

Re: Complaints-Handling by Insurance Intermediaries

BANK OF GREECE

THE EXECUTIVE COMMITTEE OF THE BANK OF GREECE

Having regard to:

- (a) Article 55A of the Bank of Greece Statute, as currently in force;
- (b) Law 4364/2016 “Adaptation of the Greek legislation to Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II), Articles 2 and 8 of Directive 2014/51/EC of the European Parliament and of the Council of 16 April 2014 amending Directives 2003/71/EC and 2009/138/EC and Regulations (EC) No 1060/2009, (EU) No 1094/2010 and (EU) No 1095/2010 in respect of the powers of the European Insurance and Occupational Pensions Authority (hereinafter “EIOPA”) and the European Securities and Markets Authority, as well as Article 4 of Directive 2011/89/EU of the European Parliament and of the Council of 16 November 2011 as regards the supplementary supervision of financial entities in a financial conglomerate, and pertinent provisions of private insurance legislation, and other provisions” (Government Gazette A 13), in particular Articles 3 and 46 thereof;
- (c) Law 1569/1983 (Government Gazette A 183) “Intermediation in private insurance contracts, establishment of a special experts body for road accidents, operation of an international insurance office, and other provisions”, in particular Articles 21(1) and 21A thereof;
- (d) Law 2496/1997 (Government Gazette A 87) “Insurance contract, amendments to private insurance legislation, and other provisions”;
- (e) Presidential Decree 190/2006 (Government Gazette A 196) “Adaptation of the Greek legislation to Directive 2002/92/EC of the European Parliament and of the Council on insurance intermediation” (L 9/15.1.2003);
- (f) Regulation (EU) No 1094/2010 of the European Parliament and of the Council establishing the European Insurance and Occupational Pensions Authority (OJ L 331 of 15.12.2010), in particular Article 16 thereof;
- (g) EIOPA-BoS-13/164 Guidelines on Complaints-Handling by Insurance Intermediaries of the European Insurance and Occupational Pensions Authority (EIOPA);

(h) Law 4261/2014 (Government Gazette A 107) “Access to the activity of credit institutions and prudential supervision of credit institutions and investment firms (transposition of Directive 2013/36/EU), repeal of Law 3601/2007, and other provisions”, in particular Article 3 thereof;

(i) Executive Committee Act 86/5.4.2016 “Code of Conduct of (Re)insurance Intermediaries”;

(j) Executive Committee Act 88/5.4.2016 “Complaints-handling by insurance undertakings”;

(k) Bank of Greece Credit and Insurance Committee decision 122/3/15.12.2014 (Government Gazette B 3533) “Complaints-handling by insurance intermediaries”; and

(l) the fact that the government budget will not incur any expenditure due to the implementation of the provisions of this decision,

HEREBY DECIDES:

To lay down the procedure for complaints-handling by insurance intermediaries, as well as their relevant organisational obligations, as follows:

Article 1

Scope

1. The provisions of this decision shall apply to:

(a) insurance intermediaries, for the total of their business both in Greece and abroad. The Bank of Greece may waive the application of all or any of the provisions of this decision to insurance intermediaries with respect to their business abroad on their request, provided it is satisfied that such business is subject to a regulatory framework that is equivalent to the one established hereunder;

(b) insurance intermediaries situated in an EU and EEA Member State, exclusively for their business in Greece, whether under the freedom of establishment or the freedom of provision of services; and

(c) the branches in Greece of insurance intermediaries situated outside the EU/EEA.

2. This decision shall not apply when:

(a) an insurance intermediary receives a complaint concerning activities other than those supervised by the Bank of Greece; and

(ii) an insurance intermediary handles a complaint under the provisions of Executive Committee Act 88/5.4.2016 on behalf of an institution referred to in Article 3(1)(22) of Law 4261/2014.

In the above cases, the insurance intermediary in question shall respond, explaining why it is not responsible for handling the complaint and, where possible, giving details about the above undertaking responsible for handling the complaint.

3. Where an institution referred to in the preceding paragraph has undertaken, vis-à-vis the complainant, responsibility for the actions of the insurance intermediary against which the complaint is lodged, such as in the case of tied insurance intermediaries, the insurance intermediary in question shall not handle the complaint, but shall inform the complainant and direct the complaint to the competent institution. This paragraph shall not apply to credit institutions, which shall handle themselves all complaints filed against them.

Article 2

Definitions

1. “Complaint” means a statement of dissatisfaction addressed to an insurance intermediary by a person that has been provided with insurance intermediary services, as defined in Article 2(3) and (7) of P.D. 190/2006. The notion of complaint shall not include claims or simple requests for execution of the contract, information or clarification.

