasons outlined above.</p> <p>Noted.</p>

			"The intermediary shall not commit or do anything which might in any way implicate or involve the Principal (the insurance company) in financial or other liability without prior written permission from the Principal".	
16.	IRSG	1.	See general comments	Noted
17.	BIPAR	1.	See general comments on the right timing	Noted
18.	BVK	1.	Der BVK hält es grundsätzlich für erforderlich, dass ein Beschwerdeverfahren für Verbraucher besteht.	Noted
19.	Dutch Association of Insurers	1.	The introduction of these guidelines give the Dutch Association of Insurers the opportunity to clarify the current situation on complaint handling by insurers. We have a closed system to handle complaints and end disputes between customers and insurers. First of all, all our members have an internal complaint handling system (compulsory). A complaint should first be handled by the insurer himself (mandatory). The guidelines have been made called 'guidelines for internal compliant handling procedures' (for the complaints management policy). See for more information: https://www.verzekeraars.nl/overhetverbond/zelfregulering/Documents/Richtlijnen_voor_interne_klachtenbehandeling.pdf . In case of a lasting conflict an independent and free complaints procedure may be invoked through submitting the complaint to the Financial Services Complaints (named Kifid). Kifid is established by market parties by self-regulation, within the framework of legal requirements in the Financial Services Act. The Kifid is currently the only disputes agency recognised by the Minister of Finance and is totally independent. Kifid is mandatory for all our members (for all license holding financial institutes to be exactly). The Kifid consists of the Financial Services Ombudsman and the Financial Services Disputes Committee. The Financial Services Ombudsman will first try to mediate between the insurer and the consumer. Mediation is free of charge. When parties are not satisfied with the judgment of the	Noted

			Ombudsman, the Financial Services Disputes Committee can render a (for the insurer binding) decision on the dispute (with the opportunity of appeal for both parties). See for more information about Kifid: www.kifid.nl . We believe that the insurance industry with the internal complaint handling system and Kifid has a comprehensive and effective system of complaint handling/ alternative dispute resolution for the customer.	
20.	FECIF	1.	In many member states competent authorities, ombudsman or alternative dispute resolution (ADR) schemes are in place. As a way of improvement, we suggest existing institutions (as mentioned above) are integrated in the EIOPA Guidelines for Complaints Handling, including best practise experience from relevant EU members. For smaller intermediaries this will introduce a cost-effective way to simply redirect complaints straight to ADR schemes (such as an independent ombudsman). In countries without ADR schemes, such facilities should be implemented following best practise experience throughout Europe.	These Guidelines are directed specifically at internal complaints-handling procedures for insurance intermediaries. Their intention is not to cover external complaints-handling e.g. ADR schemes, although the Guidelines do not preclude these procedures.
21.	Wirtschaftskammer Österreich	1.	Die Richtlinie 2002/92/EG (IMD 1) beinhaltet keine Ermächtigung anderer Stellen zur Auslegung bzw. Interpretation der Richtlinie, zumal EIOPA zum Zeitpunkt der Erlassung der Richtlinie noch nicht eingerichtet war. Eine Umsetzung im Sinne der Festlegung technischer Regulierungsstandards gemäß Artikel 10 oder technischer Durchführungsstandards gemäß Artikel 15 der Verordnung Nr. 1094/2010 des Europäischen Parlaments und des Rates zur Errichtung einer europäischen Aufsichtsbehörde für das Versicherungswesen und die betriebliche Altersversorgung scheidet aus diesem Grund aus. EIOPA stützt sich daher in ihrer Kompetenz zur Erlassung der Leitlinien auf Artikel 16 der Verordnung Nr. 1094/2010 des Europäischen Parlaments und des Rates. Artikel 16 Absatz 1 definiert die Zielsetzung derartiger Leitlinien und Empfehlungen mit der Schaffung kohärenter, effizienter und wirksamer Aufsichtspraktiken	

			<p>sowie der Sicherstellung einer gemeinsamen, einheitlichen und kohärenten Anwendung des Unionsrechts.</p> <p>Die Richtlinie 2002/92/EG legt Mindeststandards für die Harmonisierung des Vermittlerrechts in den Mitgliedstaaten fest. Wie EIOPA selbst in ihrem Report zu den Guidelines festhält, hat mehr als die Hälfte der EU-/EWR-Staaten Art 10 der RL 2002/92/EG im Sinne der Erfordernis von ausschließlich externen Maßnahmen zum Beschwerdemanagement interpretiert, ein weiteres Drittel der EU-/EWR-Staaten hat sowohl interne als auch externe Maßnahmen gesetzlich festgelegt. In lediglich fünf Staaten (entspricht 17% der Staaten) wurden in der Umsetzung des Artikels 10 der RL 2002/92/EG lediglich interne Maßnahmen zum Beschwerdemanagement statuiert.</p> <p>Aus unserer Sicht kann in einer minimal harmonisierten Richtlinie wie der IMD 1 eine Interpretation durch eine Minderheit von Mitgliedstaaten nicht dazu führen, dass EIOPA sich eine Sicherstellung einer einheitlichen Anwendung des Unionsrechts im Sinne der Minderheit anmaßt. Wir halten diese Auslegung des Artikels 16 Absatz 1 der VO Nr. 1094/2010 durch EIOPA für unzulässig und sehen aus diesem Grund keine Kompetenz von EIOPA zur Erlassung derartiger Leitlinien für ein internes Beschwerdemanagement von Versicherungsvermittlern. Derartige Leitlinien stellen aufgrund ihrer direkten Wirkung auf die nationalen Aufsichtsbehörden materielles Recht für die einzelnen Versicherungsvermittler dar. Die Erlassung derartiger Leitlinien ist daher im Ergebnis die Schaffung neuer Rechtsakte durch EIOPA, deren Befugnis durch die VO Nr. 1094/2010 wir nicht für gegeben erachten.</p>	<p>EIOPA is issuing Guidelines based on Article 16 of its empowering Regulation, not based on IMD1, in order to "establish consistent, efficient and effective supervisory practices". Its intention is therefore not to re-interpret existing Union law, but to take inspiration from IMD1 and complement IMD1. EIOPA has already issued similar Guidelines on internal complaints-handling procedures for insurance undertakings based on Article 16 of its empowering Regulation.</p>
22.	BIPAR	2.	<p>It is unclear how EIOPA would guarantee, via the "comply or complain" procedure, that national supervisors would enforce the guidelines in a similar manner.</p>	<p>The "comply or explain" procedure in Article 16 is a reporting obligation as opposed to an obligation to comply as</p>

				the Guidelines are non-binding. They seek to promote a convergent approach amongst competent authorities through their willingness to make a public statement about their compliance or intention to comply. EIOPA is considering as a secondary initiative what approaches such as peer reviews can be used to assess the resulting convergence based on the Guidelines.
23.	BVK	2.	Der BVK hält die gegebene Verfahren in Deutschland in Form des Ombudsmann und des allgemeinen Rechtsweges zu den Gerichten für ausreichend, da sie eine angemessenen und hinreichenden Schutz für den Verbraucher bieten.	The Guidelines do not preclude existing national systems based on external complaints-handling procedures, but EIOPA is of the view that it is important for complainants to be afforded the opportunity to proceed through internal procedures first before resorting to ADR schemes
24.	Chris Barnard	2.	I agree with this. A minimum level of supervisory convergence is proportionate and practicable.	Noted
25.	FECIF	2.	Such a guideline would be welcomed only if it recognised the specific differences in the business model and organizational structure of all market players affected. A "one size fits all" approach has to be avoided! Today's approach does not allow for a level playing field with other channels of distribution such as banks and online sales. There has to be one set of explicit rules for ALL types of insurance sales.	<p>EIOPA has emphasised the proportionality principle in the introduction to the Guidelines, rather than the main text of the Guidelines for the following two main reasons:</p> <ul style="list-style-type: none"> • The legal concept of proportionality is already recognised as one of the general principles of European Union law. • EIOPA is of the view that it is important to allow competent authorities to interpret

				proportionality criteria at national level when supervising insurance intermediaries..
26.	German Insurance Association	2.	Policyholders are adequately and sufficiently protected with respect to the possibility to lodge complaints about insurance intermediaries through the implementation of Article 10 IMD1.	Disagree. Since Article 10, IMD1 was minimum harmonising, there was no incentive for Member States to go further in applying it to complaints-handling within insurance intermediaries.
27.	Wirtschaftskammer Österreich	2.	Prinzipiell ist zu bemerken, dass die Art, wie mit Kundenbeschwerden umgegangen wird, in jenen Teil der Unternehmenskultur fällt, der sich primär an allgemeinen Verhaltensregeln menschlichen Zusammenlebens, vor allem an den Geboten der Höflichkeit orientiert. Diese Gebote wurden und werden in modernen Rechtsordnungen bewusst und von kodifizierter Normierung ausgeklammert. Auch inhaltlich erscheint der Entwurf nicht zweckentsprechend, zumal er für die Behandlung von Beschwerden schablonenhafte, formalistische und bürokratische Vorgehensweisen vorsieht. Dem gegenüber sind Kundenbeschwerden jedoch stets vom Problem des jeweiligen Einzelfalles und insbesondere vom individuellen Charakter des Beschwerdeführers geprägt. Im Gegenzug erwarten Beschwerdeführer mit Recht eine faire aber vor allem auch individuelle Behandlung ihres Anliegens. Auch wird sich jedes Unternehmen stets schon aus eigenem Antrieb bemühen, Beschwerdefälle fair und gerecht, mit der gebotenen Höflichkeit und vor allem auch mit dem nötigen Fingerspitzengefühl zu behandeln und abzuwickeln, zumal andernfalls der gute Ruf und damit der wirtschaftliche Erfolg des Unternehmens wohl sehr rasch schwinden würde.	Disagree. These Guidelines seek to enhance convergence amongst national supervisory authorities, rather than directly impose requirements on insurance intermediaries. They are non-binding and are set out in the form of high-level principles rather than detailed rules so as to avoid formalistic and bureaucratic procedures.
28.	BVK	3.	Zum jetzigen Zeitpunkt hält der BVK die Einführung von Leitlinien gestützt auf Artikel 10 der IMD I für nicht sinnvoll, da die IMD I derzeit überarbeitet wird und nicht absehbar ist, welche genauen Änderungen die IMD II beinhalten wird.	The Guidelines are focussed on enhancing supervisory convergence and take inspiration from IMD1 without seeking to re-interpret IMD1. IMD1 was, in any event, a minimum

				<p>harmonising instrument. These Guidelines will be applied before IMD2. In the meantime, EIOPA consider complaints-handling as key in the insurance sector. Moreover, the COM proposal on IMD2 is not specific as regards the complaints-handling process. The EIOPA will adapt the text after the adoption of IMD2 if necessary.</p>
29.	FECIF	3.	<p>Simply publishing a pdf on the website of the regulation authority will not suffice to ensure that all affected market players get the relevant information in time. It is necessary to proactively communicate the release of the new guideline e.g. through national associations such as national chambers of commerce or other co-regulatory bodies which usually have a close relationship to their members concerned.</p>	<p>The final version of Guidelines will be published on EIOPA's website. The Guidelines are non-binding so it is up to the competent authorities to comply by incorporating them into their regulatory or supervisory framework in an appropriate manner. They might do this by amending or completing their legal framework or their supervisory rules, practices and/or guidance, or already announce on their website their intention to comply.</p>
30.	FFSA	3.	<p>The FFSA believes an adjustment period of one year would be reasonable given the importance in terms of organization and administrative costs caused by these guidelines.</p>	<p>Disagree. EIOPA is of the view that the benefits in terms of enhancing consumer confidence will outweigh the costs. Moreover, EIOPA does not consider these Guidelines to be particularly onerous as evidenced in the Impact Assessment. .</p> <p>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 Guidelines are addressed to

