

**Comments Template on EIOPA-CP 11/010a and EIOPA-CP 11/010b
 Consultation Paper on the Proposal for Guidelines on Complaints-Handling by Insurance
 Undertakings and Draft Report on Best Practices by Insurance Undertakings in handling
 complaints**

**Deadline
 31 January 2012
 12:00 CET**

Company name:	Assuralia	
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Disclosure of comments:	EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential. <i>Please indicate if your comments on this CP should be treated as confidential, by deleting the word Public in the column to the right and by inserting the word Confidential.</i>	Public
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Please follow the instructions for filling in the template:

- ⇒ Do **not** change the numbering in column "Reference", or any other formatting in the file.
- ⇒ Please fill in your comment in the relevant row. If you have **no comment** on a paragraph, keep the row **empty**. Please do not delete rows in the table.
- ⇒ Our IT tool does not allow processing of comments which do not refer to the specific paragraph numbers below.
 - If your comment refers to multiple paragraphs, please insert your comment at the first relevant paragraph and mention in your comment to which other paragraphs this also applies.
 - If your comment refers to sub-bullets/sub-paragraphs, please indicate this in the comment relating to the corresponding paragraph.

Please send the completed template to CP-010@eiopa.europa.eu, in MS Word Format, (our IT tool does not allow processing of any other formats).

The paragraph numbers and questions below correspond to document no. EIOPA-CP-11/010a.
 There is an additional section at the end of the table for general comments on the draft Best Practices Report (document no. EIOPA-CP-11/010b).

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Reference	Comment	
General Comment		
3.1.		
3.2.	<p><i>Whereas to ensure the adequate protection of policyholders, the arrangements of insurance undertakings for handling all complaints that they receive should be harmonized.</i></p> <p>From a supervisory point of view it makes sense to make sure that all policyholders are protected adequately in terms of complaints-handling by insurance undertakings. Experience shows that complaints-handling mechanisms within and outside of insurers differ substantially between member states, however (European Commission, DG Markt, "Evaluation report of FIN-NET", 2009, p. 18-19). In some aspects, the Guidelines seem too detailed to fit that diversity, especially with regard to external reporting requirements and processing of data.</p> <p>A more pragmatic approach for the EIOPA Guidelines would in our view consist of adopting general policy targets and leave the operational organization of complaints-handling supervision to the national supervisor and insurers involved. The target for national supervisors could for example be to have in place an appropriate monitoring approach for internal complaints handling by companies. The national supervisor would then decide on how to deal with this in practice. Instead of engaging in the onerous processing of continuous external reporting requirements, supervisors could choose to select individual companies for closer examination based on the indications given by the market.</p> <p>The complaints introduced with the official Ombudsman for insurance services could be a good monitoring tool for supervisors in the Belgian context. All complaints that are introduced there are systematically being registered and processed into representative statistics, analysis and recommendations. They are published in the annual report of the Ombudsman (Ombudsman der verzekeringen, <i>Annual report 2010</i>, http://www.ombudsman.as/fr/documents/Rapport_ombudsman_2010.pdf).</p> <p>The national Ombudsman is the last step of the normal 3-step approach for complaints handling in Belgium:</p>	

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- 1) Addressing dissatisfaction to an insurance intermediary or normal contact person working for an insurance company. If no agreement:
- 2) Addressing a complaint to the responsible person for complaints handling of the insurance undertaking. If no satisfaction:
- 3) Addressing a complaint to the national Ombudsman for insurance services. The Ombudsman can at any time be approached directly by consumers also.

We would certainly advise against harmonizing the concrete arrangements of insurers to handle complaints. The way complaints are being managed in practice will differ between insurers. For some insurers it may for example be more efficient to have a network of complaints handling functions covering insurance branches separately, while for others a single complaints function would be more appropriate.

In summary, we believe there is added value in setting general policy targets at the level of EIOPA, leaving the operational choices on how to achieve those targets in each member state to the national supervisor and the insurance undertakings involved. A periodic exchange of practices and experiences between supervisors would allow EIOPA to monitor the progress in practice and would encourage its members to advance in a pragmatic and cost efficient manner.

3.3.

These Guidelines shall apply from their final date of publication.

Applying the Guidelines at the final date of publication may be feasible if they would set general policy targets and leave the choice of how to achieve them to the national level. We have argued in point 3.2. that this would make sense, mainly because the present approaches and means of supervisors, ombudsmen and insurers in the different member states differ considerably.

If EIOPA would however choose to go further than setting general policy targets, the Guidelines will probably require supervisors and insurers to adopt new working methods that are not necessarily

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adapted to the national context. The impact assessment attached to the guidelines mentions at different occasions that the implementation of the Guidelines may require supervisors, ombudsmen and insurers to invest in new procedures, communication tools, professional training and IT-applications.

Adapting IT, communication, training and working procedures always requires more time than expected. Adequate **transitional measures** will therefore most likely be necessary. We would also like to flag that adapting practices entails costs that are very often underestimated. The ambition should in our view be to achieve the objectives of the draft Guidelines without generating significant costs and time-consuming efforts.

3.4.

3.5.

3.6.

3.7.

