



Press Release

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EIOPA LAUNCHES CONSULTATION ON DRAFT GUIDELINES FOR COMPLAINTS-HANDLING BY INSURANCE INTERMEDIARIES

- *The Guidelines follow up the Guidelines on complaints-handling by insurers, thereby seeking to ensure a "complete circle of protection" for consumers;*
- *They provide guidance on insurance intermediaries' internal systems and control for complaints-handling, the provision of information to consumers and procedures for responding to complaints;*
- *A proportionate approach is promoted, which takes into account the nature and size of insurance intermediaries;*
- *The objective is to finalise the Guidelines in autumn 2013.*

Frankfurt, 5 April 2013 – The European Insurance and Occupational Pensions Authority (EIOPA) has launched today a public consultation on Guidelines regarding complaints-handling by insurance intermediaries, such as insurance brokers. They follow up previous EIOPA Guidelines on complaints-handling by insurers and thereby aim to ensure a "complete circle of protection" for consumers.

The Guidelines cover similar issues to the Guidelines relating to insurers, setting down guidance on appropriate internal systems and control for complaints-handling, the provision of information and procedures for responding to complaints.

They are also addressed to national competent authorities (NCAs) who would comply with the Guidelines by incorporating them into their regulatory or supervisory framework in an appropriate manner. By setting down high-level principles regarding the arrangements under which insurance intermediaries handle complaints that they receive, the Guidelines would thereby establish a minimum level of supervisory convergence. This, in turn, would lead to benefits in terms of creating a level playing

field for insurance intermediaries across the EU and ensuring fair treatment of complainants by insurance intermediaries.

A proportionate approach, which seeks to ensure that the benefits to consumers outweigh the costs to NCAs and intermediaries, remains at the forefront. EIOPA has paid particular attention to the very diverse nature and size of the insurance intermediation market in Europe.

As the Guidelines lay down high-level principles for competent authorities, they are supplemented by more detailed examples of best supervisory practices in a Report, which links directly to the provisions of the Guidelines.

The public consultation will end on 28 June 2013. EIOPA aims to agree on the Guidelines by autumn this year, after which the so-called "comply or explain" process will be initiated.

Gabriel Bernardino, Chairman of EIOPA, said: *"These Guidelines are what EIOPA is doing to take a leading role in consumer protection. We want to make sure that consumers receive the appropriate degree of protection whoever they make a complaint against in the insurance sector. Indeed, ensuring a level playing field is part of our key objectives. We recognise, however, that distribution channels in the insurance sector are very diverse - there is everything from one-man bands to large multinationals. Special care has, therefore, been taken in formulating these draft Guidelines to ensure the benefits to consumers outweigh any costs to competent authorities and intermediaries. We know this is a tricky balance to strike and that is why we are interested in receiving input during this public consultation".*

Note for Editors:

The “comply or explain” procedure for the EIOPA Guidelines on complaints-handling by insurance *undertakings* was completed on 15 January 2013. More details on those Guidelines can be found here: <https://eiopa.europa.eu/publications/eiopa-guidelines/index.html>

Work on Guidelines and a Best Practices Report regarding complaints-handling by insurance *intermediaries* was envisaged in EIOPA’s 2012 and 2013 Work Programmes. In June 2012, it was agreed at EIOPA’s Board of Supervisors that the Guidelines should apply to all insurance intermediaries (irrespective of their size), but that the appropriateness of applying such Guidelines to certain categories of insurance intermediary such as tied agents, should be taken into account in formulating them: <https://eiopa.europa.eu/about-eiopa/organisation/management/board-of-supervisors/minutes-of-the-board-of-supervisors/index.html>

The main drivers for these Guidelines are:

- (i) An **asymmetry of information** brought about by persons, such as consumers, not being sufficiently aware of the possibilities for lodging a complaint with an insurance intermediary; and
- (ii) A **wide variety of national regulatory solutions** regarding complaints-handling by insurance intermediaries. Although there is an existing provision in the Insurance Mediation Directive (“IMD1”) (Article 10) on complaints-handling, it does not explicitly refer to insurance intermediaries instituting *internal* complaints-handling processes and due to the fact that IMD1 was minimum harmonising, this meant that there was no incentive for Member States to go further in applying Article 10 to complaints-handling *within* insurance intermediaries. The objective of the Guidelines is to promote internal complaints-handling as intermediaries handling complaints about *their own* activities gives them a strong incentive to treat customers in a way that minimises the number of complaints that they receive.

In the case of intermediaries, such as **tied agents**, which do not hold responsibility for the subject-matter of the complaint, the Guidelines (Guideline 1) provide that the complaint should be directed to the insurer, which will handle the complaint based on the Guidelines on complaints-handling by insurers.

Once finalised, these **Guidelines** would be issued under Article 16 of EIOPA’s founding Regulation, Regulation (EU) No 1094/2010. Article 16(1) provides that: “[EIOPA] 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 and recommendations addressed to competent authorities or financial institutions”.

The Guidelines would be subject to a comply-or-explain procedure whereby competent authorities would be expected to make every effort to comply with them. During a 2-month period, each competent authority would need to confirm whether they comply or intend to comply with the Guidelines.

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. Once finalized, the Guidelines would be translated into all official EU languages.

Once finalised, the **Best Practices Report** would be published on the basis of Article 29(2) of EIOPA’s founding Regulation, which provides that EIOPA “may, as appropriate, develop new practical instruments and convergence tools to promote common supervisory approaches and practices”. The Best Practices Report is not legally binding and not subject to the above mentioned comply-or-explain procedure.

The **European Insurance and Occupational Pensions Authority (EIOPA)** was established on 1 January 2011 as a result of the reforms to the structure of supervision of the financial sector in the European Union.

EIOPA is part of the European System of Financial Supervision consisting of three European Supervisory Authorities, the National Supervisory Authorities and the European Systemic Risk Board. It is an independent advisory body to the European Commission, the European Parliament and the Council of the European Union. EIOPA’s core responsibilities are to support the stability of the financial system, transparency of markets and financial products as well as the protection of insurance policyholders, pension scheme members and beneficiaries.