				<p>competent authorities; it is up to them to organise the process of applying them at national level to insurance intermediaries.</p> <p>3. 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>
31.	Wirtschaftskammer Österreich	3.	<p>EIOPA verfolgt mit dem gegenständlichen Entwurf zwei Ziele: einerseits, ein „Level Playing Field“ zwischen den einzelnen Vermittlern in Europa zu schaffen und andererseits die faire Behandlung von Beschwerden über Versicherungsvermittler sicherzustellen. Gegen beide Zielsetzungen ist grundsätzlich nichts einzuwenden, insbesondere die Schaffung fairer Wettbewerbsbedingungen liegt im ausdrücklichen Interesse der Wirtschaftskammer Österreich. Wir sind jedoch der Ansicht, dass der vorgelegte Entwurf für Guidelines zum Beschwerdemanagement von Versicherungsvermittlern nicht bzw. nur bedingt geeignet ist, diesen Zielsetzungen in der Praxis auch zu entsprechen.</p>	<p>Disagree. The Guidelines meet the two objectives mentioned in a flexible manner as they apply to competent authorities on a non-binding “comply or explain” basis.</p>
32.	BVK	4.	<p>Es muss grundsätzlich bezweifelt werden, ob die konkreten Verpflichtungen für Versicherungsvermittler in Anbetracht des Kostenaufwandes und des Nutzens für den Verbraucher in einem ausgewogenen Verhältnis stehen.</p>	<p>Disagree. EIOPA is of the view that the benefits in terms of enhancing consumer confidence will outweigh the costs. EIOPA does not consider these Guidelines to be particularly onerous as evidenced in the Impact Assessment.</p>
33.	Wirtschaftskammer Österreich	4.	<p>Mit der Einrichtung einer beim österreichischen Bundesministerium für Wirtschaft, Familie und Jugend (BMWFJ) angesiedelten Beschwerdestelle wurden die Artikel 10 (Beschwerden) und 11 (außergerichtliche Beilegung von Streitigkeiten) der IMD 1</p>	<p>Disagree. These Guidelines are intended as being complementary to IMD1, rather than being an unnecessary parallel system.</p>

	ich		Richtlinie (RL 2002/92/EG) im österreichischen Recht korrekt umgesetzt. In analoger Weise hat schließlich auch die überwiegende Mehrzahl der betroffenen Staaten (konkret 14 weitere Länder, darunter u.a. Belgien, Deutschland, Italien, Polen) Beschwerdestellen eingerichtet bzw. andere Maßnahmen der externen Beschwerdeabfertigung umgesetzt. Ein Beschwerdemanagementsystem, das einzelne Versicherungsvermittlerunternehmen verpflichtet, wurde nicht implementiert. Ein wie in den Guidelines angestrebtes unternehmensinternes verpflichtendes Beschwerdemanagement für selbständige Versicherungsvermittler (Agenten und Makler) würde ein „Parallelsystem“ darstellen, das schon aus diesen grundsätzlichen Überlegungen für nicht erforderlich gehalten wird.	Enhancing supervisory convergence with regards to internal complaints-handling brings specific benefits in terms of enhancing consumer protection and consumer confidence.
34.	IRSG	5.	The IMD recast proposal includes a new article 7 that addresses a new division of competence between home and host member state supervisors, covering a new Article 12 on complaints. The IRSG believes that this will have to be taken into account in the review that EIOPA will undertake of the Guidelines.	Noted. These Guidelines will be applied before IMD2. In the meantime, EIOPA consider complaints-handling as key in the insurance sector. Moreover, the COM proposal on IMD2 is not specific as regards the complaints-handling process. The EIOPA will adapt the text after the adoption of IMD2 if necessary
35.	BIPAR	5.	The IMD recast proposal includes a new article 7 that addresses a new division of competence between home and host member state supervisors, covering new Article 12 on complaints. BIPAR believes that this should be taken into account in the Guidelines. +See general comments on the right timing.	Noted. These Guidelines will be applied before IMD2. In the meantime, EIOPA consider complaints-handling as key in the insurance sector. Moreover, the COM proposal on IMD2 is not specific as regards the complaints-handling process. The EIOPA will adapt the text after the adoption of IMD2 if necessary
36.	BVK	5.	Die Problemdefinition gemäß Punkt 2 über möglich Auswirkungen	EIOPA is of the view that appropriate

			<p>und Einschätzungen der Leitlinien überzeugen nur bedingt.</p> <p>Denn die Frage eines Interessenkonfliktes zwischen Vermittler und Verbraucher hat nichts mit der Frage des Beschwerde-Handlings zu tun. Es vermag schon nicht zu überzeugen, dass der Vermittler der richtige Ansprechpartner für den Verbraucher ist, wenn er es sein sollte, der den Verbraucher unangemessen beraten haben sollte. Hier ist ein objektives Verfahren wesentlich sinnvoller und für den Verbraucher effizienter.</p>	<p>complaints-handling can increase the likelihood that a consumer, if they are not treated appropriately by an intermediary, will obtain redress. This in turn incentivises insurance intermediaries to act in the consumer's best interests, thus addressing conflicts of interest.</p>
37.	FECIF	5.	<p>Authorities explicitly competent for supervising complaints handling by insurance intermediaries in their jurisdiction do not exist in every member state so far.</p> <p>For example in Austria</p> <ul style="list-style-type: none"> <input type="checkbox"/> the Financial Market Authority takes responsibility for the financial management of insurance companies; <input type="checkbox"/> the Ministry of Commerce takes responsibility for the so called trade act which governs certain qualifications and prerequisites for self-employed intermediaries; <input type="checkbox"/> the Chamber of Commerce regulates access to the market for self-employed intermediaries by certification and a code of conduct; <input type="checkbox"/> the local municipal authorities are dealing with the issue of quality of advice of independent intermediaries. However, their staff neither has training nor experience regarding this issue at all! <input type="checkbox"/> there is no authority for supervision of the quality of advice by banks and insurance companies. <p>In order to become implementable, the EIOPA guidelines need a national legal basis for the supervision of the quality of advice of ALL intermediaries, regardless if they are entrepreneurs or employed by insurance companies or banks. These NCAs need skilled staff.</p>	<p>The competent authorities envisaged under the Guidelines are those competent for the purposes of the provisions of IMD1 (see Article 7, IMD1).</p> <p>The Guidelines are a "soft law" instrument, which are non-binding and apply on a "comply or explain" basis. There is no obligation to "implement" them in national law through primary or secondary legislation like an EU Directive. It is up to competent authorities to incorporate the Guidelines into their</p>

				regulatory or supervisory framework in an appropriate manner.
38.	FFSA	5.	The FFSA understands that host country authorities will have to supervise complaints-handling procedure set up by insurance intermediaries acting in their country via freedom of services or freedom of establishment. The FFSA wonders whether this rule complies with home State principle.	Disagree. Complaints handling relates to "general good" provisions and therefore, under the IMD, the host competent authority supervises complaints-handling by insurance intermediaries doing business in their jurisdiction under freedom of services or freedom of establishment. This is already covered in the Guidelines under paragraph 4 of the "Introduction" section.
39.	Wirtschaftskammer Österreich	5.	Darüber hinaus möchten wir darauf hinweisen, dass – unbeschadet der beim BMWFJ eingerichteten Beschwerdestelle – beim österreichischen Fachverband der Versicherungsmakler eine Rechtsservice- und Schlichtungsstelle (RSS) eingerichtet ist. Diese ermöglicht auf Basis einer entsprechenden Satzung und der darauf basierenden Verfahrensordnung die Beschwerdemöglichkeit jedes Versicherungsmakler-Kunden gegen „seinen“ Versicherungsmakler und eröffnet ein nach objektiven Grundsätzen durchzuführendes (Akten-)Verfahren, das mit einer entsprechenden Empfehlung endet. Über die beim BMWFJ eingerichtete Beschwerdestelle hinaus existiert also eine weitere Beschwerdemöglichkeit für Kunden von Versicherungsmaklern, sodass ein sich beschwert fühlender Kunde/Versicherungsnehmer zumindest zwei Möglichkeiten zur Beschwerdeführung vorfindet.	Noted. These Guidelines are targeted at internal complaints-handling procedures for insurance intermediaries and are without prejudice to existing national systems of external complaints-handling.
40.	IRSG	6.	The IRSG believes that for legal certainty, more clarity from EIOPA around Comply or Explain rules would be helpful.	Noted. The legal status of the "comply or explain" process is outlined under the "Compliance and Reporting Rules" section of the Guidelines. 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.
41.	BIPAR	6.	BIPAR believes that for legal certainty, more clarity from EIOPA around Comply or Explain rules would be helpful.	See resolution on row 40 above.
42.	BVK	6.	<p>Die Vergleichbarkeit mit dem Beschwerdeverfahren für Versicherungsunternehmen ist nach Ansicht des BVK nicht gegeben.</p> <p>Denn zum einen ist die rechtliche Position des Vermittlers in Gestalt eines Agenten oder Maklers schon unterschiedlich, zum anderen ist auch die Position des Vermittlers zum Kunden eine andere als die des Versicherungsunternehmens.</p> <p>Des weiteren darf nicht verkannt werden, dass die Versicherungsunternehmen andere finanzielle Möglichkeiten haben und daher bürokratische Aufgaben anders bewältigen können, als dies kleine oder mittelgroße Agenturen können.</p>	<p>The Guidelines have been adapted compared to those applicable to insurance undertakings, to take account of the very diverse nature and size of the insurance intermediation market in Europe. Noted. EIOPA has emphasised the proportionality principle in the introduction to the Guidelines, rather than the main text of the Guidelines for the following two main reasons:</p> <ul style="list-style-type: none"> • The legal concept of proportionality is already recognised as one of the general principles of European Union law. • EIOPA is of the view that it is important to allow competent authorities to interpret proportionality criteria at national level when supervising insurance intermediaries..
43.	Wirtsch	6.	Die gegenständlich vorgeschlagenen Guidelines on Complaints-	Noted.

	<p>aftskammer Österreich</p>	<p>Handling orientieren sich offenkundig an den Mitte 2012 erlassenen Richtlinien zum Beschwerdemanagement von Versicherungsunternehmen und versuchen diese Systematik auf Versicherungsvermittlerunternehmen zu übertragen. Dieser Versuch ist aus unserer Sicht aus folgenden Gründen untauglich:</p> <p>Beschwerdemanagementsysteme – insbesondere von großen Dienstleistungsunternehmen, wie dies bei Versicherern üblicherweise der Fall ist, basieren darauf, dass der Tätigkeit, derentwegen man sich allenfalls beschwert erachtet, eine arbeitsteilige Unternehmensorganisation zugrunde liegt. Für Versicherungsunternehmen gilt dies geradezu automatisch, wenn man sich folgender Tatsache vergegenwärtigt: Der Betrieb eines Versicherungsunternehmens kann in Österreich – wie auch in anderen EU-Ländern – nicht in jeder beliebigen Gesellschaftsform geführt werden, sondern ausschließlich als Aktiengesellschaft oder als Versicherungsverein auf Gegenseitigkeit (vgl § 3 VAG). Bereits diese Gesellschaftsformvorschrift bedingt, dass ein Versicherungsunternehmen ein gewisses Mindestmaß an Organisationsvorschriften einzuhalten hat, die arbeitsteiliges Verhalten zwingend nach sich ziehen. Vergegenwärtigt man sich in weiterer Folge diverser anderen Vorschriften, die insbesondere das VAG (zB 17b, ...), aber beispielsweise auch das Aktiengesetz vorsieht, so wird dies geradezu eindrucksvoll belegt.</p> <p>Im Gegenzug dazu stellt sich die Unternehmensstruktur der (österreichischen) Versicherungsvermittler völlig anders dar:</p> <p>Über 60 % der österreichischen Versicherungsvermittlerunternehmen sind als (Großteils nicht protokollierte) Einzelunternehmer tätig. Daraus folgt: Die – wenn auch modifizierte – Übertragung von Guidelines, die für große, oftmals konzernartige Dimensionen annehmende (Versicherungs-)Unternehmen konzipiert sind, sind per se nicht geeignet auf eine Branche übertragen zu werden, deren Unternehmensstruktur mit</p>	
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			überwältigender Mehrheit von Klein- und Mittelbetrieben geprägt ist.	
44.	IRSG	7.	See general comments	
45.	BIPAR	7.	See general comments on the need for a proportionate regime	
46.	BVK	7.	Grundsätzlich ist zu befürchten, dass die bürokratischen Verpflichtungen für die Vermittler noch größer werden, als sie jetzt schon sind. Insbesondere wenn Vermittler Beschwerden bearbeiten müssen, für die sie eigentlich gar nicht zuständig sind, weil andere Vermittler gegenüber dem Kunden aktiv waren oder ein umfangreiches Beschwerde-Management- System durchführen und pflegen müssen. Selbst EIOPA hält in diesem Fall den Weg zu den bestehenden Beschwerdeverfahren wie dem Ombudsmann für einfacher und weniger kostenintensiv.	<p>EIOPA recognises the importance of the proportionality principle in the implementation of these Guidelines as set out in the introduction and in the Best Practices Report. EIOPA has emphasised the proportionality principle in the introduction to the Guidelines, rather than the main text of the Guidelines for the following two main reasons:</p> <ul style="list-style-type: none"> • The legal concept of proportionality is already recognised as one of the general principles of European Union law. • EIOPA is of the view that it is important to allow competent authorities to interpret proportionality criteria at national level when supervising insurance intermediaries.
47.	Chris Barnard	7.	Fully agreed. This is important given that insurance intermediaries range in scale and complexity from one-person shops to large organisations.	<p>Noted. EIOPA has emphasised the proportionality principle in the introduction to the Guidelines, rather than the main text of the Guidelines for the following two main reasons:</p> <ul style="list-style-type: none"> • The legal concept of