2. “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/or injured third party.

3. “Insurance intermediary” is a person carrying out the activity referred to in Article 2(3) and (7) of P.D. 190/2008.

4. “Senior management” means the decision-making and executive body or officer, having power of representation, of the insurance intermediary, entrusted with its overall management, as provided for in the applicable legislation on business companies, depending on the legal form of the insurance intermediary. In sole proprietorships, senior management shall be the insurance intermediary himself/herself.

5. “Credit institution” is defined in Article 3(1)(1) of Law 4261/2014.

Article 3

Complaints management policy and function

1. Insurance intermediaries shall adopt and implement a “Complaints Management Policy”, which shall be set out in a written document and shall be made available to all relevant staff. Senior management shall lay down the Complaints Management Policy, monitor and be responsible for the insurance intermediary’s effective implementation of, and compliance with, such policy.
2. The insurance intermediary shall have a complaints management function which enables complaints to be investigated in good faith, by collecting and processing all relevant data and information. With the exception of insurance intermediaries that are sole proprietorships, the insurance intermediary shall, through the complaints management function, resolve any possible conflicts of interest.

Article 4

Keeping of complaints record and other relevant records

1. Insurance intermediaries shall keep a safe record, registering all the necessary data of the complaints lodged. Each file shall include, as a minimum:
 - (i) dates of receiving the complaint and closing the case;
 - (ii) the complainant’s personal data;
 - (iii) subject of the complaint;
 - (iv) the class of insurance referred to; and
 - (v) the result/outcome of the complaints-handling procedure.
2. Insurance intermediaries shall keep in a safe record a full set of the documentation of the handling of each case separately.

Article 5

Procedure for responding to complaints and providing information

Insurance intermediaries shall, as a minimum:

- (a) provide the complainant with acknowledgment of receipt of the complaint including, in plain language, which is clearly understood, details of how to complain, contact details of the person or section that will handle the complaint, the type of information to be provided by the complainant, as well as the information required under (b), (c) and (d) below;
- (b) observe a time limit of no more than fifty (50) calendar days from the date of submission of the complaint for sending reasoned responses in writing to

complainants. Where the insurance intermediary cannot fully satisfy the complaint, it shall explicitly state that the complainant has the right to insist on the complaint. When an answer cannot be provided within the expected time limit, the insurance intermediary shall inform the complainant about the causes of the delay and indicate when the investigation is likely to be completed;

(c) draw the complainant's attention to the fact that during the complaint-handling process the statute of limitations of his/her legal claims continues to run;

(d) indicate to the complainant the authorities to which he/she may have recourse for an out-of-court dispute resolution, such as the Consumer's Ombudsman, mentioning any applicable legal deadlines;

(e) keep the complainant informed about progress in the handling of the complaint; and

(f) publish details of the complaints-handling process, including contact details of the person to whom the complaint should be directed, as well as the information required under (b), (c) and (d) above, for example in contractual documents or by posting at a visible spot in the insurance intermediary's website.

Article 6

Investigation of causes and remedial action

1. The insurance intermediary, within the context of the complaints management policy referred to in Article 3(1) above, shall lay down appropriate procedures for the ongoing analysis of complaints and the identification of any weaknesses and shortcomings in the internal procedures, as well as for the submission of proposals for their elimination. These procedures shall also allow for analysing the causes of individual complaints so as to identify root causes common to types of complaint and for considering whether such root causes may also affect other processes or products, as well as correcting or eliminating such root causes.

2. The insurance intermediary shall lay down procedures for the regular reporting to the competent management bodies of the information needed to identify, measure, manage and control legal and operational risks, as well as procedures for keeping a record of analyses and relevant decisions made.

Article 7

Reporting requirements

Insurance intermediaries shall provide to the Bank of Greece on request any information or written notification related to the examination of the complaints concerning them.

Article 8

Entry into force – Final provisions

This decision shall take effect as from its publication in the Government Gazette.

As from the publication hereof in the Government Gazette, Bank of Greece Credit and Insurance Committee decision 122/3/15.12.2014 (Government Gazette B 3533) shall be repealed.

This decision shall be published in the Government Gazette.

The Deputy Governor

Theodoros Mitrakos

The Deputy Governor

John (Iannis) Mourmouras

The Governor

Yannis Stournaras

True and exact copy

Athens, 22 April 2016

Department of Private Insurance Supervision

The Director

[signed] Ioanna Seliniotaki