***For the purpose of these Guidelines only, the following indicative definitions, which do not override equivalent definitions in national law, have been developed:
 "Complaint means: An expression of dissatisfaction addressed to an insurance undertaking by a person relating to the insurance contract or service he/she has been provided with.
 N.B. Complaints-handling should be differentiated from claims-handling as well as from simple requests for information or clarification."***

This definition is very wide and will be difficult to apply in practice. We would suggest a more **practical and objective definition** that would define a "complaint" as follows

*"Complaint means: an expression of dissatisfaction addressed in writing to the official complaints service of an insurance undertaking by a person relating to the insurance contract or service he/she has been provided with.
Normal expressions of disagreement in the context of claims-handling or contract negotiations as well as simple requests for information or clarification are not complaints for the purpose of these Guidelines."*

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	<p>There are a number of reasons to support this proposal:</p> <p>First, it is fair. The proposal does not limit consumers in any way from expressing their prompt or profound dissatisfaction. It is only asking people to at least inform the company's appropriate service in writing about the facts that are causing the problems they consider to be important.</p> <p>Second, it is objective. The proposed wording introduces tangible and objective elements that allow making a clear difference between conversations in the context of claims handling, contracting negotiations or requests for information/clarification, on the one hand, and the complaints the Guidelines are targeting, on the other hand.</p> <p>Third, it is efficient. Requiring a complaint to be addressed in writing would allow the appropriate service to better understand the concerns and to adequately collect the facts and figures involved.</p> <p>Fourth, it is practical. Training complaints handlers to a fairly high level and streamlining their approach is only feasible at reasonable cost if limited to the internal complaints handling service. It ensures consumers that all complaints are being treated equally, on the one hand, and offers the company's management feedback that is consistent and comparable over time, on the other hand.</p>	
3.8.		
3.9.		
3.10.		
3.11.		
3.12.	<p><i>Competent authorities should ensure that insurance undertakings register complaints in accordance with national timing requirements in an appropriate manner (for example, through a secure electronic register) to be used, among other purposes, for internal and external reporting (e.g. competent national authorities, ombudsman etc).</i></p>	

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	<p>We support the idea of ensuring that all insurers have appropriate internal governance structures with regard to the identification and follow up of complaints. External reporting of quantitative data with regard to complaints can be very onerous and time consuming, however, both for the insurers and for the supervisors that need to process the data.</p> <p>The Guidelines should in our view not impose an exhaustive and continuous reporting requirement for insurance undertakings to national supervisors. National supervisors must be able to opt for alternative and more cost efficient <i>modi operandi</i>, such as examining the complaints handling data and arrangements of individual companies that are selected on the basis of for example market indications (cfr. point 3.2.).</p>	
3.13.	<p><i>Competent authorities should ensure that insurance undertakings provide information on complaints and complaints-handling to the competent national authorities/ombudsman. This data should cover the number of complaints received, differentiated by classes.</i></p> <p>We support the idea of asking insurers to provide information of the supervisory authority on its governance of complaints handling, as well as qualitative information with regard to the decisions taken by the management to improve product design, operational processes and sales practices due to complaints received.</p> <p>Proportionality is key. Exhaustive and continuous external reporting and processing of quantitative data can be very onerous and time consuming both for supervisory authorities and insurance undertakings (cfr. point 3.12.). Costs and benefits can be balanced, for example by limiting reporting of quantitative complaints data to the supervisory authority on request only (cfr. point 3.2.). This may certainly be useful for member states where national Ombudsmen provide statistics of good quality on a yearly basis.</p>	
3.14.		
3.15.	Competent authorities should ensure that insurance undertakings: (...)	

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	<p>When an insurance undertaking provides a consumer with a final decision (or earlier, when national rules require it), remind the complainant about possible subsequent means of redress e.g. the availability of an ombudsman, ADR, national competent authority etc</p> <p>The Belgian market has developed a best practice with regard to providing information to consumers. Next to mentioning the national Ombudsman on the insurer's websites or in insurance contracts, insurers inform clients about the possibility to contact the national Ombudsman for insurance services (www.ombudsman.as) as soon as they express their disagreement with the final response of an insurance undertaking to their complaint. This practice is in our view appropriate: it reminds clients clearly about the national Ombudsman, but only when it is obvious that the complainant is not satisfied with the insurer's response.</p> <p>By contrast, systematically pointing towards the national ombudsman and other ADR mechanisms in every correspondence with regard to the complaint, as suggested in the Guidelines, has disadvantages. It is preferable to solve problems as much as possible between the parties involved, before taking further action and introducing third parties. Directing clients continuously to subsequent means of redress may push clients to a premature and maybe unnecessary exit of the discussion and reduce the chances to come to an agreement with the insurer. Moreover, the workload and costs of those redress organisms (f.e. national Ombudsman) would unnecessarily increase as a consequence.</p>	
3.16.		
3.17.	Comments are not being sought on this paragraph at this stage	
3.18.	Comments are not being sought on this paragraph at this stage	
3.19.		
Q1. – on Impact Assessment		
Q2.– on Impact Assessment		
Q3.– on Impact		

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Assessment		
Q4.– on Impact Assessment		
Best Practices Report Comments (EIOPA-CP-11/010b)		