				<p>proportionality is already recognised as one of the general principles of European Union law.</p> <ul style="list-style-type: none"> • EIOPA is of the view that it is important to allow competent authorities to interpret proportionality criteria at national level when supervising insurance intermediaries.
48.	FECIF	7.	<p>When applying these Guidelines A proportionate regime that takes into account the nature and size of insurance intermediaries is crucial. In order to avoid 28 different interpretations the criteria for proportionate application have to be specified by EIOPA on a European level. Otherwise we fear the transposition would be at the discretion of the national regulators which to our experience tend to gold-plating. This usually leads to more severe burdens than initially intended by the European regulator.</p>	<p>Noted. EIOPA has emphasised the proportionality principle in the introduction to the Guidelines, rather than the main text of the Guidelines for the following two main reasons:</p> <ul style="list-style-type: none"> • The legal concept of proportionality is already recognised as one of the general principles of European Union law. • EIOPA is of the view that it is important to allow competent authorities to interpret proportionality criteria at national level when supervising insurance intermediaries.
49.	FFSA	7.	<p>9. We regret that no reference is made to proportionality in the text of the guidelines itself. This principle should be highlighted and introduced in the text, where relevant. Furthermore, a reference should be made to the nature of activity (ancillary or not) The FFSA suggests this wording :</p> <p>10. "For the implementation of this guideline, competent authorities should take into account the nature and size of the</p>	<p>EIOPA has emphasised the proportionality principle in the introduction to the Guidelines, rather than the main text of the Guidelines for the following two main reasons:</p> <ul style="list-style-type: none"> • The legal concept of proportionality is already

			insurance intermediary concerned as well as if he exercises the activity of intermediation mainly or as ancillary”	<p>recognised as one of the general principles of European Union law.</p> <ul style="list-style-type: none"> EIOPA is of the view that it is important to allow competent authorities to interpret proportionality criteria at national level when supervising insurance intermediaries. <p>Agree. EIOPA has also adapted the proportionality principle in paragraph 5 to take into account whether the insurance intermediary takes up or pursues the activity of insurance mediation as a principal professional activity or on an ancillary basis..</p>
50.	German Insurance Association	7.	Giving insurance intermediaries the possibility to redirect complaints of customers straight to an external complaints body, as a general rule, is supported by the German insurance industry. In any case, insurance undertakings should have the possibility to undertake the tasks of their tied agents stipulated in the Guidelines (see also General Comment II on a.). It is probably more natural for customers to first lodge their complaint about a tied agent with the insurance undertaking anyway. In many cases, the complaint can already be settled there.	Noted. Tied insurance intermediaries are specifically excluded from the majority of the Guidelines by virtue of Guideline 1 as they do not hold responsibility for the subject-matter of the complaint. The only requirement for them is to direct the complaint to the insurer, at the same time informing the complainant.
51.	Wirtschaftskammer Österreich	7.	Zu diesem generellen Aspekt gesellen sich diverse weitere Punkte: Der mit der Erstellung, laufenden Wartung, laufenden Dokumentation und dergleichen befassende selbständige Versicherungsvermittler (Agent und Makler) sieht sich insbesondere im Rahmen eines Klein- und Mittelunternehmens einem Verwaltungsaufwand gegenüber, der wohl in keinem Verhältnis zu	Disagree. EIOPA does not consider the Guidelines to be excessively burdensome or bureaucratic as they are high-level principles, which are non-binding and addressed to competent authorities only. EIOPA considers that internal complaints-handling procedures bring important

			dem für den Kunden potentiell zu erwartenden Nutzen steht. Gerade der Einzel- und/oder Kleinunternehmer sähe sich überbordenden Administrationsangelegenheiten gegenüber, die ihm allenfalls die Zeit nehmen, sich seinen Kunden zu widmen. Insofern erscheint der gegenständliche Ansatz eines Beschwerdemanagementsystems hinsichtlich der verfolgten Zielsetzung nach Konsumentenschutz sogar kontraproduktiv.	benefits in terms of enhancing consumer protection and consumer confidence.
52.	IRSG	8.	See general comment	
53.	BIPAR	8.	Point 8 of the introduction deals with the scope of the guidelines. It should be reflected in the text of the Guidelines.	Noted. The scope of the Guidelines is left to competent authorities to determine, particularly as regards the definition of a "complaint" to take into account national specificities, hence it is not included in the main text of the Guidelines.
54.	BVK	8.	Des weiteren ist die Aufnahme von Beschwerden in einem Register sowohl praktisch als auch datenschutzrechtlich genau zu überprüfen, um auch hier für den Verbraucher sinnvoll und im Verhältnis hierzu möglichst wenig kostenlastig zu sein.	Disagree. The secure electronic register referenced under paragraph 13 (Guideline 4) is only a suggested example. It is not a mandatory requirement. The benefits of registration include that it facilitates root cause analysis and gives the firm information about the risks related to the intermediaries' activities.
55.	FFSA	8.	11. The EIOPA Regulation justifies the power to issue guidelines by the objective of ensuring a common, uniform and consistent application of Union law. In this context, it seems essential to define a common definition of the word "complaint". Indeed, the lack of harmonization on such an important point is contrary to the objectives set out in the EIOPA regulation. Therefore, the FFSA would like the definition provided in EIOPA's proposal to be mandatory.	Disagree: EIOPA encourages NCAs to adopt the definition provided in the Guidelines, but also has to take into account national specificities.

56.	German Insurance Association	8.	When issuing a separate Guideline on complaints-handling by insurance intermediaries, it shall be made sure that this Guideline is in line with EIOPA's Guideline on complaints-handling by insurance undertakings.	Noted. These Guidelines are intended to be similar to those applicable to insurance undertakings. However, as stated in the Impact Assessment, they have also been adapted to take account of the nature and size of the insurance mediation market in Europe.
57.	Wirtschaftskammer Österreich	8.	<p>EIOPA gibt selbst zu, dass ein Beschwerdemanagementsystem nicht nur Administrationsaufwand, sondern echte Kosten verursacht, wobei diese jedoch wiederum indirekt hereingespielt werden sollten; dies in der Art, dass das Beschwerdemanagement dem Vermittler eine Risikoanalyse sozusagen im eigenen Bereich ermöglichen und das Abstellen von eigenen Mängeln erleichtern würde.</p> <p>Dazu ist anzumerken, dass wir mit der Ansicht nach (negativen) Kostenfolgen konform gehen; eine Art Umwegrentabilität können wir jedoch nicht erkennen. Gerade im klein- und mittelgewerblichen Bereich der österreichischen Versicherungsvermittlerbranche können sich Versicherungsagenten und -makler unzufriedene Kunden de facto nicht leisten. Schon die durch das österreichische Konsumentenschutzrecht und die einschlägigen Regeln zum VersVG für Kunden/Konsumenten bestehenden Rücktritts- und Kündigungsmöglichkeiten bieten Gewähr dafür, dass sich der Versicherungsvermittler mittel- und langfristig unzufriedene Kunden schlichtweg nicht erlauben kann. Dazu kommt als besonderes österreichisches Spezifikum die im europäischen Vergleich besonders strenge Maklerhaftung für Versicherungsmakler, die dem „wirklich beschwerten“ Kunden die Möglichkeit der direkten Inanspruchnahme des Versicherungsmaklers eröffnet.</p>	EIOPA is of the view that the benefits in terms of enhancing consumer confidence will outweigh the costs. Moreover, EIOPA does not consider these Guidelines to be particularly onerous as evidenced in the Impact Assessment. .
58.	BIPAR	9.	These definitions should be reflected in the text of the Guidelines.	Noted. The definitions are intended to be indicative only to allow for national specificities as it is up to competent

				authorities to determine the scope of the Guidelines at national level.
59.	FFSA	9.	<p>Definitions should not be "indicative" but mandatory at national level. Indeed, the EU regulation, 1094/2010 of 24/11/2010 establishing EIOPA states : „The Authority shall, with a view to establishing consistent, efficient and effective supervisory practices within the ESFS, and to ensuring the common, uniform and consistent application of Union law, issue guidelines and recommendations addressed to competent authorities or financial institutions.“</p> <p>Regarding the indicative definition of "complaint", EIOPA refers to "mediation activities of the intermediary". The FFSA would like to stress that some activities which are in the scope of intermediation activities of IMD have to be considered as activities which could be "outsourced" by the insurance company (see art.49 Directive Solvency II). In these conditions, regarding complaints-handling system, if the complaint relates to an activity which is outsourced (as defined in Solvency II), like claims-handling or underwriting, to the intermediary, who will be responsible for the complaints-handling procedure ? The insurance company or the intermediary?</p>	<p>See resolution (row)58.</p> <p>Agree. EIOPA has provided clarification in the Best Practices Report on the scope provisions in paragraphs 7, 8 and Guideline 1. In particular, a decision tree clarifying the precise scope of the Guidelines has been added to the Best Practices Report..</p>
60.	Wirtschaftskammer Österreich	9.	<p>Die vorgeschlagenen Guidelines erachten es als grundsätzlich notwendig, dass die organisatorischen Regelungen gewährleisten, dass eine Beschwerde von einer anderen Person bearbeitet wird, als von derjenigen, die für die Beschwerde kausal verantwortlich war/ist. Wie diese Umsetzung im EPU-Bereich erfolgen soll bleibt offen. Unseres Erachtens nach kann eine derartige Regelung im EPU-Bereich schlichtweg nicht funktionieren.</p> <p>Als mögliche Lösung soll allenfalls vorgeschlagen werden, in derartigen Fällen die Anrufungsmöglichkeit einer externen Beschwerdestelle vorzusehen. Damit würde der beschwerdeführende Kunde letztlich wohl an eine externe Stelle zur Beschwerdebehandlung verwiesen werden. Angesichts des vorhin</p>	<p>The Guidelines do not seek to preclude the use of external complaints bodies, but EIOPA is of the view that complainants should be afforded an opportunity to proceed through internal procedures first. The implementation of complaints-handling procedures within an insurance intermediary allows complaints to be dealt with more efficiently as the intermediary has direct access to information and evidence needed to investigate and resolve the complaint.</p>

			<p>bereits erwähnten hohen Anteils von Ein-Personen-Versicherungsvermittlerunternehmen in Österreich hätte dies zur Folge, dass - Beschwerdeführungen in einem adäquaten Ausmaß vorausgesetzt - die Beschwerden im überwiegenden Teil letztlich zwangsläufig bei einer externen Beschwerdeführung landen würden. Damit würde sich schließlich eine Situation ergeben, die derzeit bereits existiert: Die Beschwerden landen bei der Beschwerdestelle beim BMWFJ. Für den Konsumenten/Kunden ist also nichts gewonnen; im Gegenteil: Er verliert durch die Übertragung seiner Beschwerde vom unternehmensinternen Beschwerdemanagementsystem an eine externe Stelle bloß Zeit und das Versicherungsvermittlerunternehmen verliert infolge des administrativen Aufwandes Zeit und Geld.</p>	
61.	Norton Rose Studio Legale	10.	<p>Reference to the Authorities mentioned under footnote 6 may not be sufficient to cover all of the possible authorities, taking into consideration that in Italy competence over complaints handling (in addition to the competence of the Bank of Italy IVASS department) may also be of the authority for the financial market (CONSOB), which supervises over the insurance market although to a limited extent only (i.e. in relation to the transparency of the financial products issued by insurance companies); this latter authority, in fact, apparently does not fall in the list of authorities as defined in the Solvency II directive or in the list of authorities provided for under the IORP Directive.</p> <p>The documents should also provide Guidelines to the various authorities supervising over the same insurance market, in relation to the coordination of their respective regulations on complaints handling, in order to avoid duplications of obligations upon insurance intermediaries and insurance undertakings.</p> <p>We suggest to explicitly exclude complaints handling burdens upon entities acting as sub-intermediaries (i.e. under the responsibility of another insurance intermediary, subject to the complaints handling</p>	<p>Disagree: The Guidelines follow the EIOPA regulation wording. The CCPFI is not in a position to change the EIOPA Regulation.</p> <p>Disagree. See resolution (row) 59.</p>

			obligations), only.	
62.	BIPAR	10.	<p>Under point 10, it is explained that the Guidelines do not apply in two specific cases (where the intermediary receives a complaint about a non-insurance activity, and where the intermediary handles a complaint on behalf of another financial institution). However these two cases are not reflected at all in the same way in Guideline 1. It is confusing.</p> <p>BIPAR believes more clarity is needed regarding the scope of the Guidelines. It is crucial that the definition of a "complaint addressed to an intermediary" is clearly defined, otherwise the obligations introduced by the Guidelines would not achieve their aim. BIPAR believes that is necessary to (re)draft another guideline in this respect.</p>	See resolution (row) 59.
63.	FECIF	10.	<p>There should be one consistent approach for claims handling for all types of financial products. As the guidelines define the context of how to deal with complaints and do not affect the content itself there are overwhelming similarities in complaints about investments, insurance products, credits or any other financial product. EIOPA has to be in line with the other ESAs, especially ESMA. In reality many insurance intermediaries also act as investment advisers and therefore need ONE scheme for dealing with complaints instead of different hence confusing regulations.</p>	Noted. The Joint Committee of the ESAs is planning to issue for consultation draft Guidelines on complaints-handling for the securities (ESMA) and banking (EBA) sectors, which are in line with EIOPA's Guidelines on complaints-handling by insurance undertakings.
64.	BIPAR	11.	See above comments	
65.	Eurofin as	11.	<p>We disagree with the proposed recommendation that where the Guidelines do not apply, the intermediary should still explain his position on the complaint. We believe that this recommendation goes beyond EIOPA's mandate as it touches upon the distribution of non-insurance products. Though we understand the objective to ensure that complainants will be provided with sufficient feedback, it should not be assumed that all intermediaries can respond to complaints</p>	<p>Disagree: the Guidelines do not go beyond the scope of EIOPA's competences.</p> <p>See resolution (row) 63.</p>

			related to other products/services. We do not believe that the current wording sufficiently takes into account the existence of diverse business models.	
66.	FFSA	11.	On this point, the FFSA wonders about the legal basis for this requirement as it deals with complaints about activities "other than those regulated by the competent authorities". The FFSA fears that this obligation to explain its position on the complaint create a new risk for the insurance intermediary to see his responsibility involved. This risk is not legally justified in our view. Same remarks for point 1 of report on Best practices : "when an insurance intermediary receives a complaint about non-insurance activities, it would be best practice to respond, where, possible explaining the insurance intermediary's position on the complaint" .	See resolution (row) 63
67.	BIPAR	12.	There are very useful references to the need for a proportionate regime and examples of it in the draft Best Practices report. BIPAR regrets however that this is not reflected in the eight guidelines which are the only text subject to the "comply or explain" mechanism.	Noted. The Guidelines are intentionally embodied as basic high-level principles whereas the Best Practices Report sets out how these high-level principles should be applied in practice. More specific cross-references to the sections of the Best Practices Report have been included in the introduction to the Guidelines and more emphasis has been placed on reading the Guidelines in conjunction with the Best Practices Report. See also resolution (row) 2.
68.	FECIF	12.	EIOPA ideally publishes a check-list with detailed provisions on insurance intermediaries' handling of complaints. This should be a pre-printed form. Whoever is processing complaints according to this check-list can be secure about doing things right. The check-list can be stored for documentation, too, or be the blue-print for IT complaints systems.	Disagree. A pre-printed form would be too prescriptive. Conversely, the EIOPA wants flexibility so that each insurance intermediary can adapt to its own situation.
69.	FFSA	12.	The FFSA understands the interest of a reference to the "Report on Best Practices by Insurance Intermediaries in handling complaints". Nevertheless, in order to avoid any confusion on the mandatory	Disagree. It is already written on page 2 of the BPR: "these Best Practices are <u>not</u> legally binding on competent

			nature of this text, it should be recall that these best practices are not legally binding.	authorities or financial institutions as defined under the EIOPA Regulation [...]”. Moreover, the binding part of the Guideline does not refer to the BPR, so that confusion is not possible.
70.	German Insurance Association	12.	It should be clarified that the procedures described in the Best Practices Report are not binding and that they are not subject to the “comply or explain” principle (see Introduction of the Best Practices Report in this context).	Noted.
71.	Agéa	13.	Agéa n’est pas certaine de bien comprendre cette disposition. Agéa souligne que les agents généraux d’assurances sont opposés à toute orientation qui reviendrait à les empêcher de traiter directement les réclamations qui les concernent.	See resolution (row) 59. Moreover, the Guidelines do not prevent the intermediaries from handling complaints themselves where possible. The EIOPA wants flexibility so that each insurance intermediary can adapt to its own situation.
72.	ANACO FI	13.	We think that the part of the sentence “and the insurance intermediary does not handle the complaint on behalf of that insurance entity” should be erased because this case never happens.	See resolution (row)59.
73.	BIPAR	13.	Guideline 1 deals with the complaints that are excluded from the scope of the Guidelines. Guideline 1 does not reflect the explanations given under point 10. BIPAR believes more clarity is needed regarding the scope of the Guidelines. Guideline 1 excludes from the scope of EIOPA guidelines, complaints received by an insurance intermediary “for which another insurance entity is responsible and where the intermediary does not handle the complaint on behalf of that entity”.	See resolution (row) 59. EIOPA has provided clarification in the Best Practices Report on the scope provisions in paragraphs 7, 8 and Guideline 1. In particular, a decision tree clarifying the precise scope of the Guidelines has been added to the Best Practices Report.

			<p>BIPAR does not understand the reasons of the exemption nor does it agree with it. It does not reflect the reality of many national situations where intermediaries “for which another insurance entity is responsible and who do not handle the complaint on behalf of that entity” do or can handle complaints addressed to them – when relating to their activity - internally (see French example attached).</p> <p>This is a key principle for them. As explained above, internal procedures, for all intermediaries, brokers or agents, are efficient and ensure consumer protection and confidence. It is essential that each intermediary firm has the ability to deal with a complaint internally before it is referred to ADR or another system. This is an important principle. As explained on page 17 of the Impact Assessment “internal procedures help intermediaries become more aware of their duties and contribute to averting reputational damage. Sound market conduct by intermediaries also generate helps to enhance consumer confidence and contributes indirectly to reinforcing confidence in the insurance sector”.</p> <p>In other markets where intermediaries ,“for which another insurance entity is responsible and who do not handle the complaint on behalf of that entity”, do not or can’t handle complaints internally, there is a strong wish to be able to do so for the reasons explained above.</p> <p>BIPAR believes therefore that more flexibility should be given in the Guidelines regarding complaints addressed to intermediaries “for which another insurance entity is responsible”. These latter should be given the choice to be able to deal with a complaint internally and this should be reflected in Guideline 1 accordingly.</p>	See resolution (row) 71.
74.	Dutch Associa	13.	Kifid is also mandatory for all insurance intermediaries in the Netherlands.	Noted.

	tion of Insurers			
75.	Eurofinas	13.	<p>Guideline 1 provides that where a complaint is received by an insurance intermediary for which another insurance entity is responsible, and the insurance intermediary does not handle the complaint on behalf of that insurance entity, the insurance intermediary should inform the complainant and direct the complaint to the relevant insurance entity. In that case, the other guidelines do not apply.</p> <p>We agree with this guideline. However, we think it should be clarified that this guideline also applies in the case of a chain of intermediaries.</p> <p>As mentioned previously, most consumer credit providers do not cover insurance risks themselves but work in partnership with insurance companies. This means that a consumer credit provider distributes the insurance products of its insurance partner and in this context acts as an intermediary.</p> <p>In turn consumer credit providers offer these insurance products through their distribution channels including at the point of sale. In the latter situation, insurance products will be distributed by retailers or motor dealers that will act as the credit providers' own intermediaries.</p> <p>In the event that a complaint is made, it will be handled by either the consumer credit provider or the insurance undertaking. This will depend on the nature of the complaint and contractual requirements.</p>	See resolution (row) 59.

			<p>An insurance intermediary should be allowed to direct the complaint to an insurance entity but also to another insurance intermediary on behalf and under the full responsibility of which he his acting. To reflect this distribution model, Guideline 1 should be amended as follows:</p> <p>Where a complaint is received by an insurance intermediary for which another insurance entity/insurance intermediary is responsible, and the insurance intermediary does not handle the complaint on behalf of that insurance entity/insurance intermediary, the insurance intermediary should inform the complainant and direct the complaint to the relevant insurance entity/insurance intermediary.</p> <p>Alternatively, the term "insurance entity" should be clearly defined and cover both insurance undertakings and insurance intermediaries.</p>	<p>Agree. "Insurance entity" has been amended in Guideline 1 to "financial institution" to make clear that it covers non-insurance related complaints.</p>
76.	FECIF	13.	<p>This certainly has to be standardised in order to avoid time consuming schemes for dealing with complaints that an intermediary is not even responsible for.</p>	<p>Disagree. The EIOPA does not expect insurance intermediaries to receive a lot of complaints they are not responsible for. If this is the case, an agreement may be considered to lighten the burden. The Guidelines do not prescribe any organisational arrangement between the insurance intermediaries and the insurance undertakings in order to let them decide what organisation best fits their actual situation.</p>
77.	FFSA	13.	<p>The FFSA is not entirely satisfied with this guideline as it doesn't solve the main difficulty of the relations between insurance</p>	<p>See resolution (row) 59. EIOPA has provided clarification in the Best</p>

			<p>intermediaries and undertakings: in which case the intermediary deals with complaints on behalf of the company ?</p> <p>For the rest, the FFSA agrees partly with this provision. We support that intermediaries should adopt this conduct if they know the insurance entity concerned. However, when they don't, the FFSA doesn't see how they could direct the complaint to the relevant entity. In this situation, we consider the intermediary should only inform the complainant on the fact he is not responsible and he is not able to direct the complaint to the right insurance entity.</p>	<p>Practices Report on the scope provisions in paragraphs 7, 8 and Guideline 1. In particular, a decision tree clarifying the precise scope of the Guidelines has been added to the Best Practices Report.</p> <p>Agree. The Guideline has been amended to make clear that an insurance entity means "a financial institution" so as to cover non-insurance related complaints.</p>
78.	BIPAR	14.	See above comments.	Noted.
79.	FFSA	14.	The FFSA welcomes this paragraph.	Noted.
80.	IRSG	15.	The IRSG proposes that the following sentences - as included in the draft report on Best Practices - are included in guidelines 2 to 8: « taking into account the nature and size of insurance intermediaries in light of the principle of proportionality" or "depending on the size and structure of the intermediary".	<p>EIOPA has emphasised the proportionality principle in the introduction to the Guidelines, rather than the main text of the Guidelines for the following two main reasons:</p> <ul style="list-style-type: none"> • The legal concept of proportionality is already recognised as one of the general principles of European Union law. • EIOPA is of the view that it is important to allow competent authorities to interpret proportionality criteria at national level when supervising insurance intermediaries.. <p>See comment 2.</p>

81.	Norton Rose Studio Legale	15.	Guidelines 2: We suggest to delete reference to "injured third parties": insurance intermediaries, in fact, do not have any relationship with such third parties, nor injured third parties (except in some very limited cases, e.g. in relation to Italian motor TPL) may have any right originated by the insurance contract. Alternatively, it should be clarified when such injured third parties may be material to the complaints handling obligations.	Disagree. Although such cases may be very limited, these Guidelines shall take them into account.
82.	BIPAR	15.	<p>Competent authorities should respect the principle of proportionality. This principle should be clearly reflected in the guidelines. The majority of intermediaries are small enterprises (one-man businesses or offices with 2 to 5 employees). In this context, it is very important that one tries to obtain an optimal balance between the real contribution to consumer protection on the one hand and obligations required from intermediaries on the other hand. The administrative feasibility and the extra costs of such obligations should totally reflect the profile of the intermediary.</p> <p>BIPAR proposes that the following sentences - as included in the draft report on Best Practices - are included in guidelines 2 to 8: « taking into account the nature and size of insurance intermediaries in light of the principle of proportionality" or "depending on the size and structure of the intermediary".</p>	<p>EIOPA has emphasised the proportionality principle in the introduction to the Guidelines, rather than the main text of the Guidelines for the following two main reasons:</p> <ul style="list-style-type: none"> • The legal concept of proportionality is already recognised as one of the general principles of European Union law. • EIOPA is of the view that it is important to allow competent authorities to interpret proportionality criteria at national level when supervising insurance intermediaries.
83.	Chris Barnard	15.	I agree with this. Although senior management has ultimate responsibility for implementation and compliance, it would delegate the development and implementation process to another person directly reporting to it. In larger intermediaries, a compliance function would ideally monitor compliance with the complaints management policy.	Noted.
84.	Dutch Association of	15.	Part of the complaint handling procedure is the designation of a complaints officer. Basically no one treats his complaints about himself. Depending on the size of the organization a complaint	Noted.

	Insurers		handling department is desirable. Each insurer has a clear definition of 'complaint'. And communicates clearly to the customer about the procedure. The insurer also makes the customer aware of ADR by Kifid.	
85.	FECIF	15.	Ideally EIOPA publishes a master matrix for a proper complaints management policy or at least defines certain criteria which have to be accomplished by the senior management. Otherwise the 28 national regulators (at least if there are supervisors competent for complaints in member states) would define their own 28 different regimes which would only lead to confusion and prohibit unconstrained cross-border business.	Disagree. The Guidelines aim at ensuring supervisory convergence, not full harmonisation due to the fact that there are no EU specific common rules and a diversity of national rules.
86.	FFSA	15.	<p>12. The FFSA considers that this guideline only makes sense for large intermediaries. Indeed, this provision is not suitable for insurance intermediaries as the corresponding requirements have no meaning for natural persons acting on their own behalf and/or small legal structures. In this respect, the vocabulary used is the best proof: the FFSA calls into question the existence of senior management for the overwhelming majority of insurance intermediaries on the market (e.g. natural persons and small structures). Thus, this requirement should be limited to intermediaries of a certain size. The FFSA would like an additional d) in this paragraph to provide this limit.</p> <p>13. Instead of having to establish a complaint management policy, the FFSA suggests that small intermediaries adopt and make available, in a written document, their complaints-handling process. This would be consistent with Guideline 7 a) and proportionate.</p> <p>14. At least, an explicit reference to proportionality should be added : "For the implementation of this guideline, competent authorities should take into account the nature and size of the insurance intermediary concerned as well as if he exercises the activity of intermediation mainly or as ancillary".</p>	<p>12. EIOPA has emphasised the proportionality principle in the introduction to the Guidelines, rather than the main text of the Guidelines for the following two main reasons:</p> <ul style="list-style-type: none"> • The legal concept of proportionality is already recognised as one of the general principles of European Union law. • EIOPA is of the view that it is important to allow competent authorities to interpret proportionality criteria at national level when supervising insurance intermediaries.. <p>13. Disagree. Process and policy should be differentiated. The process is only part of the whole complaints-handling policy as explained in the BPR. However, in accordance with the proportionality principle, the complaints-handling policy of a small</p>

				<p>intermediary may be a simple and short document, so that it is not too burdensome for the IIM.</p> <p>Furthermore, the BPR states that "it is recognised that "senior management" will mean different things depending on the size and structure of the intermediary." (on page 5)</p> <p>14. See resolution (row) 2.</p>
87.	German Insurance Association	15.	<p>The provisions concerning a complaints management policy mentioned in a) to c) indicate the bureaucratic effort to be taken by insurance intermediaries when establishing a complaints management system. This effort cannot be outweighed by the objectives that might be achieved for the benefit of consumers. This also applies to the complaints management processes, in particular, which are listed under i) to vii) in the Best Practices Report. With respect to the endorsement of the complaints management policy [a)] at least, EIOPA has recognised that sole traders do not have the same formal governance processes as larger insurance intermediaries and therefore, a formal endorsement process may not be necessary. Due to the fact that the procedures described in the Best Practices Report are not legally binding and that they are not subject to the "comply or explain" principle (see Introduction of the Best Practices Report in this context), clarification is required within the scope of the Guidelines.</p>	<p>EIOPA is of the view that Guideline 2 (putting in place a complaints management policy) does not involve a bureaucratic effort or administrative burden as it sets down a non-binding high-level principle to be applied by competent authorities. EIOPA has emphasised the proportionality principle in the introduction to the Guidelines, rather than the main text of the Guidelines for the following two main reasons:</p> <ul style="list-style-type: none"> • The legal concept of proportionality is already recognised as one of the general principles of European Union law. • EIOPA is of the view that it is important to allow competent authorities to interpret proportionality criteria at national level when supervising insurance intermediaries.. <p>The wording regarding the fact that</p>

				<p>sole traders may not require a formal endorsement process has been inserted in the Best Practices Report, rather than the Guideline, as it is an explanation about how the Guideline should be applied, as opposed to a high-level principle. A cross-references is made, however, to the relevant section of the Best Practices Report. More specific cross-references to the sections of the Best Practices Report have been included in the introduction to the Guidelines and more emphasis has been placed on reading the Guidelines in conjunction with the Best Practices Report.</p>
88.	IRSG	16.	<p>The IRSG believes that it is important that this principle is not impeded and that insurance intermediaries can organise their internal functions in an appropriate fashion.</p>	<p>Noted. Insurance intermediaries can organise themselves freely as long as complaints-handling is separated from distribution.</p>
89.	APRIL	16.	<p>The complaints management function should be made compulsory only if the structure and the size of insurance intermediaries allow it. The principle of proportionality mentioned at the reference n°7 of this consultation paper should be applied in such case.</p>	<p>Disagree. EIOPA has emphasised the proportionality principle in the introduction to the Guidelines, rather than the main text of the Guidelines for the following two main reasons:</p> <ul style="list-style-type: none"> • The legal concept of proportionality is already recognised as one of the general principles of European Union law. • EIOPA is of the view that it is important to allow competent authorities to interpret proportionality criteria at national level when supervising insurance

				intermediaries..
90.	BIPAR	16.	<p>See above.</p> <p>BIPAR believes that it is important that this principle is not impeded and that insurance intermediaries can organise their internal functions in an appropriate fashion.</p>	See resolution (row) 88.
91.	Chris Barnard	16.	In larger intermediaries, I believe that the compliance function should have overall responsibility for identifying and mitigating conflicts of interest.	Noted.
92.	Dutch Association of Insurers	16.	See above.	
93.	FFSA	16.	<p>15. This provision is not suitable for insurance intermediaries as the corresponding requirements have no meaning for natural persons acting on their own behalf and/or small legal structures that represent a large majority of the actors on the market in the EU.</p> <p>16. First, The FFSA does not understand how this guideline could be relevant for natural persons acting on their own behalf. The same person will be, on one hand, in charge of the activity of intermediation and on the other hand, responsible of investigated fairly complaints and identified/mitigated conflicts of interest. This situation seems conflicting even though the goal is to fight against conflicts of interest.</p> <p>17. Moreover, despite EIOPA's statement that EIOPA does not intend to impose a heavy burden on intermediaries' freedom of operation, this requirement proves exactly the opposite. Indeed, the EIOPA acknowledges that this will entail on-going costs, which will be significant for smaller businesses who will be particularly affected by the implementation of this function. Therefore, the FFSA is concerned about the activity of many intermediaries. We believe the EIOPA should adopt a more consistent approach by adopting</p>	<p>Disagree. Cf. BPR (on page 6): "It is recognised that for small intermediaries (especially sole traders), it might not be possible for an insurance intermediary to structure their internal organisation in such a way that it has a separate complaints management unit. However, insurance intermediaries should still ensure that they operate in a manner that ensures that complaints are handled fairly and impartially and they identify and mitigate conflicts of interest".</p> <p>EIOPA has emphasised the proportionality principle in the introduction to the Guidelines, rather than the main text of the Guidelines for the following two main reasons:</p>

			softened requirements in order to reduce costs for intermediaries who don't have the human and financial resources to comply with Guidelines.	<ul style="list-style-type: none"> • The legal concept of proportionality is already recognised as one of the general principles of European Union law. • EIOPA is of the view that it is important to allow competent authorities to interpret proportionality criteria at national level when supervising insurance intermediaries.
94.	German Insurance Association	16.	The implementation of a designated complaints management function would involve a disproportionate effort and its quality cannot be ensured given the large number of one-person intermediaries. EIOPA has recognised this fact in the Best Practices Report. Due to the fact that the procedures described in the Best Practices Report are not legally binding and that they are not subject to the "comply or explain" principle (see Introduction of the Best Practices Report in this context), clarification is required within the scope of the Guidelines. Moreover, responding to complaints about small insurance intermediaries is heading for conflicts of interest, which shall be prevented according to the Guideline. This requirement can therefore not be met by small insurance intermediaries and may result in serious doubts about the credibility of such a complaints-handling procedure. As a result, the opposite of what should be achieved would be achieved. This will be averted by an external complaints-handling procedure.	The wording in the Best Practices Report regarding how a complaints management function will operate with regards to a sole trader is contained in the Best Practices Report rather than the Guideline, as it is an explanation about how the Guideline should be applied, as opposed to a high-level principle. More specific cross-references to the sections of the Best Practices Report have been included in the introduction to the Guidelines and more emphasis has been placed on reading the Guidelines in conjunction with the Best Practices Report.
95.	IRSG	17.	See comments on 15. The IRSG believes that the cost of the introduction of a possible electronic online secure register should be further assessed, particularly for small to medium sized intermediaries.	<p>EIOPA has emphasised the proportionality principle in the introduction to the Guidelines, rather than the main text of the Guidelines for the following two main reasons:</p> <ul style="list-style-type: none"> • The legal concept of proportionality is already

				<p>recognised as one of the general principles of European Union law.</p> <ul style="list-style-type: none"> • EIOPA is of the view that it is important to allow competent authorities to interpret proportionality criteria at national level when supervising insurance intermediaries. The secure electronic register referenced under paragraph 13 (Guideline 4) is only a suggested example. It is not a mandatory requirement.
96.	BIPAR	17.	<p>See comments on 15.</p> <p>The cost of the introduction of a possible electronic online secure register should be further assessed, particularly for small to medium sized intermediaries as it is thought that it would not be in proportion with the benefits of introducing such a system.</p>	<p>EIOPA has emphasised the proportionality principle in the introduction to the Guidelines, rather than the main text of the Guidelines for the following two main reasons:</p> <ul style="list-style-type: none"> • The legal concept of proportionality is already recognised as one of the general principles of European Union law. • EIOPA is of the view that it is important to allow competent authorities to interpret proportionality criteria at national level when supervising insurance intermediaries. <p>The secure electronic register referenced under Point 17 (Guideline 4) is only a suggested example. It is not a mandatory requirement. The benefits of registration include that it facilitates root cause analysis and gives the firm information about the</p>

				risks related to the intermediaries activities.
97.	BZB	17.	Although this is very useful for the internal use to follow up complaints and possibly to adapt the own operation as a result of this, BZB believes that the supervisor should not have access to these data.	Paragraph 13 of Guideline 4 only deals with internal registration of complaints. EIOPA disagrees that the competent authority should not be entitled to receive information on the complaints management.
98.	Dutch Association of Insurers	17.	Insurers register the number and the nature of the complaints. Kifid does the same.	Noted.
99.	FECIF	17.	EIOPA shall define criteria defining the most appropriate manner to run the written or electronic register. As the number of complaints about insurance intermediaries is very low and most of Europe's intermediaries are SMEs, for them it should be sufficient to keep a log according to EIOPA's criteria.	Disagree. The secure electronic register referenced under Point 17 (Guideline 4) is only a suggested example. It is not a mandatory requirement.
100.	FFSA	17.	<p>18. This provision is not suitable for insurance intermediaries as the corresponding requirements have no meaning for natural persons acting on their own behalf and/or small legal structures that represent a large majority of the players on the market in the EU.</p> <p>19. The FFSA considers that this guideline (and the following on reporting) is 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 intermediaries while the result (the total number of complaints) will not be significant. When complaints occur, this occurrence does not necessarily means that the business is unsound or in violation of any legal provision.</p> <p>20. An explicit reference to proportionality should be added: "For</p>	<p>EIOPA has emphasised the proportionality principle in the introduction to the Guidelines, rather than the main text of the Guidelines for the following two main reasons:</p> <ul style="list-style-type: none"> • The legal concept of proportionality is already recognised as one of the general principles of European Union law. • EIOPA is of the view that it is important to allow competent authorities to interpret proportionality criteria at national

			the implementation of this guideline, competent authorities should take into account the nature and size of the insurance intermediary concerned as well as if he exercises the activity of intermediation mainly or as ancillary”.	level when supervising insurance intermediaries.
101.	German Insurance Association	17.	Internal registration of complaints in an appropriate manner shall take sufficient account of the principle of proportionality, in particular. Complaints-handling procedures do not necessarily have to be archived in an internal electronic register but they can also be archived in an appropriate manner in another way.	<p>EIOPA has emphasised the proportionality principle in the introduction to the Guidelines, rather than the main text of the Guidelines for the following two main reasons:</p> <ul style="list-style-type: none"> • The legal concept of proportionality is already recognised as one of the general principles of European Union law. • EIOPA is of the view that it is important to allow competent authorities to interpret proportionality criteria at national level when supervising insurance intermediaries. <p>In relation to the electronic register see resolution on comment 96.</p>
102.	IRSG	18.	<p>See comments on 15.</p> <p>The IRSG believes that it is important that reporting rules do not lead to administrative burden for intermediaries without adding any value to the supervision of national competent authorities.</p>	<p>See Resolution on comment 80.</p> <p>EIOPA has emphasised the proportionality principle in the introduction to the Guidelines, rather than the main text of the Guidelines for the following two main reasons:</p> <ul style="list-style-type: none"> • The legal concept of proportionality is already recognised as one of the general principles of European Union law. • EIOPA is of the view that it is important to allow competent authorities to interpret

				<p>proportionality criteria at national level when supervising insurance intermediaries.</p> <p>Registering and reporting obligations already exist in many Member States.</p>
103.	BEUC	18.	<p>With respect to data on complaints submitted by insurance intermediaries to the competent authorities, not only the complaints received have to be reported, but also the complaints dealt with in a certain period, the reasons why complaints were declined and the ratio of complaints resolved in consumer's favour.</p>	<p>Noted. The Guideline only aims to ensure that competent authorities receive reports about complaints from insurance intermediaries (where requested). EIOPA believe that it is for the competent authority to decide about the report itself i.e. the data it should contain and how often insurance intermediaries should report. More detailed provisions are contained in the Best Practices Report.</p>
104.	BIPAR	18.	<p>See comments on 15.</p> <p>BIPAR believes that guideline 5 regarding reporting could prove to be administrative burdensome for intermediaries without adding any value to the supervision of national competent authorities.</p>	<p>See Resolution on comment 82.</p> <p>As outlined under Option 4c) of the Impact Assessment, considering the Guidelines do not impose the obligation to provide national authorities with information on complaints and complaints handling (Guideline simply sets out that intermediaries should be in a position to provide information), EIOPA is of the view that the benefits in terms of enhancing consumer confidence will outweigh the costs. Moreover, EIOPA does not consider these Guidelines to be particularly onerous as evidenced in the Impact Assessment.</p>
105.	BZB	18.	<p>According to BZB, it is acceptable that the supervisor, in the context</p>	<p>The Guidelines are high-level</p>

			of general supervision, can ask to communicate the number of complaints. However, it should be avoided that the supervisor can use this information to perform additional checks in order to take sanctions.	principles, which aim to standardize practices. In relation to use of complaints data for the pursuit of sanctions/enforcement, this would be at the discretion of the competent authorities.
106.	Dutch Association of Insurers	18.	See 1.	See Resolution on comment 19.
107.	FECIF	18.	1. EIOPA shall define WHO is the competent national authority especially in those cases where member states did not implement an authority competent for complaints handling. And EIOPA shall also define differentiation of criteria because otherwise 28 different regimes would be the result - once again a huge burden for free insurance services and cross-border business.	The Guidelines are addressed to competent authorities; it is up to Member States to organise the process of applying them at national level to insurance intermediaries. Disagree re EIOPA defining differentiation criteria. See resolution on comment 103.
108.	FFSA	18.	See 17. Above We would like to stress again that these reporting requirements will be financially unsustainable for intermediaries, particularly since the Impact Assessment provided by EIOPA make clear that supervision of compliance with this guideline should be carried out by on-site inspections or specific requests. This involves constantly updating information in order to be in a position to provide information as required. 22.	Noted.
109.	German Insurance Association	18.	The need to ensure that insurance intermediaries are in a position to provide information on complaints and complaints-handling to the competent national authorities or ombudsman has already been sufficiently addressed by Guideline 4 on Registration. Guideline 5 on Reporting can therefore be omitted.	Disagree. Guideline 4 relates to the internal registration of complaints only whereas Guideline 5 relates to the reporting of complaints to competent authorities or ombudsman.

	tion			EIOPA believes it is important to distinguish explicitly between the obligation to register complaints internally and the obligation to provide information to competent authorities.
110.	IRSG	19.	See comments on 15	See Resolution on comment 80.
111.	BIPAR	19.	See comments on 15	See Resolution on comment 82.
112.	Dutch Association of Insurers	19.	See 1.	See Resolution on comment 19.
113.	FECIF	19.	WHO is personally competent to do these controls? HOW are the criteria for success or failure? WHAT would be the consequences in case of multiple failure? These are questions to which EIOPA has to deliver answers as a guideline also for national regulators.	EIOPA envisages that the complaints management function would be responsible for the requirements relating to internal follow-up of complaints stipulated under Guideline 6. However it is up to the insurance intermediary to decide where and how to implement this function.
114.	FFSA	19.	<p>23. The FFSA fears that the obligation to analyse on an on-going basis complaints handling data will prove burdensome and disproportionate without allowing a significant detection of recurring or systemic problems.</p> <p>24. After reading this guideline, the FFSA considers that it is necessary to establish an entire department specifically dedicated to processing claims to efficiently comply with it. Thus, these requirements are not suitable for insurance intermediaries because a large majority of the actors on the market are not in position to conduct a thorough and on-going study of the root causes common to types of complaints.</p> <p>25. Moreover, the FFSA regrets that this guideline uses the</p>	<p>Agree: Guideline 6 amended to delete the reference to 'systemic risks'.</p> <p>Disagree: The process is to be adapted to the size and does not need any dedicated development.</p>

			<p>wording of the provisions on governance of the Solvency II directive (e.g. systemic problems) as insurance intermediaries are excluded from its scope.</p> <p>26. As a consequence, the FFSA would like another wording and make the following proposition.</p> <p>27. 19. Competent authorities should ensure that insurance intermediaries :</p> <p>28. a) Regularly deal with any recurring problems, including potential legal risks ;</p> <p>29. b) If appropriate, use complaints-handling data to identify these recurring problems ;</p> <p>30. c) where relevant, analyse the causes of individual complaints so as to identify root causes common to types of complaints in order to correct such root causes, where reasonable to do so ;</p> <p>31. 20. For the implementation of this guideline, competent authorities should take into account the nature and size of the insurance intermediary concerned as well as if he exercises the activity of intermediation mainly or as ancillary.</p> <p>32.</p>	<p>See above</p> <p>see above.</p>
115.	German Insurance Association	19.	<p>Formal measures on the internal follow-up of complaints-handling are usually not required by insurance intermediaries given their size. Exercising due commercial care requires anyway to make sure that shortcomings which have resulted in justified complaints are being eliminated.</p>	<p>Noted - in some Member States, there is already obligations on insurance intermediaries regarding internal follow up of complaints-handling. EIOPA has emphasised the proportionality principle in the introduction to the Guidelines, rather than the main text of the Guidelines for the following two main reasons:</p> <ul style="list-style-type: none"> • The legal concept of proportionality is already recognised as one of the general principles of European Union law.

				<ul style="list-style-type: none"> EIOPA is of the view that it is important to allow competent authorities to interpret proportionality criteria at national level when supervising insurance intermediaries.
116.	IRSG	20.	See comments on 15	See Resolution on comment 80.
117.	Norton Rose Studio Legale	20.	<p>Guidelines 7: Under let. a), we suggest deletion of the words “on request”, as the availability of the complaints handling processes is regulated under let. b) of the same Guideline. Compelling insurance intermediaries to provide policies upon request (especially where they intermediate programs with millions of clients, e.g. in case of bank account or credit card coverage, would in fact be too burdensome for them.</p> <p>For the same reason, we would also delete the obligation to provide information of the complaint handling process when acknowledging receipt of a complaint; this may in fact be done when replying to the complaint in a timely manner.</p>	Disagree. EIOPA strongly believes that consumers should be able to gain accurate and efficient information on the whole complaints handling process and the benefits for consumers will be that they can choose the insurance intermediary whose complaints-handling process is the most consumer-friendly.
118.	BEUC	20.	Point 20 c) ii) is very important, as it is crucial that consumers receive information about possibilities to resolve the dispute outside of the internal complaint handling with the insurance mediator. They have to be informed of the independent third party Alternative Dispute Resolution bodies, together with an explanation on what is the difference between internal complaint handling and an independent third party ADR.	Noted re importance of signposting the consumer to available ADR mechanisms. This is covered under Guideline 7(c)(ii) and Guideline 8d).
119.	BIPAR	20.	See comments on 15	See Resolution on comment 82.

120.	Chris Barnard	20.	Policyholders should be made aware of any statutory time limits for bringing a complaint.	Noted.
121.	Dutch Association of Insurers	20.	See 1, 15 and 17.	See Resolutions on comment 19 comment 84 and comment 98.
122.	FECIF	20.	<p>2. As already mentioned above a detailed description of the complaints procedure is desirable in order to avoid misunderstandings and to achieve a coherent European regulation. On the other hand, the more detailed the procedures are, the more the effort expected by the intermediary. Dealing with complaints, whether they are justified or not, takes hours or even one or few working days for research, communication, legal advisory and documentation. Against the background of the current discussion about remuneration of intermediaries, EIOPA shall define rules for financial compensation for the working time and reimbursement of cash outlays necessary for dealing with complaints. This becomes even more important if one bears EIOPAs own position in mind, "that in terms of expected costs, it is expected that NCAs will have to incur significant costs with supervising insurance intermediaries and may be forced to reorganise their supervisory practices so as to monitor compliance with the Guidelines by insurance intermediaries." It is already common practise under MiFID that national regulators charge intermediaries for their supervision! NCAs will be tempted to do the same with insurance intermediaries and simply share their rising costs by billing reimbursements of expenses. A further drain on finances would be the result which especially for SMEs would be critical and endanger the retention of their businesses.</p>	<p>Disagree. EIOPA is of the view that the benefits in terms of enhancing consumer confidence will outweigh the costs. EIOPA does not consider these Guidelines to be particularly onerous as evidenced in the Impact Assessment..</p> <p>Considering that the Guidelines will impose additional rules concerning insurance intermediaries, this will entail that NCAs will have to allocate resources to monitor these new requirements. The financial impact of implementation of these Guidelines for competent authorities will depend on the extent to which the Guidelines are aligned/not with current requirements at national level. These costs mainly depend on the internal organisation of NCA's and the characteristics of national markets.</p> <p>It will be up to national authorities to decide whether any additional costs they incur would be passed onto individual firms in the form of higher levies.</p>

123.	FFSA	20.	<p>The FFSA supports point a) of this guideline as we believe that the complainant deserves clear, accurate and up-to-date information on both the complaint handling process and further handling of the complaint.</p> <p>However, we consider that the requirement of publication of the complaint handling process (point b) is not suitable for insurance intermediaries. First, it overlaps with the provision of information on request or when acknowledging receipt of a complaint. Secondly, this requirement has a certain cost for small intermediaries, particularly considering the examples given by the EIOPA : not every intermediary has the resources to print, in many copies, brochures or to own an adequate websites.</p> <p>At least, the FFSA asks for the deletion of these provisions in order to let the intermediary free to choose the most adequate manner to make available the complaint-handling process.</p> <p>33. An explicit reference to proportionality should be added : "For the implementation of this guideline, competent authorities should take into account the nature and size of the insurance intermediary concerned as well as if he exercises the activity of intermediation mainly or as ancillary".</p>	<p>Noted.</p> <p>Disagree. Publishing the information on complaints-handling process and inform the complainant of this process are to be differentiated, since they happen at different times in the consumer relationship. Therefore, EIOPA considers it does not overlap.</p> <p>Disagree. There must be a common basis to provide harmonised complaints-handling throughout the European Union.</p> <p>Disagree. Provision of information is key in the Guidelines. A consumer shall receive the same type and amount of information whatever the distribution channel he chooses.</p>
124.	German Insurance Association	20.	<p>The measures on the provision of information indicate the bureaucratic effort to be taken by insurance intermediaries. This effort, however, can easily be reduced significantly by redirecting the issue to the competent external complaints body in accordance with Article 10 IMD1.</p>	<p>The Guidelines are in line with the IMD, which sets out high-level complaints-handling provisions for intermediaries under Article 10. EIOPA disagrees with the suggestion to automatically redirect complaints to an external complaints body and believes that complainants should be afforded an opportunity to proceed through internal procedures first.</p>

125.	IRSG	21.	See comments on 15	See Resolution on comment 80.
126.	BEUC	21.	<p>The time limits to respond to the complaint might be too long and might play a dissuasive part against consumers being vocal regarding their disputes. In addition, in some situations an attempt to resolve the dispute through the internal complaint handling procedure with the insurance intermediary might be a precondition before going to the ADR body. Therefore it is crucial that competent authorities not only check that the time limits set at national level are being adhered to, but also assess whether those time limits are reasonably short and revise them if appropriate. The average time limit to resolve the complaint should be 2 weeks.</p> <p>Regarding point 21 d), we underline again that it is crucial to maintain the obligation for insurance intermediaries to inform consumer about the possibility to turn to the independent ADR body. Even if consumers were provided this information before, they need to receive it again once the decision on their claim is communicated to them.</p>	<p>Agreed re the importance of competent authorities checking that national time limits are being adhered to. However EIOPA believes that discretion should be provided to competent authorities to stipulate appropriate time limits at a national level.</p> <p>Noted re importance of signposting the consumer to available ADR mechanisms. This is covered under Guideline 7(c)(ii) and Guideline 8d).</p>
127.	BIPAR	21.	See comments on 15	See Resolution on comment 82.
128.	Dutch Association of Insurers	21.	See 1, 15 and 17	See Resolutions on comment 19 comment 84 and comment 98.
129.	FFSA	21.	The FFSA can support this guideline with the exception of a). This requirement is not suitable for insurance intermediaries whose majority do not have the time nor the financial resources to comply with it. Moreover, we can't see why it should be the intermediary's role to seek to gather and investigate all relevant evidence and information regarding the complaint.	Disagree. If the insurance intermediary handles the complaint, then it is his responsibility to gather the relevant information. By relevant, the EIOPA does not mean all information, but all necessary information.
130.	Germa	21.	The procedures for responding to complaints stipulated in Guideline	Disagree. Consumers should be able

	n Insur ance Associa tion		8 are dispensable. Within the scope of an external, independent complaints-handling procedure, for instance by an insurance undertaking or an ombudsman, insurance intermediaries will usually communicate their position on the issue to the independent body which will take account of all relevant means of evidence and information with respect to the complaint.	to gain accurate and efficient information on the whole complaints handling procedure.
131.	IRSG	22.	The IRSG believes that for legal certainty more clarity from EIOPA around Comply or Explain rules would be helpful.	Noted. The legal status of the “comply or explain” process is outlined under the “Compliance and Reporting Rules” section of the Guidelines. 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.
132.	BIPAR	22.	In order to enable a smooth implementation of the guidelines for the industry, a transitional period should be introduced in the guidelines. BIPAR believes that for legal certainty more clarity from EIOPA around Comply or Explain rules would be helpful.	Noted. A transitional period has not been provided for the following reasons: 1. The Guidelines are non-binding; 2. The Guidelines are addressed to competent authorities; it is up to them to organise the process of applying them at national level to insurance intermediaries. 3. The Guidelines have a built-in transitional period in that competent authorities have two months from the

				<p>issuance of the Guidelines within which to prepare themselves regarding compliance.</p> <p>Noted. The legal status of the “comply or explain” process is outlined under the “Compliance and Reporting Rules” section of the Guidelines. 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>
133.	IRSG	23.	The IRSG believes that for legal certainty, more clarity should be given regarding the interaction of EIOPA guidelines with national legislations or existing supervisors’ guidelines.	See Resolutions on comment 132 re interaction of EIOPA Guidelines with national legislation or existing Guidelines.
134.	BIPAR	23.	BIPAR believes that for legal certainty, more clarity from EIOPA around Comply or Explain rules would be helpful, in particular regarding their interaction with national legislations or existing supervisors’ guidelines	See Resolutions on comment 132 re interaction of EIOPA Guidelines with national legislation or existing Guidelines.
135.	IRSG	24.	The IRSG believes that for legal certainty, more clarity should be given regarding possible inconsistencies between EIOPA guidelines and national legislation.	See Resolutions on comment 131.
136.	BIPAR	24.	BIPAR believes that for legal certainty, more clarity from EIOPA	See Resolutions on comment 132 re

			around Comply or Explain rules would be helpful, in particular regarding any form of conflict or contradiction between EIOPA guidelines and national legislation.	the “comply or explain” process (including how to demonstrate compliance) and interaction of EIOPA Guidelines with national legislation or existing Guidelines.
137.	IRSG	25.	The IRSG believes that for legal certainty, more clarity should be provided on the consequences of non-compliance by an NCA.	See Resolutions on comment 132 re legal clarity on the “comply or explain” process. As outlined under paragraph 18 of the “Compliance and Reporting Rules” section of the Guidelines, Article 16(3) of EIOPA’s founding Regulation (Regulation (EU) No 1094/2010) provides that competent authorities would be expected to make every effort to comply with Guidelines issued by EIOPA. In the event that a competent authority did not comply or does not intend to comply, it would need to inform EIOPA, stating its reasons. EIOPA would publish the fact that a competent authority did not comply or did not intend to comply with the Guideline. EIOPA might also decide, on a case-by-case basis, to publish the reasons provided by the competent authority for not complying with that Guideline. [Competent authorities are signposted to Article 16 of the EIOPA Regulation under footnote 7 in the “Compliance and Reporting Rules” section of the Guidelines.]
138.	BIPAR	25.	BIPAR believes that for legal certainty, more clarity from EIOPA around Comply or Explain rules would be helpful. For example what	See Resolutions on comment 132 re legal clarity on the “comply or

			would be the consequences of a non-compliance by a competent authorities if any?	<p>explain" process.</p> <p>As outlined under paragraph 18 of the "Compliance and Reporting Rules" section of the Guidelines, Article 16(3) of EIOPA's founding Regulation (Regulation (EU) No 1094/2010) provides that competent authorities would be expected to make every effort to comply with Guidelines issued by EIOPA. In the event that a competent authority did not comply or does not intend to comply, it would need to inform EIOPA, stating its reasons. EIOPA would publish the fact that a competent authority did not comply or did not intend to comply with the Guideline. EIOPA might also decide, on a case-by-case basis, to publish the reasons provided by the competent authority for not complying with that Guideline.</p> <p>[Competent authorities are signposted to Article 16 of the EIOPA Regulation under footnote 7 in the "Compliance and Reporting Rules" section of the Guidelines.]</p>
139.	IRSG	26.	The IRSG believes that any review by EIOPA should take into consideration the revision of IMD.	Noted. These Guidelines will be applied before IMD2. In the meantime, EIOPA consider complaints-handling as key in the insurance sector. Moreover, the COM proposal on IMD2 is not specific as

				regards the complaints-handling process. The EIOPA will adapt the text after the adoption of IMD2 if necessary
140.	BIPAR	26.	BIPAR believes that any review by EIOPA should be consistent with similar reviews scheduled in the IMD recast proposal.	Noted. These Guidelines will be applied before IMD2. In the meantime, EIOPA consider complaints-handling as key in the insurance sector. Moreover, the COM proposal on IMD2 is not specific as regards the complaints-handling process. The EIOPA will adapt the text after the adoption of IMD2 if necessary
141.	IRSG	Q1. - on Impact Assessment	<p>The IRSG expects the following positive impacts to flow from the introduction of the Complaints Handling Guidelines;-</p> <ul style="list-style-type: none"> <input type="checkbox"/> Introduction of national requirements (where none exist)for internal complaints handling process by intermediaries in the first instance and in the event of the failure of the process to achieve a satisfactory resolution, that the consumer be informed of/directed to other means of redress (ombudsman, ADR etc...). <input type="checkbox"/> Introduction of harmonised internal complaints handling to reinforce consumers' confidence and to ensure similar levels of consumer protection throughout the EU. <input type="checkbox"/> Introduction of complaints handling process proportionate to the risks and the size of intermediaries and also the number of complaints received by intermediaries. 	Noted regarding the positive impacts envisaged to flow from the introduction of the Guidelines.
142.	BIPAR	Q1. - on Impact Assessment	<p>BIPAR believes that there should be a right balance between the costs of the implementation of the draft guidelines and the benefits gained by consumers.</p> <p>With regard to possible positive impacts to flow from the introduction of the Complaints Handling Guidelines, BIPAR expects the</p>	Noted regarding balance between costs and benefits and expected positive effects deriving from a proportionate introduction of the Guidelines.

			introduction of complaints handling process proportionate to the risks and the size of intermediaries and also to the number of complaints received by intermediaries.	
143.	BZB	Q1. - on Impact Assessment	Except for the larger insurance intermediaries, we expect little or no positive impact.	Disagree. According to the impact assessment conducted prior to the public consultation, EIOPA identified benefits which are foreseen to arise from the enactment of the Guidelines on complaints-handling by insurance intermediaries, regardless of their dimension or nature.
144.	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"> - implementation of the Guidelines should enable fair treatment of complainants by insurance intermediaries - 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 senior management - 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 - policyholders will be better informed of intermediaries' complaints-handling process, which will improve transparency (and 	Noted regarding the positive impacts envisaged to flow from the introduction of the Guidelines.

			possibly trust), and better manages their expectations concerning actual or potential complaints These benefits should be more pronounced in those Member States which do not already conform to (some of) the requirements.	
145.	Dutch Association of Insurers	Q1. - on Impact Assessment	See 1. In the Netherlands an effective complaint handling/ ADR system is provided.	Noted.
146.	ERGO	Q1. - on Impact Assessment	As already set out in the "general comment", we consider it advisable and necessary to offer customers the possibility of complaining about the insurance intermediary. Complaints also always offer companies a means of identifying sources of errors and deriving measures that increase customer satisfaction. From our point of view, however, the existing legal framework is insufficient in this respect. We do not expect benefits or positive effects from the introduction of these guidelines.	Noted regarding the importance of lodging complaints concerning insurance intermediaries. Disagree regarding the prediction of no benefits/positive effects deriving from the Guidelines, in light of the conclusions drawn in the impact assessment.
147.	FECIF	Q1. - on Impact Assessment	3. Most complaints about bad advice concern the direct sales of banks and insurance companies. This once again is shown by the data of the UK Financial ombudsman: 65.5% of consumers' complaints are against banks, only 1% against intermediaries. 4. Against this background the main benefit for customers is that banks selling insurance products and insurance companies have to uphold commitments when dealing with complaints. So far there is no standardized scheme for dealing with such occurrence which in turn makes it difficult if not impossible to protect one's rights in case of complaints. With a mandatory EIOPA guideline insurance companies are forced to manage complaints in an expectable manner, respecting deadlines and modality. Customers and intermediaries will get reactions more quickly than now and in a reliable quality. The NCAs in addition supervise the whole procedure and keep the pressure on insurance companies by continuous independent controls.	Noted. It should, however, be stressed that these Guidelines aim at introducing complaints-handling procedures to be conducted by insurance intermediaries where they are the right financial institution to handle the complaint (please see Guideline 1 and paragraphs 7 and 8 of the introduction to the Guidelines).

148.	FFSA	Q1. - on Impact Assessment	<p>For the FFSA, the “application” of guidelines on complaints-handling by insurance intermediaries will lead to significant costs for these intermediaries. All of them are not able to support these costs. For instance, the creation of a complaints management function (guideline 3) is not feasible for small structures which constitute the overwhelming majority of registered intermediaries. Furthermore, the adoption of a complaints-handling function will be time-consuming and lead to a reorganisation of the structure.</p> <p>34. The FFSA regrets that no reference is made to proportionality in the text of the guidelines itself (the only reference to proportionality is made in the introduction-see point 7) . The FFSA believes this precision is essential for a proper application of these requirements due to differences in terms of size and resources between insurance companies and intermediaries but also between intermediaries.</p>	<p>Noted. EIOPA is of the view that the benefits in terms of enhancing consumer confidence will outweigh the costs. Moreover, EIOPA does not consider these Guidelines to be particularly onerous as evidenced in the Impact Assessment.</p> <p>EIOPA acknowledges costs will be incurred by the insurance intermediaries (notably the small ones). According to the impact assessment, costs are expected to be, however, outweighed by the positive effects arising from the adoption of these Guidelines. See also resolution (row) 88.</p> <p>Disagree. EIOPA has emphasised the proportionality principle in the introduction to the Guidelines, rather than the main text of the Guidelines for the following two main reasons:</p> <ul style="list-style-type: none"> • The legal concept of proportionality is already recognised as one of the general principles of European Union law. • EIOPA is of the view that it is important to allow competent authorities to interpret proportionality criteria at national level when supervising insurance intermediaries. See also resolution (row) 2.
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149.	German Insurance Association	Q1. - on Impact Assessment	The German insurance industry believes that providing customers with the possibility to complain about insurance intermediaries is reasonable and necessary. Moreover, complaints give companies the chance to identify sources of errors and develop measures to enhance customer satisfaction on this basis. The existing legal framework, however, is sufficient for this purpose. Advantages or positive impacts resulting from the introduction of these Guidelines cannot be recognised.	Noted regarding the acknowledgement of the importance of complaining about insurance intermediaries. Disagree regarding predicted effects, as the impact assessment points out advantages arising from the enactment of the Guidelines.
150.	IRSG	Q2a. - on Impact Assessment	(see general comments)	Noted.
151.	BIPAR	Q2a. - on Impact Assessment	(see general comments)	Noted.
152.	ERGO	Q2a. - on Impact Assessment	In our opinion, the costs associated with the introduction and supervision of the complaints-handling processes and of the registration system cannot be quantified in a reasonable manner. The fundamental cost burden does not result from the introduction of corresponding IT systems but from the opportunity costs, caused by the fact that the intermediary spends his time using these applications or with administrative implementation, without this creating value-added for customers, intermediaries or company.	Noted regarding expected costs. EIOPA is of the view that the benefits in terms of enhancing consumer confidence will outweigh the costs. Moreover, EIOPA does not consider these Guidelines to be particularly onerous as evidenced in the Impact Assessment. However, as expanded upon in the impact assessment and despite the costs involved, the implementation of internal complaints-handling procedures is expected to generate positive effects (and create value-added) on complainants / customers, notably by providing grounded responses to the complaints and correcting malpractice.

153.	FECIF	Q2a. - on Impact Assessment	This will highly depend on the size of the intermediaries business. Assuming that most insurance intermediaries are SMEs their senior management will begin with studying the guidelines, followed by legal consultation, coordination of training for the staff and necessary office tools including forms and checklists. Larger companies will have to nominate one or more employees in charge for complaints who then need instruction and guidance. Overall we estimate an effort of approx. two working days for the senior management of SMEs.	Noted regarding expected costs associated with an insurance intermediary's senior management overseeing the complaints-handling process.
154.	German Insurance Association	Q2a. - on Impact Assessment	A reliable assessment is not possible.	Noted.
155.	IRSG	Q2b. - on Impact Assessment	(see general comments)	Noted.
156.	BIPAR	Q2b. - on Impact Assessment	(see general comments)	Noted.
157.	ERGO	Q2b. - on Impact Assessment	See answer to Q2a	Noted.
158.	FECIF	Q2b. - on Impact Assessment	5. Against the background of the extremely low rate of complaints and the fact that most insurance intermediaries are SMEs, complaints handling usually will be done on paper and not via IT systems. Therefore the introduction of the registration system for complaints handling will cause approx. one working day. Costs will be kept within reasonable limits and to a certain extent depend on the way clients prefer to complain, either via e-Mail, phone, postal letter or face to face meetings.	Noted regarding expected costs for the introduction of the registration system for complaints-handling.
159.	German	Q2b. - on	A reliable assessment is not possible.	Noted.

	n Insuran ce Associa tion	Impact Assessment		
160.	IRSG	Q2c. - on Impact Assessment	(see general comments)	Noted.
161.	BIPAR	Q2c. - on Impact Assessment	(see general comments)	Noted.
162.	ERGO	Q2c. - on Impact Assessment	See answer to Q2a	Noted.
163.	FECIF	Q2c. - on Impact Assessment	<p>If the terms “complaint” and “mediation activity” are interpreted narrowly as “a statement of dissatisfaction addressed to an insurance intermediary about his/her advice” the costs associated with an insurance intermediary’s senior management overseeing the complaints handling process will be low. For most SMEs effort will be approx. one hour per month. This is evidenced by</p> <ol style="list-style-type: none"> 1. the low rate of complaints which show that only 4% of the cases are originated because of bad advice by the intermediary while 96% of all complaints are related to deficits resulting from economic developments of financial / insurance markets and on-going competition between vendors or the default of products; 2. the fact that 80% of all complaints are solved quickly without any dispute with the intermediary simply by goodwill or the withdrawal of the complaint or action by the customer. <p>6. If there was a wider interpretation of these terms as “each statement of dissatisfaction addressed to an insurance intermediary”, regardless whether the reason is the service OR the product, market developments or anything else outside the sphere of influence of the intermediary, the effort for complaints handling would be larger and</p>	<p>Noted regarding expected costs associated with introducing these Guidelines.</p> <p>It should be clarified that, according to para. 6 of the introduction to the Guidelines, the definitions of ‘complaint’ and ‘complainant’ given are merely indicative and do not override equivalent definitions in national law.</p> <p>Disagree regarding interpretation of para. 7(ii) of the introduction to the Guidelines. The purpose of this paragraph is to encompass the different national market structures, where insurance intermediaries are legally responsible to handle a complaint concerning another financial institution. This paragraph does not exempt the insurance</p>

			<p>for most SMEs be at min. one hour per day. This is apparent from the fact that in practice the majority of clients knows the intermediary and no one else. The intermediary is the one and only contact person and confident.</p> <p>A proposal that these guidelines should not apply where "an insurance intermediary handles a complaint on behalf of another financial institution under the legal provisions applicable to that institution" would be purely hypothetical. Considering that trust into his service is the decisive factor, no intermediary would and could allow absconding oneself by simply referring a complaining client to an anonymous financial institutions. To draw an analogy, such a situation would be similar to a customer buying a car with defects and therefore calling his own car-dealer for explanations but getting no help from, except but the phone number of the car factory. It is plainly evident that this very dealer would never sell a second car to the that client.</p>	intermediary to handle complaints concerning himself. The introduction of the Guidelines is not subject to the "comply or explain" mechanism.
164.	German Insurance Association	Q2c. - on Impact Assessment	A reliable assessment is not possible.	Noted.
165.	IRSG	Q2d. - on Impact Assessment	(see general comments)	Noted.
166.	BIPAR	Q2d. - on Impact Assessment	(see general comments)	Noted.
167.	ERGO	Q2d. - on Impact Assessment	See answer to Q2a	Noted.
168.	FECIF	Q2d. - on Impact Assessment	7. If the terms "complaint" and "mediation activity" are interpreted narrowly as "a statement of dissatisfaction addressed to an insurance intermediary about his/her advice" the on-going costs	Noted EIOPA is of the view that the benefits in terms of enhancing consumer confidence will outweigh

			<p>for the introduction of the registration system will be low.</p> <p>8. there was a wider interpretation of these terms as “each statement of dissatisfaction addressed to an insurance intermediary” it would become impossible to foresee the required effort in terms of complaints management. This could range from one hour per day to a full time job and as such poses unnecessary and large financial risks especially for SMEs. The costs will also depend on the type of service and the kind of products offered by intermediaries. If an intermediary has a narrow range of services and products, e.g. because he exclusively sells car insurance, then the complaints procedure can be standardized for one service / product, thus keeping expenditures at a low level. Conversely, an intermediary selling a broad range of products and offering highly sophisticated services for various clients will have to deal with much more complex complaints, thus entailing high effort and expenses. The efforts will also depend on the number of branches and employees of an intermediary. We simply have to avoid a situation where intermediaries constrain their supply of products and services because of burdensome and costly red-tape.</p>	<p>the costs. EIOPA does not consider these Guidelines to be particularly onerous as evidenced in the Impact Assessment..</p>
169.	German Insurance Association	Q2d. - on Impact Assessment	A reliable assessment is not possible.	Noted.
170.	IRSG	Q3. - on Impact Assessment	As stated above, it is important that EIOPA guidelines are proportionate to the risks and the size of intermediaries, and also to the number of complaints received by intermediaries. Each complaint is different. It is important that EIOPA guidelines do not lead to a too strict and rigid system.	<p>Noted. EIOPA has emphasised the proportionality principle in the introduction to the Guidelines, rather than the main text of the Guidelines for the following two main reasons:</p> <ul style="list-style-type: none"> • The legal concept of proportionality is already recognised as one of the general principles of European Union law.

				<ul style="list-style-type: none"> EIOPA is of the view that it is important to allow competent authorities to interpret proportionality criteria at national level when supervising insurance intermediaries..
171.	BIPAR	Q3. - on Impact Assessment	<p>As stated above, it is important that EIOPA guidelines are proportionate to the risks and the size of intermediaries, and also to the number of complaints received by intermediaries. Each complaint is different. It is important that EIOPA guidelines do not lead to a too strict and rigid system.</p> <p>The aim of EIOPA guidelines is to ensure that complaints are registered and handled and in the failure of a dialogue, to make sure that the consumer is informed of other means of redress (ombudsman, ADR etc...). In this context we believe that it is important that other EU Directives are taken into consideration, in particular the Directive on ADR and on on-line disputes that are to be adopted by the EU legislators.</p> <p>BIPAR does not believe that significant costs will have to be incurred by NCAs as a result of the adoption of the Guidelines as inferred under Option 1, section h) of the Impact Assessment in Annex I of the Consultation Paper. Any costs associated with the additional supervision required following the implementation of a system of complaints handling for intermediaries should be "marginal". If costs should not be marginal, it would be not acceptable that they are borne by both the industry and/or the consumers.</p> <p>In the Impact Assessment (Option option? 1, e)), it is explained that "EIOPA opted not to refer to the categories of insurance intermediaries set out in IMD 1, notably tied agents, in order to adjust to the different national market structures." BIPAR agrees with this approach, but would like to underline that the IMD 1 is an</p>	<p>Noted re proportionality (see row 170 above). Article 10, IMD1 is the legal hook for issuing the Guidelines. EIOPA is aware of the enactment of ADR Directive/ ODR Regulation. However, it should be pointed out that the Guidelines aim to implement internal complaints-handling procedures (and not external redress mechanisms).</p> <p>Disagree regarding costs to be incurred by NCAs. EIOPA is of the view that the benefits in terms of enhancing consumer confidence will outweigh the costs. EIOPA does not consider these Guidelines to be particularly onerous as evidenced in the Impact Assessment. Moreover, considering that the Guidelines will impose additional rules concerning insurance intermediaries, this will entail that NCAs in most EU countries may have to allocate resources to monitor these new requirements. These costs are not expected to be necessarily marginal as they mainly depend on the internal organisation of NCAs and the characteristics of national markets.</p>

			activity based text and that it refers only to two categories of intermediaries: insurance intermediaries and tied intermediaries. Tied agents are not referred to in the IMD1.	Noted regarding EIOPA's decision not to refer to the categories of insurance intermediaries. It is correct that IMD1 does not refer to 'tied agents' but to 'tied insurance intermediaries'.
172.	Chris Barnard	Q3. - on Impact Assessment	It is important that the benefits to consumers are greater than implementation and maintenance costs. Given the very large differences in insurance intermediaries' scale and complexity, this requires a proportionate regime.	Noted regarding balance between costs and benefits as well as proportionality.
173.	ERGO	Q3. - on Impact Assessment	See answer to Q2a	Noted.
174.	FECIF	Q3. - on Impact Assessment	Maximisation of profits is the main driver for today's management of insurance companies. Cost-cutting measures through headcount reduction stand next. This trend has intensified in the last years, resulting in loss of know-how, poor quality of service and therefore an increasing number of complaints about insurers (also towards intermediaries). In addition, an ever bigger part of the insurers work is outsourced to intermediaries, such as calculation of premiums, claims settlement or intervention in case of premium defaults. We have to avoid a situation where SME intermediaries assume responsibility for the workload of insurers on the one hand and become responsible for complaints outside of their sphere of influence on the other. All that without receiving additional remuneration or maybe no remuneration whatsoever by insurers but being forced, at the same time, to bill the client for handling his complaints. (It goes without saying that the client would immediately reject such a tweak.)	Noted regarding envisaged costs / negative impacts. EIOPA does not intend that Guidelines will impose unjustified burdens on insurance intermediaries. Complaints-handling is not an outsourced procedure, as it refers to the complaints which relate to the insurance intermediaries themselves. NCAs should monitor the implementation of these Guidelines so as to prevent or stop detrimental outcomes, notably for the customers.
175.	IRSG	Best Practices Report Comments(EIOPA-CP-	There are very useful references to the need for a proportionate regime and examples of it in the draft Best Practices report. This is not reflected in the eight guidelines which are the only text subject to the "comply or explain" mechanism.	Noted. The Best Practices Report aims to provide further explanation on how insurance intermediaries should handle complaints. The Best Practices are not legally binding. More specific

		13/006b)		<p>cross-references to the sections of the Best Practices Report have been included in the introduction to the Guidelines and more emphasis has been placed on reading the Guidelines in conjunction with the Best Practices Report.</p> <p>EIOPA has emphasised the proportionality principle in the introduction to the Guidelines, rather than the main text of the Guidelines for the following two main reasons:</p> <ul style="list-style-type: none"> • The legal concept of proportionality is already recognised as one of the general principles of European Union law. • EIOPA is of the view that it is important to allow competent authorities to interpret proportionality criteria at national level when supervising insurance intermediaries..
176.	Norton Rose Studio Legale	Best Practices Report Comments (EIOPA-CP-13/006b)	<p>1. European Directive 2002/92 does not contain any specific minimum level of harmonisation relating to the corporate governance rules applying to insurance intermediaries, which in some jurisdictions are far from being aligned to the corporate governance legislation applying to insurance undertakings; insurance intermediaries may therefore in many cases and in some jurisdictions be unprepared to handle a burdensome complaints' handling procedure.</p> <p>2. Based on the above situation and consistently with proportionality principle (which requires competent authorities to "regime... that takes into account the nature and size of insurance</p>	<p>1. Disagree. The Guidelines do not concern corporate governance (please note that sole traders represent the majority of registered insurance intermediaries in Europe – see footnote 53 of the impact assessment), but conduct of business. IMD1 sets out the obligation of intermediaries to handle complaints. Therefore, insurance intermediaries should have adequate organisational</p>

		<p>intermediaries”), we suggest to exclude the applicability of the Best practices to the handling of complaints carried out by intermediaries whose principal professional activity is other than insurance mediation (even when they do not fall within the exemption provided for article 1(2) of European Directive 2002/92).</p> <p>3. We suggest to explicitly exclude complaints handling burdens upon entities acting as sub-intermediaries (i.e. under the responsibility of another insurance intermediary, subject to the complaints handling obligations), only.</p> <p>4. Consistently with the proportionality principle, we recommend that complaints to be registered shall only be those submitted in a written form or electronically, with the exclusion of those submitted orally.</p> <p>5. Lodging of complaints from authorised representatives, should be subject to the previous exhibition of representative powers, for compliance with the privacy legislation.</p> <p>6. Under paragraph 7 let. a), we suggest deletion of the words “on request”, as the availability of the complaints handling processes is regulated under let. b) of the same Guideline. Compelling insurance intermediaries to provide policies upon request (especially where they intermediate programs with millions of clients, e.g. in case of bank account or credit card coverage, would in fact be too burdensome for them. For the same reason, we would also delete the obligation to provide information of the complaint handling process when acknowledging receipt of a complaint; this may in fact be done when replying to the complaint in a timely manner.</p>	<p>arrangements to comply with the aforementioned obligation.</p> <p>2. Disagree. These Guidelines intend to encompass all insurance intermediaries. According to the Guidelines not all intermediaries should respond to complaints but they should receive them and, in the cases set out in Guideline 1, forward them to the relevant financial institution.</p> <p>3. Disagree. These Guidelines intend to encompass all insurance intermediaries (even if they are not legally empowered to handle the complaint, they should inform the complainant and direct the complaint to the relevant financial institution).</p> <p>4. Disagree. Complaints should be registered, regardless of the means by which they are presented. From a consumer protection perspective, there is no reason to establish the suggested restriction.</p> <p>5. Disagree. The Guidelines do not govern any aspect related to the representation of complainants or privacy protection.</p>
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				6. Disagree. Insurance intermediaries should respond to specific requests by any interested party on the complaints-handling procedures in place. This is not equal to publishing general information to the public (as referred to in letter b). It is also important to inform complainants, when acknowledging receipt of the complaint, of, e.g. the steps / deadlines which will be followed thereafter.
177.	BIPAR	Best Practices Report Comments(EIOPA-CP-13/006b)	<p>We wonder if (best) practices is a good term. Who is deciding what is good, better or best, how are these (best) practices developed?</p> <p>There are very useful references to the need for a proportionate regime and examples of it in the draft Best Practices report. BIPAR regrets however that this is not reflected in the eight guidelines which are the only text subject to the "comply or explain" mechanism.</p>	<p>Noted regarding terminology. The Report at stake is intended to indicate the practices that have been identified by EIOPA as the most adequate. This does not obviously prevent EIOPA to amend the listed practices where justified. The draft Guidelines were issued after a mapping exercise, thorough analysis of national experiences and impact assessment (as expended upon in the consultation paper).</p> <p>The Best Practices Report aims to provide further explanation on how insurance intermediaries should handle complaints. The Best Practices are not legally binding. More specific cross-references to the sections of the Best Practices Report have been included in the introduction to the Guidelines and more emphasis has been placed on reading the Guidelines in conjunction with the Best Practices</p>

				Report.
178.	Dutch Association of Insurers	Best Practices Report Comments (EIOPA-CP-13/006b)	We believe that these guidelines should create a minimum standard that guarantees the customer of an effective and honest ADR-system.	Noted. It should, however, be clarified that the Guidelines aim to implement internal complaints-handling procedures and not external redress mechanisms.
179.	Eurofinas	Best Practices Report Comments (EIOPA-CP-13/006b)	<p>Point 1 – page 3</p> <p>As mentioned previously, we strongly disagree with the explanation provided in the Draft Report in the particular case where an insurance intermediary receives a complaint about something other than his/her insurance activities.</p> <p>It is mentioned in the Draft Report that, in this case, the insurance intermediary should respond, where possible, explaining the insurance intermediary’s position on the complaint.</p> <p>We believe that this recommendation goes beyond EIOPA’s mandate as it touches upon the distribution of non-insurance products. Though we understand the objective to ensure that complainants will be provided with sufficient feedback, it should not be assumed that all intermediaries can respond to complaints related to other products/services. We do not believe that the current wording sufficiently takes into account the existence of diverse business models.</p> <p>Point 2 – page 3</p>	<p>EIOPA has provided clarification in the Best Practices Report on the scope provisions in paragraphs 7, 8 and Guideline 1. In particular, a decision tree clarifying the precise scope of the Guidelines has been added to the Best Practices Report.</p> <p>The Guidelines have been amended to state that the intermediary should respond, where possible, explaining “why he/she is not the right person to complain to”.</p> <p>Noted. Answer to question 2 of the Best Practices Report provides an example where Guideline 1 applies. The applicability of this Guideline depends on national market structures and the arrangements between insurance undertakings/intermediaries/sub-intermediaries. The complaint should be handled by the financial institution which has</p>

			<p>Again, as mentioned above, we think it should be clarified that this guideline also applies in the case of a chain of intermediaries. An insurance intermediary should be allowed to direct the complaint to an insurance entity or another insurance intermediary on behalf and under the full responsibility of which he his acting.</p> <p>In addition, where an intermediary receives a complaint on the activity of another entity, he/she should be able to inform the complainant orally or in writing depending on the medium used for the initial complaint (for example: at the point of sale, by phone, by mail, etc.).</p>	<p>responsibility for the complaint.</p> <p>Disagree. Communications and responses from the insurance intermediary to the complainant should not be conveyed orally but in writing. This is in line with the imposition to provide written information on the procedure (Guideline 7) and to provide written responses, regardless of the medium used by the complainant to lodge the complaint (Guideline 8).</p>
180.	German Insurance Association	Best Practices Report Comments (EIOPA-CP-13/006b)	<p>According to the Introduction of the Best Practices Report, when applying the Guidelines, best efforts should be made to take into account the nature and size of insurance intermediaries in light of the principle of proportionality. This requirement shall be emphasized more strongly within the scope of Guideline 7. At least at this point, insurance intermediaries which employ less than two persons to carry out insurance mediation activities, for instance, shall be given the possibility to simply redirect complaints straight to the competent complaints-handling body.</p>	<p>Noted. EIOPA has emphasised the proportionality principle in the introduction to the Guidelines, rather than the main text of the Guidelines for the following two main reasons:</p> <ul style="list-style-type: none"> • The legal concept of proportionality is already recognised as one of the general principles of European Union law. • EIOPA is of the view that it is important to allow competent authorities to interpret proportionality criteria at national level when supervising insurance intermediaries.
181.	NFU	Best	With regard to point (vii), training of staff, concerning the "Content	Disagree regarding 'training of staff'.

		<p>Practices Report Comments (EIOPA-CP-13/006b)</p>	<p>of a 'complaints management policy', it must be made crystal clear that it is the responsibility of the insurance undertaking or insurance intermediary to provide its staff with adequate time and resources to fulfil the training requirement.</p> <p>With regard to point (iv), ensuring necessary internal information flows concerning the "Organisation of the internal complaints management function", existing trade union structures for sharing and disseminating information from management to staff within the undertaking or intermediary must be respected. Where applicable, such trade union structures can be an important tool to ensure the necessary internal flows of information and reporting.</p>	<p>The Report under analysis aims to list some best practices concerning complaints-handling by insurance intermediaries. It is not meant to impose definite solutions which compliant competent authorities should follow, as only the eight proposed Guidelines will be subject to the "comply or explain" procedure. The Guidelines set out that the insurance intermediaries should implement a complaints management policy (please refer to Guideline 2, para. 11). Under the limits of the wording of the Guidelines, compliant competent authorities are allowed to develop/further regulate their content.</p> <p>Noted regarding internal flows of information. It is up to compliant competent authorities – if / to the extent they deem it necessary or convenient – to develop / further regulate how the complaints management function should be organised, within the framework set by the Guidelines.</p>
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